

MEETING MINUTES
November 8, 2024
8:30 A.M. – 5:00 P.M.
PHYSICIAN ASSISTANT BOARD
May Lee State Office Complex
651 Bannon Street
Room SE. 158A
Sacramento, California 95811

1. Call to Order by President

Dr. Earley called the meeting to order at 8:37 a.m.

2. Roll Call

Staff called the roll. A quorum was present.

Board Members Present:

Sonya Earley, Ed.D., PA-C, President
Vasco Deon Kidd, DHSc, PA-C, Vice President
Charles Alexander, Ph.D.
Juan Armenta, Esq.
Deborah Snow
Veling Tsai, M.D. (via video conference)

Board Members Absent:

Diego Inzunza, PA-C

Staff Present:

Jasmine Dhillon, Legislative and Regulatory Specialist
Virginia Gerard, Probation Monitor
Pearl Her, Administrative Analyst
Blia Herr, Enforcement and Licensing Support
Jennifer Jimenez, Licensing Analyst
Michael Kanotz, Attorney III
Rozana Khan, Executive Officer
Christina Lefort, Discipline Analyst
Armando Melendez, Special Investigator
Kristy Schieldge, Regulatory Counsel, Attorney IV
Kristy Voong, Assistant Executive Officer (via video conference)

3. Consider Approval of August 9, 2024, Board Meeting Minutes

M/ Vasco Deon Kidd S/ Deborah Snow to:

Approve the August 9, 2024, meeting minutes.

Member	Yes	No	Abstain	Absent	Recusal
Charles Alexander	X				
Juan Armenta	X				
Sonya Earley	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. Introduction and Swearing in of New Board Member

Dr. Earley introduced newly appointed Board Member Veling Tsai, M.D., and administered the Oath of Office to officially welcome him to the Board.

No public comment.

6. Nomination and Election of Physician Assistant Board Officers

Mr. Kanotz stated the Board shall elect annually a president and a vice president from among its members. He then opened the floor for nominations for the position of Board President.

Mr. Armenta nominated himself for Board President, and Dr. Earley nominated Dr. Kidd. Mr. Kanotz confirmed that there are two nominations and invited each nominee to make a statement.

Dr. Kidd shared that over the past several years, he has contributed subject matter expertise to the Board on a wide range of issues related to physician assistant (PA) education, training, regulation, licensing and enforcement. As a practicing PA, he expressed that he is well prepared to serve as Board President and views this opportunity to further support and expand the Board's work.

Mr. Armenta stated that he would like to reprise his role as President. He emphasized that his legal expertise and legislative experience makes him well suited to guide the Board through the upcoming Sunset Review process.

Ms. Snow commented that both candidates are highly qualified for the role.

Dr. Alexander asked both candidates how they would prepare for the upcoming Sunset Review. Dr. Kidd responded that he would collaborate closely with Ms. Khan and Board staff to conduct mock reviews and thoroughly study the Sunset Review language to ensure he is well prepared. Mr. Armenta highlighted his background consulting on past legislation and his experience delivering testimonies, which he believes are key strengths in preparing for the Sunset hearing.

Dr. Alexander commented that both candidates have the experience and capabilities to successfully navigate any challenges that may arise.

Both Dr. Kidd and Mr. Armenta agreed that they are committed to working together.

Nominations for Board President.

Member	Juan Armenta	Vasco Deon Kidd	Absent
Charles Alexander		X	
Juan Armenta	X		
Sonya Earley		X	
Diego Inzunza			X
Vasco Deon Kidd		X	
Deborah Snow	X		

Dr. Kidd was elected as Board President in 2025.

M/ Charles Alexander S/ Juan Armenta to:

Motion to nominate Juan Armenta as Board Vice President.

Member	Yes	No	Abstain	Absent	Recusal
Charles Alexander	X				
Juan Armenta	X				
Sonya Earley	X				
Diego Inzunza				X	
Vasco Deon Kidd	X				
Deborah Snow	X				

Mr. Armenta was elected as Vice President in 2025.

No public comment.

7. Board Member Recognition and Commendations

Dr. Kidd expressed his gratitude to Dr. Earley and Dr. Alexander for their 12 years of dedicated services to the Board.

Dr. Alexander was recognized for his exemplary contributions and unwavering commitment during his tenure as Vice President of the Board, and as a member of the Education/Workforce Development Committee.

Dr. Earley was recognized for her exemplary contributions and unwavering commitment during her tenure as President of the Board, Vice President of the Board, and a member of the Legislative Committee.

No public comment.

