



Meeting Minutes

July 26, 2010

Physician Assistant Committee
2005 Evergreen Street – Hearing Room 1150
Sacramento, CA 95815

1. Call to Order by Chairman

Chairman Klompus called the meeting to order at 9:26 a.m.

2. Roll Call

Staff called the roll. A quorum was present.

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

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

Committee Member Dr. Low arrived at 9:40 a.m.

3. Approval of Minutes for February 18, 2010 Meeting

Approval of the draft February minutes will be placed on the agenda for the October 2010 meeting. The motion to approve the minutes was made and seconded; however, the Committee failed to vote on the motion.
(m/Schasa, s/Diaz, motion not voted upon)

4. Reports

a. Vice-Chair Shelia Young provided the committee members with a brief overview of procedures to be followed during the meeting, including encouraging the use of the microphones to ensure that discussion, motions and votes are heard.

Staff Counsel Claire Yazigi announced that she will be on maternity leave starting in November, 2010. Another DCA attorney will be assigned to the Committee in her absence.

b. Executive Officer's Report

Ms. Portman reported on the new Federal Healthcare reform, which may impact the licensing boards in California because previously uninsured patients will begin to receive health care. DCA Director Brian Stiger had asked that all boards place this topic on their agendas for discussion and appropriate action as necessary.

Ms. Portman reported on the scanning and indexing project of the physician assistant licensing files. Ms. Portman reported that the project is about 85% completed. Ms. Portman introduced Maudrie Fontenot, who joined the Committee staff as an AARP employee. Ms. Portman thanked Ms. Fontenot for all her work on this project.

Ms. Portman reported that during the 2009/2010 fiscal year, the enforcement budget was augmented by \$50,000. This increase resulted in the Committee not overspending in that area for this year. However, the Committee continues to overspend in the Diversion Program line item. Staff is working on promulgating regulations to require diversion program participants to pay for their participation costs. Staff is also submitting a budget change proposal to augment the diversion program line item.

Ms. Portman reported that the agenda packet for this meeting was scanned and placed on the website to provide greater transparency and accessibility to the public and licensees.

c. Licensing Program Activity Report

Between February 1, 2010 and July 1, 2010, 202 physician assistant licenses were issued. As of July 1, 2010, 7,694 physician assistant licenses are renewed and current, and there are a total of 157 California approved training programs.

d. Diversion Program Activity Report

As of July 1, 2010, the Diversion Program has 23 participants, 6 self-referred participants and 17 Committee referrals. There have been 95 participants since program implementation in 1990.

e. Enforcement Program Activity Report

Between July 1, 2009 and June 30, 2010 there were 54 pending complaints, 30 pending investigations, 44 current probationers and 25 pending cases at the Office of the Attorney General.

5. Director's Report

Director Stiger acknowledged Executive Officer Elberta Portman for her excellent work with the Committee and DCA.

Director Stiger provided an update on the Consumer Protection Enforcement Initiative. Director Stiger stated that the department received approval for 138 positions related to the initiative, with the Committee receiving approval for 1.5 positions. Additionally, Director Stiger reported that the Breeze Project is on schedule to replace the aging database currently used by DCA.

Director Stiger informed the Committee that DCA was disappointed that SB 1111 failed, but asked the Committee to implement as many of the bill's provisions as possible through the regulatory process.

Director Stiger reported that DCA is working on a licensing backlog project to eliminate licensing backlogs at boards that are experiencing backlogs. He asked all boards to take a look at their regulations governing the application process to determine if any regulatory changes are needed.

Director Stiger stated that SB1441 guidelines are in place. The guidelines were established to standardize department substance abuse procedures for health care agencies. Each board has been asked to move forward to implement the standards.

6. Report from the Physician Assistant Training Program Accreditation Task Force

Chairman Klompus reported that he established the Program Accreditation Task Force several months ago to review the new PA training program national accreditation standards which will soon require that all programs to be offered at the master's degree level. Committee Member Roslynn Byous provided an update on the task force findings. Ms. Byous stated that the task force consisted of Robert Sachs, Les Howard and herself. A survey was conducted with the five California PA training programs to determine how the new standards will impact the programs. The task force determined that the five programs affected by the new requirement did not report concerns, so she recommended that the Committee re-visit this issue within one or two years. Upon this recommendation, Chairman Klompus disbanded the Program Accreditation Task Force.

