

**MEETING MINUTES**

**January 11, 2016**

**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 9:00 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  
Sonya Earley, PA-C  
Xavier Martinez  
Catherine Hazelton  
Javier Esquivel-Acosta, PA

Staff Present: Glenn L. Mitchell, Jr., Executive Officer  
Kristy Schieldge, Senior Staff Counsel,  
Lynn Forsyth, Enforcement Analyst  
Anita Winslow, Licensing Analyst

**3. Approval of January 16, 2015 Teleconference Meeting Minutes**

M/ Jed Grant S/ Sonya Earley C/ to:

Approve the January 16, 2015 teleconference meeting minutes.

<b>Member</b>	<b>Yes</b>	<b>No</b>	<b>Abstain</b>	<b>Absent</b>	<b>Recusal</b>
Charles Alexander	X				
Sonya Earley	X				
Javier Esquivel-Acosta	X				
Jed Grant	X				
Catherine Hazelton	X				
Xavier Martinez	X				
Robert Sachs	X				

Motion approved.

**4. Approval of November 2, 2015 Meeting Minutes**

Ms. Schieldge requested line 495 on page 12 of the minutes be amended to state: "Amending the DCA Director's authority over certain Board decisions or providing options for review upon request by the board."

M/ Jed Grant S/ Sonya Earley C/ to:

Approve the November 2, 2015 meeting minutes as amended.

Member	Yes	No	Abstain	Absent	Recusal
Charles Alexander	X				
Sonya Earley	X				
Javier Esquivel-Acosta	X				
Jed Grant	X				
Catherine Hazelton	X				
Xavier Martinez	X				
Robert Sachs	X				

Motion approved.

**5. Public Comment on items not on the Agenda**

There was no public comment at this time.

**6. Reports**

a. President's Report

- 1) Mr. Sachs administered the Oath of Office to reappointed Board members Dr. Charles Alexander, Dr. Michael Bishop, Ms. Sonya Earley, and Mr. Javier Esquivel-Acosta.
- 2) Mr. Sachs reported on the new composition of the Board as defined in Business and Professions Code section 3505 which states that the members of the board shall include four physician assistants, one physician and surgeon who is a member of the Medical Board of California, and four public members.

He added that upon the expiration of the term of the member who is a member of the Medical Board of California, that position shall be filled by a physician assistant.

Mr. Sachs noted that upon the expiration of the term of the member who is a member of the Medical Board, there shall be appointed to the Board a physician who is a member of the Medical Board who shall serve as an ex officio, nonvoting member and whose function shall include reporting to the Medical Board on the actions or discussions of the Board.

The Board now consists of five physician assistant professional members, four public members, and one member who is a member of the Medical Board of California (MBC).

- 3) Mr. Sachs reported that the Senate Committee on Business, Professions and Economic Development and Assembly Committee on Business and Professions have begun their Sunset Oversight Review. The Physician Assistant Board is scheduled to be reviewed. The Board was last reviewed in 2012.

Mr. Sachs added that the Board reviewed and approved the draft report prepared by staff at the November 2015 Board meeting.

Staff submitted the final version of the report to the Legislature on December 1, 2015. Sunset hearing dates are expected to be announced by the Committees sometime early in 2016.

b. Executive Officer's Report

- 1) Update on BreEZe Implementation

Mr. Mitchell reported that the Department of Consumer Affairs (DCA) will be deploying "Release 2" boards to BreEZe between 5 PM on Thursday, January 14, 2016 and 8 AM on Monday, January 19, 2016. Impact to the Release 1 Boards, including the Physician Assistant Board (PAB), will be that during deployment of the R2 boards BreEZe will be down. Additionally, the on-line licensing look up will not be available during the cutover and deployment period.

