

# MEETING MINUTES

November 8, 2021

8:30 A.M. – 5:00 P.M.

Physician Assistant Board Meeting Was Held Via WebEx

## 1. Call to Order by President

President Armenta called the meeting to order at 8:34 a.m.

## 2. Roll Call

Staff called the roll. A quorum was present.

Board Members Present: Juan Armenta, Esq.  
Jennifer Carlquist, PA-C  
Sonya Earley, PA-C  
Randy Hawkins, M.D.  
Diego Inzunza, PA-C  
Vasco Deon Kidd, PA-C

Staff Present: Rozana Khan, Executive Officer  
Michael Kanotz, Attorney III  
Karen Halbo, Regulatory Counsel, Attorney III  
Kristy Voong, Staff Services Manager I  
Julie Caldwell, Lead Licensing Analyst  
Armando Melendez, Complaint Analyst  
Christina Haydon, Enforcement Analyst  
Jasmine Dhillon, Legislative/Regulatory Analyst  
Ariel Gompers, Administrative Analyst  
Margarita Harrington, Licensing Analyst  
Virginia Gerard, Probation Monitor

## 3. Introduction and Swearing in of New Board Member

Mr. Armenta introduced Vasco Deon Kidd, PA-C as the new member of the Physician Assistant Board (Board). Mr. Armenta stated that Dr. Kidd was appointed by Governor Gavin Newsom to the Physician Assistant Board on August 23, 2021. Dr. Kidd has been an Associate Clinical Professor at the University of California, Irvine, School of Medicine, Department of Orthopaedic Surgery, since 2021 and Director of the Advanced Practice Providers Program at UCI Health since 2019. Dr. Kidd was Director of Advanced Practice Providers and Director of the Physician Assistant Orthopaedic Surgery Fellowship Training Program at Arrowhead Orthopedics from 2016 to 2019. He was an Assistant Professor and Academic Coordinator at Moreno Valley College from 2013 to 2015 and at the University of Texas Health Science center from 2010 to 2012. Dr. Kidd was a Physician Assistant (PA) at Kaiser Permanente from 2003 to 2010. He earned a Doctor of Health Science degree with a concentration in global health from A.T. Still University, a Master of Science degree in health professions education from Western University

of Health Sciences, and a Master of Public Health degree from the University of California, Los Angeles. His term is August 17, 2021, to January 1, 2023.

Mr. Armenta administered the Oath of Office to Dr. Kidd as follows:

I, Vasco Deon Kidd, do solemnly swear or affirm that I will support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic; that I will bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of California; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter.

Dr. Kidd thanked the Board, stating that it is a pleasure and honor to be a part of the Physician Assistant Board, and that he looks forward to engaging with the Board on various issues and ensuring that the Board carries out its mission of consumer protection.

#### 4. Nomination and Election of Physician Assistant Board Officers

Mr. Kanotz introduced himself to the Board, stating that he will be serving as the Board's legal counsel. Mr. Kanotz specified that Business and Professions Code section 3509.5 states that the board shall elect annually a president and a vice president from among its members. Typically, the nomination and election of board officials is held at the last meeting of the year.

M/         Sonya Earley         S/         Jennifer Carlquist         to:

Motion to nominate Juan Armenta for Board President in 2022.

Member	Yes	No	Abstain	Absent	Recusal
Charles Alexander				X	
Juan Armenta	X				
Jennifer Carlquist	X				
Sonya Earley	X				
Jed Grant				X	
Diego Inzunza	X				
Vasco Deon Kidd	X				

Mr. Armenta thanked the Board for having continued confidence in his abilities and looks forward to seeing everyone in person in future meetings.

No public comment.

M/         Juan Armenta         S/         Jennifer Carlquist         to:

Motion to nominate Sonya Earley for the Board's Vice President in 2022.

Member	Yes	No	Abstain	Absent	Recusal
Charles Alexander				X	
Juan Armenta	X				

Jennifer Carlquist	X				
Sonya Earley	X				
Jed Grant				X	
Diego Inzunza	X				
Vasco Deon Kidd	X				

Ms. Earley thanked the Board for having continued confidence in her abilities and looks forward to serving the Board.

No public comment.

**5. Consider Approval of the August 9, 2021 Board Meeting Minutes**

M/ Juan Armenta S/ Sonya Earley to:

Approve the August 9, 2021. Meeting Minutes.

Member	Yes	No	Abstain	Absent	Recusal
Charles Alexander				X	
Juan Armenta	X				
Jennifer Carlquist	X				
Sonya Earley	X				
Jed Grant				X	
Diego Inzunza	X				
Vasco Deon Kidd	X				

No public comment.

**6. Public Comment on Items not on the Agenda**

(Note: The Board may not discuss or take action on any matter raised during this public comment section that is not included on this agenda, except to decide whether to place the matter on the agenda for a future meeting. [Government Code Sections 11125, 11125.7(a).])

Ed Howard from California Academy of PAs (CAPA), congratulated the new Board member on his appointment and the nominees on their reappointments. Mr. Howard stated that he would like to raise an issue to the Board’s attention. On July 16, 2021, the California Department of Public Health (CDPH) issued an All Facilities letter, related to the circumstances by which PAs may provide home health care and specifically sign home health care orders. This letter has raised a lot of confusion in the provider community about whether PAs are able to provide such care and sign such orders. CAPA has engaged constructively with CDPH, and last week, received a letter from CDPH to Sutter’s Home Health Care Division clarifying that PAs are legally eligible to provide such care and sign such orders. CAPA asked CDPH to take the analysis in that letter and post it more widely so when this confusion comes up again, the public can be directed to its website. Mr. Howard stated that it appears that this issue will be resolved; however, it also appears to be some degree of education needed within CDPH about what PAs can and cannot do as this is not the first time CAPA had to intervene on behalf of PAs. CAPA may be asking for the

Board's assistance in communicating with the CDPH to clarify what the law is.

