

MEETING MINUTES
November 6, 2023
8:30 A.M. – 5:00 P.M.
PHYSICIAN ASSISTANT BOARD
1625 North Market Boulevard
First Floor, Hearing Room # 102
Sacramento, CA 95834

1. Call to Order by President

President Armenta called the meeting to order at 8:45 a.m.

2. Roll Call

Staff called the roll. A quorum was present.

Board Members Present: Charles Alexander, PhD
 Juan Armenta, Esq.
 Jennifer Carlquist, PA-C
 Sonya Earley, Ed.D, PA-C
 Jed Grant, DMSc, PA-C
 Randy Hawkins, M.D.
 Diego Inzunza, PA-C
 Vasco Deon Kidd, DMSc, PA-C
 Deborah Snow (arrived at 8:50 a.m.)

Staff Present: Rozana Khan, Executive Officer
 Michael Kanotz, Attorney III
 Karen Halbo, Regulatory Counsel, Attorney III
 Kristy Voong, Assistant Executive Officer (WebEx)
 Jasmine Dhillon, Legislative/Regulatory Specialist
 Armando Melendez, Complaint Analyst
 Christina Haydon, Discipline Analyst
 Virginia Gerard, Probation Monitor
 Ariel Zeagas, Administrative Analyst
 Jennifer Jimenez, Licensing Analyst

3. Consider Approval of August 4, 2023, Board Meeting Minutes

M/ Juan Armenta S/ Sonya Earley to:

Approve the August 4, 2023, 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 | | | | |
| Deborah Snow | | | | X | |

No public comment.

4. 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).])

No public comment.

5. Nomination and Election of Physician Assistant Board Officers

Mr. Kanotz specified that Business and Professions Code (BPC) section 3509.5 states that the Board shall elect annually a president and a vice president from among its members. Mr. Kanotz first opened the floor for nominations for President of the Physician Assistant Board. Mr. Armenta nominated Dr. Earley. Dr. Kidd seconded the nomination. Dr. Earley accepted the nomination and stated that she looks forward to serving in 2024.

M/ Juan Armenta S/ Vasco Deon Kidd to:

Motion to nominate Sonya Earley for Board President in 2024.

| 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 | | | | |
| Deborah Snow | X | | | | |

Mr. Armenta commented that 2024 will be Dr. Earley's last year with the Board and being her exit year, Mr. Armenta feels that the knowledge she can bring to the Board is important and should be taken advantage of.

Mr. Kanotz then asked for nominations for Vice President. Mr. Armenta nominated Dr. Kidd. Dr. Earley seconded the nomination. Dr. Kidd stated that it is a pleasure and honor to serve and thanked the Board for their confidence in him and thanked Mr. Armenta for his leadership as President of the Board.

Mr. Armenta commented that when Dr. Grant asked him to consider being the Board President, Mr. Armenta thought it was important for the Board to have a legal perspective during the implementation of Senate Bill (SB) 697. Mr. Armenta stated that it has been his honor to serve within that capacity. Both Dr. Earley and Dr. Kidd have shown interest in leadership within the Board, given their knowledge and dedication, Mr. Armenta believes it is a wise choice to nominate them. Mr. Armenta believes that they will add to the institutional knowledge to the Board.

M/ Juan Armenta S/ Sonya Earley to:

Motion to nominate Vasco Deon Kidd for Vice President in 2024.

| 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 | | | | |
| Deborah Snow | X | | | | |

No public comment.

6. Board Member Recognition and Commendations

Kimberly Kirchmeyer, Department of Consumer Affairs (DCA) Director stated that she is honored to be before the Board in a bittersweet moment as it is sad to lose long-time members. Ms. Kirchmeyer wanted to come before the Board to acknowledge the service of Dr. Grant and Ms. Carlquist and thank both for their service to the Board and to the State. Ms. Kirchmeyer thanked Dr. Grant for his leadership as Board President, providing information and teaching about the PA profession, and carrying this Board from a committee into the Board that is not under the guise of the Medical Board of California (MBC) and is producing its own work. Ms. Kirchmeyer thanked Ms. Carlquist for her input and decisions, and serving on committees.

Dr. Grant thanked Ms. Kirchmeyer for her heartfelt comments, stating that he had enjoyed being able to work closely with her and that her leadership and support of the Board is appreciated.

Ms. Carlquist thanked Ms. Kirchmeyer for the support she has provided, stating that she is sad to leave the Board but knows that the Board is left in capable hands.

