



PHYSICIAN ASSISTANT BOARD
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MEETING MINUTES

August 18, 2014

PHYSICIAN ASSISTANT BOARD
2005 Evergreen Street – Hearing Room #1150
Sacramento, CA 95815
9:00 A.M. – 5:00 P.M.

1. **Call to Order by President**

President Sachs called the meeting to order at 9:10 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.
- Jed Grant, PA-C
- Catherine Hazelton
- Rosalee Shorter, PA-C
- Cristina Gomez-Vidal Diaz
- Sonya Earley, PA-C
- Xavier Martinez

Staff Present:

- Glenn L. Mitchell, Jr., Executive Officer
- Kristy Schieldge, Senior Staff Counsel, Department of Consumer Affairs (DCA)
- Dianne Tincher, Enforcement Analyst
- Lynn Forsyth, Licensing Analyst
- Anita Winslow, Administration Analyst

3. **Approval of May 19, 2014 Meeting Minutes**

The May 19, 2014 meeting minutes were approved as written.
(m/Bishop, s/Earley, 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 reported on attending the Founding Advisory Committee meeting of Marshall Ketchum University PA Program. This new program has received provisional accreditation from ARC-PA. The first class is scheduled to begin in September 2014 with 24 students.

b. Executive Officer's Report

1. Update on BreEZe Implementation:

Mr. Mitchell stated that Board staff continues to work with the BreEZe team on system production stabilization issues. The main issues continue to be with enforcement and cashiering aspects of BreEZe, and the generation of reports in BreEZe.

Mr. Mitchell added that the BreEZe licensing system continues to function appropriately and the Board is not experiencing any delays in issuing physician assistant licenses. He informed the members that our on-line license renewal system is now scheduled for November 2014 due to other aspects of the system's roll out that must be addressed first.

Mr. Mitchell informed the members that Board staff is frequently attending licensing and enforcement user group meetings and their attendance is greatly assisting in resolving some of the issues that this and other boards are encountering during implementation of the BreEZe.

Mr. Mitchell stated that the Board is also receiving a great deal of assistance from staff of the Medical Board of California Information Systems Branch during the implementation stage. The Board greatly appreciates their assistance in helping us with the implementation of the system.

Mr. Mitchell thanked our applicants, licensees and consumers for their patience during the transition to BreEZe.

2. CURES Update:

The CURES system (Controlled Substance Utilization Review and Evaluation System) is a data base that contains records of controlled substance drugs dispensed in California. For the Board, CURES data is useful in investigating complaints concerning dispensing or use of controlled substances by physician assistants. Currently, the CURES system does not have the capability to meet current and future demands and needs to be updated. Additionally, budget cuts to CURES have impacted the system as well. SB 809, signed by the Governor, will address funding issues and allow for enhancements to the system to better meet the needs of the users of this information.

Mr. Mitchell stated that Joint Application Design (JAD) sessions are taking place between representatives of DCA and DOJ (there are 10 DCA Boards involved). The purpose of these sessions is to facilitate development of aspects of the new system and to define the system needs.

Mr. Mitchell added that the sessions are designed to allow information to be obtained and validated by involving participants who have a stake in the outcome.

Mr. Mitchell informed the members that Board staff does not query the system as this is performed by the Medical Board of California complaint staff; therefore, they are representing the Board in these sessions.

President Sachs asked if licensees were paying the CURES Fund fee. Mr. Mitchell responded that the fee was first assessed with April 2014 renewals.

c. Licensing Program Activity Report

Between May 1, 2014 and August 1, 2014, 256 physician assistant licenses were issued. As of August 1, 2014, 9,540 physician assistant licenses are renewed and current.

d. Diversion Program Activity Report

Mr. Mitchell reported that Maximus has been awarded the contract for the DCA diversion program for 5 years effective January 1, 2015 until December 31, 2019. Maximus is the current contractor and has had the contract for diversion program services for the past 11 years. Effective January 1, 2015, the cost per participant will be \$338.15 (the current cost is \$306.14, a \$32.00 increase). The cost per participant will increase by 3% annually per contract provisions. Board ordered participants pay the full fee and self-referrals pay 75% of the monthly fee (per Title 16, California Code of Regulation Section 1399.557).

As of July 1, 2014, the Board's Diversion Program has 13 participants, which includes 3 voluntary participants and 10 board-referral participants.

A total of 124 participants have participated in the program since implementation in 1990.

Dr. Bishop commented that the participant numbers seemed to have dropped off. Mr. Mitchell responded that because of the participation fee, self-referrals may be participating in programs covered by their health insurance.

e. Enforcement Program Activity Report

Between July 1, 2013 and June 30, 2014, 19 accusations were filed; 2 Statement of Issues were filed; 10 probationary licenses were issued, and there are currently 47 probationers.

6. **Department of Consumer Affairs**

a. **Director's Update**

Christine Lally, Deputy Director – Board & Bureau Relations reported on the leadership change within the Department of Consumer Affairs. Director, Denise Brown, retired after 30 years of service and Awet Kidane was appointed as the new Director. Tracy Rhine was appointed Chief Deputy Director. Ms. Lally added that Mr. Kidane is planning “sit-down” meetings with Executive Directors and Executive Officers of all Boards.