7. Status Report on the Consumer Protection Enforcement Initiative (CPEI) and Implementation of Uniform Standards of SB 1441

Ms. Portman reported that earlier this year DCA implemented the Consumer Protection Enforcement Initiative (CPEI) to assist boards in improving their enforcement processes. The Committee staff continually reviews enforcement procedures and policies to seek improvements which would enhance processing of complaints and disciplinary actions.

Ms. Portman stated that several improvements have been implemented including:

- Staff meetings with the enforcement analyst from the Medical Board of California (MBC) several times a week to review cases to ensure cases are processed in a timely manner.
- Cases involving criminal convictions are automatically transmitted to the Office of the Attorney General for action once all related certified documents are obtained.
- National Practitioner Data Bank - The Committee has been reporting all disciplinary actions to the databank for several years. However, over a year ago the Committee began to also report license denials. The Committee now also checks the databank for new applicants who hold any type of license in other states.

■ The Committee's Continuing Medical Education regulation was approved effective June 12, 2010. A notice was mailed to all licensees informing them of the change, and the information has also been placed on the website. The California Academy of Physician Assistants has notified the Committee that it intends to also publish information on this new requirement. The Medical Board of California also will place an article in the next *Newsletter*. Currently, staff is developing a CME page for the internet, which will include a question and answer section regarding this new requirement.

Licensing improvements – Staff is working with MBC to develop an on-line verification system on our website so that applicants can check on the status of their applications.

To reduce the licensing processing time, applicants now pay their licensee application fee at the same time they submit their application fee. This change saves an average of about two weeks in processing of an application. Staff has updated the enforcement, diversion and citation manuals, and is in the process of updating licensing and probation manuals.

SB 1441 - Ms. Portman stated that the 16 Uniform Standards have been compiled, and that the Committee has implemented the standards that can be implemented at this time, which includes increased drug tests and observed drug tests.

8. Consideration of Regulations Regarding Implementation of Consumer Protection Initiative and Enhancements to Enforcement Program (Formerly portions of SB 1111)

Staff Counsel Claire Yazigi provided the committee members with the five regulatory proposals which would further enhance the Committee's role of consumer protection. Each section was discussed and motions made as follows:

Motion was made to amend 1399.503 to include "accept default decisions".
(m/Diaz, s/Byous, motion passes)

Motion was made to modify language in Section 1399.523 "as defined in subdivision(c) of Section 729 of the Code, "with a patient, or any finding of fact that the licensee has committed a sex offense" (delete "an act") ...or been convicted of a sex offense as defined in Section 44010 of the Education Code..."
(m/Stumpf, s/Dr. Low, motion passes)

A motion was made to adopt language as written.
(m/Diaz, s/Dr. Low, motion passes)

A motion was made at the end of sentence number five to add "If after receiving the evaluation report the Committee determines that the applicant is unable to safely practice, the committee may deny the application".
(m/Dr. Low, s/Stumpf, motion passes)

A motion was made to accept section five of 1399.507.5 as clarified.
(m/Dr. Low, s/Stumpf, motion passes)

A motion was made to review the issue of payment of the psychological evaluations by amending 1399.507.5.

(m/Stumpf, s/Schasa, motion passes)

A discussion ensued regarding the Committee being able to require the applicant to be examined by one or more physicians and surgeons or psychologists designated by the Committee. The discussion involved who should be responsible for the payment of the evaluation.

A motion was made in regard to the second sentence in Section 1399.507.5 paragraph 5, remove the word "Committee" and replace it with "Applicant", so that the sentence reads The Applicant shall pay the full cost of such examination.

(m/Young, s/ Byous, Dr, Low opposed, motion passes)

After a lengthy discussion a motion was made to direct the staff to begin the rulemaking process to implement the proposed regulations.