Mr. Armenta commented that as a non-PA member he has learned a lot from both Dr. Grant and Ms. Carlquist regarding the PA profession, and that they set a great example in terms of helping educate non-PA Board members. During the challenge of implementing SB 697, both Dr. Grant and Ms. Carlquist were instrumental in moving this forward. Mr. Armenta thanked both for their service to the Board and to the state.

Public comment:

Robert Sachs, former Board President, stated that both Dr. Grant and Ms. Carlquist served on the Board when he was Board President for several years. Mr. Sachs stated that he met Dr. Grant when he was an instructor and program director at San Joaquin PA Program. Dr. Grant was a program director, an instructor, a police officer for the city of Visalia and also did emergency medicine. When Dr. Grant joined the

Board, he gave up law enforcement, but picked up more in military, most recently with his status as Lieutenant Colonel. Dr. Grant was eloquent at getting some of the legislation passed during Mr. Sachs' tenure as President and Vice President and also a father, husband, and instructor who impacted many lives and protected the California consumers. Ms. Carlquist was right behind Dr. Grant doing many great things, specializing in cardiology. Mr. Sachs congratulated both members.

Dr. Grant thanked Mr. Sachs for his comments and thanked him for his mentorship.

Ms. Carlquist thanked Mr. Sachs for his comments and leadership, reminiscing about the first day that she was on the Board and how Mr. Sachs and Dr. Grant made her feel welcome.

7. President's Report

Mr. Armenta reported that within the last Board meeting there was an agenda item discussing the Physician Assistant (PA) name change advocated by California Academy of Physician Associates (CAPA). Mr. Armenta has decided that with his capacity as Board President, not to put this item on the Board's Agenda. The reason being, that although there is great interest in this item among the community, the Board's mission is protection of the public. There was commentary that the Board could collaborate under a policy basis and acquire data that would support a policy basis for a change in name. However, that crosses over into the legislative area. Mr. Armenta believes that this is beyond the Board's scope. The Board is not a legislative body but a public protection body. Though this item has not been added to this meeting's agenda, it is important for the public to understand clearly that if legislation does make its way to the Board, the Board would then give it proper due consideration.

Mr. Armenta stated that he is continuing to have biweekly meetings with Executive Officer Ms. Khan and Vice President Dr. Earley to discuss Board operations.

Mr. Armenta nominated Dr. Kidd to work on the Education Workforce Development Advisory Committee with Dr. Alexander.

Dr. Kidd accepted the nomination.

No public comment.

8. Executive Officer's Report

Ms. Khan referred members to Agenda Item 8 and reported the following.

A. Personnel

Ms. Khan announced that Pearl Her will be joining the Board on November 7, 2023, as the Enforcement and Licensing Support Technician. Ms. Her is currently the Receptionist at the Physical Therapy Board of California. Additionally, recruitment is underway to fill the vacant Administrative Office Technician position. An update regarding the vacant position will be provided at the next Board meeting.

To enhance operational efficiency, consumer protection, and realize cost savings;

the Board believes that it is critical to its mission and success that it employs its own non-sworn Special Investigator. Currently, the Board has one complaint analyst who conducts initial desk investigations for all complaints. If further investigation is warranted, the complaint is forwarded to DCA's Division of Investigation (DOI), Health Quality Investigation Unit (HQIU) for a comprehensive investigation. DOI investigators are sworn peace officers. The Board has identified several case types that can be investigated and referred for prosecution without the use of a sworn investigator. Redirecting such cases to non-sworn personnel can streamline processes and reduce costs. Many tasks associated with investigations can be performed by non-sworn investigators, such as detecting and verifying violations, interviewing witnesses, gathering information, analyzing testimony, serving legal papers, or serving as an expert witness amongst other non-sworn duties. This ensures sworn investigators focus on tasks needing peace officer powers, like use of firearms, arrests, or search and seizure. The Board will continue to utilize HQIU for criminal investigations that can only be handled by a sworn peace officer.

On August 10, 2023, the Board submitted a recruitment package to the DCA Office of Human Resources to establish the non-sworn Special Investigator blanket position for a limited term of 24 months to collect workload data and cost savings. The aim is to eventually make this a permanent position through a future Budget Change Proposal. On August 24, 2023, the package was approved. Recruitment for the non-sworn Special Investigator is underway, with the expectation to fill the position before the next Board meeting.