Mr. Mitchell noted that DCA recognizes the need to provide current license status data to the public during the time BreEZe is down. Therefore, DCA and the BreEZe team will develop PDF reports to be published on the DCA and Board websites that will contain basic licensee information (including first and last name, license type, license number, and primary status code) consumers may use to verify the status licenses. The reports will contain information as of January 14, 2016.

Mr. Mitchell reported that the online renewal system continues to function without any issues and we continue to receive fewer paper renewals in the office.

Mr. Mitchell thanked the BreEZe team and MBC ISB for their continued support.

- 2) CURES update

Mr. Mitchell report that a "soft launch and phased rollout" of CURES 2.0 took place in July 2015. It appears that there are no major issues during this implementation phase.

Mr. Mitchell stated beginning January 8, 2016, CURES 2.0 will be released to all users in compliance with the system's minimum security requirements.

Compliant browsers include Internet Explorer version 11 or greater, Chrome, Safari, or Firefox.

c. Licensing Program Activity Report

Between October 23, 2015 and January 4, 2016, 148 physician assistant licenses were issued. As of January 4, 2016, 10,456 physician assistant licenses are renewed and current.

Ms. Winslow reported that the decrease in renewed and current licenses was due to the status of several licenses having to change to “canceled” status.

From January 1, 2015 to December 31, 2015 there were 910 physician assistant initial licenses issued.

d. Diversion Program Activity Report

As of January 1, 2016, the Board’s Diversion Program has 14 participants, which includes five self-referral participants and nine board-referral participants.

A total of 136 participants have participated in the program since implementation in 1990.

e. Enforcement Program Activity Report

Between November 1, 2015 and December 31, 2015, there were two accusations filed; there were no Statement of Issues filed; there were two probationary licenses issued; there was one license Surrender; there was one Petition to Revoked, there was one licensed denied, there was one licensee placed on probation and we have five pending citations. There are currently 59 probationers.

**7. Department of Consumer Affairs: Update**

There was no report from the Department of Consumer Affairs.

**8. Discussion on Board meeting locations and possible action to seek exemption from requirements under Business and Professions Code section 101.7**

The following 2016 Board meeting dates were approved by the Board at the November 2016 meeting:

Monday, January 11, 2016

Monday, April 18, 2016

Monday, July 11, 2016

Monday, October 17, 2016

Business and Professions Code section 101.7 requires that boards meet at least three times each calendar year. Additionally, boards shall meet at least once each calendar year in northern California and once each year in southern California in order to facilitate participation by the public and its licensees.

In order to comply with Business and Professions Code section 101.7, the Board discussed rescheduling a 2016 meeting to take place at a location in Southern California.

M/ Jed Grant S/ Sonya Earley C/ to:

Reschedule the location of the October 17, 2016 Board meeting to Southern California.

Member	Yes	No	Abstain	Absent	Recusal
Charles Alexander	X				
Sonya Earley	X				
Javier Esquivel-Acosta	X				
Jed Grant	X				
Catherine Hazelton	X				
Xavier Martinez	X				
Robert Sachs	X				

Motion approved.

**9. Discussion and review of Health and Safety Code section 1799.110 (Standard of Care in Medical Malpractice Cases).**

Mr. Grant started the discussion with a review of the pertinent part of Health and Safety Code section 1799.110 (c) "...the court shall admit expert medical testimony only from physician and surgeons who have had substantial professional experience..." Mr. Grant asked whether or not this code should be amended to include physician assistants and opened the floor for discussion.

Dr. Bishop stated that in discipline cases that he has reviewed it appears that the administrative law judge does due diligence in reviewing the background of all expert witnesses.

Mr. Sachs added that when called upon to act as an expert witness, a physician assistant providing expert testimony may wish to excuse themselves if they are not qualified to answer the questions put forth by the attorney. Mr. Sachs added that he believes that sufficient safeguards are in place and that the Board does not need to take action on this item at this time.

Ms. Schieldge commented that this code applies to private litigation for medical malpractice and is not something the boards would typically intercede on as it does not pertain to public protection.