Ms. Lally reminded the Board about expiring terms and requested that those Board members interested in being reappointed to submit their applications to their respective appointing office.

President Sachs commented that he is pleased that all nine Board positions are filled.

7. **Regulations**

A. **Title 16, California Code of Regulations, Section 1399.541 – Medical Services Performable**

As discussed at our May meeting, the Medical Board of California (MBC) held the regulatory hearing for this proposal at their February 7, 2014 meeting. Public comment received during the 45-day comment period was reviewed.

After a discussion it was proposed to delete “or” from the language. The Board adopted this change and there was a 15 day public comment period. At the Medical Board of California meeting in May, members reviewed public comments received. And following consideration of comments received from counsel from the Health Quality Enforcement Section; MBC staff recommended further clarification of the definition of “immediately available.” MBC members voted to approve the language and refer it back to the Board for consideration.

The modified language was approved by the Board in May and it was referred back to the MBC and noticed for another 15-day public comment period. The public comment period ended on June 10, 2014. Since no public comment was received, the Board and MBC have completed their final review of the regulatory package and it has been forwarded to the Department of Consumer Affairs (DCA) for their review and approval. Once DCA approves the package it will be submitted to the Office of Administrative Law (OAL). OAL has thirty days to review the package.

This regulation will improve the way physician assistants are supervised in a surgical setting.

B. Section 100 Changes without Regulatory Effect to Title 16, California Code of Regulations, Section 1399.621 – sponsored Free Health Care Events – Sponsoring Entity Registration Form

The Department of Consumer Affairs recently transitioned the processing of Sponsored Free Health Care Events sponsoring entity forms to the Department's Complaint Resolution Program. Because of this transition, the DCA Sponsoring Entity form has been updated to a new revision date. Therefore, we were required to submit a Section 100 (changes without regulatory effect) rulemaking file to reflect the amended form in our regulation.

This package was submitted to the Office of Administrative Law on July 8, 2014. OAL approved this regulatory proposal on August 13, 2014.

8. **Discussion of Board Members reporting alleged violations of Physician Assistant Laws and Regulations to the Board**

Ms. Schieldge reported that the physician assistant laws and regulations do not contain any provisions requiring Board members to report violations of physician assistant laws and regulations by physician assistants. She stated that there are other Boards within the Department that require their licensees, which would include professional Board members, to report violations of laws and regulations.

She quoted Business and Profession Code Section 3758.5, as an example, which relates to the Respiratory Care Board:

“If a licensee has knowledge that another person may be in violation of, or has violated, any of the statutes or regulations administered by the board, the licensee shall report this information to the board in writing and shall cooperate with the board in furnishing information or assistance as may be required.”

Ms. Schieldge stated that it was up to the Board's discretion or judgment to require members to report violations. There is no legal requirement within the Physician Assistant Practice Act that states violations must be reported.

When asked if a regulation should be adopted Ms. Schieldge responded that other Boards within the Department have regulations but, perhaps, another option is for the Board to adopt a policy that recommends that members refer any violation to the Executive Officer for review and possible disciplinary action. She also stated that if a Board member is a witness to a violation and after investigation it comes to the Board as a disciplinary matter they should recuse themselves from voting on the proposed decision.

9. **Discussion of approved controlled substance education courses: responsibilities of course providers**

President Sachs stated that controlled substance education courses are given to allow physician assistants to waive patient specific authority from their supervising physician to transmit controlled substances drug orders. He asked

what the Board's responsibility is in regard to auditing the various education course providers to ensure they are complying with the regulations.

President Sachs was asked to give a brief background of the law and regulations adopted by the Board. He outlined the course requirements required by the regulation passed by the Board and that only licensed PA's could take the course.

Ms. Shorter asked if there were other course providers in addition to California Academy of Physician Assistants (CAPA). President Sachs responded that he believes a course is offered by the Stanford Hospital and Clinic. There may be other course providers who choose not to make their course available to the public, rather, offering it to their employees. He also noted the Board has the legal authority to audit these course providers.

Ms. Schieldge added that Business and Professional Code Section 3502.1(c)(2) states that only licensed PA's may take the course. She also referenced Title 16 California Code of Regulations Sections 1399.610(b) and 1399.612(b), which gives the Board the authority to audit the providers of the courses.

Ms. Shorter suggested that now would be a good time to conduct an audit since there are several course providers that the Board is aware of. President Sachs added that the Stanford course has only been offered for the last several years. CAPA has offered the course since the regulations were adopted. He believes that the Board should follow up on the audits to ensure compliance with the laws and regulations.

President Sachs suggested that the audit should include the course provider's syllabus and qualifications of the course instructors. He also suggested that the Board do a "spot check" every two years to make sure the course providers are in compliance with the regulations.

Public Comment: Gaye Breyman of the California Academy of Physician Assistants reported that they offer the course to licensed PA's 4 times a year.

