

## MEETING MINUTES

August 3, 2015

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 9:05 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  
Cristina Gomez-Vidal Diaz

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

### 3. Approval of May 4, 2015 Meeting Minutes

Jed Grant requested amendments to agenda item 12 – The Education/Workforce Development Advisory Committee, to specify that ARC-PA is an independent organization. However, the Council for Higher Education Accreditation (CHEA) has oversight responsibility for ARC-PA. He also noted that the motion should have stated that the Board staff was to write to CHEA not CAAHEP.

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

Approve the May 4, 2015 meeting minutes as amended.

Member	Yes	No	Abstain	Absent	Recusal
Charles Alexander	X				
Michael Bishop	X				
Cristina Gomez-Vidal Diaz	X				
Sonya Earley	X				
Jed Grant	X				
Catherine Hazelton	X				
Xavier Martinez	X				
Robert Sachs	X				

Motion approved.

#### 4. Approval of July 13, 2015 Teleconference Meeting Minutes

Kristy Schieldge requested an amendment to page 3 to correct a spelling error, specifically to correct the word “counsel’s.”

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

Approve the July 13, 2015 teleconference meeting minutes as amended.

Member	Yes	No	Abstain	Absent	Recusal
Charles Alexander	X				
Michael Bishop	X				
Cristina Gomez-Vidal Diaz	X				
Sonya Earley	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 notified the Board that member Rosalee Shorter, who was appointed to the Board in 2013, was relocating out-of-state and was resigning her position. He thanked her for her service and dedication to consumer protection.

Mr. Sachs also thanked Board members and staff for their efforts to curtail spending to assist in ensuring that last fiscal year’s budget was not overspent.

- 2) Mr. Sachs reported that Board staff has recently been informed that the Senate Committee on Business, Professions and Economic Development and Assembly Committee on Business and Professions will begin their Sunset Oversight Review in the Fall of 2015. The Physician Assistant Board

is scheduled to be reviewed. The Board was last reviewed in 2012. It is anticipated that the hearing will take place in early 2016.

Staff will begin preparation of the report, which is due to the Legislature December 1, 2015. They will present a draft report for Board review and approval at the next Board meeting. Mr. Sachs informed the Board that this is their opportunity to create a “wish list” of what they would like for the Board. He noted that effective January 1, 2016 the Medical Board physician member will become a non-voting member. Mr. Sachs spoke of the positive relationship we have with the Medical Board and how the Board appreciates the input and guidance from the Medical Board of California Board member.

- 3) Mr. Sachs noted that the annual California Academy of Physician Assistant Conference will take place October 8-11, 2015. Mr. Sachs indicated that the Board will have exhibit space there so that physician assistant applicants and licensees will have an opportunity to meet and interact with the Board. Mr. Sachs stated that he and Mr. Grant will be attending the meeting.

Mr. Sachs briefly discussed the requirements for an approved controlled substance education course, specifically the responsibility of the course providers. Mr. Sachs stressed that the course may only be taken by licensees and not students. He also stressed that the course participants must take a proctored examination upon completing the course.

b. Executive Officer’s Report

- 1) Update on BreEZe Implementation

Mr. Mitchell reported that the Board continues to work with the BreEZe team on implementation of BreEZe. The issues with the enforcement reports are being resolved. The reports are becoming more reflective of our actual statistics and anticipate their usefulness soon.

The BreEZe licensing program continues to function with no issues.

The Board went “live” with BreEZe online renewals on May 22, 2015. The Board’s website was updated to reflect the availability of this new service. The system seems to be performing well. Staff has reported that fewer paper renewals are received in the office and last minute renewal issues are quickly resolved by directing licensees to renew online. Staff and licensees continue to receive support from the Medical Board of California’s Information System Branch. Their expertise and guidance is appreciated and beneficial in helping us to understand and implement the system.

- 2) CURES update

Mr. Mitchell reported that the Department of Consumer Affairs and the Department of Justice agreed to a “soft launch and phased rollout” in early July 2015 and over the next few months of CURES 2.0. This will ensure a smooth transition from the current system. Initially, current users who meet the new security standards, including minimum browser specifications will transition to the CURES 2.0.

The Board's website has been updated to provide licensees with information regarding the CURES 2.0 rollout and registration requirements.

