

# MEETING MINUTES

January 23, 2017  
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 9:15 a.m.

## 2. Roll Call

Staff called the roll. A quorum was present.

Board Members Present: Robert Sachs, PA  
Charles Alexander, Ph.D.  
Jennifer Carlquist, PA-C  
Sonya Earley, PA-C  
Javier Esquivel-Acosta, PA-C  
Jed Grant, PA-C  
Catherine Hazelton  
Xavier Martinez  
Mary Valencia  
Michael Bishop, M.D.

Staff Present: Maureen L. Forsyth, Executive Officer  
Ileana Butu, Attorney  
Julie Caldwell, Administrative Analyst  
Anita Winslow, Licensing Analyst

## 3. Approval of October 24, 2016, Meeting Minutes

M/ Jed Grant S/ Xavier Martinez to:

Approve the October 24, 2016, Meeting Minutes.

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

Motion approved with the condition to correct the spelling of Catherine Hazelton's name.

#### **4. Public Comment on items not on the Agenda**

There was no public comment at this time.

#### **5. Reports**

##### **a. President's Report**

Mr. Sachs thanked the staff of the Physician Assistant Board (PAB).

Mr. Sachs reported Ms. Forsyth polled various boards in the medical professions to see if they all require national certification, which they do; however 100% of the boards do not require recertification. The California PAB is consistent with the others boards regarding recertification.

Dr. Bishop stated although other boards may not specifically require the title of recertification they certainly require maintenance of certification. The Board of Medicine's exam requirements and certification process was not well received because it didn't seem to reflect the reality of recertification; they have since revised their process.

Mr. Sachs stated the PAB has accomplished this by requiring Continuing Medical Education (CME).

Dr. Bishop stated that this was a more formal examination process which included not just CME credits but testing as well.

##### **b. Executive Officer's Report**

Ms. Forsyth reported the PAB staff assisted the Department of Motor Vehicles (DMV) with an audit involving signatures of Physician Assistants (PA) who were issuing parking plaques. In addition, she informed the Board she was notified by the Department of Consumer Affairs Internal Audits Division that the PAB has been selected for an audit which will include auditing the board's processes and procedures. Ms. Forsyth was asked by Kim Kirchmeyer of the California Medical Board to participate in a presentation to the Department of Health by providing information on enforcement and the complaint procedures.

Ms. Forsyth reported an offer was extended to an applicant regarding the part-time Office Technician (OT) licensing position and anticipates the individual to start by February 1, 2017. Ms. Forsyth informed the Board that interviews for the vacant Associate Governmental Program Analyst (AGPA) enforcement position will be held next week.

Mrs. Forsyth reported that Ms. Winslow completed the mailing of six months of CME audit letters, which was close to 300, and thanked staff for their hard work implementing the audit.

c. Licensing Program Activity Report

Ms. Winslow reported the licensing activity between the October 24, 2016 board meeting and January 10, 2017 to be:

- Applications received – 203
- New licenses issued – 238
- Renewal applications processed – 1,198
- Total licenses renewed and current – 11,204

In response to the Board's inquiries on how long it takes to process an application and whether there was information on comparative figures of licensing activity, Ms. Winslow informed the Board that initial licensing averages 30 days and she would run quarterly reports on the licensing activity and report back to the Board at the next meeting.

d. Diversion Program Activity Report

Ms. Winslow reported as of January 1, 2017, total licensees participating in the drug and alcohol diversion program are:

- Voluntary referrals - 5
- Board referrals - 11
- Total participants - 16.
- Intakes to date - 144
- Closed cases - 124

e. Enforcement Program Activity Report

Ms. Forsyth reported from October 2016 through December 2016 the board placed:

- Three licensees on probation;
- One surrendered license;
- Two probationary licenses issued;
- Five accusations filed;
- One accusation dismissed;
- Five new cases initiated with the Attorney General's office;
- Forty cases pending with the Attorney General's office;
- Eleven cite and fines pending from the last fiscal year, \$3,200 in fines issued, payments received this quarter: \$0;
- Fifty-four active probationers;
- Five probationers who are tolling;
- One hundred eight complaints received;
- Three complaints closed without investigation;
- One hundred fifteen complaints assigned for investigation.