Mr. Armenta stated that if the issue is not resolved, or if there are some educational matters that need to be attended to, it can be an agenda item for the Board's next meeting.

No further public comment.

## **7. President's Report**

### A. Department of Consumer Affairs (DCA) Approved Waivers Relating to the Practice of Physician Assistants

Mr. Armenta reported that the waivers relating to the practice of physician assistants have been extended to allow for a better pandemic response. The waivers were issued on March 30, September 28, and October 29, of 2021.

### B. Stakeholder Meeting

Mr. Armenta reported that members of CAPA met with Board staff to go through the regulation package to implement Senate Bill (SB) 697. It was a productive and cooperative meeting and Mr. Armenta thanked CAPA for participating in the meeting.

No public comment.

## **8. Executive Officer's Report**

### A. Pandemic Response

Ms. Khan reported that the Board's office is operational and open to the public during the COVID-19 pandemic. Board staff continue to be on a rotational telework schedule while ensuring operational needs are met.

### B. Personnel

Ms. Khan reported that since the Board last met, staff has successfully filled some critical positions. Effective November 1, 2021, Virginia Gerard has filled the probation monitor position behind Kristy Voong. Ms. Gerard received her bachelor's degree in English from California State University, Chico. Ms. Gerard began her State career in September 2004 as an investigator assistant with the Medical Board of California's (MBC) probation unit, later promoted to an inspector, then to a probation analyst within the same unit. Ms. Gerard is a recent transfer from the Veterinary Medical Board, where she worked as a probation monitor since December 2019. Ms. Khan asked the Board to join her in welcoming Ms. Gerard to the Physician Assistant Board team. With the probation monitor position filled, Ms. Khan is pleased to announce that the Board is now fully staffed.

In response to Mr. Armenta's question of what level of efficiency the office will see moving forward now that the Board is fully staffed, Ms. Khan responded that she felt having these positions filled will make the Board more efficient and decrease the Board's timelines with enforcement matters. In addition, with two full-time licensing

staff, the Board will meet the 30-day timeline with processing license applications.

Mr. Armenta and Ms. Earley congratulated Ms. Khan for fully staffing the Board. Ms. Earley stated that the Board has never been fully staffed. Ms. Earley congratulated the licensing team, stating that they have demonstrated excellence in making sure that all the Board's constituents have been licensed in the appropriate timeframe.

### C. Information Technology

On August 31, 2021, Board staff participated in a kickoff meeting with the DCA's Office of Public Affairs, to develop an instructional video to assist applicants with licensure. This video will provide instructions on how to submit an initial application in an effort to reduce any confusion with the application process. Once the instructional video is produced and finalized, it will be posted on the Board's website and shared on the Board's social media accounts.

Board staff continues to review and redesign the Board's website to upgrade to the latest template. The new design and layout of the website will streamline the information presented and make it more user friendly. Lastly, the Board continues to utilize its subscriber alert system, social media accounts and its website to maximize outreach and serve as the primary communication tools for licensees and members of the public.

No public comment.

## **9. Board Activity Reports**

### A. Licensing

Ms. Caldwell reported that the Licensing Population by Type Report provides an overall view of the licensing population and different statuses. As of October 11, 2021, the Board's licensing population is as follows:

#### Licensing Population by Type

Total Licensing Population: 21,881  
Current Licenses: 15,088  
Licenses Canceled: 4,143

#### Summary of Licensing Activity Report for July 1, 2021 to September 30, 2021:

Initial Applications received – 485  
Licenses issued – 431  
Licenses renewed – 1,734

#### Pending Application Workload Report as of October 1, 2021:

- Pending Applications – 329
- Desk Age:
  - 0-30 days: 179
  - 31-60 days: 64
  - 61-90 days: 25

- 91 plus days: 61

Ms. Caldwell reported that the Pending Application Workload Report provides a glimpse of the overall desk age of the applications that the Board currently has on file. The application age begins when an applicant submits both an application and the payment. The desk age begins when the application is assigned to an analyst. Once the desk age begins, the time starts for the Board's 30-day range. When an application is pending, it does not mean the application has not been reviewed. Applications can be pending for multiple reasons; for instance, the applicant may not have passed their Physician Assistant National Certifying Examination (PANCE), the applicant applied too early and have yet to complete their PA program, or there have been some delays on background checks. Some applicants also do not respond to emails or phone calls. The licensing team goes through the applications every three months and when staff sees an applicant who has no activity on their application, the applicant will receive a phone call letting them know when their application will expire and what documents are missing.

Ms. Caldwell reported that the application age will always be slightly longer than the desk age, because there are several days an application may sit before it is assigned to a staff member due to workload and/or scheduled days off. The licensing team prints all the online applications a couple times a week and adds them to the workload.

#### Licensing Performance Measures for July 1, 2021, to September 30, 2021:

- Complete Applications: 120
- Incomplete Applications: 311

Ms. Caldwell reported that the licensing performance measures gives the Board an overall idea of how long it takes to process an application. The target time has increased from 20 to 30 days as it is a more reasonable amount of time to allow the Board an opportunity to review the application and provide the applicants with an update. Currently, applications are reviewed within three weeks from the time applications are submitted.

In response to Mr. Armenta's question if the 32-day processing time indicates that when the Board receives an application it takes 32 days to give the applicant a decision, Ms. Caldwell responded that the completed application time frame begins the date the application was submitted and ends on the date the license is issued; range of time is 30 to 32 days.