B. Outreach

Board staff attended the annual CAPA conference during Physician Assistant Week- October 5-8, 2023, in Anaheim. This event provided an essential outreach opportunity for Board staff to answer questions from licensees and students and provide updates regarding laws and regulations governing the PA practice.

Mr. Armenta inquired about the progress regarding recruiting a candidate for the Special Investigator position. Ms. Khan responded that the Board has reviewed the applications received and hopes to set up interviews next month.

Mr. Armenta asked what type of background experience the candidates typically have. Ms. Khan responded that generally the non-sworn investigators have completed desk investigations at the Associate Governmental Program Analyst (AGPA) level.

Dr. Hawkins asked if individuals who visited the Board's booth at the CAPA conference had recurring topics, comments, or questions. Ms. Khan responded that there were questions regarding what new laws were passed and there were PA students inquiring about the application process.

No public comment.

9. Board Activity Reports

A. Licensing

Ms. Voong referred members to Agenda Item 9A and reported the following

Licensing Population by Type, Summary of Licensing Activity, Pending Application Workload, and Licensing Performance Measures reports.

Ms. Voong reported that the Board now has two license types, the regular full PA license and now a temporary PA license. Effective July 1, 2023, each DCA licensing board and bureau was required to grant temporary licensure to the spouse or domestic partner of an active-duty military member stationed in California if the applicant is currently licensed and holds an active and unrestricted license in another state with the same scope of practice as the profession in California, for which they would like to practice. This applicant population also receives expedited processing and initial application and license fee waivers. The temporary license is nonrenewable and expires 12 months after issuance. If an individual wishes to continue to practice medicine in California after the temporary license expires, they will need to reapply for a regular full PA license.

B. Complaints

Mr. Melendez referred members to Agenda Item 9B and reported the following Complaint Statistics and Complaints Received by Type and Source Reports.

Dr. Earley asked if the intake days are the same as the desk age, where it captures the start time. Mr. Melendez responded that on average he starts working on a case six days after receipt.

Dr. Grant inquired if the year-to-year change in percentage reflect the whole year or quarter. Mr. Melendez confirmed the percentage change is for the whole year.

Dr. Grant asked if Mr. Melendez believes that having an internal non-sworn investigator will help with the investigation's aging. Mr. Melendez stated that he believes so, as they will be working with the complaint analyst to build efficiency.

C. Discipline

Ms. Haydon referred members to Agenda Item 9C and reported the following Discipline Statistics Report.

Mr. Armenta commented that the numbers are more reflective of the due process that is required to be given to the accused; they then have an opportunity to review and respond by presenting their own evidence. It is important for the Board to keep in mind that when seeing that the average desk age is 364 days, this should not cause alarm.

D. Probation

Ms. Gerard referred members to Agenda Item 9D and reported the following Probation Activity Report.

Ms. Gerard explained that when a licensee is tolling, this means that the licensee is not practicing in the state or within the state that they reside. They may also have been dropped from their insurance due to being fired. When a licensee is placed on probation, they are instructed as a condition of their probation to continue to work as a PA within the state their license was issued. In previous years if the probationer

left the state, their probation time would run as if they had not spent time completing their probation. This led to the rule that time spent not practicing within California will be added onto their probation. If a probationer spends 2 years tolling, they are in violation of their probation.

E. Diversion

Ms. Gerard referred members to Agenda Item 9E and reported the following Diversion Program Activity Report.

Ms. Gerard reported that she has monthly meetings with the Diversion Program Liaison Virginia Matthews. Ms. Matthews is also the President of the National Organization for Alternative Programs (NOAP). Attendance is down nationwide for the diversion programs and there were speculations that healthcare staff may be looking the other way due to healthcare shortages. As of now this is just speculation, however Ms. Matthews shared that she is going to form a committee to find out why the numbers are down.

Ms. Gerard also reported that individuals may not be accepted into the Diversion Program if they do not have a diagnosis of substance abuse or if the individual no longer holds a license.

No public comment.

10. Department of Consumer Affairs – Director’s Update (DCA Staff) – May Include Updates Pertaining to the Department’s Administrative Services, Human Resources, Enforcement, Information Technology, Communications and Outreach, as well as Legislative, Regulatory and Policy Matters

Judie Bucciarelli, Staff Services Manager Specialist for Board and Bureau Relations provided the Board with the following report:

Business, Consumer Services and Housing Agency (Agency) Secretary Lourdes Castro Ramirez has been appointed as the Chief of Housing and Homelessness in the Office of Los Angeles Mayor Karen Bass, effective November 2, 2023. Until a new Secretary is appointed by Governor Newsom, Tad Egawa, General Counsel at Agency, is serving as the Acting Secretary.