There was a motion to direct staff to audit for the course syllabus, instructor credentials, and a year of participants.
(m/Gomez-Vidal Diaz, s/Grant, motion passes)

10. **Petition Hearings**

The following petition hearings were held before the Board:

- A. Petition for Termination of Probation – Robert J. Lucas, PA-15947
- B. Petition for Reinstatement of Physician Assistant License – Ricky R. Hicks, PA-12721

11. **Closed Session**

A. Pursuant to Section 11126(c)(3) of the Government Code, the Board moved into closed session to deliberate on disciplinary matters and the petitions.

RETURNED TO OPEN SESSION

12. **A lunch break was taken**

13. **Discussion on Accredited Physician Assistant Program in California: accreditation process**

President Sachs stated that he is concerned that the current national accreditation process may not be adequately addressing the need to increase the number of PA training programs that will be needed to meet the health care provider shortage.

Dr. Bishop suggested that one option is to expand the existing PA training programs especially due to the implementation of the Affordable Care Act and the need for more health care providers, including PA's.

Mr. Grant wanted to know if California could approve their own PA programs. President Sachs answered that the National Commission on the Certification of Physician Assistants (NCCPA) will only allow individuals who have graduated from ARC-PA approved training programs to sit for the Physician Assistant National Certification Examination (PANCE). The Board utilizes the PANCE as its initial licensing exam.

In an effort to open dialog, President Sachs directed staff to invite an ARC-PA representative to a meeting to discuss our concerns and to seek ways we can cooperate to address the health care provider shortage.

14. **Medical Board of California Activities**

a. **Prescribing Task Force Update**

Dr. Bishop reported that the second meeting of the Prescribing Task Force was held in Sacramento on June 19, 2014 to allow for additional input from the stake holders.

A third meeting will be scheduled to address additional concerns, and to finalize the guidelines.

15. **Budget Update**

Ms. Tincher reported that at the end of fiscal year the Board still had 10.63% of the budget remaining.

The Board discussed ways to save additional funds and agreed to electronic Board material packets instead of relying exclusively on paper materials.

16. **The Legislative Committee**

Legislation of Interest to the Physician Assistant Board

Catherine Hazelton indicated to the members that staff had provided the Legislative Committee with eleven bills that may impact consumers, physician assistants or the Board. She included a handout which updated the Board on bills discussed at the May 2014 Board meeting. Ms. Hazelton also suggested that due to time restraints, bills be prioritized and to discuss only the bills of interest to the Board.

The following bills were discussed by the Board members:

AB 1841 (Mullin) This bill would allow medical assistants to furnish labeled and prepackaged prescription drugs, other than controlled substances, to a patient, if so ordered by a licensed physician, licensed doctor of podiatric medicine, a physician assistant, a nurse practitioner or a certified nurse midwife.

Ms. Hazelton noted that a letter was sent by the Board's Executive Officer, on behalf of the Board, stating their recommendations and concerns with this bill. Ms. Hazelton added that the bill had already passed through the legislature and there were no additional opportunities for amendments.

AB 2058 (Wilk) This bill would modify the definition of "state body" within the Bagley-Keene Open Meeting Act, to exclude advisory bodies with less than three individuals, except for certain standing committees.

The Board's Executive Officer sent a letter of opposition due to the cost to implement it. The Board's concern was acknowledged but it was passed as is.

Ms. Schieldge noted that the Board's concerns were also sent to the Governor's office. She also stated that other Boards within the Department had similar concerns and that the bill was opposed by the Department of Consumer Affairs.

The bill is back in the Assembly.

SB 1083(Pavley) This bill authorizes a physician assistant to certify disability, after performance of a physical examination by the physician assistant under the supervision of a physician, and would correspondingly expand the definition of practitioner to include a physician assistant.

The Board has taken a "support" position on this bill, which was passed by the Senate. A letter of support was sent to the bill's author. It is currently awaiting the Assembly and should go to the Governor's office.

AB 1091 (Galgiani) This legislation would require state agencies to publish notice of “proposed rulemaking activities” in the California Regulatory Notice Register at least 15 days prior to undertaking the activity. Included activities are informational hearings, workshops, scoping hearings, preliminary meetings, and public and stakeholder outreach meetings.

The Board has taken an “opposed” position on this bill. It is being held in Senate Appropriations and is not currently active.

Public Comment: Teresa Anderson – California Academy of Physician Assistants (CAPA), stated that the Employment Development Department (EDD) had some concerns with implementing the provisions of SB 1083. She reported that CAPA is working with EDD to resolve these issues. Ms. Anderson stated that there was never a problem policy wise and the bill has received a lot of support.

17. **Agenda Items for Next Meeting**

- A. Nomination and Election of Physician Assistant Board Officers
- B. Approval of Passing Score for PA Initial Licensing Examinations and 2014 Dates and Locations for PA Initial Licensing Examination.
- C. Schedule of 2015 Board Meeting Dates and Locations.
- D. Legislation Report of bills of interest to the Board.
- E. New Policy: Board member reporting alleged violations of physician assistant laws and regulations to the Board.
- F. AB 2058 if passed how will the Board comply
- G. Invitation to DCA Budget Analyst – how the budget is developed.

18. **Adjournment**

With no further business, the meeting adjourned at 3:35 P.M.