In response to Mr. Armenta's question of whether the incomplete applications are due to data missing such as background checks not coming back or applicants not responding, Ms. Caldwell responded that the licensing analyst has provided the review, however the application is incomplete because the applicant has not met all the requirements.

In response to Ms. Earley's question if the total amount of California PA licensees are 21,495 and the current California PA licensees are 14,835, Ms. Caldwell responded that the total number of current California PA licensees are 15,121, and a large portion of the 21,881 total of licensees are in delinquent status and many licensees have canceled as well. The current active licensees practicing are 15,088.

There are also some licensees who are labeled in the system as “current inactive” which means they have paid their fees, however they are not CME (continuing medical education) compliant, or they have chosen to be inactive in the system.

In response to Mr. Armenta’s question of whether the 4,143 license suspensions are due to fees or discipline, Ms. Caldwell stated that the information on the report is labeled incorrectly and “suspension” should be labeled as “canceled”.

## B. Complaint

Mr. Melendez reported the following complaint activity for the period of July 1, 2021, to September 30, 2021:

- Complaints – Volume
  - Complaints received – 110
  - Convictions/Arrests Received – 4
  - Total Received - 114
  - Assigned to desk analyst (\*\*may include cases received in previous quarters) – 139
  - Pending at intake – 0
- Complaints and Investigations
  - Complaints referred for investigation – 10
  - Complaints and investigations closed\*\* – 80
  - Complaints pending at desk analyst\*\* – 207
  - Investigations pending at field\*\* – 87
  - Average age of pending investigation\*\* – 308
  - Investigation over 8 months old – 37

Mr. Melendez reported that the Board has set up a Medical Consultant (MC) program in house, as in the past the Board used MBC’s program to review cases. This will help save time in reviewing cases as the Board currently has eight MCs that are signed up. In the future when the Board’s website is updated, the Board will advertise to bring on more MCs. There will be an application provided on the Board’s website, giving applicants the opportunity to apply. The Board’s current MCs are medical doctors, however the Board is trying to find a way to involve PAs in the program.

In response to Mr. Armenta’s question if the MCs are the individuals in which the Board is relying on for expert opinion in conjunction with the Attorney General’s Office (AGO) to determine if there is a departure from standard care or unprofessional conduct, Mr. Melendez responded yes, however this will be at the complaint level. This is only a preliminary review to determine whether the case would move forward or not. If the case warrants further investigation, the case will then be forwarded to the field and there is an expert at that level.

In response to Mr. Armenta’s question regarding complaints pending at the desk analyst, that this number seems to have increased and why this may be, Mr. Melendez responded that the last quarter had fewer cases. Some cases were delayed, due to waiting for documentation, medical records, response from individuals, or MC review. The number can fluctuate depending on these circumstances.

### C. Discipline

Ms. Haydon reported the following formal actions filed, withdrawn, and dismissed for the period of July 1, 2021, to September 30, 2021:

- Suspensions
  - Interim suspension order – 1
- Office of the Attorney General Transmittal
  - Cases initiated – 7
  - Cases pending – 32
  - Average age of pending cases – 274 Days
- Formal Actions Filed/Withdrawn/Dismissed
  - Accusations filed – 4
  - Accusations dismissed - 1
- Administrative Outcomes/Final Order
  - Probation – 2
  - License revocation - 1
  - Surrender – 2
  - Petition for termination and probation granted - 2
- Citation and Fine
  - Citations issued – 1
  - Citation resolved – 2
  - Pending – 1

Ms. Haydon reported that during the last Board meeting, Mr. Grant had a question regarding Penal Code section 23 (PC 23) and interim suspension orders. The Board has gapped those together, reporting the numbers together as well. These are two different types of suspensions, and now they will be separated to eliminate any confusion.

During the last Board meeting, Mr. Armenta had requested information regarding the decrease in the average age of the pending cases at the AGO. Ms. Haydon stated that she had reached out to the AGO and is waiting to hear back. However, there are internal process changes that the Board has implemented that have continued that decrease. The Board has brought enforcement in house from MBC and has dedicated staff to move the discipline cases. Once a case is referred for transmittal to the AGO, it is completed within 24 hours. This in turn is helpful with the timeline.

Mr. Armenta stated that he is hoping the Board will continue to see this trend line down on average age of pending cases. Mr. Armenta asked Ms. Haydon to monitor any insights that can be provided as to what the Board is doing to cause this downward trend.

### D. Probation

Ms. Voong reported the following from page 70 of the Board meeting materials.

Probation Activity Report from July 1, 2021, to September 30, 2021:

- Entered Probation – 2
- Completed Probation – 4



- Voluntary Surrender – 2
- Total Probationers – 53
  - Active – 43
  - Tolling – 10

Ms. Voong reported that tolling occurs when the licensee is either living outside of California and not on active probation with that state’s licensing authority or is living in California and is not a practicing PA. As mentioned in previous Board meetings, the pandemic has impacted probationers and supervising physicians with submitting quarterly reports on time. The Board is continuing to work with the probationers and their supervising physicians with their late submissions of quarterly reports, by extending the submission deadline.

#### E. Diversion

Ms. Voong reported the following from page 72 of the Board meeting materials.

#### Diversion Program Activity from July 1, 2021, to September 30, 2021:

- Entered Maximus – 1
- Total Active Participants – 4

No public comment.

### **10. Department of Consumer Affairs – Director’s Update (DCA Staff)**

Brianna Miller, of DCA Office of Board and Bureau Relations, thanked the Board for allowing her the opportunity to provide a department update. Ms. Miller congratulated Dr. Kidd on his appointment and thanked him for his willingness to serve. Ms. Miller stated that DCA appreciates all board members, committee members and staff who continue to serve through a pandemic that has affected all of DCA in many ways. DCA is working to find the right balance of staying connected and productive while keeping safe and healthy. DCA and its boards and bureaus continue to look to the future and use lessons learned to identify long term efficiencies and policy changes. Staff are working in the office to provide the most effective consumer protection and public service while also utilizing telework where appropriate.