In October, 138 DCA leaders and 26 board members completed DEI Human-Centered Approach training provided by University of Massachusetts (UMASS) consultant Dr. Bernard Gibson. On November 7, 2023, UMASS consultant Christopher Veal will provide a virtual training entitled – DEI Dialogue for Leaders – to DCA managers, supervisors, and leadership.

DCA’s Deputy Director of Communications recently met with the Consulate of Mexico in San Francisco, to share information and resources about DCA as well as hear about areas of interest to the Consulate. As a result of the meeting, DCA offered partnership for future in person and online events and to share available consumer resources.

DCA’s Tribal Liaison and DCA’s DEI Steering Committee Chair, Yeaphana LaMarr, recently introduced the Executive Officer of the Board for Vocational Nursing and

Psychiatric Technicians to Britta Guerrero, Executive Officer of the Sacramento Native American Health Clinic. The meeting was to discuss the possibility of tribal health clinics serving as locations for vocational nursing students needing to obtain clinical hours required for licensure. Participants also discussed strategies to encourage members of California's tribal communities to consider becoming a healthcare provider.

DCA boards and bureaus may conduct entirely remote public meetings without noticed locations accessible to the public through December 31, 2023, so long as the public are able to participate in the meeting remotely. Commencing on January 1, 2024, four meeting options will be available pursuant to the Bagley-Keene Open Meeting Act:

Option #1 - Traditional single-location option: This is a meeting where the majority of members are gathered at one publicly noticed and accessible location; no members are participating remotely; and there is no requirement to allow for remote public participation.

Option #2 – Traditional teleconference option: board members are located at different, publicly noticed, and accessible locations, and they are connected via phone or WebEx. There is no requirement to allow for remote public participation.

Option #3 – New teleconference option: A majority of board members are gathered at one publicly noticed and accessible location; the extra board members above a majority can participate remotely from private, non-public sites; and the meeting must allow for remote public participation.

Option #4 – The new advisory body teleconference option: All members of an advisory body can participate remotely from private, non-public meeting sites. The meeting must have at least one publicly noticed and accessible location where at least one board/bureau staff member is present, and where the public can participate in the meeting. Additionally, the meeting must allow for remote public access.

There are two DCA mandatory trainings that must be completed before the end of 2023. All DCA employees and appointees, including board and advisory council members, will need to complete the Sexual Harassment Prevention training by December 31, 2023. Additionally, board members with an assigned DCA email (@dca.ca.gov) are required to complete the Information Security Awareness Fundamentals training. This training addresses DCA staff's role in protecting DCA data and information. The training is online and required every year. Both the trainings are available in the Department's Learning Management System (LMS).

With the recent signing of SB 447 by Governor Newsom, California's travel restrictions to states that have adopted discriminatory anti-LGBTQ+ laws immediately ended. California's restricted states travel list was eliminated and replaced with a new public awareness project that will consult with community leaders to promote California's values of acceptance and inclusion of the LGBTQ+ community across the country.

Over the past years, several out of state trips requested by boards were not authorized because the travel was to a state on the restricted travel list. Now, out-of-

state travel to all states is permitted if the trip is critical to the functions and needs of the board. Out-of-state travel requests must still follow the established process for review and approval by DCA, Agency and the Governor's Office.

DCA's Promise Giving at Work will run from October 5 through December 31, 2023. Leading the efforts this year are DCA's Co-Chairs — Monica Vargas, Deputy Director of Communications, Yvonne Dorantes, Assistant Deputy Director of Board and Bureau Relations. This annual campaign gives state employees, including board members, an opportunity to support nonprofits through a one-time donation or payroll deduction. These contributions make a positive impact by providing vital resources to those experiencing poverty, homelessness, food insecurity, and offer support to causes such as veterans, animals, the environment and more.

On November 14, 2023, DCA will host the second annual Turkey Drive with donations benefiting Joey's Food Locker, a community food bank located in Natomas, near DCA headquarters in Sacramento. Donations of frozen turkeys, hams, and chickens, as well as non-perishable food items, will be accepted at three DCA office locations in the Sacramento area on this day.

Board and Bureau Relations sent out its 2023 fall newsletter, which was distributed to Board presidents and vice presidents as well as to all Executive Officers and Bureau Chiefs. The fall newsletter is available online at the Board Member Resources page on the DCA webpage.

No public comment.