8. President's Report

Dr. Earley reported that Board leadership meets regularly with Ms. Khan to discuss any information between board meetings. Dr. Earley summarized her term on the Board; remembering when the Physician Assistant Committee transitioned to a board; and expressed her gratitude to Board members and staff.

No public comment.

9. Executive Officer's Report

Ms. Khan referred members to Agenda Item 9 and reported to following.

A. Personnel

On September 9, 2024, Blia Herr joined the Board as the new Enforcement and Licensing Support Technician.

B. 2025 Sunset Review

On June 21, 2024, staff received the 2025 Sunset Questionnaire from the Joint Oversight Committed and staff have been working to provide responses. A draft version of the report was presented at the August 9, 2024, Board meeting for discussion and final comments and will be submitted to DCA's Office of Publications, Design and Editing before submission to the Legislature.

C. Outreach

In October, Board staff attended the California Academy of Physician Associates conference in Burbank, and a college and career fair at the Deer Valley High School in Antioch.

No public comment.

10. Board Activity Reports

A. Licensing

Ms. Jimenez referred members to Agenda Item 10A and reported the following Licensing Population by Type, Summary of Licensing Activity, Pending Application Workload, and Licensing Performance Measures reports.

Dr. Kidd inquired whether the 78-day processing time for the incomplete applications was due to students applying early and waiting on their PANCE score. Ms. Jimenez confirmed that this is indeed the case for most PA students.

B. Complaints

Ms. Serrano referred members to Agenda Item 10B and reported the following Complaint Statistics and Complaints Received by Type and Source reports.

C. Discipline

Ms. Lefort referred members to Agenda Item 10C and reported the following Discipline Statistics Report.

D. Probation

Ms. Gerard referred members to Agenda Item 10D and reported the following Probation Activity Report.

E. Diversion

Ms. Gerard referred members to Agenda Item 10E and reported the following Diversion Program Activity Report.

Ms. Gerard reported that the contract with Maximus will expire on December 31, 2024. She noted that an update on the selection of a new vendor will be provided at the next Board meeting.

No public comment.

11. 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

A. DEI Update

Judie Bucciarelli, representing Board and Bureau Relations, reported that the DCA’s Diversity, Equity, and Inclusion Steering Committee elected Reji Varghese, Executive Director of the Medical Board of California (MBC), as Chair, and Marlon McManus, Assistant Executive Officer of the Board of Behavioral Sciences, as Vice Chair.

B. New Unconscious Bias Training for Board Members

Ms. Bucciarelli reported that DCA is currently revising its “Unveiling Unconscious Bias” training to specifically focus on board members, their critical roles, and how unconscious bias can affect their decision-making authority. The self-paced training is set to launch in early 2025 and will be required annually for all board members.

C. Military Licensing Resources Webinar

Ms. Bucciarelli reported that DCA will host a webinar on November 21, 2024, to provide information on military licensing resources.

D. New Business and Travel Reimbursement Program

Ms. Bucciarelli reported that the California Department of Human Resources (CalHR) has recently released an updated travel policy aligning with federal guidelines established by the U.S. General Services Administration. Effective October 1, 2024, DCA will adopt federal per diem rates for meals, incidental expenses, and lodging for both in-state and out-of-state travel.

E. Season of Giving

Ms. Bucciarelli reported that DCA will participate in two annual charitable campaigns launching this month: the DCA’s Annual Turkey Drive and the State’s Our Promise Campaign.

No public comment.

12. Budget Update

Suzanne Balkis, DCA Budget Manager, referred members to Agenda Item 12 and reported the following fund condition report.

For the Board's fund condition, Ms. Balkis reported that for the prior fiscal year 2023-24 actuals, the Board has a beginning balance of \$4.2 million, received \$3 million in total revenue, and had total expenditure of \$3.3 million. This resulted in a fund balance of \$4 million, equivalent to 13.7 months in reserve.

Ms. Balkis stated that for the current fiscal year 2024-25, the Board has a beginning balance of \$4 million, with estimated revenue of \$3 million and projected expenditure of \$3.4 million. This results in a projected fund balance of \$3.5 million, equivalent to 11.7 months in reserve.

Ms. Balkis further explained that projections for budget year (BY) 2025-26 and BY+1 2026-27 are based on pre-Governor's budget. She emphasized that the fund condition is a snapshot in time and only reflects the data available when it was created. The Budget Office includes an ongoing 3% increase in expenditure to account for incremental adjustments; however, this does not factor in potential increases in enforcement-related costs, which can cause additional pressure on the fund in future years.

Dr. Earley asked whether the Board will only have four months in reserve by budget year 2027-28. Ms. Balkis confirmed that due to expenditure exceeding revenue, the Board's reserves are projected to continue to decline.