To combat the spread of COVID-19 and protect vulnerable communities, California has implemented enhanced safety measures for state employees and workers in health care settings. State employees must show proof of vaccination or be subject to regular COVID-19 testing. DCA’s testing program kicked off in early October with the launch of the DCA Headquarters One pilot site. Select programs are designated to test at Headquarters One and the list of programs recently expanded due to the capabilities of the site. Board and committee members must follow health and safety protocols if they plan to visit a DCA location or attend an in-person board meeting. Board members must verify vaccination or follow testing protocols. Please communicate any plans for in-person meetings as soon as possible, so that DCA can assist with the coordination of teleconference options for the public, vaccination verification and COVID-19 testing.

DCA recognizes the difficulty of planning for future meetings as the pandemic continues to evolve. The statute allowing remote meetings is set to expire on January 31, 2022, after which time boards will be required to follow all aspects of the Open Meetings Act, including having publicly noticed and accessible locations, unless a change in law occurs. It has been recognized that there is a great cost saving aspect to having remote meetings, such as increased public participation and a lower carbon footprint due to a reduction in travel. DCA encourages boards and bureaus to continue utilizing remote meetings this year to protect the health of staff, board members and the public. DCA will keep the Board informed of any changes to meeting requirements.

DCA strives to help keep all boards fully seated with excellent members and diverse voices. Currently the Board has two vacancies; two public members appointed by the Governor and the Senate Rules Committee. DCA's communications team has been working on a new communications toolkit to assist boards with new recruitment, which will be available in multiple languages before the end of the year. In the meantime, individuals interested in serving as board members are encouraged to visit the "Board Member Resources" homepage on the DCA website, [www.dca.ca.gov](http://www.dca.ca.gov), to apply for an appointment.

DCA has been made aware of various scams affecting boards and bureaus. This information is shared on the DCA website and social media. Please take a moment to visit the DCA fraud alert website, which can be found by visiting [www.dca.ca.gov](http://www.dca.ca.gov) to learn about these scams and how to protect yourself from malicious individuals.

Ms. Miller advised that 2021 is a mandatory Sexual Harassment Prevention Training year and all employees and Board members are required to complete the training before the end of year. Board members can access this training through the Learning Management System (LMS), DCA's training portal. Profiles have been created for all employees within LMS and the Office of Board and Bureau Relations has informed the Executive Officer of the steps that will need to be taken to log in and access the training. Board and Bureau Relations is also happy to assist with any questions or concerns about using LMS.

In response to Mr. Armenta's question of, does this mean that the February Board meeting will be held in person, Ms. Miller responded that given that the current provisions will expire January 31, 2022, the Board's next meeting would follow all aspects of the Open Meetings Act.

No public comment.

## **11. Budget Update (DCA Budget Analyst)**

Suzanne Balkis, DCA Budget Analyst, introduced herself as the Board's budget analyst in charge of managing the Board's projected budget, projected revenue and fund condition. Ms. Balkis explained that she would go over the expenditures, revenues, and fund condition in relation to what the Board has had over the last quarter.

### Fund Condition Report

This report shows the fund as a Board. The fund condition statement is based on fiscal year (FY) 2020-21 Actuals and FY 2020-21 Fiscal Month 13 (FM 13) expenditure. For the prior year (PY) 2020-21, the Board had a beginning balance of \$4.8 million, giving the Board 18.1 months in reserve. For the current FY 2021-22, the Board has a beginning balance of \$4.7 million and 14.9 months in reserve. The Board is projecting a full expenditure for FY 2021-22.

### Expenditure Projection Report

The Expenditure Projection Report shows the expenditures as they were reflected towards the budget. The report shows that the Board is projecting about \$738,000 in personal services and \$1.6 million in Operating Expenses & Equipment (OE&E) expenses. The Board is showing a total of \$2.4 million of total expenditures, this created a saving of \$457,000, adding up to 16% savings. Based on this projection there is no concern for the fund and the Board is in a good place.

In response to Mr. Armenta's question of what the recommended months of reserve are, Ms. Balkis responded that 13% or higher is a good place for the Board to be at. Currently the Board is in a good place, despite not having the FY 2021-22 actuals. The Board is projecting full expenditures and that is good.

In response to Ms. Earley's question of what has the Board saved in expenditures during the pandemic due to lack of travel, Ms. Balkis responded that she does not have this information currently and will get back to the Board.

In response to Dr. Hawkins' question of when Ms. Balkis can anticipate giving the Board a more accurate financial update with all of the services that have been brought in house from MBC, Ms. Balkis responded that for FM 2 for FY 2021-22, the projection is set to be completed this week and the new fund condition can be provided to the Board the following week. This could be an expenditure report with FM 1 and FM 2 with actuals, showing the Board what projections are expected further for the full staff and what is estimated for the report.

No public comment.

### **Returned from Recess - Roll Call**

Board Members Present:

Charles Alexander, PhD  
Juan Armenta, Esq.  
Jennifer Carlquist, PA-C  
Sonya Earley, PA-C  
Randy Hawkins, M.D.  
Diego Inzunza, PA-C  
Vasco Deon Kidd, PA-C

### **12. Approval of Passing Score for 2022 Physician Assistant (PA) Initial Licensing Examination and 2022 Dates and Locations for PA Initial Licensing Examination**

#### Passing Score

Mr. Armenta stated that Business and Professions Code section 3517 provides in pertinent part that the board shall establish a passing score for each examination for year 2022 as established by the National Commission on Certification of Physician Assistants.