Ms. Hazelton noted that she believes it is the responsibility of the attorney to qualify the expert witnesses.

Mr. Grant concluded that this could be resolved through "artful lawyering", but the Board would not get involved because it is not part of our mission of public protection.

## 10. Regulations

- a. Proposed amendments Title 16 California Code of Regulations  
Section 1399.523 – Disciplinary Guidelines: Update

A regulatory hearing on the Proposed Language for Guidelines for Imposing Discipline/Uniform Standards Regarding Substance-Abusing Healing Arts Licensees, Section 1399.523 of Division 13.8 of Title 16 of the California Code of Regulations was held on February 9, 2015.

The rulemaking file has been submitted to the Department of Consumer Affairs for their review. Upon their approval, the file will be forwarded to the Office of Administrative Law (OAL). OAL has thirty working days to review the file.

- b. Proposed amendments to Title 16 California Code of Regulations Section 1399.546 – Reporting of Physician Assistant Supervision. Related to the implementation of SB 337.

Ms. Schieldge opened the discussion citing the reason to update this regulation is so that it is consistent with the intent of Business and Professions Code section 3502 which was amended by the implementation of SB 337. As discussed at the last board meeting, it was determined that the legislation was intended to alleviate the need to manually enter the supervising physician name in the patient electronic record for each episode of care. It appears that Section 1399.546 needs to be clarified that the supervising physician's name does not need to be entered in the patient record each time the physician assistant provides care to the patient. The proposed amendments included striking out the words, "enter the name of his or her" and adding in the text, "record in the medical record for that episode of care the..." Ms. Schieldge recommended the following subparagraph, "(b): If the electronic medical record software used by the physician assistant is designed to, and actually does, enter the name of the supervising physician assistant for each episode of care into the patient's medical record, such automatic entry shall be sufficient for compliance with this recordkeeping requirement."

Mr. Grant requested that the word "assistant" be removed from the paragraph after supervising physician.

Ms. Schieldge asked if there were any other changes needed. Without further comment a motion was made by Mr. Grant to adopt the proposed amendments to §1399.546. The motion was later withdrawn.

Ms. Hazelton asked for some clarification of the "episode of care" statement and whether this would affect patient care and how that patient would be able to get the information they might need from the chart. Ms. Hazelton was concerned that when the supervising physician has changed for the same episode of care the change would not be noted in the patient's record. She was concerned that a licensee may not change the supervising physician when the current name was automatically populating in the record. She also asked if the physician assistant would be required to change the name of the supervising physician, in the electronic record based on the phrase "episode of care".

Ms. Schieldge clarified that for each episode of care the information would be available. As currently drafted, the supervising physician's name must be manually entered into the electronic patient record each time the physician assistant updates the patient medical record whether the supervising physician has been previously listed or not. This proposed regulatory change is an attempt to update the regulation to reflect current practice standards with regard to entering the name of the supervising physician in an electronic medical record.

Ms. Schieldge noted that each supervising physician's name would remain on the electronic medical record.

Mr. Grant provided a general description of how electronic medical records (EMR) function. Each time there is a shift change a new supervising physician is assigned and noted in the patient's chart. Mr. Grant stressed that the purpose of the regulation is not to be less accurate, but to reduce unnecessary and duplicating documentation. It is incumbent on the licensee to always document their supervising physician. Mr. Grant believes that the current regulation makes it difficult to accomplish this using EMR's. Mr. Grant clarified that the regulation requires physician assistants to list their supervising physician. This regulation is reflecting what physician assistants are already doing; it's just eliminating the manual entry at the bottom of the chart. He noted that there is a requirement to document who is taking care of the patient and who the supervising physician is and that this proposed regulation change is only modifying how the licensee is required to document their supervising physician.

Ms. Hazelton's concerns were addressed and she was satisfied that the regulation was only changing how the information was documented on the patient's medical record.

