



## **MEETING MINUTES**

**August 26, 2013**

**PHYSICIAN ASSISTANT BOARD**  
**2005 Evergreen Street – Hearing Room #1150**  
**Sacramento, CA 95815**

[Please note that agenda items were taken out of order at the meeting. They are, however, listed in these minutes in the order they appeared on the agenda for easy reference.]

1. **Call to Order by President**

President Sachs called the meeting to order at 9:15 a.m.

2. **Roll Call**

Staff called the roll. A quorum was present.

Board Members Present:            Robert Sachs, PA-C  
   Charles Alexander, Ph.D.  
   Michael Bishop, M.D.  
   Cristina Gomez-Vidal Diaz  
   Sonya Earley, PA  
   Jed Grant, PA –C  
   Catherine Hazelton  
   Rosalee Shorter, PA-C

Staff Present:                            Glenn Mitchell, Executive Officer  
   Laura Freedman, Senior Staff Counsel, Dept.  
   of Consumer Affairs (DCA)  
   Dianne Tincher, Enforcement Analyst  
   Lynn Forsyth, Staff Services Analyst  
   Julie Caldwell, Licensing Technician

3. **Approval of May 20, 2013 Meeting Minutes**

The May 20, 2013 minutes were approved as drafted.  
(m/Grant, s/Diaz, motion passes)

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

There was no public comment at this time.

5. **Reports**

a. President's Report

President Sachs stated that he would be representing the Board at the California Academy of Physician Assistants annual conference in October 2013.

b. Executive Officer's Report

Mr. Mitchell stated that on August 7, 2013, the Office of Administrative Law approved the adoption of California Code of Regulations Sections 1399.620, 1399.621, 1399.622, and 1399.623 regarding sponsored free health care events. This regulatory change will become effective October 1, 2013.

Mr. Mitchell also indicated that on August 7, 2013, the Office of Administrative Law approved a regulatory file which made non-substantive changes to several physician assistant regulation sections as a result of SB 1236 (Chapter 332, Statutes of 2012 which changed the name of the Physician Assistant Committee to the Physician Assistant Board, effective January 1, 2013. This regulatory change became effective August, 7, 2013.

c. Licensing Program Activity Report

Between January 1, 2013 and August 1, 2013, 217 physician assistant licenses were issued. As of August 1, 2013, 9,105 physician assistant licenses are renewed and current.

d. Diversion Program Activity Report

As of July 1, 2013, the board's Diversion Program has 14 participants, which includes 1 self-referral participant and 13 Board-referrals. A total of 108 participants have participated in the program since implementation in 1990.

e. Enforcement Program Activity Report

Between July 1, 2012 and June 30, 2013, 293 complaints were received; 114 complaints are pending; 55 investigations are pending; 45 probationers, and 31 cases awaiting administrative adjudication at the Office of the Attorney General.

6. **Department of Consumer Affairs**

a. Director's Update

Christine Lally was introduced to board members as the recently appointed Deputy Director of Board and Bureau Relations for the Department of Consumer Affairs. Ms. Lally indicated that she had assumed the position in July 2013. She indicated that she has been reaching out to the various boards and bureaus

within the Department of Consumer Affairs to become familiar with them and learn about their issues and concerns. Ms. Lally stated that she is a resource for assistance and encouraged board members to contact her with any questions or concerns.

7. **Presentation and Update from the Department of Consumer Affairs Legislative and Policy Review Division**

Tracy Rhine, Deputy Director for Department of Consumer Affairs Legislative and Policy Review Unit, provided board members with a brief update of recent legislative activities, the role and responsibilities of the unit, and a brief description of the legislative process. Ms. Rhine indicated that the unit reviews approximately 80 regulatory packages and over 300 legislative bills per year. Ms. Rhine indicated that the primary purpose of the unit is to analyze legislation impacting consumers and the department and providing bill position recommendations to the Governor's office.

8. **The Legislative Committee**

8a. **Proposed Policy regarding Role of Committee**

Ms. Hazelton indicated that she had worked along with the Legislative Committee co-chair, Sonya Earley, to draft a policy which would define the role of the committee, basic operating procedures, sources of information, and preparation for board meetings.

This policy will provide a method for the board to be informed about proposed legislation so that, where appropriate, it may take positions on bills. The framework of the policy will allow the board take considered, reasoned, and consistent positions and actions regarding proposed legislation.

If adopted, the policy will be added to the Board Member Policy Manual.

A motion was made to adopt the Legislative Committee Role and Operating Procedures as drafted.