Matt Nishimine, with the DCA Budget Office, referred members to the Workload Costs reports and presented information regarding regulatory adjustments, structural imbalances, and proposed steps to address them.

Dr. Kidd agreed with the assessment of structural imbalances and asked whether fee increases would be implemented incrementally. Ms. Khan responded that the Board is requesting an increase to the initial application fee from \$200 to \$250, along with statutory cap increases for other fees through the Sunset Review process.

Mr. Nishimine explained that the current plan includes a regulatory increase from \$200 to \$250 for the initial licensing fee, with a target effective date of July 1, 2025. Additionally, proposing statutory changes during the Sunset Review to raise the fee caps—including increasing the initial licensing fee cap from \$250 to \$500 and the renewal fee cap from \$300 to \$500. He clarified that licensees would not see an immediate increase upon enactment of the Sunset legislation, as any future increases would be through the regulatory process.

Dr. Kidd commented that a comprehensive fee increase may receive some pushback from the licensees so an incremental approach would be advantageous. Mr. Nishimine added that the Board is allowed a statutory reserve limit of 24-months, with 10 to 12 months generally considered healthy.

Dr. Alexander thanked the Budget Office for its analysis of workload cost and asked whether the purpose of raising licensing fees is to resolve current budget imbalance. Mr. Nishimine confirmed that the Board is structurally imbalanced by approximately \$450,000 per year and that, without additional revenue, the shortfall will continue.

Mr. Nishimine concluded by stating that the proposed fee increases are designed to maintain the Board's financial health through the next Sunset Review in 2030.

No public comment.

13. Report on Medical Board of California Activities

Dr. Tsai reported that the MBC met on August 22-23, 2024. Three new board members were appointed by the Governor: Irving Ayala-Rodriguez, M.D., Anni Chung, Wendy Mitchell, and Marina Torres.

Dr. Tsai stated that MBC transitioned its application process from paper-based to fully digital. Applicants can now upload supporting documents digitally through the BreEZe system. Additionally, licensees are able to download their pocket license, which now includes a QR code that allows anyone who scans it to verify the license directly from the MBC website.

Dr. Tsai reported that MBC convened a task force to modify and update the impairment related questions on the license application. The current questions include: 1) "Are you currently enrolled in, or participating in any drug, alcohol, or substance abuse recovery program or impaired practitioner program?", 2) "Do you currently have any condition (including, but not limited to, emotional, mental, neurological or other physical, addictive, or behavioral disorder) that may impair your ability to practice medicine safely?", and 3) "Do you currently have any other condition that impairs or limits your ability to practice medicine safely?"

The concern, Dr. Tsai explained, is that these questions may discourage applicants from seeking help for substance abuse, mental health, or physical health issues just so they can avoid answering in the positive on the questions, or risk of perjury by answering in the negative on the questions. Dr. Tsai stated that mental and physical health is a large component of overall well-being. In response to stakeholder concerns, MBC adopted a revised question: "Are you currently suffering from any condition that impairs your judgment or otherwise adversely affects your ability to practice medicine safely, that is, in a competent, ethical, and professional manner?"

This revised question allows individuals who are receiving help or currently in treatment to safely and truthfully answer "no," which better supports both licensees and consumer protection.

Dr. Tsai reported that Frank Myers, from the Federation of State Medical Boards, gave a presentation on navigating the artificial intelligence (AI) frontier, regulatory challenges, and opportunities for state licensing boards.

Lastly, Dr. Tsai reported that MBC elected new officers: Kristina Lawson, J.D., was elected President, James Healzer, M.D. was elected Vice President; and Michelle Bholat, M.D. was elected Secretary.

No public comment.

14. Update, Discussion, and Possible Action on 2025 Sunset Review Report

Ms. Khan referred members to Agenda Item 14 and reported the following two issues identified by staff and are requesting legislative proposals for consideration: 1) fee increase and proposed statutory cap adjustments, and 2) electronic submission of license renewal.

Dr. Earley thanked staff for their hard work on the responses.

Mr. Armenta congratulated staff for their hard work on the Sunset Review Report.

M/ Vasco Deon Kidd S/ Juan Armenta to:

Adopt the draft 2025 Sunset Review Report and direct the Executive Officer to correct any factual inconsistencies, make any technical or non-substantive changes, and submit the final report to the Legislature.

Member	Yes	No	Abstain	Absent	Recusal
Charles Alexander	X				
Juan Armenta	X				
Sonya Earley	X				
Diego Inzunza				X	
Vasco Deon Kidd	X				
Deborah Snow	X				

No public comment.

15. Discussion and Possible Action on Proposed 2025 Board Meeting Dates

Dr. Earley referred members to Agenda Item 15 for the proposed meeting dates.