3) Implementation of Business and Professions Code Section 3518.1 – Mandated Personal Data Collection from Physician Assistants

SB 2101 (Ting) (Effective January 1, 2015) requires the:

Physician Assistant Board, Board of Registered Nursing, Board of Vocational Nursing and Psychiatric Technicians, and Respiratory Board to collect demographic data for the Office of Statewide Health Planning and Development (OSHPD).

The Board is required to collect the data biennially at the time of initial licensure and renewal obtaining the following data:

- Location of practice (including city, county, and Zip code)
- Race or ethnicity (licensees may, but are not required to report race and ethnicity)
- Gender
- Languages spoken
- Education background
- Classification of primary practice site (such as a clinic, hospital, managed care organization, or private practice)

The Board is working with legal counsel, DCA, and other boards to implement the provisions of SB 2102.

PAB staff is currently working with other DCA Boards and DCA staff on the development of the survey questions. Initially, the plan is to include a link to the electronic online survey. Our initial license letter inserted with the wall certificate and pocket ID card will be updated with a link to the survey. The renewal notice will also be updated. Staff will also update the Board's website with information and links for SB 2102. Roll out of the survey was scheduled for July 2015.

Mr. Mitchell encouraged licensees to complete the survey as the data will provide helpful and useful information to assist the state in determining health care shortages, such as the need for additional PA training programs. This data will also provide useful information to improve access to patient care. The data will also be useful to the Board with regard to its public and policy goals of consumer protection.

Mr. Mitchell also would like to encourage professional associations, such as the California Academy of Physician Assistants (CAPA), to encourage their members to complete the survey.

c. Licensing Program Activity Report

Between May 1, 2015 and July 31, 2015, 200 physician assistant licenses were issued. As of July 31, 2015, 10,293 physician assistant licenses are renewed and current.

d. Diversion Program Activity Report

As of July 1, 2015, the Board's Diversion Program has 12 participants, which includes 3 self-referral participants and 9 board-referral participants.

A total of 133 participants have participated in the program since implementation in 1990.

e. Enforcement Program Activity Report

Between May 1, 2015 and July 31, 2015, there were no accusations filed; there were no Statement of Issues filed; there were no probationary licenses issued, we issued 1 citation and there are currently 56 probationers.

## **7. Department of Consumer Affairs**

Christine Lally, Deputy Director, Board and Bureau Relations, reported on three issues that impact the Board.

Ms. Lally reported that the Department has been working on finalizing the BreEZe enforcement reports. Reports showing details on intake and investigations are on track for an August – September release. She added that licensing data extracts can be provided to the Board by the Department either weekly or bi-weekly. In the future these extracts will be made into reports capable of being run on demand. Final maintenance, which includes fixes and enhancements for Release 1 Boards including the Physician Assistant Board, is scheduled for September. Ms. Lally indicated that BreEZe Release 2 is scheduled to launch in late December 2015.

Ms. Lally stated that the Department's legal office is working with the Business, Consumer Services and Housing Agency, the Governor's office and the Attorney General's office to determine the impact of the North Carolina Board of Dental Examiners v. Federal Trade Commission Supreme Court decision. The Department's legal office is developing training for Executive Officers, Directors, and Board Presidents to address the potential impact this decision may have on Department Boards and Bureaus. The Department's legal office is also tracking developments in similar cases filed in other states which may also have an impact in California.

Ms. Lally presented an update on the department's recent pro-rata study. SB 1243 was enacted into law in January 2015 and required the Department to conduct a one-time study of the pro rata system and how expenses are distributed to the Boards and Bureaus within the Department. The study consisted of a survey and an analysis of the pro-rata distribution. The survey discovered two areas of necessary improvement, customer service and timeliness. The survey is being used as a starting point to initiate improvements within the Department. Ms. Lally added that the complete survey and pro-rata study are available on the Department's website.

## **8. Regulations**

- a. Discussion and possible action regarding proposed amendments to Guidelines for Imposing Discipline/Uniform Standards Regarding Substance Abusing Health

Arts Licensees. Section 1399.523 of Division 13.8 of Title 16 of the California Code of Regulations.

A regulatory hearing on the Proposed Language for Guidelines for Imposing Discipline/Uniform Standards Regarding Substance-Abusing Healing Arts Licensees, Section 1399.52 of Division 13.8 of Title 16 of the California Code of Regulations was held on February 9, 2015.

The Board voted to approve additional amendments and a 15-day public comment period took place. No public comments were received.

The rulemaking file was finalized and 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.