In response to Ms. Earley's question of how the board secures fines that are left unpaid, Ms. Forsyth stated that the licensee's information is sent to Franchise Tax Board to issue a lien.

In response to Mr. Sachs' question of if there is a report available which would provide aging status on the cases, Mr. Forsyth stated is it being worked on.

In response to Mr. Grant's question if there seems to be any trends to the types of complaints and volume of complaints, Ms. Forsyth responded that complaint volumes have increased due to filing by internet, quality of care and overprescribing. Mr. Grant asked for a breakdown of categories that the complaints fall into; Ms. Forsyth stated she would be able to provide that at the next board meeting.

## **6. Discussion and Possible Actions regarding CME Audit and Process**

Ms. Winslow informed the Board that the Continuing Medical Education (CME) audit program was written so that the system randomly selects 1/12 of 5% of the licensing population on the 15th day of each month resulting in 45-50 audit letters per month. Licensees selected have to have a license status of current, current temporary family support, family support suspension or suspension. Once a licensee is selected for audit, they cannot be selected again for another 4 years.

Ms. Winslow explained the current procedure for when a licensee fails to respond to a CME audit letter. She provided the board members with a draft CME audit letter and asked for feedback regarding the content. Mr. Grant asked if the total number of licensees audited per year, averaging 500 plus, is acceptable. Ms. Winslow stated the California Medical Board audits 1% of their licensees, with a total licensing population in excess of 200,000. Discussion continued regarding the additional workload for staff, if this process could be itemized and the capability of separating the licensees who are certified vs. non-certified.

Ms. Winslow provided actions, based on the PAB laws and regulations that the board can take against a licensee who fails the CME audit and expressed concern that the Laws and Regulations do not address a consequence for a licensee who does not respond to the CME audit letter. Ms. Butu explained that based on the board's laws and regulations the executive officer can issue a citation and fine to a licensee who fails to respond to the CME audit letter; if the licensee continues to be unresponsive then the next step would be an accusation. If the board wants more specific language then the regulations would need to be updated.

M/ Jed Grant S/ Sonya Earley to:

Direct staff to draft language for failure to respond to the audit letter.

Mr. Grant's motion prompted additional discussion which included the amount of the fine to be assessed, email blasts regarding CME audit, use of certified mail, use of emails, defining what notification means, frequency of notification, inability to renew, use of work address resulting in mail not being delivered and responsibility to maintain an accurate address of record.

Public comment: Gaye Breyman, Executive Director, California Academy of PAs commented that since approximately 90% of all physician assistants are certified could the board reduce the amount of audit letters sent out by having staff verify if the licensee is certified through the National Commission on Certification of

Physician Assistants (NCCPA) and save the expense of sending the letters certified. She also questioned if staff verifies the CME certificates submitted by those licensees who are not certified.

Ms. Caldwell responded that the reason the board can't use the NCCPA's website in order to view certification before mailing the letters is because the audit is a two part process which includes receiving the signed letter from the licensee and proof that they were CME compliant at the time of renewal. If the board receives a signed letter from the licensee without proof then staff confirms compliance utilizing the information on the NCCPA's website. Ms. Winslow noted that staff did not validate the CME certificates submitted by licensees who are not certified.

Ms. Caldwell asked the board if the CME letter is necessary for PA's who are certified to complete or is it sufficient to use the NCCPA's portal to verify they were certified at the time of renewal. Ms. Butu explained that regulation 1399.617 requires the licensee to document their CME audit compliance with the board, but if the licensee is certified by the NCCPA they need not supply verification of that certification if the board can obtain the information directly from the NCCPA. She advised the board that the current regulation can be amended, if so determined by the board. Mr. Sachs stated he supports the use of the CME audit letter; if a license is audited by the NCCPA and fails the audit we would be relying on a third party to provide the board with CME compliance.