(m/Schasa, s/Dr. Low, motion passes)

9. Discussion of Change from Physician Assistant Committee to Physician Assistant Board

Chairman Klompus stated that this Committee is the only remaining allied health committee that has not changed from a committee to a board. Discussion ensued about the change and the fact that it would no longer be under the auspices of MBC but would become a Board of its own. However, the Committee would still be able to contract to have MBC provide services such as investigation and legal filing work. Additionally, a close relationship with the MBC would continue to be maintained.

The motion was made to direct staff to first amend the Business and Professions Code to include the Physician Assistant Committee in the 800 series reporting requirement, and then to proceed in seeking legislation to change the Physician Assistant Committee to the Physician Assistant Board.

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

10. Consideration of Regulations Regarding Licensee Consumer Notification, as required by Business and Professions Code 138

Mr. Mitchell briefly stated to the Committee members that Business and Professions Code section 138 requires every board in DCA adopt regulations requiring licensees to provide notice to their customers that the practitioner is licensed by the State. Mr. Mitchell also stated that this proposal would require physician assistants to notify their patients that they are licensed and regulated by the Physician Assistant Committee, in compliance with Business and Professions Code section 138.

After a brief discussion a motion was made to direct staff to begin the rule making process to notice this regulation for a hearing.

(m/Byous, s/Dr. Low, motion passes)

11. Consideration of Amending Requirements for Licensure as a Physician Assistant under Business and Professions Code section 3519(a)(2), and California Code of Regulations Section 1399.507 re: Licensing Requirements for Medical School Graduates

Mr. Mitchell provided the Committee with an overview of the various ways in which an applicant may meet the requirements for licensure. These methods include: 1) graduation from a PA training program; or 2) graduation from a US or Canadian medical school; and 3) take and pass the licensing examination. The Committee currently uses the NCCPA's PANCE examination as their licensing examination. The NCCPA only allows individuals who have attended a PA training program to take the examination. Since the Committee would not be able to allow US and Canadian medical school graduates to take the examination and obtain licensure, two solutions were discussed. The Committee could either change regulation Section 1399.507 to include Medical Board exams as an testing option for PA licensure or delete Business and Professions Code Section 3519(a)(2) to eliminate the graduation from medical school as an option for PA licensure.

After a lengthy discussion, a motion was made to pursue an author for legislation in order to eliminate subsection (a)(2) of Business and Professions Code section 3519.
(m/Diaz, s/Young, abstained/Stumpf, motion passes)

12. Consideration of Repeal of Business and Professions Code Article 7.5, International Medical Graduate Physician Assistants

AB 1065, Chapter 1042, Stats. 1993, added Article 7.5 (commencing with Section 3537.10 to Chapter 7.7 of Division of the Business and Professions Code), relating to licensure of international graduates as physician assistants. It was stated that the bill required the Office of Statewide Health Planning and Development (OSHDP) to coordinate the establishment of a pilot and ongoing international medical graduate physician assistant training program. Due to lack of funding, the provisions of AB 1065 were never implemented and an international medical graduate physician assistant training program was never established.

Following a brief discussion a motion was made to direct staff to contact the Department of Consumer Affairs on how to seek a legislative change to eliminate Article 7.5 of the Business and Professions code.
(m/Dr. Low, s/Byous, motion passes)

13. Regulatory Corrections to California Code of Regulations 1399.545(e) (3) to Conform with Business and Professions Code Section 3502(D) (2) re: Minimum Percentage of Sample Medical Records that must be Signed by a Supervising Physician

A brief overview of the regulatory corrections was provided to the members. The changes would be to California Code of Regulations 1399.545(e) (3) to conform with Business and Professions Code Section 3502(d) (2) regarding the minimum percentage of sample medical records that must be signed by a supervising physician. It was stated that two years ago the law changed lowering the percentage to 5% from 10%.

Following a brief discussion a motion was made to direct staff to start the rulemaking process to amend CCR Section 1399.545(e) (3) to reflect the lower minimum percent of sample medical records that must be signed by a supervising physician to 5% from 10%. (mByous, s/Dr. Low, motion passes)

14. Pending Legislation of Interest to the Physician Assistant Committee
SB 294, SB 389, SB 1069, AB 471, AB 1310, AB 2386, AB 2699

Chairman Klompus briefly discussed SB 1069, as not other bills were discussed. SB 1069 would permit a physician assistant to perform and sign off on physical examinations required by various laws and would place a statute of limitations for the Physician Assistant Committee. The Department of Consumer Affairs is opposed to this bill and Ms. Breyman of the California Association for Physician Assistants (CAPA) stated that the statute of limitation language mirrors that of other professions, including physicians.

