



May 19, 2011

**PHYSICIAN ASSISTANT COMMITTEE
2005 Evergreen Street – Hearing Room 1150
Sacramento, CA 95815
10:00 A.M. – 5:00 P.M.**

1. Call to Order by Chairman

Chairman Klompus called the meeting to order at 9:58 a.m.

2. Roll Call

Staff called the roll. A quorum was present.

Committee Members Present: Steve Klompus, PA
Rosslynn Byous, PA, Ph.D.
Cristina Gomez-Vidal Diaz
Reginald Low, M.D.
Robert Sachs, PA-C
Shaquawn D. Schasa
Steven Stumpf, Ph.D.
Shelia Young

Staff Present: Elberta Portman, Executive Officer
Kurt Heppler, Senior Staff Counsel, Dept. of
Consumer Affairs (DCA)
Glenn Mitchell, Regulation/Lead Licensing
Analyst
Dianne Tincher, Enforcement Analyst
Lynn Forsyth, Staff Services Analyst

3. Approval of February 3, 2011 Meeting Minutes

The February 3, 2011 minutes were approved as written.
(m/Sachs, s/Young, motion passes)

4. Public Comment on Items not on the Agenda

Tracey DelNero, PA-C, Clinical Coordinator from Touro University, spoke regarding the following three items:

1. Ms. DelNero requested clarification on the CME requirements and the information that is listed on the PA application for initial licensure in the State of California. Effective and approved in June 2010, regulation 1399.615, states that the State of California now requires CME's documentation or continued PAC national certification. Ms. DelNero stated that this information is not included in the Physician Assistant application dated January 2011, it still states that the CME is not required for licensure. Ms. DelNero requested that the Committee update the licensing application to reflect the CME requirement.
2. Ms. DelNero also stated that the fees that imposed upon new licensures are not in compliance with the Section of 3521.1 and Regulation 1399.550. Neither of these sections discusses any addition fee for fingerprinting or background clearance. However, the current fees on the application have a total fee of \$276.00 for finger printing fees. Ms. DelNero states that the regulation states total fees of \$275.00, so this exceeds the current limit in regulations. Ms. DelNero contends that this is non-compliance and that this issue needs to be addressed by the Committee.
3. Ms. DelNero requested the Committee to clarify Section 1399.530 of the Committee's Regulations to eliminate any confusion.

Cindy Kanemoto provided an update from the Department of Consumer Affairs Executive office as follows:

1. Ms. Kanemoto stated that on February 15, 2011, Governor Brown issued an Executive Order regarding a state wide hiring freeze. The order did provide an exemption process for essential positions. The exemption requests will be reviewed by the Department, State and Consumer Services Agency, the Department of Finance and finally the Governor's office.
2. Ms. Kanemoto stated that the travel restriction Executive Order issued on April 26, 2011 declared that no travel is permitted unless it meets the definition for mission critical travel.
3. The Department posted the third quarter performance measures on the Department's website. The Department encourages all Committee members to review these measures.
4. Ms. Kanemoto stated that the Department encourages this Committee to move forward with regulations to implement the SB 1441 uniform standards.
5. Ms. Kanemoto stated that there is a new Annual Executive Officer Evaluation form.
6. Ms. Kanemoto also encouraged the Committee to utilize webcasting for upcoming meetings.

There was no other public comment at this time.

5. Reports

a. Chair's Report

No report provided.

b. Executive Officer's Report

Ms. Portman provided the Committee with a brief budget report.

Ms. Portman reported that the fund condition and budget reports were in the members packets for review. Ms. Portman reported that as of April 30, the Committee has 20.96% of the budget remaining.

Ms. Portman stated that in February 2011, the Committee was approaching the exhaustion of enforcement monies. Ms. Portman reported that in March, after notifying the Department, the budget office did locate additional PAC funds that were not shown on our budget report. With the additional funding we are able to continue with our enforcement spending.

Ms. Portman reported that the .5 licensing position still remains vacant. Ms. Portman also reported that we have not received any applications from within DCA and now are awaiting approval for an exemption so we can hire from lists or another department.

Ms. Portman reported that staff is trying to keep the licensing processing current; however, if we are unable to fill the vacant licensing position, we will experience a licensing backlog as summer is the busiest time of year for the program.