Public Comment: Gloria Castro, Senior Assistant Attorney General, Health Quality Enforcement Division, commented that her job is to enforce any citation issued by Ms. Forsyth and any objection by the licensee would need to be assessed. The signed CME audit letter would be valuable in the assessment and suggested adding a declaration under penalty of perjury to the audit letter; which may eliminate the PA from directing their staff to complete the form on their behalf. Ms. Castro stated that if the board was to take action against a licensee based on information from the NCCPA's website and the information is inaccurate, it may cause a problem.

M/ Jed Grant S/ Sonya Earley to:

Amend the prior motion directing staff to draft language for the response to a failure to respond to the audit letter which would include a recommended fine amount and defining the term notification.

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

Motion approved.

M/ Catherine Hazelton S/ Sonya Earley to:

Direct board staff to draft regulatory language that would allow staff to verify certification status of the PA with the NCCPA removing the requirement of obtaining a signature from the licensee on the CME audit letter.

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

Motion approved.

The Board asked staff to research the process in which other boards utilize to perform audits of their licensees and suggested that audits are performed at the time of renewal.

M/ Catherine Hazelton S/ Sonya Earley to:

Direct staff to add penalty of perjury language on the CME audit letter.

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

Motion approved.

## 7. Presentation by the Attorney General's Office regarding costs

Gloria Castro, Senior Assistant Attorney General, Health Quality Enforcement section (HQE), Attorney General's Office stated it was a privilege and honor to be the prosecutor in charge of all of the attorneys responsible for enforcement litigation on the board's behalf and on the patient's behalf against licensees. She thanked Mr. Sachs for the invitation to speak with the board. Ms. Castro informed the board that HQE was created in 1991 by the state legislature, has offices throughout California and represents 100% of the state healthcare licensing agencies; the PAB is one of 10 clients that the HQE represents. Attorneys working for HQE are passionate and

vigilant on behalf of their clients; they like to protect the public and exercise discretion thoughtfully.

Ms. Castro stated that HQE is only part of the overall enforcement timeline, with their main responsibility is filing actions on behalf of the board. HQE, interfaces with the Office of Administrative Hearings (OAH) and the PAB against those licensees chosen to prosecute by the board. Ms. Castro explained how HQE is highly accountable to the PAB with their timelines as any lack of efficiency impacts patient healthcare quality and the honor of the PA profession.

Ms. Castro indicated that HQE is available to assist PAB staff with evaluating and screening any complaints presenting special issues and to assess complaints. They partner with the Health Quality Investigation Unit (HQIU) to provide training on subpoena enforcement, subject interviews, and quality expert review. She explained some of the responsibilities of HQE include representing the PAB in civil cases, subpoena enforcements, and assisting the Department of Consumer Affairs with their enforcement academies. HQE consists of liaisons and lead prosecutors that operate at the investigative and administrative level to consolidated cases, monitor ISO and mental health issues, and ensure that the client is being informed of the case status at every level. They monitor licensees for violations of the Physician Assistant's Practice Act, the Medical Practices Act and the PAB's regulations specifically those concerning the delegation of authority and proper delegation of duties assisting physicians. She stated that HQE is always available to consult with the executive officer in regard to licensure denial and complaint investigation.

Ms. Castro stated HQE's primary function is to bring disciplinary proceedings (accusations) against a licensee of the board made by the executive officer. Accusations need to be proven by clear and complete evidence with reasonable certainty. Ms. Castro provided information regarding the process involved for a revocation of probation.

Ms. Castro presented and reviewed a flowchart, which showed the process for disciplinary actions including vertical enforcement. Mr. Grant asked Ms. Castro about using physician assistants as expert reviewers during the review process. Ms. Castro stated the PA assists a physician and is operating under the delegation of authority of a physician which is consistent for standard of care. Having qualified and trained experts is an arduous process which requires constant refinement and training; if the PAB wants to use a PA as an expert reviewer then board/staff would need to create both a registry and a training program. Mr. Grant expressed his concerns with not using PA's as expert reviewers.