11. Budget Update

Ms. Balkis reported the Board's fiscal year (FY) 2023-24 Fiscal Month (FM) 3 projection memo, fund condition and expenditure.

Ms. Balkis reported in FY 2023-24 the Board has a budget of \$3,102,000. The Board is projected to use 38.59% of its expenditure on Personal Services (PS) which includes salaries and benefits; 24.53% for Operating Expenses & Equipment (OE&E) which includes contracts, purchases, and travel; and 36.63% for Enforcement which is for the Office of Administration Hearings (OAH) and Attorney General (AG). The Board is estimated to have 0.25% in Reversion.

Fund Condition Report

Ms. Balkis reported for FY 2021-22 actuals, the Board has a beginning balance of \$4.5 million with prior year adjustment of \$51,000, giving the Board an adjusted beginning balance of \$4.6 million. The Board has an overall revenue of \$2.8 million and total expenditure of \$3.1 million, which gives a fund balance of 4.2 million (15.9 months in reserve). For current year 2023-24, the Board has a beginning balance of \$4.2 million, estimated revenue of \$2.8 million, estimated total expenditure of \$3.2 million, giving a fund balance of \$3.8 million (14 months in reserve). There are no immediate concerns for this fund.

Expenditure Projection Report

Ms. Balkis reported for the FM 3 FY 2023-24 projections, the Board has \$1.2 million in PS, \$1.9 million in OE&E, for a total of \$3.1 million which create a saving of \$8,000 or about 25%. There are no immediate concerns for this fund.

No public comment.

12. Report on Medical Board of California Activities

Dr. Hawkins, Vice President of the MBC, reported that he was elected President of MBC during the August Board meeting. MBC's next quarterly meeting will be on November 30 and December 1, 2023, at DCA HQ1 Hearing Room. The agenda has not been finalized but will be viewable at MBC's homepage at www.mbc.ca.gov.

SB 815 was signed by Governor Newsom last month; highlights of the bill include the following: increased physician license fee, for both initial and renewal starting January 2024; there are several processes that will improve the efficiency and timeline of the investigation of complaints; extends the duration of post graduate training license to 36 months from the date of issuance to improve licensee efficiency of trainees; clarifies the creation of a complainant liaison unit, to interview complainants and/or patient representatives prior to closing their quality-of-care complaints; removes language related to changing the burden of proof and therefore the current clear and convincing requirement will be unchanged; recasts and clarifies the requirements to suspend and revoke a license following the licensee's conviction of certain felonies; and repeals Assembly Bill (AB) 2098 which relates to COVID-19 misinformation and disinformation.

SB 143 was previously approved by Governor Newsom and this bill includes the expiration date of certain graduate training of licensees until March 2024. This bill will help Postgraduate Training Licenses continue in their training programs and complete their licenses.

MBC has updated guidelines for prescribing controlled substances for pain that are available on the website. Dr. Hawkins encourages all PAs to review these guidelines and where appropriate, incorporate these in their prescribing practice.

Mr. Armenta congratulated Dr. Hawkins on being elected as President for MBC.

No public comment.

13. Discussion and Possible Action on Proposed 2024 Board Meeting Dates

Ms. Khan referred members to Agenda Item 13 for the proposed meeting dates. Ms. Khan stated the meeting locations will be determined by the President later.

Dr. Earley stated she will be out of the country on May 6, 2024, and requested to move that meeting to April 29, 2024.

Mr. Armenta confirmed the proposed meeting dates will be February 5, 2024, April 29, 2024, August 5, 2024, and November 8, 2024.

M/ Juan Armenta S/ Sonya Earley to:

Motion to adopt the proposed meeting dates for 2024.

| 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 | | | | |
| Deborah Snow | X | | | | |

No public comment.

14.A. Update, Discussion, and Possible Action to Consider Changes to Previously Proposed Text and Reauthorization of a Regular Rulemaking to Amend 16 CCR Sections 1399.514 and 1399.615 – License Renewal and Continuing Medical Education Required

Ms. Dhillon stated the proposed text was last adopted at the May 28, 2020, Board meeting. Since then proposed changes to the language have been made to 16 CCR section 1399.514 to add language included in the renewal application that was inadvertently left out, clarify the meaning of “Category 1 CME” by referring to where it is defined in 16 CCR section 1399.616, and clarify the one-time controlled substance education course that must be taken by physician assistants who dispense controlled substances by pointing to the Board’s pre-approval of the courses in 16 CCR section 1399.610. Staff recommends the Board review and discuss the provided materials. The Board may determine whether or not to approve the revised regulatory language and initiate the rulemaking process using the revised regulatory language.