(m/Shorter, s/Earley, motion passes)

8b. **Legislation of Interest to the Physician Assistant Board**

Following lengthy discussion regarding each bill the following motions were made:

**AB 154**

Dianna Taylor, Professor, School of Nursing, at University of California, San Francisco gave a presentation on AB 154. In conjunction with the Office of Statewide Health Planning and the Health Works Pilot Project, a study was conducted to provide background evidence for this bill. Ms. Taylor stated that this legislation is not a scope expansion, but, a means to teach new skills to existing classifications of clinicians, including physician assistants. Ms. Taylor added that the study also examined the impact of patient safety and quality of care of

physician assistants, nurse practitioners, and nurse midwives permitted to perform aspirated abortions. One concern addressed in the study was lack of access to care to women seeking abortions. Ms. Taylor stated that the study indicated that the care provided by physician assistants, nurse practitioners, and nurse midwives was not inferior to the care provided by physicians.

Dr. Bishop raised questions about the data presented in the study, specifically, the statistical clinical significance of the data. Ms. Taylor stated that their study concluded that the statistical differences in abortion outcomes, specific to patient safety, between mid-level providers and physicians was small.

Dr. Bishop suggested a need for a longer follow up study to address the statistical differences in care provided by mid level practitioners and physicians. Dr. Bishop also suggested that the board not support the bill at this time, but, require further data as this would be consistent with the board's mandate of consumer protection.

A motion was made to take a "support" position on AB 154.  
(m/Bishop, s/no second. Motion fails)

A motion was made to take a "watch" position on AB 154.  
(m/Bishop, s/Diaz, 2 yes votes, 3 opposed votes, 3 abstaining, motion fails)

#### AB 186

Motion was made to recommend taking a "support" position on AB 186, to show support to military families.  
(m/Hazelton, s/Earley, motion failed)

The motion was then amended motion to take a "support" position if the bill is amended to require applicants for a temporary license to provide proof of other health care licenses held in other states, National Practitioner Data Bank self-query clearance, and finger print clearances.  
(m/Hazelton, s/Earley, motion passes)

#### AB 1057

A motion was made to take a "support" position on AB 1057.  
(m/Hazelton, s/Grant, motion passes)

#### SB 304

The board discussed Senate Bill 304 specifically provisions that would impact the Physician Assistant Board. This bill would move the Medical Board of California investigators to the Department of Consumer Affairs Division of Investigation. The Physician Assistant Board utilizes the Medical Board of California investigators for its investigation of consumer complaints. If this legislation is passed and signed by the Governor, the impact to the board would be that the department's division of investigation would then handle investigations.

Following a discussion no motion was made for SB 304.

## SB 352

Mr. Mitchell informed the board that a “support” position had been previously taken regarding this legislation. A letter of support was sent to the author of this bill.

## SB 494

The board discussed SB 494 which is sponsored by the California Academy of Physician Assistants. This bill would, until January 1, 2019, require a healthcare service plan to ensure that there is at least one full-time equivalent primary care physician for every 2,000 enrollees. This bill would until January 1, 2019, authorize the assignment of up to an additional 1,000 enrollees, as specified to a primary care physician for each full-time equivalent nonphysician medical practitioner.

Following the discussion, a motion was made to take a “support” position on SB 494.

(m/Grant, s/Earley – 6 yes votes, 2 abstained, motion passes)

Members discussed the need to review PA scope of practice. By consensus, an ad-hoc subcommittee was formed which would make and determine if there were recommendations to be made for amendments. Jed Grant and Rosalee Shorter volunteered to review the scope of practice provisions.

### 10. **Update on Current Budget**

Ms. Tincher provided the board members with an overview of the current budget. Ms. Tincher stated that the board ended the fiscal year with a 13.2% reversion and the budget and fund condition remain fiscally sound.

### 11. **Presentation from Maximus, Diversion Program**

Virginia Matthews, Program Manager and Terri Sargeant, RN for Maximus, provided the board members with a brief overview of the board’s Diversion Program.

The board as well as 6 other Department of Consumer Affairs boards contract with Maximus to provide drug and alcohol monitoring program services. Ms. Matthews explained that the primary goal of the program was to protect the public, actively monitor participants, and help physician assistants to safely return to practice. Ms. Matthews explained that the program achieves its goals by suspension of practice upon enrollment, return to practice with supervision, monitoring, and random drug testing.

Ms. Matthews also explained that physician assistants enroll in the program by self-referral or board-referral. Board-referrals are the result of a disciplinary action mandating participation and completion of the program as a condition of probation.