Dr. Earley confirmed the agreed dates of February 10, 2025, May 19, 2025, August 15, 2025, and November 17, 2025.

M/ Vasco Deon Kidd S/ Deborah Snow to:

Motion to adopt the proposed meeting dates for 2025.

Member	Yes	No	Abstain	Absent	Recusal
Charles Alexander	X				
Juan Armenta	X				
Sonya Earley	X				
Diego Inzunza				X	
Vasco Deon Kidd	X				
Deborah Snow	X				

No public comment.

16. Discussion and Possible Action to Initiate a Rulemaking to Amend Title 16, California Code of Regulations Section 1399.550 Regarding the Initial License Fee

Jasmine Dhillon, Legislative and Regulatory Specialist, stated the Board has maintained its current fee structure for several years. During this period, operational costs have steadily increased due to inflation, rising administrative expenses, and enhanced regulatory responsibilities. Despite prudent fiscal management, the Board faces challenges in meeting its financial obligations and maintaining service levels with the current fee structure. The requested fee increase is critical for the Board to cover operational costs, including processing applications, maintaining licensing systems, and ensuring compliance with regulatory standards. Additionally, adjusting this fee aligns with inflation rates and ensures that the Board can continue to operate effectively without compromising service quality.

Staff is requesting a proposed initial license fee adjustment from \$200.00 to \$250.00, which will have a minimal financial impact on applicants and licensees while significantly enhancing the Board's ability to serve them. The State of California State Administrative Manual (SAM), section 9210, provides that it is state policy for departments to recover full costs whenever goods or services are provided to others. Section 9210 of the SAM specifies that full costs include "all costs attributable directly to the activity plus a fair share of indirect costs which can be ascribed reasonably to the good or service provided." The additional revenue will be utilized to recover actual costs for providing licensing services thereby helping to ensure the stability of the Board's fund condition and continued Board operations. As operational costs have steadily increased due to inflation and expanded regulatory responsibilities, these adjustments will ensure that service delivery to applicants and licensees can be maintained.

Attachment 2 shows that the Board is currently not recovering all costs attributable to initial licensure and that a fee increase is therefore necessary to help address lost revenue in the short term. Attachment 2 does indicate that further legislative authority will be needed to increase the Board's current fee "caps" in Business and Professions Code section 3521.1 to allow for further increases in fees in the future to address the current structural imbalance in the long term. The proposed increase in the fee is essential for the Board to improve the Board's current financial health and continue providing high-quality services to physician assistants in California. Ms. Dhillon asked the Board to review the attachments including the attached Proposed Regulatory Language and the Workload Costs associated with the proposed initial license fee increase, and the rationales set forth above. If the Board agrees with the staff recommendation, there is a motion provided.

Dr. Kidd clarified that this package does not impact the Senate Bill (SB) 697 Implementation regulatory package that became effective on October 1, 2024. Kristy Schieldge, Regulations Counsel, confirmed. Ms. Schieldge stated this package is addressing the authority the Board currently has, to increase the initial license fee of the cap and the other increases would have to be addressed in the solution.

M/ Juan Armenta S/ Charles Alexander to:

Approve the proposed regulatory text amending Title 16, California Code of Regulations, section 1399.550 as set forth in Attachment 1. The Board further

directs 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 if no adverse comments are received, 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 public 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 Section 1399.550 as noticed.

Member	Yes	No	Abstain	Absent	Recusal
Charles Alexander	X				
Juan Armenta	X				
Sonya Earley	X				
Diego Inzunza				X	
Vasco Deon Kidd	X				
Deborah Snow	X				

No public comment.

17. Discussion and Possible Action to Reconsider Previously Approved Text, and to Consider Initiation of a Rulemaking to Amend Title 16, California Code of Regulations Sections 1399.506, 1399.507, 1399.511, and 1399.546 Regarding Application, Exam, Scores, Addresses, and Recordkeeping

Ms. Schieldge stated that she is bringing back the regulatory text approved at the November 2023 Board meeting and provided a general overview of the proposed changes. The previously approved language referred to submitting the license application to the Sacramento office, and that is a paper application. However, the Board has since transitioned to an electronic online system known as BreEZe, and that the regulations must now reflect that change.

Ms. Schieldge stated that she met with Board staff to discuss and ensure that every aspect of the BreEZe system is covered in the regulatory text. She explained that other boards within DCA have implemented similar regulations to reflect their transition to online systems, including provisions for electronic signatures and application processing.