M/ Juan Armenta S/ Jed Grant to:

Approve the proposed regulatory text for 16 CCR sections 1399.514 and 1399.615, 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, authorize the Executive Officer to take all steps necessary to initiate the rulemaking process, make any non-substantive changes to the package, and set the matter for a hearing if requested. If no adverse comments are received during the 45-day comment period and no hearing is requested, authorize the Executive Officer to take all steps necessary to complete the rulemaking and adopt the proposed regulations at 16 CCR sections 1399.514 and 1399.615 as noticed.

| 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 | | | | |
| Deborah Snow | X | | | | |

No public comment.

14.B. Update, Discussion, and Possible Action on Proposal to Amend 16 CCR Sections 1399.502, 1399.540, 1399.541, and 1399.545 – SB 697 Implementation Proposed Modified Text and Consideration of Public Comments

Ms. Halbo stated comments were received from the California Society of Anesthesiologists (CSA), California Medical Association (CMA), and Greg Hadfield, PA-C. The CSA and CMA comments relate to 16 CCR section 1399.540(d) which covers a PA’s ability to make a referral when it is outside their level of competence. CSA and CMA ask the Board to restrict the PA’s ability to make a referral. The amendments add the option for a PA to consult with a supervising physician or surgeon or refer to a physician and surgeon or licensed healthcare provider, but it does not restrict the PAs ability to make referrals as that is determined in the practice agreement. The concerns raised related to 16 CCR section 1399.541(i)(1) and relate to supervision during surgeries and what type of surgeries are involved. “Procedural sedation” is not a clear term and in working through the comments it was agreed that removing “procedural sedation” and including it in under “sedation other than local anesthesia, including general anesthesia”, was appropriate.

Mr. Armenta stated it is important to know that input from all sources has been deeply considered, however our guiding principle is legislative intent. Mr. Armenta asked Ms. Halbo to point out the Business and Professions Code section that governs a PA’s ability to carry out procedures in the absence of a physician and surgeon. Ms. Halbo stated Business and Professions Code section 3501(f) defines the term “supervision” which shall not be construed to require the physical presence of the physician and surgeon. Mr. Armenta stated that is clear legislative intent, because “shall” is mandatory as opposed to “may”. Mr. Armenta stated the final language is proposed fits the statutory interpretation and it requires the immediate availability should something go wrong in a procedure.

M/ Jed Grant S/ Vasco Deon Kidd to:

Adopt the proposed responses to comments and the Modified Text and direct staff to send the Modified Text and an Availability of Documents Added to the Rulemaking File Notice out for a 15-day public comment period. If no public comments are received on the Modified Text, instruct the Executive Officer to take all steps necessary to complete the rulemaking process, authorize the Executive Officer to make any technical or non-substantive changes to the rulemaking package and adopt the amendments to 16 CCR sections 1399.502, 1399.540, 1399.541, and 1399.545, as noticed.

| 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 | | | | |
| Deborah Snow | X | | | | |

Public comments:

Dr. Todd Primack, Legislative and Practice Affairs Division Chair from the California Society of Anesthesiologists (CSA) stated that CSA is concerned about patient safety as a risk with some of the proposed changes. General anesthesia allows surgeons to perform surgical procedures that could not be tolerated by conscious patients. It exposes patients to more serious harm as surgical procedures are more invasive. Deep sedation without an anesthesiologist or CRNA (certified registered nurse anesthetist) is riskier than general anesthesia if there is no one properly dedicated to maintaining the airway and monitoring the patient. Dr. Primack stated the proposed text does not address who would be doing the anesthetic administration and wonders whether anyone be required to focus on the patient during and after the anesthetic. Dr. Primack stated surgeons at ambulatory surgery centers are required to have hospital privileges in case of emergency, and asks whether physician assistants would have a similar requirement. Life threatening complications may occur as there is no safety net for office procedures. Dr. Primack states the previous regulations do more to protect the patient. Dr. Primack further asks for full disclosure to patients that the operating surgeon is not a physician.

Lucas Evensen, Associate Director of Strategic Engagement for the California Medical Association (CMA), stated they request the phrase “including general anesthesia” be removed in 16 CCR section 1399.541(i)(1) because it could inadvertently be interpreted as the Physician Assistant Board encouraging or recommending physician assistants perform surgery without the personal presence of the supervising physician on patients under general anesthesia rather than other forms of sedation. Mr. Evensen states the change would not modify what physician assistants are allowed to do, as this would be left up to the practice agreement, but would clarify that the subsection applies to other forms of sedation without calling out a specific type of sedation.