Ms. Portman also reported that she and Glenn Mitchell had given a presentation to Stanford students. The presentation was via conference call, due to the travel restrictions. The students were given information about the application process, the enforcement program and the Committee's laws and regulations.

Ms. Portman reported that the pending regulation regarding notification to consumers per SB 139 is now at DCA. If approved, Physician Assistants will be required to post information similar to what physicians are now required to post in offices to notify consumers of their license agency and where to file complaints against licensees.

c. Licensing Program Activity Report

Between December 1, 2010 and April 1, 2011, 196 physician assistant licenses were issued. As of April 1, 2011, 8,062 physician assistant licenses are renewed and current. Currently there are a total of 157 California approved training programs.

d. Diversion Program Activity Report

As of April 1, 2011, the Diversion Program has 25 participants, 6 self-referred participants and 19 Committee referrals. There have been 98 participants since program implementation in 1990.

d.1 Update on Substance Abuse Coordination Committee Uniform Standards

Mr. Mitchell provided the Committee with a brief update on the Uniform Standards regarding substance-abusing healing arts licensees. Mr. Mitchell also provided the members with a chart detailing the participant successful completions since 2003.

e. Enforcement Program Activity Report

Between July 1, 2010 and March 31, 2011, 201 complaints were received, 79 pending complaints, 30 pending investigations, 39 current probationers and 26 cases are pending at the Office of the Attorney General.

6a. **10:30 AM – Hearing**

Petition for reinstatement of physician assistant license – Ike Udengwu

6b. **11:30 AM - Hearing**

Petition for early termination of probation – Molly Kalejs

CLOSED SESSION: Pursuant to Section 11126(c) (3) of the Government Code, the Committee moved into closed session to deliberate the petition for reinstatement and the petition for early termination of probation.

CLOSED SESSION: Pursuant to Section 11126(c) (3) of the Government Code, the Committee moved into closed session to deliberate on disciplinary matters.

The Committee Returned to Open Session at 1:00 P.M.

7. Discussion of Title 16 CCR §1399.541(i)(1) Personal Presence

Committee Member Robert Sachs indicated that the committee had received a communication from a physician assistant and also a letter from the California Academy of Physician Assistants regarding the legal opinion rendered in 2005 regarding the personal presence of a physician assistants supervising physician in relation to performing the opening and closing practice of surgical procedures upon a patient under general anesthesia. Committee Member Sachs reported that this language was originally placed in the regulations in 1991.

Kimberly Kreifeldt, PA, requested a revision to the 2005 legal opinion. Ms. Kreifeldt stated that the issue of opening and closing should not being addressed together. Ms. Kreifeldt stated that the opening requires a different level of skill and judgment. However, she believes that closing is consistent with the skills and training of the physician assistant.

Ms. Kreifeldt requested that another opinion be considered or that the original opinion be amended. Also, Ms. Kreifeldt asked if it would be possible to amend the regulation to clearly define the physician assistant scope of practice regarding what procedures a physician assistant may perform.

Committee Member Sachs indicated that this opinion has created significant problems throughout the State, not just in one institution.

Staff Counsel Kurt Heppler was asked to review this opinion. If the Committee wishes to change the opinion i.e. scope of practice, it may seek a regulation change to clearly identify what a physician assistant can do or can't do in the operating theater. Mr. Heppler will revisit the issue and, perhaps draft another opinion regarding this matter. The Committee at that point can decide whether to essentially revisit the issue by changing the regulation.

8. Discussion of Physical Therapy Referrals by PAs Being Denied by Medi-Cal

Chairman Klompus stated that he has learned that Medi-Cal is denying referrals by physician assistants for physical therapy even though the PA laws and regulations do not prohibit referrals. Mr. Klompus also stated that Medi-Cal's regulations do not match the regulations for the physician assistants.

The Committee requested that Staff Counsel Kurt Heppler draft a letter and transmit it to the Department of Health Services regarding the current status of the laws and regulations regarding physician assistants ordering physical therapy.

9. Discussion of 2 year PA Programs in California and Potential New Programs

Committee Member Sachs stated that he attended a recent meeting with a national education association for physician assistants. A recent statistic predicts that by 2020, there will be an additional need for 250,000 to 275,000 physician assistants in the United States. Committee Member Sachs stated that with a lack of PA training schools this will become a consumer protection and access to care issue.