Mr. Sachs asked for a status regarding the current budget for costs related to the services provided by the District Attorney General. Ms. Castro stated as of December 2016 the board has 6 months left in their allocated funds for their services which she stated will probably be depleted by the end of the fiscal year.

Ms. Castro again stated she was honored to have the PAB as her client and thanked Mr. Sachs for the opportunity to address the board.

## 8. Discussion and Possible Actions Regarding Using Physician Assistants to Conduct Initial Review of Complaints

Mr. Grant opened the discussion by stating someone who has not been a PA may have difficulty understanding the complexities of a PAs practice and is concerned that there may be an inherent bias against the PA when there is potential discipline. In his opinion, an expert witness, whose job experience and specialty is that of a PA, would provide a better point of view of any wrongdoing.

In response to Mr. Grant's question about whether or not the Medical Board could utilize a PA as an expert reviewer for complaints against PAs, Ms. Forsyth stated she would consult the Medical Board as to the process to recruit and train PAs as expert reviewers. Dr. Bishop suggested utilizing a PA as an expert reviewer in the early stages of the complaint process may prevent the complaint from escalating.

Public comment: Gloria Castro, Senior Assistant Attorney General, Health Quality Enforcement section (HQE), Attorney General's Office commented that in most cases the AG utilizes one expert reviewer; whereas, OAH judges allow the respondent to use more than one expert reviewer. Ms. Castro implied that the AG's case would be stronger if the complaint was reviewed by a medical doctor and a PA. Ms. Carlquist and Mr. Grant specified the purpose is not to exclude the physician from the complaint process but to include a PA during the initial process in order to prevent bias and complaints from escalating. Ms. Butu stated this topic is definitely worthy of discussion but she would prefer to conduct some legal research before continuing with this topic.

Public comment: Ms. Anderson, Public Policy Director, California Academy of PAs (CAPA), commented that CAPA is looking at team based care which should include the PA in the complaint review process. Ms. Anderson expressed her concern on how PA's are perceived and their credibility to be used as an expert reviewer. Some MDs may not fully understand what a PA does.

Original motion was amended after public comment.

Ms. Hazelton inquired if the board could establish a process to capture any discordance between two expert reviewers. Ms. Castro stated they would be happy to further discuss this idea.

M/ Jed Grant S/ Jennifer Carlquist to:

Direct board staff to work with counsel to investigate the steps needed to introduce a PA reviewer into the complaint investigation process and at which steps the PA would be most beneficial to the process.

Member	Yes	No	Abstain	Absent	Recusal
Charles Alexander	X				
Jennifer Carlquist	X				
Sonya Earley	X				
Javier Esquivel-Acosta	X				
Jed Grant	X				
Catherine Hazelton	X				

Xavier Martinez	X				
Robert Sachs	X				
Mary Valencia	X				

Motion approved.

**9. Update, Discussion, and Possible Action on Certification and Recertification of Physician Assistants by the National Commission on Certification of Physician Assistants (NCCPA)**

Mr. Sachs stated during the last CAPA Conference, the American Academy of Physician Assistants' (AAPA) National President presented information regarding the recertification process. AAPA is considering making a policy statement to no longer recognize recertification as a necessity of professional association. AAPA's President stated there are currently 22 states which require recertification to maintain licensing.

Mr. Sachs indicated California does not require recertification to be licensed. Dr. Bishop explained that physicians who are board certified in a specialty are required to maintain board specific certification. Board members commented that the recertification exam is challenging because it is comprised of general medical questions and not practice specific.

**10. Presentation on the Department of Consumer Affairs' Internal Audit Process**

Brent Hinsz, Supervisor of the Internal Audit Office (IA), Department of Consumer Affairs, stated that the function of his department is to conduct internal audits, mainly operational audits, of entities within the department. Mr. Hinsz indicated that the IA is comprised of an audit chief, supervisor and auditors who utilize professional standards to perform their work.