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

**RETURN TO OPEN SESSION**

13. **Discussion on Proposed Regulation Change re: Personal Presence**

Mr. Mitchell presented board members with the latest revision of the Regulatory Proposal – Title 16, California Code of Regulations, Section 1399.541, Medical Services Performable.

Laura Freedman, Senior Staff Counsel, provided board members with a brief history and update on the revised language.

This matter was first raised in 2005 as the result of a legal opinion concerning the term “personal presence.” The legal opinion concluded that a physician assistant may not perform opening and closing on a patient without the personal presence of a supervising physician.

In 2011, a concern was raised to the then Physician Assistant Committee about this issue and the committee determined that the regulation should be amended to reflect current medical standards with regard to this practice.

A prior draft regulation was drafted and submitted to the Medical Board of California because the Medical Board has regulatory authority over physician assistant scope of practice regulations. The Medical Board was concerned about the breadth of the regulation and declined to take action.

Taking into consideration of the Medical Board concerns, staff worked to revise the regulation language more narrowly focused it taking into consideration public safety.

The first draft of the revised language was presented to the board at its May 2013 meeting. Board members provided feedback and the language was again revised.

In late July 2013, the revised draft language was shared with Medical Board staff to anticipate any concerns the Medical Board members may have. None were identified.

A motion was made to approve the proposed regulatory language and direct staff to submit the language to the Medical Board of California and respectfully request that it authorize the formal rulemaking process.  
(m/Diaz, s/Bishop, motion passes)

14. **Discussion of Revisions to the Model Disciplinary Guidelines**

Ms. Tincher explained that the board's Manual of Disciplinary Guidelines were last updated in 2007. Staff identified changes needed to update the

guidelines. Additionally, the Uniform Standards Regarding Substance Abusing Healing Arts Licensees, which are used in disciplinary matters regarding substance abusing healing arts licensees, including physician assistants, must be incorporated in the board's guidelines as well.

Ms. Tincher explained that the department's Legal Affairs Division identified three possible methods for determining whether a licensee is a substance-abusing licensee, which would trigger the application of the Uniform Standards:

Option 1: Using a rebuttable presumption. If the charge involves alcohol or drugs, it will be assumed that the licensee is in fact a substance-abusing licensee and the individual bears the burden of proving that he or she is NOT a substance-abusing licensee at the hearing. Once that finding is assumed, the conditions imposing the Uniform Standards apply.

Option 2: Relying on the clinical diagnostic evaluator's opinion. For any case where there was a finding of alcohol or drugs involved in the offense, the conditions applying the Uniform Standards are included in a disciplinary order, but permitting the provisions to be waived contingent on the outcome of a clinical diagnostic evaluation finding that the individual is not a substance-abusing licensee.

Option 3: Bearing the burden. If the charges involve drugs or alcohol, the board bears the burden of proving (via facts, layperson and expert testimony, etc.) at hearing that the individual is a substance-abusing licensee, at which point the conditions imposing the Uniform Standards may be imposed.

Ms. Tincher stated that board staff gathered background information from the public and had discussions before the board (then Physician Assistant Committee) regarding revisions to the guidelines. At that time, staff recommended and continues to recommend option 2. Option 2 would require that a clinical evaluation be ordered in every case to determine whether an individual was a substance abusing licensee. This would ensure that a neutral expert with experience in chemical dependency would determine if a licensee must be subject to the Uniform Standards.

Board legal counsel and staff presented to the board additional minor amendments to the proposed text of the regulation as presented and the model guidelines and orders to reflect Option 2 and requested that the board approve the proposed regulatory language as amended during discussions.

The board reviewed the proposed language, model guidelines and orders, and the three options presented by legal counsel and staff. Members agreed that Option 2 was the appropriate method of determining whether a licensee has a

substance abuse problem which would trigger application of the Uniform Standards.

A motion was made to approve the proposed regulatory language as recommended by staff and revised during discussion and direct staff to proceed with the rulemaking process.

(m/Grant, s/Bishop, motion passes)

15. **Update on BreEZe Implementation**

Mr. Mitchell stated that BreEZe is a new Department-sponsored system designed to replace two legacy computer systems (ATS and CAS) which impacts our licensing, verification and enforcement processes.

Mr. Mitchell stated that user acceptance testing continues and nearing completion. Mr. Mitchell also stated that the vendors and the Department of Consumer Affairs are working with the boards to ensure that a quality product is in place before the go live date of October 8<sup>th</sup>.

Mr. Mitchell also informed the members that a notice has been placed on the board's website informing applicants and licensees of this transition to the new system and to be aware that temporary disruptions may occur and to renew licenses early to avoid issues from any disruptions that may take place.