M/ Juan Armenta S/ Sonya Earley to:

Motion to approve the passing score for the physician assistant initial licensing examination for year 2022 as established by the National Commission on Certification of Physician Assistants.

<b>Member</b>	<b>Yes</b>	<b>No</b>	<b>Abstain</b>	<b>Absent</b>	<b>Recusal</b>
Charles Alexander	X				
Juan Armenta	X				
Jennifer Carlquist	X				
Sonya Earley	X				
Jed Grant				X	
Diego Inzunza	X				
Vasco Deon Kidd	X				

No public comment.

Dates and Locations

Pursuant to Business and Professions Code section 3517, the time and place of examination shall be fixed by the Board. The locations are the Pearson VUE Professional Centers, these examinations are provided on a year-round basis, although there will be no testing December 18-31, 2022.

M/ Juan Armenta S/ Sonya Earley to:

Motion to approve the dates and locations for the physician assistant initial licensing examination for year 2022.

<b>Member</b>	<b>Yes</b>	<b>No</b>	<b>Abstain</b>	<b>Absent</b>	<b>Recusal</b>
Charles Alexander	X				
Juan Armenta	X				
Jennifer Carlquist	X				
Sonya Earley	X				
Jed Grant				X	
Diego Inzunza	X				
Vasco Deon Kidd	X				

No public comment.

**13. Discussion and Possible Action Setting Schedule for 2022 Board Meeting Dates and Locations**

Mr. Armenta stated that the proposed meeting dates are February 7, May 9, August 8, and November 7, 2022. The Board usually meets in Southern California on the

third meeting of the year, which previously took place in San Diego. The other meetings previously took place in Sacramento.

In response to Ms. Earley's question if it would be possible to move the August meeting back to August 15, Ms. Khan responded that this shouldn't be a problem as these are only proposed dates. The August meeting is always in conjunction with the CAPA conference and the Board can consider the August dates later at the February Board meeting.

Mr. Armenta suggested that the Board set the date for the February meeting and defer the action on the other dates and locations until the Board has further input from CAPA on when their conference would be. It would be useful for the Board to hold the meetings at the same facility as in the past, giving the Board better public input and with these stakeholders it's a nice symbiotic thing to do.

Ms. Earley and Ms. Carlquist stated that they agree.

M/ Juan Armenta S/ Sonya Earley to:

Motion to fix the Monday, February 7, 2022, date in Sacramento.

<b>Member</b>	<b>Yes</b>	<b>No</b>	<b>Abstain</b>	<b>Absent</b>	<b>Recusal</b>
Charles Alexander	X				
Juan Armenta	X				
Jennifer Carlquist	X				
Sonya Earley	X				
Jed Grant				X	
Diego Inzunza	X				
Vasco Deon Kidd	X				

No public comment.

#### **14. Report on Medical Board of California Activities**

##### Health Profession Education and Foundation

Dr. Hawkins stated that he was a board member on Health Profession Education Foundation (HPEF) which last met September 8, 2021. On October 1, 2021, HPEF was incorporated into the new Department of Health Care Access and Information (HCAI). Physician assistants can investigate financial support programs by visiting two California portals and are encouraged to immediately do so to confirm support and application deadlines; such as grants and loan forgiveness. The first is under the HCAI at HCAI.ca.gov and the second one is the California Grants Portal at grants.ca.gov.

##### Medical Board of California

Dr. Hawkins reported that the MBC last met August 19 and 20, 2021, and will next meet November 18 and 19, 2021. SB 806 was approved by the Legislature; however, the MBC has requested amendments to the bill that reflect the additional board priorities that were not met.

These include the following: adequate increase to physician and surgeon fees, removal of the Boards two to four month reserve requirement, tolling the statute of limitations for subpoena enforcement, enhanced medical record inspection authority, timely access to pharmacy records, establishment of a licensed midwife board, and transferring the research psychoanalyst program to the Board of Psychology.

The MBC also requested but did not receive approvals for a public board majority and for authority to issue a letter of advice, which is a lesser form of discipline than public letters of reprimand.

Dr. Hawkins commented that PAs are strongly encouraged to visit both portals, HCAI.ca.gov and grants.ca.gov, to get support from the various grants and loan programs.

In response to Mr. Armenta's question of whether or not there is a link to these portals on the Board's website, Dr. Hawkins responded that he is not sure if they are on the Board's website, however if they are not available, they should be.

Ms. Earley stated that she agrees with these suggestions and thanked Dr. Hawkins for bringing the Board's attention to these two portals.

Mr. Armenta directed Ms. Khan to inquire if the links could be made available on the Board's website.

No public comment.

## **15. Regulations**

Ms. Halbo stated that two packages address what changes need to be made to the Board's regulations to adopt SB 697. After discussion both before and after the meetings with CAPA, the Board had made some additional changes to the package.

### **A. Review, consider, and possible action to amend previously adopted draft regulatory language in two separate regulatory packages that change existing regulations to align with SB 697 statutory changes:**

1. SB 697 Implementation: Amend 16 CCR sections 1399.502, 1399.540, 1399.541, and 1399.545 (MBC approved this text on 5.14.2021)

In the meeting materials, the package changes are listed starting with the SB 697 implementation text because it is primarily focused on physician assistant practice. This big switch to having the practice agreement is to walk through each of the changes that were made. Attached at the end of the memo is text that is highlighted in yellow with double strikeouts to show where something had been taken out and double underlined to show where items have been put in, since the Board's previous vote on this text.

M/ Juan Armenta S/ Charles Alexander to:

Motion to approve the proposed revisions to the language for the SB 697 Implementation regulation package sections 1399.502, 1399.540, 1399.541,

1399.545 and direct staff to submit the text to the Director of the Department of Consumer Affairs and the Business Consumer Services and Housing Agency for review. If no adverse comments are published during the 45-day comment period and if no adverse comments are received; authorize the Executive Officer to take all steps necessary to complete the rulemaking process, adopt the text as noticed and make any non-substantive changes to the package.