Mr. Armenta stated that Mr. Evensen wants to strike “including general anesthesia” to provide more clarity for the subsection. Mr. Evensen confirmed.

Dr. Grant stated that it is important for credentialing bodies and privileging bodies to include general anesthesia in the regulation. This is decided at the practice level and it is spelled out in the practice agreement, and is important that it is spelled out in the law.

Dr. Kidd stated he agrees with Dr. Grant that general anesthesia is included in the text because if it is not included, physician assistants would not be privileged to do it.

Mr. Armenta stated to clarify Dr. Grant and Dr. Kidd’s comments that this would provide greater clarity of where the lines of demarcation are of allowable conduct. Dr. Kidd stated it’s really important to include it in the text otherwise it is left up to the individual credentialing and privileging committees to figure it out.

14.C. Update, Discussion, and Possible Action to Consider Changes to Previously Proposed Text and Initiation of a Regular Rulemaking to Amend 16 CCR Sections 1399.506, 1399.507, 1399.511, and 1399.546 – Application, Exam Scores, Addresses & Recordkeeping

Ms. Dhillon stated at the November 8, 2021, meeting, the Board discussed and approved proposed amendments to the previously approved changes to CCR sections 1399.506, 1399.507, 1399.511, and 1399.546 to better implement the needed changes to these regulation sections required by the passage of SB 697. Notice of the proposed regulatory change was published on September 9, 2022, and the 45-day comment period closed on October 25, 2022. The Board voted at its November 7, 2022 meeting to amend the text of 16 CCR Section 1399.506 to include modified language incorporating the changes made to BPC section 115.5. Notice of the First Modified Text was published on November 9, 2022, and the 15-day comment period closed on November 28, 2022. Agency approved this package on December 12, 2022, and it was filed with the Office of Administrative Law (OAL) on December 20, 2022. Regulations Counsel and staff worked with OAL to amend the text for consistency and to place the information asked for in the initial license application into regulation. At the August 4, 2023, meeting, the Board voted adopt the proposed Second Modified Text for 16 CCR Sections 1399.506, 1399.507, and 1399.511. Notice of the Second Modified Text was published on July 21, 2023, and the 15-day comment period closed on August 7, 2023. These proposed regulatory changes were initially noticed on September 9, 2022, and the Business, Consumer Services, and Housing Agency had one year from that date to complete the rulemaking process and submit the completed rulemaking file to OAL. A new rulemaking is required because the revisions the OAL attorney requested to the Text rendered us unable to complete the rulemaking within the 1-year notice period. The changes were required to clarify the rulemaking and avoid disapproval of this rulemaking by the Office of Administrative Law. Staff recommends the Board review and discuss the provided materials. The Board may wish to determine whether or not to approve the proposed regulatory language and initiate the rulemaking process using the proposed regulatory language.

M/ Juan Armenta S/ Sonya Earley to:

Approve the proposed regulatory text for 16 CCR Sections 1399.506, 1399.507, 1399.511, and 1399.546, 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, authorize the Executive Officer to take all steps necessary to initiate the rulemaking process, make any non-substantive changes to the package, and set the matter for a hearing if requested. If no adverse comments are received during the 45-day comment period and no hearing is requested, authorize the Executive Officer to take all steps necessary to complete the rulemaking and adopt the proposed regulations at 16 CCR Sections 1399.506, 1399.507, 1399.511, and 1399.546 as noticed.

| 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 | | | | |
| Deborah Snow | X | | | | |

No public comment.

15. Regulations – Update on Pending Regulatory Packages

Ms. Dhillon referred members to Agenda Item 15 for the detailed updates on the following packages.

1. 16 CCR 1399.514, 1399.615 – SB 697: License Renewal and Continuing Medical Education Required

The Board needs to adopt the revised proposed regulatory language so staff can submit this package for initial review.

2. 16 CCR 1399.502, 1399.540, 1399.541, 1399.545 – SB 697: Implementation

Agency approved this package on July 13, 2023, and the Notice was filed with the Office of Administrative Law (OAL) for publication on July 28, 2023, to initiate the 45-day public comment period, which ended on September 12, 2023.