Ms. Schieldge highlighted that there are four specific items that are not submitted through BreEZe, which were not previously included in Attachment 2 approved by the Board. Attachment 1 contains the newly revised text, that is being proposed, and she directed the Board's attention to subparagraph 11(a) of California Code of Regulations (CCR) section 1399.506.

The first item submitted outside of BreEZe is the Self-Query Report from the National Practitioner Data Bank. This federal query provides discipline history from boards across the country and is used by the Board to verify out-of-state discipline. The revised paragraph outlines the process by which applicants must request self-query report through the Federation of State Medical Boards (FSMB) portal, pay the applicable fees, and have the report sent directly to the Board.

The second item, detailed in paragraph 12 of the same subsection, pertains to the PANCE scores, which verify that applicants have passed the licensing examination. These scores are electronically released directly to the Board.

The third item is the certification of graduation from an approved PA program. This requirement verifies the applicant's educational background.

The fourth item, in paragraph 14, details the process for submitting fingerprints to the Board through the California Department of Justice, and all of those requirements.

Ms. Schieldge then addressed additional compliance items related to legislation enacted since 2019. SB 697 made numerous changes that were not reflected in the earlier text. Assembly Bill (AB) 2138, effective July 1, 2020, placed limitations on the ability to inquire about criminal history on licensing applications. She explained that when AB 2138 was first enacted, the Office of Administrative Law (OAL) allowed boards to simply delete questions about criminal convictions. However, that interpretation has changed in the last couple of years to include any history disclosures that might relate to criminal history. For example, if an applicant was disciplined in another state based on a criminal conviction, asking about that discipline may now be interpreted as soliciting criminal history. Ms. Schieldge noted that she was unsuccessful in arguing otherwise for her other clients that the question could be asked without any kind of limitations. As a result, the regulatory text now includes language such as "excluding criminal conviction," "any criminal conviction history," "have you had discipline in another state," in various sections where the Board requests information.

She also addressed application expedites, noting that prior regulatory text did not include documentation requirements necessary to verify eligibility for the expedite—a critical step in preventing fraud. Ms. Schieldge stated there have been several changes including a new expedite category effective July 1, 2025, for active-duty members of United States forces who are enrolled in the SkillBridge program, which allows them to work with private employers while they are still in the military. This provision must also be included to the application process.

Ms. Schieldge directed the Board to page four of the memorandum and referenced a mental health-related question. In the original proposal that the Board approved in November, the Board included a question that was addressed in the MBC activities report presented by Dr. Tsai. The question pertains to mental health, and the question Ms. Schieldge reproduced here states that, as a condition of licensure, the applicant shall disclose whether they have any practice impairments or limitations. The criteria for responding in the affirmative would be that the applicant had ever been diagnosed or treated for a mental illness, disease, or disorder that could interfere with their ability to practice medicine.

Ms. Schieldge stated that, based on her research on this issue, there has been a lot of litigation over the overbreadth of mental health question in licensing applications, and most agencies have lost those legal challenges. The core issue has been that such inquiries should be limited to current conditions that impact competency. The Board's existing authority for discipline is based on whether a physical or mental illness is currently affecting competency.

Ms. Schieldge stated that in 2018, the State Bar of California was sued over a similar question and ultimately settled the lawsuit at the lower court level. Shortly thereafter, the Governor signed legislation prohibiting the State Bar from such asking question and collecting any medical records related to mental health. Ms. Schieldge attached that legislation and the related policy arguments made in support of removing the question to the meeting materials for the Board's policy consideration.

Ms. Schieldge shared that she conferred with the Board's licensing staff and found that over the years, the Board had only received two affirmative responses to a similar question that was previously included in the application. In both cases, the responses were not used to restrict, limit or deny licensure. Based on this history, Ms. Schieldge stated that she and staff agreed the question may not be particularly useful to the Board. She noted that in the past ten years or so, it has not been used. Given this context and all the policy reasons outlined in the judiciary committee analysis as well as MBC's findings by their task force, Ms. Schieldge questioned whether the value of including the question justifies the potential litigation risk it could create.

Ms. Schieldge's recommendation, in consultation with Board Counsel, is that the Board remove the question from the application. She clarified that removing the question would not prevent the Board from taking action if it were to receive information about a mental health issue from another source. Removing the question would eliminate the requirement for applicants to self-assess and disclose whether they have a condition that would limit their ability to practice safely.

If the Board does not agree with that recommendation, Ms. Schieldge included another question option for the Board to consider. The alternative question defines impairment as "a medical condition which currently impairs or limits the applicant's ability to practice medicine with reasonable skill and safety." This language is copied from a regulation that was approved and passed for the California Acupuncture Board, which has similar statutory authority to limit or restrict a license. Ms. Schieldge stated she is confident that this language would go through because it has already been approved. However, she emphasized that this decision is ultimately a policy call based on the level of legal risk the Board is willing to accept. If the Board wishes to retain a mental health related question, similar to that reported by MBC, which focuses on an applicant's current status, not "have you ever been," because she does not believe that broader phrasing is legally defensible.