Member	Yes	No	Abstain	Absent	Recusal
Charles Alexander	X				
Juan Armenta	X				
Jennifer Carlquist	X				
Sonya Earley	X				
Jed Grant				X	
Diego Inzunza	X				
Vasco Deon Kidd	X				

Mr. Howard, speaking on behalf of CAPA, thanked the Board for allowing him the time to speak and informed the Board that CAPA has no additional comments to be added to the regulation of both the implementation of SB 697 or the additional package. CAPA feels that all the issues that were expressed have now been addressed. CAPA would like to take a moment and express what a significant undertaking SB 697 has been and express praise to the Board President and the Board's excellent staff for the hard work. There are a couple of technical changes that CAPA caught, these technical changes are non-substantive. There appears to be some inconsistency between how synonymous phrases of competence, training and competence, and education and training and experience are used. For example, in the proposed section 1399.540(a) text, the phrase "education, training, and experience" is used, in subdivision (c) the word "competence" is used, in subdivision (d) the word "competence" is used and in section 1399.545(b) there is the different phrase "training and competence". With those non-substantive observations, CAPA concludes with deepest gratitude to President Armenta, colleagues on the Board and Board staff.

Mr. Armenta thanked Mr. Howard for his kind words and expressed that this project would not have been completed without the work from Ms. Earley, Ms. Halbo, Ms. Dhillon and the Board's counsel. Mr. Armenta stated that he agrees with Mr. Howard that the Board saw a large seat change in the profession and that Mr. Armenta is happy that CAPA and the Board are on the same page in terms of the regulatory package, especially one that has been such a monumental undertaking. Mr. Armenta congratulated all staff that were involved in completing this package.

No further public comment.

2. Applications, Exams, Addresses and Recordkeeping: Amend 16 CCR sections 1399.506, 1399.507, 1399.511, and 1399.546

The Applications, Exams, Addresses and Recordkeeping regulation package had some minor changes that did not require MBC approval for the language. Those changes for the second package are highlighted in yellow with a double strikeout to depict when items are taken out and double underlined to show the reader where materials have been added in. The changes made in the packet were small

grammatical changes. The Board listened to CAPA which provided useful information and arguments and implemented these changes to make the regulations more parallel with the new state law.

Mr. Armenta stated that Ms. Halbo and Ms. Dhillon did great work getting these regulations completed as regulations can be an arduous process and the Board is gaining a decent regulation.

In response to Dr. Kidd's questions of, when looking at the memo should the Board focus on the Physician Assistant Board proposed language, or CAPA's respectful suggestions that were made, as there is some differences in opinion in terms of how CAPA feels about the language. Is the Board reconciling the difference between those two, or has that already been done though previous meetings? Is there a general consensus regarding what the Board is looking at and voting on, Ms. Halbo responded that yes, this is the consensus of listening to CAPA's changes and discussing how the Board can best move forward and use that change. Ms. Earley and Mr. Armenta attended the meeting with CAPA and shared their thoughts, so that their suggestions would be considered in the final version of the regulation. Mr. Armenta responded that it was a methodical type of process where the Board has some proposed language. The Board invited CAPA to comment, studied their comments, made adjustments and then had another meeting with CAPA to look at those adjustments that were made and again process their comments.

Mr. Armenta stated that he's the first board president who is not a PA, however working as a lawyer in Title 8, regulatory framework can give one a familiarity with regulations. It was also helpful gaining expert insights from Ms. Halbo and Ms. Dhillon throughout the process. All the comments from CAPA were incorporated to the best of the Board's abilities, the final product of the multiple stage process and by the Board's estimation — the best product. Of course, there are going to be some areas of disagreement, but the Board paired those down.

In response to Dr. Kidd's question of what are the highlights of the differences that still exist between the Board and CAPA on specific regulatory language, Ms. Halbo responded that CAPA's senior legal counsel recommended the Board remove repeating definitions from statute. When this text was originally drafted by staff, the whole concept of a practice agreement was this new paradigm and she was trying to put in these definitions to be helpful. However, the Office of Administrative Law reviewed it and does not want everything that is in the statute repeated in regulation, because that would make the regulation very long. With this input from the senior reviewer, repeats were struck out. The language the Board used about the necessity of a PA doing surgery with someone under general anesthesia, CAPA would argue that PAs should be able to do their job perhaps without too much oversight. However, the Board felt as a public protection mandate, the Board needed to have the supervising physician available in case something went wrong. In that section there is some language that the Board had discussed with CAPA and they did not continue to raise this issue, showing how the Board and CAPA were able to come to an agreement.

In section 1399.541, Medical Services Performable, CAPA wanted language removed and the Board explained why they could not grant this request. Subdivision (i)(1) states that prior to delegating surgical procedures, supervising surgeons are to review evidence to determine whether the PA is trained and qualified. Within the



statement of reasons, it states that evidence can be the supervising physician’s own experience with this procedure. What the Board is asking for is that the supervising physician ask themselves if the PA can complete a surgery before that PA can begin. This issue was able to come to a resolution. There are not many differences between CAPA’s proposed language and the Board’s proposed language, and the Board did a great job working with CAPA and now they will have to wait for public comment.

Mr. Armenta stated that the biggest areas of contention have been whittled down to a fair consensus. The immediate availability of a supervising physician when general anesthesia is being performed is to avoid the scenario where the surgeon completes part of the surgery, leaves the PA to close and then something goes wrong. The Board does not want to have a supervising physician absent during a time of an emergency such as the aforementioned. The Board was able to cut it down to define the term immediately as “being able to attend to the patient without delay.” There were some iterations prior where the Board and CAPA discussed methods of availability or electronic devices, but the Board thought the consensus would be that it is simply “physically available to attend to the patient without any delay to prevent harm to the patient”.