3. 16 CCR 1399.506, 1399.507, 1399.511, 1399.546 – SB 697: Application, Exam Scores, Addresses, & Recordkeeping

The Board adopted revised proposed regulatory language, which was sent out for the 15-day public comment period which ran from July 21, 2023, to August 7, 2023, and no public comments were received.

4. 16 CCR 1399.515 – AB 2461: Retired Status to Include Fingerprint Requirement

This regulatory proposal is on hold for 2023 until the above packages are completed.

5. 16 CCR 1399.523 – SB 1441: Implement Uniform Standards Related to Substance Abusing Licensees and Update of Disciplinary Guidelines

This regulatory proposal is on hold for 2023 until the above packages are completed.

No public comment.

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

Dr. Alexander thanked Dr. Grant for all of his help on this report and previous reports, and all he has taught him throughout his time on the Board and welcomed Dr. Kidd to the committee.

Dr. Alexander referred members to Agenda Item 16 for the detailed Education and Workforce Sub-Committee Report.

Dr. Alexander stated that there are four PA programs on probation, which means they are not meeting the accredited standards and this status can last up to two years. Three of the four probation programs are listed as “probation F” and this indicates a program may have a focus visit prior to its next ARC-PA review. This is important because this impacts the capacity. The average number of students per program is 49, and if the probation F programs are unable to admit incoming classes, the cohorts are going to be impacted. This raises some concern of the number of PAs that will be produced by the State.

Dr. Grant stated that there has been a lot of growth within the PA programs and the primary limiting factor for growth is clinical rotation sites. The PA education is set up on that medical model, where there is a 12 to 15 months of didactic component and then 12 to 15 months of clinical rotations. These rotations are competitive in terms of schools. Some schools may have contracts or rotation sites that they have developed when a new program opens. They must have all those rotations well in advance of ceding any students. This is an area where the growth of programs might be limited in the state by obtaining those clinical rotations. Currently, programs are having to pay clinical sites to take students and that cost is passed directly to the student in most cases, which drives up the cost of education.

Dr. Kidd shared his concern that when these programs are on probation, other existing programs would take their clinical sites and that’s a major challenge for some of these programs that are not able to matriculate students because of the probation status. And when the program comes off probation, would there be enough clinical sites to support their incoming class.

No public comment.

17. Report by the Legislative Committee; Legislative Update

Ms. Dhillon referred members to Agenda Item 17 for the detailed report on the following bills.

A. AB 883 (Mathis) Business licenses: United States Department of Defense SkillBridge Program.

Staff does not anticipate any fiscal impact as this bill does not affect the Board.

B. AB 996 (Low) Department of Consumer Affairs: continuing education: conflict-of-interest policy.

Staff may need to implement regulations in accordance with this bill. At its May 1, 2023, meeting, the Board took a watch position.

C. AB 1028 (McKinnor) Reporting of crimes: mandated reporters.

The Board would need to provide an update of mandated reporting information included on the Board’s website for licensees. This is something that can be done by staff and is supported by the Board’s current pro rata costs to DCA. At its May 1, 2023, meeting, the Board took an opposed position.

D. AB 1070 (Low) Physician assistants: physician supervision: exceptions.

Staff does not anticipate any fiscal impact.

E. AB 1707 (Pacheco) Health professionals and facilities: adverse actions based on another state's law.

Staff does not anticipate any fiscal impact. At its May 1, 2023, meeting, the Board took a support position.

F. SB 345 (Skinner) Health care services: legally protected health care activities.

Staff does not anticipate any fiscal impact. At its May 1, 2023, meeting, the Board took a support position.

G. SB 372 (Menjivar) Department of Consumer Affairs: licensee and registrant records: name and gender changes.

Staff does not expect a significant fiscal impact effectuated by this bill. At its May 1, 2023, meeting, the Board took an oppose position.

H. SB 385 (Atkins) Physician Assistant Practice Act: abortion by aspiration: training.

Staff does not anticipate any fiscal impact. At its August 4, 2023, meeting, the Board took a support, if amended position.

I. SB 544 (Laird) Bagley-Keene Open Meeting Act: Teleconferencing.

Staff does not anticipate any fiscal impact. At its May 1, 2023, meeting, the Board took a support position.

J. SB 802 (Roth) Licensing boards: disqualifications from licensure: criminal conviction.

Staff does not anticipate any fiscal impact. At its May 1, 2023, meeting, the Board took a support position.

No public comment.

18. Agenda Items for Next Meeting

No agenda items requested.

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

With no further business the meeting was adjourned at 11:48 a.m.

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