Dr. Kidd stated that was a great legal analysis and that he agrees with Ms. Schieldge and Board Counsel on omitting the question. However, he also noted that the Board should have a discussion about the best path forward, including whether to adopt the secondary language Ms. Schieldge proposed, which may still carry some level of legal risk. Dr. Kidd added that Ms. Schieldge's first suggestion is probably more in line with best practices, especially when considering the legislative history surrounding this issue.

Ms. Schieldge added that if a situation arises in the future where the Board becomes aware of an issue that could have maybe caught through this question, the Board can always amend the application and add the question back. This is the value of rulemaking process and the flexibility to design the application in the best interest of the public.

Mr. Kanotz stated that this is upon application. If the Board at some point receives evidence that a licensee may have a mental condition that affects competency, the Board can take action to compel an examination and can potentially bring an interim suspension order.

Ms. Snow stated she is fine with the current condition, that sounds reasonable but expressed concern about removing questions related to disciplinary history. Ms. Schieldge clarified that the Board is not removing all discipline-related questions—only those that could relate to criminal history.

Ms. Snow pointed to a change in paragraph 10, subparagraph iv removing reference to unprofessional conduct or unlicensed activity. Ms. Schieldge explained that the language was removed because it was duplicative. She stated that was a concern staff raised requesting whether the applicant had been a sex offender, convicted as a sex offender, or had registered as a sex offender and requiring them to disclose arrest reports. She stated Business and Professions Code (BPC) section 480 (f)(2) prohibits the Board from collecting criminal history of any applicant. The assumption was the Board would get all the information it needs through the rap sheet; however, that's not true because the Board made those arguments and the Legislature didn't agree, so the Board is not allowed to ask for it. Ms. Schieldge stated she took that information off, so the Board still asks for discipline in other states, but excluding discipline involving criminal history. Ms. Schieldge gave an example where if an applicant had been convicted of a crime in another state, and they were disciplined by their licensing board, they would not have to report that on this application. That is the Legislature's decision and OAL rigorously enforces that interpretation. Ms. Schieldge stated she is trying to conform with lessons learned from other healing arts boards in the Department.

Ms. Snow thanked Ms. Schieldge for advocating on the Board's behalf.

Mr. Armenta referred to the prior State Bar case and asked whether the problematic language was tied to overly detailed definitions.

Ms. Schieldge responded that the issue was the question asking "have you ever had a medical condition," which was replaced with a question similar to what MBC was asking, "do you have a current condition." The settlement in that case resulted in a revised question that focused on whether the applicant has a current condition; that change occurred around 2019 or 2020. She added following that, the Governor signed legislation prohibiting the State Bar from collecting any medical records related to mental health, even with applicants consent. Since the mental health question was part of the moral character application component, they no longer ask about mental health or medical condition at all in their application.

Mr. Armenta asked if it would be distinguishable to simply ask whether applicants currently have practice impairments or limitations as a condition of licensure.

Ms. Schieldge responded that if the Board decides to continue asking the question, she recommends using the language whether they have a medical condition which currently impairs or limits the applicant's ability to practice medicine with reasonable skill and safety. This is the applicable legal standard. She explained that if an applicant has a mental condition that does not affect their ability to practice medicine with reasonable skill and safety, they will not be required to disclose it. That was also

discussed with the MBC. An applicant would not be disclosing the mere existence of a diagnosis, they would only be required to disclose it if it currently impairs their ability to practice. Ms. Schieldge confirmed that this question has already been approved by OAL in regulation for another healing arts board.

She added that while she supports the MBC's new question, she is unsure whether it has been formally adopted through regulation. However the question she is proposing has been approved, which is why she is offering it as an alternative. She noted that the question she is recommending is adopted by the California Acupuncture Board in a regulation finalized at the end of last year.

Mr. Armenta stated the reason he likes that approach rather than simply limiting it, is because it ensures the Board can raise it after the licensee has a mental health impairment or condition that comes to the Board's attention after a lapse in practice. However, Mr. Armenta explained that it is wise to also have this in our back pocket if they did not disclose a condition known to them at the time of licensure. He asked whether a schizophrenic would state they are a schizophrenic and disclose this, or if someone that has a significant substance abuse problem that would affect practice would disclose that. He stated it would give the Board teeth later, if it's an obvious condition that should have been disclosed. He added that this could provide a foundation for disciplinary action if a condition later affects their ability to practice. Mr. Armenta thinks there is some value in the suggestion that Ms. Schieldge presented to the Board to use a similar language.