The other point that required some work, as Ms. Halbo mentioned, was 1399.545(b) and the Board did some significant work there to whittle this down to the practice agreement, with procedures for the immediate care of patients who are in need of emergency care beyond the PA’s training and competency. Some of the earlier language CAPA pointed out might be too onerous. During the last discussion, the Board defined what regulation means and that it has been considered within the practice agreement. The Board knows that there are procedures, this does not mean there is a checklist that one must go through during an emergency, but the Board wants people to have a plan for the outset. In that office meeting where there is participation, the practice agreement being the things that are at least considered that gives great deference to the competency training and professionalism of both the supervising physician and the PA. The Board feels this is a fair medium that allows the Board to fulfill their primary objective of public protection, while respecting the contours of SB 697. Those were the two main areas that reached a significant consensus on. Much of the other items were stylistic and this has been worked out by regulations counsel.

M/ Diego Inzunza S/ Charles Alexander to:

Motion to approve and adopt the proposed revisions to the language for the Applications, Exams, Addresses and Recordkeeping regulation package sections 1399.506, 1399.507, 1399.511 and 1399.546 and direct staff to submit the text to the Director of the Department of Consumer Affairs and the Business Consumer Services and Housing Agency for review and public notice. If no adverse comments are received, authorize the Executive Officer to take all steps necessary to complete the rulemaking process, adopt the text as noticed and make any non-substantive changes to the package.

<b>Member</b>	<b>Yes</b>	<b>No</b>	<b>Abstain</b>	<b>Absent</b>	<b>Recusal</b>
Charles Alexander	X				
Juan Armenta	X				

Jennifer Carlquist	X				
Sonya Earley	X				
Jed Grant				X	
Diego Inzunza	X				
Vasco Deon Kidd	X				

No public comment.

**B. Update and Possible Action on Pending Regulatory Packages**

1. Status of 16 CCR Section 1399.523.5 – Required Actions Against Registered Sex Offenders. Public comment period began April 2, 2021, and closed on May 18, 2021.

Ms. Dhillon stated that this package was completed, sent to the Director of DCA and approved on November 4, 2021. The package was then sent to the Business, Consumer Services and Housing Agency on November 5, 2021, with review requested to be completed by the end of the day on November 8, 2021. However, the Board needs to vote to adopt the proposed language for 16 CCR Section 1399.523.5, which was published for the 45-day public comment period. No public comments were received.

M/ Jennifer Carlquist S/ Sonya Earley to:

Motion to adopt the proposed language, as was noticed for the Required Actions Against Registered Sex Offenders package, 16 CCR Section 1399.523.5. The final documents have been submitted to the Director of DCA and to the Business, Consumer Services and Housing Agency for their review and upon receiving it, that the Board authorizes the Executive Officer to take all steps necessary to complete the rulemaking process and make any non-substantive changes to the package.

Member	Yes	No	Abstain	Absent	Recusal
Charles Alexander	X				
Juan Armenta	X				
Jennifer Carlquist	X				
Sonya Earley	X				
Jed Grant				X	
Diego Inzunza	X				
Vasco Deon Kidd	X				

No public comment.

2. 16 CCR Sections 1399.514 and 1399.615 – License Renewal and Continuing Medical Education Required. Staff is working to prepare documents for initial submission to Legal, Executive, and Agency review.

Ms. Dhillon stated that this package requires the Board to vote to adopt the proposed language for 16 CCR Sections 1399.514 and 1399.615, for publication to start the 45-day public comment period.

M/ Juan Armenta S/ Sonya Earley to:

Motion to approve and adopt the revised language for the License Renewal and Continuing Medical Education Requirements package, 16 CCR Sections 1399.514 and 1399.615, to direct staff to submit the text to the Director of DCA and the Business, Consumer Services and Housing Agency for review and send out for public notice. If no adverse comments are received, authorize the Executive Officer to take all steps necessary to complete the rulemaking process, adopt the text as notice if needed, and make any non-substantive changes to the package.

<b>Member</b>	<b>Yes</b>	<b>No</b>	<b>Abstain</b>	<b>Absent</b>	<b>Recusal</b>
Charles Alexander	X				
Juan Armenta	X				
Jennifer Carlquist	X				
Sonya Earley	X				
Jed Grant				X	
Diego Inzunza	X				
Vasco Deon Kidd	X				

No public comment.

3. 16 CCR section 1399.616 – Approved Continuing Medical Education Programs Implicit Bias. Public comment period began April 9, 2021, and closed on May 25, 2021. Staff is working to prepare final documents for Legal, Executive, and Agency review

Staff is currently working with Ms. Halbo to complete the final documents and get this package to legal immediately. At the August 9, 2021, Board meeting, the Board voted to reject the public comment and to adopt staff’s proposed response to the comment and adopt the regulatory language.

4. 16 CCR 1399.502, 1399.540, 1399.541, 1399.545 – SB 697 Implementation

The Board just reviewed this package and staff will be preparing the initial documents.

5. 16 CCR 1399.506, 1399.507, 1399.511, 1399.546 – SB 697: Applications, Exams, Addresses, & Recordkeeping

This has been reviewed by the Board and initial documents will be prepared for the package.

6. 16 CCR 1399.515 – AB 2461: Retired Status to Include Fingerprint Requirement

This is a new package for which initial documents are required.

7. 16 CCR 1399.523 – SB 1441: Implement Uniform Standards Related to Substance Abusing Licensees and Update of Disciplinary Guidelines

Initial documents for this package are required and staff are working on getting the language together.

