



Meeting Minutes

MAY 7, 2012

PHYSICIAN ASSISTANT COMMITTEE
2005 Evergreen Street – Hearing Room #1150
Sacramento, CA 95815
9:00 A.M. – 3:00 P.M.

1. **Call to Order by Chairman**

Chairman Sachs called the meeting to order at 9:05 a.m.

2. **Roll Call**

Staff called the roll. A quorum was present.

Committee Members Present: Robert Sachs, PA-C
Cristina Gomez-Vidal Diaz
Steve Klompus, PA
Shaquawn D. Schasa
Steven Stumpf, Ed.D.

Committee Members Absent: Reginald Low, M.D.

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

3. **Approval of February 6, 2012 Meeting Minutes**

The February 6, 2012 minutes were approved as drafted.
(m/Diaz, s/Klompus, motion passes)

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

There was no public comment at this time.

5. Reports

a. Chair's Report

Chairman Sachs briefly introduced the members of the Committee. Chairman Sachs indicated that a quorum was present.

Chairman Sachs reported that the Committee received a letter of resignation from Dr. Low on April 23, 2012. Dr. Low indicated that due to other commitments that he would be unable to continue as a member of the Committee. Chairman Sachs indicated the Committee will miss Dr. Low's participation and valuable input and will regrettably accept his resignation.

Chairman Sachs reported that he attended the Committee's Sunset hearing along with Executive Officer Elberta Portman and that a full report will be discussed under agenda item number ten, the Sunset Review update.

Chairman Sachs also reported that he attended the Medical Board of California meeting on May 3, 2012 to discuss the proposed personal presence regulatory change. This item will be discussed in detail under agenda item 7a.

Chairman Sachs presented Kurt Heppler, legal counsel, with a plaque of appreciation for the all the years of dedicated service to the Committee. Mr. Heppler previously served as the Committee's legal counsel and most recently served temporarily while the Committee's legal counsel was out on a leave of absence.

b. Executive Officer's Report

Ms. Portman reported that there is no backlog in processing or issuing PA licenses. Ms. Portman added that licensing technician, Julie Caldwell, has quickly learned the licensing program.

Ms. Portman reported that the Committee has 38.49% of this year's budget remaining as of March 31, 2012. Ms. Portman indicated that this fiscal year we did not have as many interim suspension cases and that some of the older cases that required more hours of investigation have been resolved, thus, reducing the amount of funds needed for investigative and attorney general purposes.

Ms. Portman reported that staff has been participating in meetings for BreEZE testing, configuration and implementation working groups. Ms. Portman reported that weekly meetings will be held until the implementation of BreEZe is completed in September 2012.

c. Licensing Program Activity Report

Between January 1, 2012 and April 1, 2012, 173 licenses were issued. As of April 1, 2012, 8,520 licenses are renewed and current. Currently there are a total of 157 approved California training programs

d. Diversion Program Activity Report

As of April 1, 2012, the Diversion Program had 26 total participants; 6 self-referred participants and 20 Committee referrals, for a total of 102 participants since program implementation in 1990.

e. Enforcement Program Activity Report

Between July 1, 2011 and March 31, 2012, 176 complaints were received; 71 complaints are pending; 25 investigations are pending; 45 probationers, and 24 cases awaiting administrative adjudication at the Office of the Attorney General.

6. **Department of Consumer Affairs Director's Update**

The Department of Consumer Affairs did not provide an update at this time.

7. **Regulations**

a. Consideration of Regulatory Proposal Title 16 CCR §1399.545 - Personal Presence

Chairman Sachs reported that this proposed regulatory change has been in the process over the past year that included formation of a sub-committee to address this issue and included Kurt Heppler, Senior Staff Counsel. Chairman Sachs indicated that draft regulation language was developed by members of the subcommittee. Chairman Sachs reported that the Committee adopted the draft regulatory language changes at the last meeting and this was sent to the Medical Board of California (MBC) board members because they have legal authority over physician assistant scope of practice regulations. Chairman Sachs reported that following a presentation to the MBC board members, the board members discussed the proposal and determined that the proposed language was too broad and chose not to set it for hearing. They requested that the Committee review and revise the proposed language to address the MBC's concerns and resubmit the proposal at a future MBC meeting.

Based on the outcome of this proposal, a suggestion was made to give a presentation to the MBC board members regarding the scope of practice of PAs, the delegation of service agreement and the PA education and training.

Tracy Del Nero, licensed physician assistant and educator, recommended and requested that the Committee reconsider continuing this subject.