Dr. Kidd agreed with the reasoning but noted that the alternative language is not necessarily without some legal risk.

Ms. Schieldge acknowledged that she could foresee potential issues, which she is not going to delineate in a public board meeting. She stated that, across the United States, legislation has shown that questions narrowly focused on current impairment are more defensible than broader questions that ask, "have you ever been" or "have you ever had a condition." Ms. Schieldge stated this is ultimately a policy decision, and she believes it is a defensible position if the Board chooses to proceed with it. However, she questioned the value of including a similar question that the Board as had in place for years but has rarely, if ever, used it. She noted that in most cases, the Board becomes aware of mental health or physical illness affecting competency through a criminal conviction. A criminal conviction may reveal an underlying mental health condition, physical impairment, or addiction that contributed to the offense.

She added that another way such issues come to light is when a supervising physician, or another coworker observes unusual behavior. A third way she has seen these cases arise is through a form of self-disclosure—such as the Board receiving unusual or paranoid letters from the licensee. These are the most common ways these types of situations reach the Board. Sometimes, they arise during the application process when a criminal offender record information (CORI) report returns a conviction, and further investigation uncovers an underlying mental health condition. At this point, the Board would conduct an examination, and a subject matter expert would assess whether the issue impacts the licensee's competency to practice—either recommending they not practice or they practice with certain restrictions. Ms. Schieldge stated that this is the process she is most familiar with in her experience with the Department since 2000, and her comments were based on that practical standpoint. However, she added that if the Board believes, as Mr.

Armenta suggested, that there may be a scenario where such a question could be useful, then she would recommend adopting the narrower question. At the very least, this would limit potential litigation risks related to overbreadth, relevancy, and jurisdiction. Those, she noted, are the main concerns.

Mr. Armenta asked whether the balancing act is the risk of future litigation if the question remains. Ms. Schieldge responded yes, that is what she was thinking.

Ms. Schieldge advised that if something were to come up in one of the Board's cases, the Board could revisit this and add the question back to the application. Mr. Armenta asked, given the low incidence of such cases in the past, whether the Board likely would have caught it through other means anyway. Ms. Schieldge agreed.

Dr. Kidd asked if Option A would be what Ms. Schieldge is recommending. Ms. Schieldge confirmed that Option A is her recommendation.

Dr. Earley asked, regarding the options listed that are similar to the Acupuncture Board's language, if an applicant were to respond "yes," what would be the Board's follow-up?

Ms. Schieldge responded that, in her discussions with staff, that the Board refers the affirmative responses to a subject matter expert—either a psychiatrist or psychologist to assess the information provide. The Board receives medical records associated with the response that indicate whether the applicant poses a danger to the public and whether they may be unable to practice safely. The expert evaluates whether there is an impairment that affects competency to practice and provides a recommendation, which could include placing the applicant on probation with certain restrictions. The Board has seen probation terms that involve evaluations by a psychiatrist and regular counseling, among other conditions. However, in the two instances where the Board received affirmative responses, the situation did not elevate to that level, the Board did not take any action in either case.

Mr. Armenta asked whether there were only two cases, and over what time period. Ms. Schieldge responded that, since Ms. Caldwell has been with the Board, there have only been two such cases. Dr. Earley added that she and Ms. Caldwell have been with the Board for about the same amount of time, at least twelve years.

M/ Vasco Deon Kidd S/ Juan Armenta to:

Rescind the motion passed at the Board's November 2023 board meeting regarding this item, approve the proposed regulatory text in Attachment 1, 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 the Board does not receive any objections or adverse recommendations specifically directed at the proposed action or to the procedures followed by the Board in proposing or adopting this action, 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 objections or adverse recommendations 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				
Sonya Earley	X				
Diego Inzunza				X	
Vasco Deon Kidd	X				
Deborah Snow	X				

No public comment.

18. Regulations – Update on Pending Regulatory Packages

Ms. Dhillon referred members to Agenda Item 18 for the detailed updates on the following packages.

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

This package is on hold pending legislation in 2025, as the Board plans to seek amendments to BPC section 3523 to address apparent authority issues with providing their renewal application online through BreEZe.

Ms. Schieldge stated the renewal application statute of 1983 states it must be on a form provided by the Board. Ms. Schieldge stated when the Board moved to an online platform, the OAL questions if the Legislature granted the authority to move to electronic submission.