New two year programs need to be explored as well as two year programs within four year colleges or medical school settings.

10. Report on the Physician Assistant Education and Training Subcommittee: Consideration of Proposal to Amend Section 1399.536 of the California Code of Regulations

Chairman Klompus indicated that at the May meeting, Staff Counsel Kurt Heppler provided draft language for amending Section 1399.536.

Staff Counsel Kurt Heppler explained that this has been an on-going discussion item with the sub-committee/task force to identify necessary revisions to address the question of PA education and perceptorships. The Committee provided the

Sub-Committee with specific instructions to review Section 1399.536. The draft language was the proposed revision to this Section.

A motion was made to set this matter for public hearing, after the appropriate notice and initial statement of reason are prepared by Committee staff.
(m/Sachs, s/Byous, motion passes)

11. SB 541 Discussion and Potential Action of Expert Consultant Contract Request for Legislative Exemption

Ms. Portman reported that the Committee uses five expert consultants for enforcement cases. The current process requires experts to fill out a form for hourly billing to review and report writing.

Ms. Portman reported that the Department determined that the current process needed to include a formal contract for expert consults. Ms. Portman explained that each expert would need a formal contract in place to provide services up to \$12,500 per year. Ms. Portman indicated that it would be difficult to anticipate how much each expert's services would be needed during the year.

Ms. Portman indicated that if SB 541 passes, the process would be simplified to allow a two page contract for experts. The Department is working on a process to implement this bill if it passes.

A motion was made to draft and transmit a letter in support of SB 541.
(m/Sachs, s/Schasa, motion passes)

12. Update and Consideration of Legislation of Interest to the Physician Assistant Committee

AB 30, AB 82, AB 92, AB 137, AB 138, SB 28, SB 69, SB 100, SB 161, SB 233, SB 544, SB 943

The current status of each bill was reviewed:

AB 30 - Hayashi

Under existing law, the State Department of Public Health licenses and regulates hospitals. Existing law requires hospitals to conduct a security and safety assessment and develop a security plan to protect hospital personnel (including physician assistants), patients, and visitors from aggressive or violent behavior.

AB 82 - Jeffries

Existing law regulates the operation of firefighting equipment, and permits a firefighter or volunteer firefighter to operate firefighting equipment only if the person holds a class A, B, or C license.

The examination for a class A or B driver's license shall also include a report of a medical examination of the applicant given by a health care professional. Health care professionals will include physician assistants.

AB 136 - Beall

Existing law requires the administration of the state's universal service programs, including the deaf and disabled programs. This bill would make technical, non-substantive changes to provisions of law relating to the deaf and disabled universal service program.

This bill would allow a physician assistant to certify the needs of an individual diagnosed by a physician and surgeon as being deaf or hearing impaired to participate in the program after reviewing medical records or copies of the medical records containing that diagnosis.

AB 137 - Portantino

Health care coverage: mammograms.

The Knox-Keene Health Care Service Plan Act of 1975 provides for the licensure and regulation of health care service plans by the Department of Managed Health Care.

This bill would provide that health care service plan contracts and individual or group policies of health insurance issued, amended, delivered, or renewed on or after July 1, 2012, shall be deemed to provide coverage for mammograms for screening or diagnostic purposes upon referral of a participating nurse practitioner, participating certified nurse-midwife, participating physician assistant, or participating physician.

SB 28 - Simitian

Existing law requires the Department of Motor Vehicles to examine applicants for specific driver's licenses. This bill would include a test of the applicant's understanding of cell use and text messaging while operating a vehicle.

13. Schedule of 2011 Meeting Dates and Locations

After a brief discussion among the Committee members, they agreed to move the August meeting from August 25th to Monday, August 22nd. The location will remain in Sacramento due to budget and travel restraints.

14. Agenda Items for Next Meeting

- a. Presentation from the Physician Assessment and Clinical Education Program (PACE) Program
- b. Discussion of Title 16 CCR §1399.541(i)(1) Personal Presence
- c. Discussion of 2 year PA Programs in California and Potential New Programs
- d. Clarification of CME Requirements
- e. The Alignment of Fees with the Applicable Statutes and Regulations
- f. Revisiting of Section 1399,530. Regulations regarding the overall approval of Physician Assistant Educational Programs

15. Adjournment

The meeting adjourned at 2:00 p.m.