Mr. Hinsz identified the guidelines their department employs for selecting boards and bureaus to audit:

- length of time since the last audit,
- identify risk from the State Leadership Accountability Act, and
- management input.

Mr. Hinsz stated once the auditee is selected, a meeting is set so the audit staff can discuss with the auditee the risks and develop an audit plan to help the auditee meet objectives which include requirements of laws and/or regulations. The audit process consists of:

- auditor shares the office space with auditee,
- randomly samples documents,
- identifies issues, and
- discusses the issues with the board or bureau's management.

Upon the completion of the audit:

- auditor reviews all of the documentation with board management,
- conducts an exit conference with the auditee, and
- drafts an audit report which is presented to the auditee.

The final audit report, which is a public document, includes the corrective action plan and scheduled six month progress report date to allow the auditee to complete corrections noted in the action plan.

Mr. Hinsz stated if issues have been corrected by the progress report date, then audit comes to an end. If issues remain outstanding, then another visit is conducted a year after the filing of the audit report. If issues continue to remain outstanding after a year the filing of the initial audit report, then the auditor states this in their interim report and the audit is concluded.

Mr. Hinsz response to the boards questions of when the last time the PAB was audited was between 7-10 years ago; and if the IA adheres to an audit cycle was “no” due to the limited size of their staff.

## **11. Department of Consumer Affairs – Director’s Update**

Jonathan Burke, Manager, Department of Consumer Affairs, Board and Bureau Relations Team reported for Christine Lally on current events within the Governor’s office which the release of Governor Brown’s proposed 2017-2018 budget, his state to the state address and his appointment of Jolie Onodera as the Deputy Secretary of Legislation of the California Business, Consumer Services and Housing Agency. As a new legislative session is scheduled to begin several DCA boards are scheduled for Sunset Reviews including the Medical Board.

Mr. Burke reported an open house was held on October 27, 2016, for executive officers, bureau chiefs and board presidents that provided an overview of the departments budgeting process and how costs are distributed.

Mr. Burke updated the board regarding system changes to BreEZe and upcoming software release dates. The PAB has four pending change requests; since January 2016, nine change requests have been completed with one additional change request scheduled to be included in the February update.

Mr. Burke reminded board members of the required training to be completed in 2017; the required training was addressed in an email to the board members sent in December 2016.

Ms. Hazelton asked for clarification as to why sexual harassment training has mandatory years. Mr. Burke explained odd year are always mandatory to ensure compliance of the requirement. Ms. Butu explained that if someone starts working for the state in an even year, then they would have to complete the sexual harassment training in that year as a new employee and again the following year to get on track with the mandatory odd year training schedule.

## 12. Discussion and Possible Action Regarding Request for Board Approval of UCSF – Fresno Department of Surgery PA Residency Program

Mr. Grant discussed the prior request for approval received by the board in 2016 from the University of California San Francisco (UCSF) in Fresno for an Emergency Medicine Post Graduate Training Program at the Community Regional Medical Center. The request was submitted based on current regulations requiring board approval. In that case, the board had sufficient information on which to base its decision regarding the program. That request prompted the board to make a motion to repeal the regulations requiring board approval of post graduate training programs.

The board has since received a subsequent request from UCSF – Fresno, Department of Surgery PA Residency Program. Mr. Grant compared this request to the previous request relating to UCSF’s Emergency Medicine program and indicated that the current request is not nearly as detailed and the board does not have sufficient information to make a determination about the program.

Mr. Grant’s opinion is that the board is not in a position to make determinations regarding these programs based on:

- the board isn’t an educational accrediting body, and
- individuals enrolled in these programs are already licensed.

Dr. Bishop noted that the Medical Board does not approve state residency programs and agreed that the PAB is not in a position to be approving programs since that would provide a false sense of public protection based on receiving a board approval.