2. 16 CCR 1399.506, 1399.507, 1399.511, 1399.546 – SB 697: Application, Exam Scores, Addresses, & Recordkeeping

At the November 6, 2023 meeting, the Board approved the proposed regulatory language to reinstate the rulemaking process. However, the text approved at the November 6, 2023 Board meeting does not reflect the Board's transition to an online application system, but rather still refers to submission of the application "to the Board at its Sacramento office," which is a paper application. In addition, not all statutorily required elements of the initial application were covered or were covered in a way inconsistent with current law or case law interpreting certain terms used in the proposal. The Board is asked to adopt the proposed revised regulatory language to initiate the rulemaking.

3. 16 CCR 1399.515 – AB 2461: Retired Status to Include Fingerprint Requirement

Staff will be working on initial documents to submit for initial review next calendar year.

4. 16 CCR 1399.523 – SB 1441: Implement Uniform Standards Related to Substance Abusing Licensees and Update of Disciplinary Guidelines

Staff will be working on the proposed language for Board approval in the next calendar year.

5. 16 CCR 1399.550 – Initial License Fee

This regulatory proposal would increase the initial license fee to \$250 to cover operational costs, including processing applications, maintaining licensing systems, and ensuring compliance with regulatory standards. Staff is requesting the Board review, discuss and approve the proposed text at this meeting.

No public comment.

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

Dr. Alexander referred members to Agenda Item 19 for the detailed Education and Workforce Sub-Committee Report and reported the geographic distribution.

Dr. Kidd reported that California State University San Bernardino (CSUSB) has developed a 27-month Master of Science Physician Assistant Program and plans to enroll its first cohort in August 2025.

Dr. Kidd reported the Accreditor (ARC-PA) has granted the California Baptist University the ability to expand its PA program from 30 to 60 students per cohort, starting in Fall 2025.

Dr. Kidd reported Western University of Health Sciences is on probation and just received approval to matriculate students and added 98 students to the cohort.

No public comment.

20. Legislative Update

Ms. Dhillon referred members to Agenda Item 20 for the detailed report on the following bills.

A. AB 2270 (Maienschein) Healing Arts: continuing education: menopausal mental or physical health

This bill would require the Board, in determining its continuing education requirements, to consider including a course in menopausal mental or physical health. The bill was approved by the Governor and chaptered by the Secretary of State – Chapter 636, Statutes of 2024.

B. AB 2442 (Zbur) Healing arts; expedited licensure process: gender-affirming health care and gender-affirming mental health care

This bill would require staff to update the Board's licensing process to ensure applicant who meet the gender-affirming health care and gender-affirming mental health care criteria can get their license application expedited. This bill was vetoed by the Governor.

C. AB 2581 (Maienschein) Healing arts: continuing education: maternal mental health

This bill would require the Board, in determining its continuing education requirements, to consider including a course in maternal mental health. This bill was approved by the Governor and chaptered by the Secretary of State – Chapter 836, Statutes of 2024.

D. AB 3119 (Low) Physicians and surgeons, nurse practitioners, and physician assistants: continuing medical education: infection-associated chronic conditions

This bill would require the Board to consider including in its continuing education requirements for the licensees specified, a course in infection-associated chronic conditions, including long COVID. This bill was chaptered by Secretary of State – Chapter 433, Statutes of 2024.

E. AB 3127 (McKinnor) Reporting of crimes: mandated reporters

This bill would remove the requirement that a health practitioner make a report to law enforcement when they suspect a patient has suffered physical injury caused by assaultive or abusive conduct. This bill is considered dead.

F. SB 639 (Limon) Medical professionals: course requirements

This bill would require a PA who provides primary care to a patient population of which over 25% are 65 years of age or older to complete at least 20% of all mandatory continuing education hours in a course in the field of geriatric medicine, the special care needs of patients with dementia, or the care of older patients. This bill was approved by the Governor and chaptered by the Secretary of State – Chapter 336, Statutes of 2024.

G. SB 1067 (Smallwood-Cuevas) Healing arts: expedited licensure process: medically underserved area or population

This bill would require staff to update the Board's licensing process to ensure applicants who meet the medically underserved area or serving a medically underserved population criteria can get their license application expedited. This bill was vetoed by the Governor.

No public comment.

21. Agenda Items for Next Meeting

The Board requested to add Sunset Review update and fingerprinting for retired licenses.

No public comment.

22. CLOSED SESSION

A. Pursuant to Government Code section 11126(a)(1), the Board will conduct the Annual Evaluation of Performance of the Executive Officer

B. Pursuant to Government Code section 11126(c)(3), the Board will Convene and Deliberate on Disciplinary Actions and Decisions to be Reached in Administrative Procedure Act Proceedings

23. Adjournment

With no further business the opening meeting was adjourned at 11:37 a.m.

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