Chairman Sachs requested that Ms. Freedman, Staff Counsel, review the prior legal opinion regarding this topic and report back to the Committee at the next meeting so that the Committee may determine how to proceed.

b. Consideration of Regulatory Proposal Title 16 CCR §1399.536 - Preceptors in Physician Assistant Training Programs

Mr. Mitchell reported that a regulatory hearing was conducted on February 6, 2012 regarding proposed amendments to Section 199.536 in title 16 of the California Code of Regulations. At that meeting a motion was made to make corrections to the original language and then send out for a fifteen day comment. No negative response has been received regarding the proposed changes.

The Committee reviewed the proposed language and a motion was made to adopt additional language jointly proposed by the California Medical Association and the California Academy of Physician Assistants which stated “(a) to read as follows: Preceptorship shall mean the supervised clinical practice of a physician assistant student’s training. A preceptorship shall include licensed physicians as preceptors. Other licenses health care providers approved by a program may serve as preceptors to supplement physician supervised clinical practice experiences. Preceptors participating in the preceptorship of an approved program”.

Also, under Section (A) change the word “means” to “include but not limited to” in the first sentence.

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

A motion was made to direct staff to prepare another fifteen day notice and assuming no adverse comments are received, the Executive Officer is delegated authority to adopt the final rulemaking and to make any non-subsequent changes that would be required by OAL.

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

c. Consideration of Regulatory Proposal to Implement Assembly Bill 2699 Health Care Events – Requirements for Exemption, as required by Business and Professions Code Section 901

Laura Freedman, Staff Counsel informed the Committee members that Business and Professions Code Section 901, requires that each health care agency within the Department of Consumer Affairs adopt the provisions of this law.

One aspect of the proposed language was charging an application processing fee. Staff was requested to seek direction from the budget office regarding the fee. The Committee also directed staff to amend the proposed language on page number 5 change the three to six in sub-section D.

Following a discussion related to the proposed language the following motion was made:

Change language on page 4, 1C to say “The applicant has not passed the examination administered by the National Commission of Certification of Physician Assistants” and change the language on page 5 item 2D to read “The applicant has participated in six or more sponsored events during the 12 month period immediately preceding the current application.” Also, request staff to work with the budget office to determine how much it would cost to process the

applications and insert the cost on page 3 item 1. Also, to bring back the draft language to the Committee at the next meeting for further discussion. (m/Diaz, s/Schasa, vote 4-1-0, one opposed, motion passes).

d. Consideration of Uniform Standards for Substance Abusing Licensees and Disciplinary Guidelines Update

Ms. Portman reported that the Committee has been directed to incorporate SB 1441 Uniform Standards Regarding Substance Abusing Healing Arts Licensees into the Model Disciplinary Guidelines and incorporate them into the Diversion Program requirements. Ms. Portman also stated that Glenn Mitchell is working with Kurt Heppler to incorporate the changes into the contract with Maximus, the diversion program contractor.

Ms. Portman also reported that staff is working on revising the Committee's disciplinary guidelines and implementing the SB 1441 standards. An interested parties work shop will be held on May 15, 2012 to discuss incorporating the standards of the Committee's Model Disciplinary Guidelines.

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

RETURN TO OPEN SESSION

9. Presentation on Utilization of Telemedicine Subsequent to AB 415 Presented by Steve Barrow, Executive Director, California State Rural Health Association

Mr. Steve Barrow, Executive Director of the California State Rural Health Association, provided the members with an overview of utilization of telemedicine subsequent to AB 415. Mr. Barrow stated that more than 85% of California is rural as 44 of the 58 counties are rural. This means that approximately 5.3 million of the state's population lives in rural areas. Mr. Barrow also stated that their mission is linking rural individuals and organizations together to facilitate information exchange, collaboration and advocacy to promote healthy rural communities.

Mr. Barrow explained that AB 415 and Telehealth helps increase access to care and quality of care to consumers in rural California. Telemedicine also increases access to care, cost efficiency in providing care, and saves lives by earlier and timely detection of critical illnesses. Mr. Barrow added that telemedicine also creates jobs.

10. **Sunset Review Update**

- a. Proposal to Change from Physician Assistant Committee to Physician Assistant Board

Chairman Sachs reported that he and the Executive Officer Elberta Portman testified before the legislative Sunset Committee on March 17, 2012. Some of the recommendations from the Sunset Committee for SB 1236 are to change the Committee's name to Physician Assistant Board; replace the

MBC physician member with a physician assistant; and include physician assistants in the B&P 800 series reporting requirements.

Chairman Sachs indicated that they also requested that the Committee's bill include a retired license status and an exempt license status for active duty military personnel who are deployed.