Ms. Schieldge reiterated that the purpose is to make sure there is no duplicative record keeping. Licensees would not be subjected to burdensome regulations in complying with this reporting requirement. This proposed change will not relieve the licensees from compliance with this requirement. If the supervising physician is not noted in the record then the licensee is not in compliance with the regulation. The regulation is being updated to reflect the legislative intent of SB 337.

Public Comment: Teresa Anderson, Public Policy Director, California Academy of PAs (CAPA), stated that at first glance CAPA feels that this is in line and consistent with the intent of SB 337. CAPA appreciates the "and actually does" language since there are so many EMR products available. She noted that CAPA is appreciative of the time and effort the Board has put into this regulation and feels it reflects the intent of SB 337.

M/ Jed Grant S/ Sonya Earley C/ to:

Direct staff to take all steps necessary to initiate the formal rulemaking process to adopt proposed amendments to Title 16, California Code of Regulations section 1399.546 with this text and the amendments that include the new addition of subparagraph (b), authorize the Executive Officer to make any non-substantive changes to the rulemaking package, and set the proposed regulations for a hearing.

<b>Member</b>	<b>Yes</b>	<b>No</b>	<b>Abstain</b>	<b>Absent</b>	<b>Recusal</b>
Charles Alexander	X				
Sonya Earley	X				
Javier Esquivel-Acosta	X				
Jed Grant	X				
Catherine Hazelton	X				
Xavier Martinez	X				
Robert Sachs	X				

Motion approved.

## **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.

## **Return to open session**

## **12. A lunch break was not taken**

## **13. The Education/Workforce Development Committee: Update**

- a. Letter to ARC-PA – New California Physician Assistant Training Programs  
As directed by the Board, a letter was sent to the ARC-PA asking that they:
  - Provide the Board with annual updates regarding the provisional accreditation status of new California PA programs
  - Provide the Board with the approximate number of students each new California program plans to enroll, and when the provision programs anticipate matriculating the first class.
  - To better understand ARC-PA's role and responsibilities within the PA education and training process, what agency has oversight responsibilities over ARC-PA

Mr. Grant reported that the Board had not received a response from the ARC-PA and was hopeful that they would respond by the next meeting.

- b. New State of Georgia Law (SB 391): Tax deductions for preceptors who are not otherwise reimbursed.

Mr. Grant noted that the State of Georgia recently passed legislation providing tax deductions for physicians who serve as a community based faculty physician for a medical core clerkship provided by the community based faculty. In other words, physicians who serve as a preceptor for the education of mid-level health care providers such as physician assistants.

Mr. Grant opened the discussion with a brief explanation of the importance of preceptors for the education of physician assistants in California. One of the factors for training physician assistants is clinical training and the use of preceptors in this aspect of their training. This clinical instruction may come from other PAs or physicians who are not generally paid for their time but may receive CME credit for being preceptors. Therefore, it is often difficult to find health care providers to be preceptors because they are not financially reimbursed. Statistics



Motion approved.

- c. Office of Statewide Health Planning and Development's (OSHPD) 2014 Report on Physician Assistants in California – OSHPD data and healthcare workforce analysis

Mr. Grant reported that OSHPD conducted this study in 2013 and published the report in 2014. He noted that there was a lot of good information in it and it was available to the public. He commented on the large amount of growth and that the report was reflective of the national outlook on physician assistants.

Public Comment: Gay Breyman, Executive Director, California Academy of PAs (CAPA), stated that CAPA worked with OSHPD in creating the report by promoting several different ways in which to have physician assistants respond to the survey. She added that CAPA was pleased with the number of responses received. She added that OSHPD had never done a PA-specific survey before and it has been used by several groups, such as the Legislature and educators. She noted that once the new PA programs graduate a few classes, it might be feasible to repeat the study.

Dr. Alexander found the report to be informative but was discouraged about the lack of diversity represented in the survey. He also noticed that the authors said that the numbers were so small that it was hard to generalize across and that the study may not truly reflect what is actually occurring.