Ms. Butu advised based on the wording of BPC Section 3513 the board is not required to review these programs and can move not to review this program’s request for approval of their post graduate training program based on the reasons mentioned earlier in this discussion.

Original motion not to review this program was amended based on public comment received.

M/ Jed Grant S/ Jennifer Carlquist to:

Take no board action on this or future requests for approval.

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



- e. Proposed Amendments to Title 16, California Code of Regulations, Section 1399.514 -Renewal of License. No update.
- f. Status Update, Discussion and Possible Action on Regulatory Fee Analysis for an Increase of the Initial Application Fee and Possible Application Fee for Retired Status. Ms. Winslow stated there are currently about 350 licensees with a license status of either delinquent or inactive. She estimates the time involved to process a retirement application would be similar to that of a duplicate license request or verification request and bear a similar fee of \$10.00. She stated that the revenue generated for processing retirement applications would be minimal. Ms. Hazelton stated if the board doesn't need the resources to support the additional work then there would be no need to charge a fee for the retirement application.

Ms. Caldwell updated the board on the desk audit study and possibility of increasing the application fee based on the results of the study.

#### **14. CLOSED SESSION**

Pursuant to Section 11126(c)(3) of the Government Code, the Board will move into closed session to deliberate and take action on disciplinary matters.

#### **RETURN TO OPEN SESSION**

Lunch break will be taken at some point during the day's meeting.

#### **15. Presentation by California Academy of Physician Assistants**

Teresa Anderson, Public Policy Director, California Academy of PAs (CAPA) presented information on legislation and regulatory changes regarding PA practice in Michigan, Iowa, and the Veterans Administration (VA).

Ms. Anderson stated the Michigan PA Practice Act was amended in December 2016 redefining the specifications for physician assistant supervision. The critical change to this practice act was to redefine the practice of a PA as "the practice of medicine with a participating physician under a practice agreement." She noted this moves the PA away from supervision so they have their own patients, but still maintain a relationship with the physician.

Ms. Anderson stated Iowa legislation mandated the PA Board and Iowa Board of Medicine to jointly adopt rules to establish specific minimum standards or a definition for appropriate supervision of a PA by a physician by February 1, 2016. Committees from both boards developed proposed language which was adopted by the Iowa Board of Medicine but not by the PA Board. The PA Board amended the language and a hearing was held on January 6, 2017 but Ms. Anderson has not been advised of the outcome of the hearing.

Ms. Anderson stated effective January 13, 2017, the Veterans Administration (VA) amended medical regulations that grants full practice authority to advanced practice registered nurses (APRN) when acting within the scope of their VA employment.

Ms. Anderson concluded her presentation stating CAPA is experiencing an increase in calls from their members regarding the supervision of PAs that may be creating a

barrier for the PA to obtain employment. She explained that PAs are losing jobs to Nurse Practitioners (NP) because NPs do not have the same supervision restrictions as PAs. The Board discussed the responsibilities of PAs to be the same as NPs, yet, NPs are not supervised the same as PAs. This could have an effect on the work force and access to care. The board agreed to make this an item for a future agenda.

#### **16. Discussion and Possible Action Regarding Legislative Proposal to Amend Physician Assistant Practice Act Regarding Board Acceptance of NCCPA PANCE Examination or Examination Furnished by Another Organization, the Examination Passing Score, and Examination Dates and Locations**

Ms. Winslow stated she needs to submit a proposal to the State Senate Business and Professions Economic Development Committee in order to request a change in statute. She asked for the board's comments/recommendations on the draft proposal package. Ms. Hazelton asked if this could be part of the Omnibus Bill; Ms. Winslow stated she was told by the Department of Consumer Affairs' Legislative Committee that this is too substantive to be included. Ms. Hazelton recommended that the language be more generic, by removing the name of certifying entity and changing the language to "the board would approve the passing score and dates of examination unless set by the certifying organization." Ms. Winslow will work with the board's legislative committee regarding the language change and then report back to the board.