## **16. Education/Workforce Development Advisory Committee: Update on Physician Assistant Education Programs and Applicants in California**

Dr. Alexander stated that this was a typical report that Mr. Grant normally presents to the Board, in terms of the number of programs and schools and their current status. There are some new online PA programs and this will increase the number of PAs in the state with the classes that they are enrolling.

Ms. Earley commented that the state has an increased number of PA schools coming on board and/or developing in the State of California. With that, as the Board continues to grow with the number of PAs, does the Board need additional help now that the Board has doubled, almost tripled in capacity and now there may be a need to have additional licensing staff?

No public comment.

## **17. Report by the Legislative Committee; Discussion and Possible Action to Consider Positions Regarding the following Legislation**

Ms. Dhillon updated the Board on SB 48, that a position letter was sent out on August 24, 2021, removing the Board's opposed position and changing it to a watch position. This bill was approved by the Governor on October 4, 2021. However, it does not apply to the PA Board. The bill expands scheduled benefits to include an annual cognitive health assessment for medical beneficiaries, and was amended and approved.

### A. AB 107 – Salas: Licensure: Veterans and Military Spouses

Ms. Dhillon stated on August 24, 2021, a Board position letter was sent to the Author's office to inform them of its watch position. This letter explained the concerns regarding the bypass of the review process and the elimination of the provision that makes a temporary license invalid upon the denial a license application. The Board did not receive any comment on the letter and the bill was approved by the Governor on October 8, 2021, and will become effective January 1, 2022. Regulations will be needed to implement this bill.

### B. AB 646 – Low: Department of Consumer Affairs: Expunged Convictions

At its August 9, 2021, meeting, the Board chose to maintain its watch position. This is a two-year bill, located in the Assembly Committee on Business, Professions, and Consumer Protection. As of the last Board meeting, there have been no new amendments or changes to this bill.

### C. SB 731 – Durazo: Criminal Records: Relief

At its August 9, 2021, meeting, the Board chose to maintain its opposed unless amended position. This bill is currently located in the Assembly Committee on Appropriations. On September 10, 2021, the bill was refused passage, but it could be taken up again in January 2022. The Board will keep a close eye on this bill as the legislature reconvenes on January 3, 2022. As of the last Board meeting, no new amendments were made to this bill.

#### D. SB 806 – Roth: Healing Arts

At its August 9, 2021, meeting, the Board chose to maintain its support position. The bill was approved by the Governor on October 7, 2021. This bill extends the existence of the Board and makes various statutory changes to reflect the independence of the PA Board as a standalone board. It also removed a number of outdated references to the PA Board having to consult with or receive prior approval from MBC prior to taking certain actions. Additionally, the bill removes the requirement that the Board establish a passing score, time and place for the PA examination since the current examination is administered by the NCCPA.

#### E. AB 562 – Low: Frontline COVID-19 Provider Mental Health Resiliency Act of 2021: Health Care Providers: Mental Health Services

At its August 9, 2021, meeting, the Board voted to maintain its watch position. This bill is currently located in the Senate Committee on Appropriations. As of the last Board meeting, there have been no new amendments. The Board will keep a close eye on this bill.

#### F. SB 395 – Caballero: Excise Tax: Electronic Cigarettes: Health Careers Opportunity Grant Program: Small and Rural Hospital Relief Program

At its August 9, 2021, meeting, the Board took a support position. This bill was approved by the Governor on October 4, 2021. This bill will establish the Health Careers Opportunity Grant Program (HCOP) under the administration of the Health Professions Education Foundation. This is for the purpose of improving access by underrepresented students from disadvantaged backgrounds to health profession programs offered by the state's public postsecondary education institutions. Ms. Dhillon stated that she consulted with the author's staff regarding the Board's concern about the fiscal impact that this bill may have and was informed that there is no anticipation of any costs to the healing arts boards on the implementation of the HCOP program.

#### G. AB 1306 – Arambula: Health Professions Careers Opportunity Program

At its August 9, 2021, meeting, the Board took a support position. This bill is currently located in the Senate Committee on Appropriations and no new amendments have been made since the last Board meeting. Ms. Dhillon stated that she consulted with the author's office regarding this bill and they do not anticipate any costs to the healing arts boards.

In response to Mr. Armenta's question of whether SB 731 was rejected in Committee, Ms. Dhillon responded that this is correct. Ms. Dhillon stated that they had been informed by Ryan Tacher, the Legislative Analyst, that the bill could be taken up again in January 2022. Once legislature reconvenes on January 3, 2022, because they are in interim recess currently, the Board will have a better understanding of the bill's future.

Mr. Armenta stated that the Board will need to keep an eye on the bill for the reasons previously discussed, particularly the healing arts boards, with the ability to dispense dangerous medications. It is surprising that the healing arts boards are not excluded from this bill; the Board will have to see which direction this bill goes. Mr.

Armenta also stated it is great to see that SB 806 passed, which is great for the Board.

Dr. Alexander stated that it is good to see that SB 395 and AB 1306 are moving through quite nicely and thanked the Board for their support.

No public comment.

### **18. Agenda Items for Next Meeting**

1) Discussion and possible action setting schedule for 2022 Board meeting dates and locations for three meetings in May, August and November.

No public comment.

### **19. CLOSED SESSION**

A. Pursuant to Section 11126(a)(1) of the Government Code, the Board will conduct the annual evaluation of performance of the Executive Officer.

B. Pursuant to Section 11126(c)(3) of the Government Code, the Board will deliberate and take action on disciplinary matters.

### **20. Adjournment**

Adjournment will immediately follow closed session and there will be no other items of business discussed.

Minutes do not reflect the order in which agenda items were presented at the Board meeting.