Public Comment: Teresa Anderson, Public Policy Director, California Academy of PAs (CAPA), commented that one of the important things the report did was generate conversations around work force issues. She spoke of previous legislation that required collecting additional data on licensee applications to increase the participation numbers, which would provide a better idea on how to collect and project some of the information the Board is looking for. The report highlighted that there needs to be more investigations to identify the increases in the health care workforce. The report was a good first step in looking at the needs of the health care workforce.

#### **14. Board Customer Satisfaction Survey: Update**

During the discussion of the Sunset Review at the November 2, 2015 Board meeting, there was concern with the low response rate to the Board's customer satisfaction survey included in the report. The Board requested that staff proactively solicit licensees and consumers to encourage them to complete the survey, thus increasing the survey response rate.

Ms. Winslow reported that the following was implemented to accommodate the Board's request:

- Adding a link to the survey on the congratulatory email/letter to newly licensed physician assistants.
- Adding a link to the survey to all staff email signatures.
- Verbally encouraging consumers and licensees to complete the survey at the end of a phone call.

Ms. Winslow noted that now the Board is receiving approximately a 10% return on the survey requests and most of the responses were very positive.

#### **15. California Fair Political Practices Commission, Statement of Economic Interests (Form 700) E-file: New Filing Procedures: Update**

Ms. Winslow reported that effective with the 2016 filing period, filers, including Board members will now be able to file their Form 700s online, thus eliminating paper documents. The new procedure should make the filing process more user-friendly, quicker, and more efficient.

#### **16. Developments since the February 2015 United States Supreme Court decision in North Carolina State Board of Dental Examiners v. Federal Trade Commission (FTC)**

- a. Public comment dated November 13, 2015 was submitted to the Physician Assistant Board by Joseph Elfelt. Ms. Schieldge reported that there is current litigation pending between Mr. Elfelt and the Department of Consumer Affairs' Board for Professional Engineers, Land Surveyors, and Geologists. Ms. Schieldge reported that this litigation does not impact the Board.
- b. California Little Hoover Commission: Review of Occupational Licensing in California

Ms. Schieldge noted that the Little Hoover Commission notified boards within the Department of Consumer Affairs about the Commission's upcoming study of occupational licensing. She explained how the Commission is an independent state agency comprised of members of the Legislature and public appointees of the Governor and Legislature. The Commission studies various topics related to government operations and provides reports and recommendations on improvements. The Commission recommendations may result in legislation.

Ms. Schieldge reported that the Commission will be holding a meeting on February 4, 2016 at 9:30 A.M. in the State Capitol room 437. The meeting will discuss the impact of occupational licensing on upward mobility and opportunities for entrepreneurship and innovations for Californians, particularly those of modest means. The Commission will explore the balance between protecting consumers and enabling Californians to enter the occupation of their choice. The meeting will be a live broadcast as well as archived for future viewing.

#### **17. Medical Board of California Activities Report**

Dr. Bishop reported that the Medical Board's next meeting will take place January 21 and 22, 2016 in Sacramento, therefore, there is nothing to report at this time.

#### **18. Budget Report**

- a. Budget update

Ms. Forsyth reported that the report provided is for Month 5 (November 2015.) She informed the Board that the Governor signed the budget for Fiscal Year 2015/2016 and all allocated funds will be reflected at the next meeting budget



- b. North Carolina State Board of Dental Examiners v. Federal Trade Commission: developments since the decision – update.
- c. BreEZe update: status of online application.
- d. Title 16, California Code of Regulations Section 1399.546 – update.
- e. The Education/Workforce Development Committee - update.
  - Advisory Committee – tax deduction
- f. Location of October Board Meeting – update.
- g. BreEZe personal data security.

## **22. Adjournment**

With no further business the meeting was adjourned at 12:30 P.M.