Public comment: Dr. Tracy Montez, Division Chief of Programs and Policy Review, Department of Consumer Affairs, stated one of the units in her division is the Office of Professional Examination Services (OPES) and often works with boards and bureaus to satisfy the requirements in section 139 of the Business and Professions Code in developing statutory language and helping to ensure sure their examinations are psychometrically sound even when the board is using a national examination. OPES could help the board to determine if the national examination is meeting the highest level of psychometric standards and provide data that protects the board with any challenges they may face against the exam program.

Public comment: Gaye Breyman, Executive Director, California Academy of PAs (CAPA) supported a more flexible regulation language.

#### **17. Education/Workforce Development Advisory Committee**

Mr. Grant reported that currently the State of California has 13 accredited PA programs, two pending programs being reviewed by the Accreditation Review Commission on Education for the Physician Assistant (update by the ARCPA expected March/April of 2017), three additional programs currently in the application phase with ARCPA. He stated based on his research regarding the availability of preceptors for students, his impression is that other organizations, one of which is OSHPD, are addressing the issue. Since other organizations are working on this, Mr. Grant suggested that the board step back to allow those entities to continue their work and the board continue focusing on public protection. Ms. Hazelton agreed with Mr. Grant's views and stated that she believes the board is better set up to respond to legislature then to advance legislature and to partner with advocacy groups who are attempting to advance legislation.

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

Ms. Butu stated that the proposed bill addressing this “died” so there is no change.

## **19. Medical Board of California Activities**

Dr. Bishop reported the Medical Board (MBC) held its quarterly meeting on October 27-28, 2016, in San Diego, CA. The October meeting’s focus was on the MBC’s Sunset Review Report and therefore no committees met due to the review of this extensive report. The MBC went through each section of the report and provided input and edits. One of the most important sections of the report was the section on new issues. The MBC is recommending changes in this section where legislation is needed to provide efficiencies to the MBC’s processes. Some of the new issues include:

- changing the number of years required for postgraduate training to three years for all applicants,
- require reporting by accredited outpatient surgery settings,
- changing the notice required under Business and Professions Code section 138 to include a requirement that the notice include information on filing complaints and checking a physician’s profile,
- establishing a “limited education permit” for individuals who are re-entering the practice of medicine after a leave of absence,
- requesting penalties for facilities that do not report as required in Business and Professions Code section 805.01,
- enforcement and licensing process changes needed, and
- asking for members from the MBC to be reinstated on the Health Professions Education Foundation.

A complete list of the new issues can be found in the MBC’s report. The MBC voted to approve the report with minor edits and submitted the legislature by the deadline on December 1, 2016. The MBC will be going through the sunset review hearing process in either February or March.

Dr. Bishop reported that the MBC reviewed all of its committees and task forces, as required in the MBC’s strategic plan, and approved the committees and task forces as they are currently established.

Dr. Bishop reported that the MBC also heard an update on its outreach campaign entitled “check up on your doctor’s license.” The MBC has completed its tutorial, including a Spanish version of the tutorial. The Spanish version of the tutorial and outreach brochure is available on the MBC’s website. The MBC continues to reach out to individuals informing them of the MBC and encouraging them to check their doctor’s profile on the MBC’s website.

Dr. Bishop reported that the MBC held two regulatory hearings, one on changes to its citation and fine program to add additional sections of law and to also allow it to issue citations and fines to licensed midwives and polysomnographic technologists,

technicians, and trainees. The second hearing was on requirements for physicians on probation.

Dr. Bishop reported that the MBC heard an outstanding presentation from Dr. Bholat on the University of California, Los Angeles' International Medical Graduate Pilot Program. She pointed out that developing new residency programs in underserved areas was a long term strategy knowing that many of those trained in an area would remain in that area both for sub-specialty and primary care. The MBC approved seeking legislation to extend this pilot program.