Chairman Sachs reported that Elberta Portman attended an additional hearing for SB 1236 and respectfully requested that the Committee keep the physician member. During this hearing, California Medical Association (CMA) stated that they oppose the removal of the MBC physician member from the Committee.

A motion was made to support the Physician Assistant Committee provisions of the Sunset Bill, SB 1236 and also to support if amended to include an M.D. member.

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

Upon the passing of the motion, staff was instructed to prepare the letter of support for the Chairman's signature.

A motion was made to respectfully request the provision for the Physician Assistant Committee move to another bill if the issues with the Board of Podiatric Medicine continue to be controversial.

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

Staff was instructed to monitor the progress of the bill.

b. Update on Implementation of BreEZe

Ms. Portman provided a brief report on the BreEZe implementation. Currently, staff is attending weekly meetings to verify and validate data to be migrated to BreEZe from CAS and ATS.

c. Discussion and Consideration of Promoting Workforce Development

Ms. Portman indicated that the Sunset Committee recommended that the Committee look at workforce development. Ms. Portman indicated that Glenn Mitchell and Julie Caldwell of our staff would be working the DCA to create a "brochure" to address this issue. It was also recommended in the report that Committee staff meet with the Board of Registered Nursing regarding workforce development and their efforts with regard to this topic. Ms. Portman indicated that staff has met with the Board of Registered Nursing regarding the workforce development surveys.

11. **Discussion and Consideration of Development of a California Laws and Regulations Examination**

Chairman Sachs provided the members with a brief overview regarding the California Laws and Regulations. Chairman Sachs indicated that originally a copy of the Laws and Regulations was mailed to all new PA licensees, however,

with the information available on the website along with a cost savings this practice was discontinued many years ago.

During the discussion it was suggested that staff might talk to the NCCPA to determine if the California standards are different from the national standard of PA practice. One area of justification for the exam could be California PAs scope of practice and supervisory issues.

Ms. Portman explained that the initial development process cost would be approximately \$35,000 and did not include actual testing costs or ongoing maintenance costs of an exam. The Committee will review this issue on a periodic basis.

12. **Consideration of Legislation of Interest to the Physician Assistant Committee**

SB 1236, SB 1501, AB 1548, AB 137, AB 1894, AB 1904

The Committee members briefly discussed current legislation of interest. The PAC voted to support SB 1236.

13. **Discussion of Title 16, CCR §1399.523 and §1399.523.5 regarding Sexual Misconduct and Disciplinary Actions**

Ms. Portman stated that at the last meeting it was requested that the Committee review the regulations which enhance the enforcement process that became effective November 5, 2011.

Ms. Portman explained that these regulatory changes include delegation of functions, such as the Executive Officer is now able to accept default decisions and to approve settlements for surrender or an Interim Suspension Order (ISO). It also allows the Committee to order a physical or mental examination of applicants when appropriate. It also includes under unprofessional conduct, sexual abuse or misconduct, failing to cooperate and participate in an investigation, failure to report a felony, arrest, conviction, any disciplinary action by another licensing entity, failure to comply with a court order or subpoena regarding release of records to the Committee.

Ms. Portman also indicated that under California Code of Regulations (CCR) Section 1399.523, in reaching a decision on a case, any proposed decision that contains any finding of fact that a licensee engaged in any act of sexual contact, with a patient, in finding that the licensee committed a sex offense or has been convicted of a sex offense, shall contain an order revoking the license.

Lastly, Ms. Portman reported that under CCR section 1399523.5 if an individual is required to register as a sex offender, pursuant to Section 290 of the Penal code, the Committee shall deny an application, revoke the license or deny the petition to reinstate.

Ms. Portman also stated that these will also be incorporated in the Committee's Disciplinary Guidelines.

14. **Schedule of 2012 Meeting Dates and Locations**

A brief discussion was conducted regarding the remaining meeting dates for the year. It was decided that the August 6, 2012th meeting will remain on the Monday and possible change the October Monday meeting date to a different day/date at the next meeting.

15. **Agenda Items for Next Meeting**

- a. Update on the Sunset Report
- b. Current Legislation of interest to the Committee
- c. Personal Presence Regulation change -Possible Creation of Sub-committee
- d. Update on Budget Report – Repayment of loan made to the General Fund
- e. Update on Proposal to Amend Section 1399.536 of Title 16 of California Code of Regulations Relating to the Requirements for Preceptors in Physician Assistant Training Programs
- f. Department of Consumer Affairs update
- g. On-going conversation on Scope of Practice issues with the Medical Board fo California
- h. CAPA conference update

16. **Adjournment**

The meeting adjourned at 2:00 P.M.