16. **Fluoroscopy Permit Requirements for PAs Update**

Mr. Mitchell informed board members that AB 356, which was sponsored by the California Academy of Physician Assistants, became effective January 1, 2010. Mr. Mitchell explained that AB 356 implemented provisions of the Health and Safety Code to permit physician assistants who meet certain standards of education, training and experience to operate fluoroscopy equipment.

Mr. Mitchell also indicated that the California Department of Public Health proposed a regulation to implement the provisions of AB 356 was approved by the Office of Administrative Law and will become effective October 1, 2013.

17. **Mandatory Reporting Requirements for Physician Assistants**

Mr. Grant stated that there are requirements for physician assistants to report certain patient medical conditions and injuries to governmental authorities, such as law enforcement. He also explained that there is confusion among the licensees about what patient medical conditions and injuries should be reported and to whom.

Mr. Grant added that there is also confusion of about licensee self-reporting requirements with regard to criminal convictions and practice disciplinary matters, such as hospital suspensions or discipline.

Following a discussion, a motion was made to direct staff to research and create a mandatory reporting fact sheet that would also be included on the board's website.

(m/Grant, s/Diaz, motion passes)

18. **Discussion of Physician Assistant, Consumer Access to Care and Workforce Issues**

Dr. Rosslyn Byous, Office of Statewide Health Planning and Development (OSHPD) and Ms. Teresa Anderson, California Academy of Physician Assistants (CAPA) provided the board members with an overview of the physician assistant work force issues in California.

Ms. Anderson stated that currently there are 9,100 physician assistants in practice in California and that projected need in California by 2020 is nearly double that figure.

Ms. Anderson stated that an increased number of people will be seeking care in California due to implementation of health care reform and that Med-Cal is expecting to expand by approximately 2 million additional beneficiaries. Some of the highest areas for Medi-Cal patients are the Inland Empire, San Joaquin Valley, and Central Coast and that they are struggling to recruit and retain health care providers.

Dr. Byous indicated that some of the workforce issues and barriers are lack of clinical rotation sites, program funding, and changes in the physician assistant training program accrediting standards being implemented by ARC-PA. Dr. Byous also discussed community college physician assistant training programs located in underserved areas as well as various physician assistant practice restrictions, mid-level provider supervision of medical assistants, and lack of primary care providers.

Dr. Byous also explained that collaborative efforts between various state and local entities to address the health care workforce issues has already begun, such as Nov 2011 the Song-Brown Act presentation which identified the critical need for clinical rotation sites. Dr. Byous also mentioned the creation in December 2011 of the California Workforce Investment Board.

19. **Discussion regarding current voluntary exam about PA Laws and Regulations available on Board's website**

President Sachs explained that due to time constraints, this agenda item would be discussed at the next meeting of the board.

20. **Review and Discussion of the Board's Strategic Plan**

President Sachs introduced Shelly Menzel, Chief, and Dennis Zanchi, Department of Consumer Affairs SOLID Training Office.

Ms. Menzel indicated that the board's Strategic Plan was last updated in November 2009 and that the Department is encouraging boards that haven't updated their plans recently to review and update their plans.

Ms. Menzel indicated that board staff had recently met with Terri Meduri and Dennis Zanchi of the department's SOLID Training Office to discuss the board's current plan and available options for updating the plan.

Mr. Zanchi presented a brief overview of the strategic planning process and the options available to the board in developing or updating the plan.

Mr. Zanchi indicated that the board needed to determine the following:

1. Propose to collaborate with board staff to develop a strategic plan draft for the board to review.
2. Determine environmental scan methods (e.g. on-line stakeholder survey, board member interviews, and board and staff focus groups). Mr. Zanchi explained that a scan will help to identify board strengths/weaknesses, opportunities/threats, and future trends impacting the physician assistant profession.
3. If the current vision, mission statement and values are acceptable to the board, only minor revisions would be made to the plan.

Following a discussion, the board, by consensus, requested the SOLID team develop a draft plan. Board members would then review the draft plan prior to the December 9, 2013 meeting. At the December 9, 2013 meeting, SOLID staff would conduct a two hour strategic plan review session with board members.

21. **Agenda Items for Next Meeting**

- a. Discussion regarding current voluntary exam about physician assistant laws and regulations available on board's website
- b. Election of board officers for 2014
- c. Physician Assistant Board Strategic Plan
- d. Approval of physician assistant initial licensing examination and 2014 dates and locations for physician assistant licensing examination.

22. **Adjournment**

The meeting adjourned at 4:15 P.M.