Dr. Bishop reported that the MBC reviewed the implementation plan for all legislation impacting the MBC, including the bill that authorized it to establish a Physician Health and Wellness Program. At the meeting, the MBC approved staff moving forward with implementing such a program. The MBC has begun this process and held an interesting parties meeting on January 11, 2017, to discuss regulations pertaining to this program. MBC staff will now be drafting the regulations to implement the program and will hold another interested parties meeting prior to taking the language to the MBC.

The Medical Board will be meeting next on January 26 – 27, 2017, in Sacramento.

Dr. Bishop stated that the MBC held an expert reviewer training on November 5, 2016 in Los Angeles. Those individuals that attended the training found it to be very educational and helped them to understand their role and function as an expert reviewer. The MBC also completed a brochure on the Expert Reviewer Program that will be able to be used to handout at events and presentations to assist the MBC in finding more expert reviewers.

The MBC continues to be appreciative of the relationship it has with the Physician Assistant Board. The MBC offers any assistance it can provide to the Physician Assistant Board with any future issues.

## **20. Budget Update**

Marina O'Connor, DCA Budget Office, thanked the board for the opportunity to speak with them. She reviewed the expenditure projections for 2016-2017 fiscal year which reflects a deficit due to 1) Attorney General (AG) and Office of Administrative Hearing (OAH) expenses and 2) encumbering full amounts of certain contracts, one of which is Maximus. Ms. O'Connor suggested submitting a current year augmentation to address the AG and OAH deficit. She advised, based on the board's ability to liquidate of a large portion of some of the previous fiscal year's contracts and similar spending for the current fiscal there would be a surplus. Ms. O'Connor's response to Mr. Martinez's question on whether the budget would be impacted by the fulfillment of PAB staff vacancies was "yes" depending upon the start dates.

Ms. O'Connor stated this being the third consecutive year, in which the board has submitted a current year augmentation, supports a Budget Change Proposal (BCP) to address the increase to the AG and OAH budget. She stated the BCP proposal is a lengthy process, minimum of six months, because the proposal first needs to be written and then submitted to the Governor for consideration for the next fiscal year's budget.

M/ Catherine Hazelton S/ Mary Valencia to:

Direct staff to start the process of filing a Budget Change Proposal with the Governor's office requesting an augmentation of the annual budget related to enforcement activities.

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

Motion approved.

Additional board discussion included clarifying the reasons for escalating enforcement costs and a request to have the Budget Office use year to date budget numbers and line items expenditures. Ms. O'Connor stated their office will be utilizing a new report system next year which may provide more specific information but she will work with the board in order to provide them with the information they would like.

## 21. The Legislative Committee

Ms. Hazelton stated at this time bill analysis is limited due to the early stage of the legislative two year cycle but briefly discussed AB 44 (Reyes) Workers' compensation: medical treatment: terrorist attacks: workplace violence; SB 34 (Bates) substance abuse; and SB 43 (Hill) Antimicrobial-resistant infection: reporting. The next meeting will be the "big" legislative committee presentation.

Mr. Sachs stated due to the fact that Ms. Hazelton has entered her grace year he has asked Ms. Earley to step down from the Legislative Committee and allow Ms. Valencia to replace her. Ms. Earley has agreed to step down, hoping to return to the committee upon Ms. Hazelton's vacancy and thanked Ms. Hazelton for the opportunity to work with her. Ms. Hazelton also thanked Ms. Earley.

## 22. Agenda Items for the next Board Meeting

The board discussed a possible future presentation by the NCCPA.

M/ Robert Sachs S/ Sonya Earley to:

To provide the NCCPA with an opportunity to present to the board at a future board meeting.

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

Motion approved.

- a. Education/Workforce Development Advisory Committee update
- b. Budget
- c. Regulations
- d. Medical Board Report
- e. CME Audit
- f. PA Expert Reviewer of Complaints
- g. Pharmacy Board presentation
- h. Breeze

### **23. Adjournment**

With no further business the meeting was adjourned at 5:00 P.M.

Minutes may not reflect the order in which agenda items were presented at the board meeting.