15. Approval of Physician Assistant Training Programs by the Physician Assistant Committee
(Article 3 of Division 13.8 of the California Code of Regulations)

Discussion ensued about the two ways in which training programs may be approved by the Committee. Ms. Yazigi explained that if the Committee has delegated accreditation to a national accrediting organization, then programs accredited by that organization are automatically deemed approved by the Committee. Therefore, the inquiry is that if a school is accredited by ARC-PA then it is considered approved by the Committee.

Staff Counsel Claire Yazigi was directed to resubmit to the Committee the draft regulations at the next meeting that would clarify the current regulations to reflect this idea.

16. Report on PAC Licensee Occupational Survey Requirements of SB 139

Mr. Mitchell provided an overview of SB 139, which allows OSHPD to receive information from boards regarding the licensing population, serve as the central source of healthcare workforce and educational data, and create a database to monitor the state's healthcare workforce and assess workforce supply and demand to shape policy. The staff will continue to work with OSHPD to provide information as required by law.

17. Update on Changes to the Bagley Keene Open Meeting Act Government Code 11122.5

Staff Counsel Claire Yazigi provided an update on the recent changes to the Bagley Keene Open Meeting Act.

18. Agenda Items for Next Meeting

1. Clarification of Committee Member's Roll in Regards to Representations Made to the Public and Scope of Department of Consumer Affairs' Legal Representation of Committee Bagley Keene Open Meeting Act
2. Regulations to be re-introduced for Approval of Physician Assistant Training Programs by the Physician Assistant Committee (Article 3 of Division 13.8 of the California Code of Regulations)
3. Discussion of the Impact of the Federal health care reform on PAs
4. Report on the July 27th Board Governance Training Day

5. Meeting procedures
6. Report on Strategic Plan Accomplishments

19. Public Comment on Items Not on the Agenda

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

RETURN TO OPEN SESSION

21. Adjournment

The meeting adjourned at 2:10 p.m.

Physician Assistant Committee
Briefing Paper on Title 16 of the California Code of regulations, Section
1399.530

ISSUE: What is the proper method of approval of PA training programs under PAC's current law?

LAW:

Section 3513 of the Business and Professions Code (Physician Assistant Practice Act) states:

“The committee shall recognize the approval of training programs for physician assistants approved by a national accrediting organization. Physician assistant training programs accredited by a national accrediting agency approved by the committee shall be deemed approved by the committee under this section. *If no national accrediting organization is approved by the committee*, the committee may examine and pass upon the qualification of, and may issue certificates of approval for, programs for the education and training of physician assistants that meet committee standards” (emphasis mine).

ANALYSIS:

The only way the PAC may approve schools is if this function has *not* been delegated to a national accrediting organization. Currently PAC has chosen to delegate accreditation of schools to a national accrediting organization, namely, ARC-PA:

“Those educational programs accredited by the Accreditation Review Commission on Education for the Physician Assistant ("ARC-PA") shall be deemed approved by the committee. Nothing in this section shall be construed to prohibit the committee from disapproving an educational program which does not comply with the requirements of this article. Approval under this section terminates automatically upon termination of an educational program's accreditation of ARC-PA.” (Title 16 of the California Code of Regulations, Section 1399.530(b))

The remainder of Section 1399.530 through Section 1399.536 of the regulations exist in the event that the PAC ceases to use ARC-PA as its national accrediting organization. Then and only then would the PAC delve into examining the courses offered by each program, preceptor/preceptee ratios, and the like. Please consult your rulebook for the full text of those provisions.

CONCLUSION:

If the PAC has delegated accreditation to a national accrediting organization, then programs accredited by that organization are automatically deemed approved by PAC. PAC's inquiry should thus be: “Is this school accredited by ARC-PA? If so, then it is approved by the PAC.”