## **9. 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**

## **10. A lunch break was taken.**

## **11. The Legislative Committee Report**

Ms. Hazelton discussed specific bills that were of interest to the Board, including:

AB 12 (Cooley) This bill would require every state agency, department, board, bureau or other entity to review and revise regulations to eliminate inconsistent, overlapping, duplicative, and outdated provisions and adopt the revisions as emergency regulations by January 1, 2018. Additionally, this bill would require the Business, Consumer Services, and Housing Agency to submit a report to the Governor and Legislature affirming compliance with these provisions. These provisions would be repealed by January 1, 2019.

AB 85 (Wilk) This urgency bill would require two-member advisory committees or panels of a "state body" (as defined in the Bagley-Keene Open Meeting Act) to hold open, public meetings if at least one member of the advisory committee is a member of the larger state body and the advisory committee is supported, in whole or in part, by state funds.

This bill would impact how the Board's committees' work, all committee meetings would have to be public if this bill passes. The Board previously took an opposed position on this bill.

Ms. Hazelton stated that the Board took an oppose position on both AB 12 and AB 85. She added that both bills appear to be on track for enactment and that Board staff should be thinking about the process of implementing the provisions of these bills.

There was general discussion about the fiscal impact to the Board and whether additional funds should be requested to implement the provisions of those bills.

AB 637 (Campos) This bill would allow nurse practitioners and physician assistants to sign the Physician Orders for Life Sustaining Treatment form. This Treatment Form allows terminally-ill patients to inform their loved ones and health care professionals of their end-of-life wishes. By expanding the number of people who are allowed to sign the Treatment Form, the intent of this bill is to assist terminally-ill patients in making their end-of-life wishes known to their families and health care providers. This bill would impact licensees of the Physician Assistant Board and the Board of Registered Nursing.

Ms. Hazelton stated that the Board supported this bill and will likely be signed by the Governor.

AB 1060 (Bonilla) This bill was amended. The bill now requires the California Health and Human Services Agency to establish a nonprofit Cancer Clinical Trials Foundation to solicit and receive funds from business, industry, foundations, and other private and public sources for the purpose of administering the Cancer Clinical Trials Grant Program to increase patient access to cancer clinical trials.

The Board took no position on the previous version of AB 1060 and will no longer track amended version of AB 1060.

AB 1351 (Eggman) This bill would:

1. Convert the existing system of deferred entry of judgement (DEJ) for qualified drug possession offender – generally those with no prior convictions or non-drug current charges – to a true diversion system, under which eligible defendants are admitted to an education and treatment program prior to conviction and granted a dismissal of the charges upon successful completion of the program;
2. Allow persons previously convicted of a drug possession offense, or who have previously participated in a diversion of DEJ program, or those for whom parole or probation has been revoked may participate in a diversion program; and
3. Set the length of the program from six months to one year, except that the court can extend that time for good cause.

AB 1352 (Eggman) The purpose of this bill is to allow any person who has successfully completed a deferred entry of judgement (DEJ) treatment program to obtain dismissal of the plea upon which DEJ was granted, on the basis that the guilty or no-contest plea underlying DEJ may result in a denial of employment benefit, license or certificate, or have adverse immigration consequences, in conflict with the statement in the governing statute that the plea shall not result in “denial of any employment, benefit, license, or certificate.”

Ms. Schieldge provided the Board members a detailed description and analysis of AB 1351 and how it would change the existing deferred entry of judgement program. She indicated that the Board should be concerned about several aspects of these bills, including:

1. A shorter diversion program, perhaps, only 6-12 months
2. Eliminates the discretion of the courts to remove a person from the program.

3. If the defendant fails the court-ordered diversion program, the defendant has the option to go back to the program multiple times, making it harder to prosecute later if they don't complete the program due to length of time from the initial arrest.
4. No penalties can be imposed after the completion of the diversion program.
5. There is less evidence for the Board to determine if an applicant is fit for licensure, because no guilty plea is entered.

Ms. Schieldge added that the overall effect of AB 1351 is to substantially change the program from a deferred entry of judgement program to a pretrial diversion program where the Board could not impose any kind of penalty after the arrest, because the Board would no longer be able to rely on the guilty plea.

Ms. Schieldge discussed how AB 1352 would change the law to completely eradicate the records back to 1997, thus removing the ability of the public to have knowledge of the violation as it would be deleted from the person's criminal record. The concern is that this bill would potentially remove a public protection component as there would be no history of any admission of possible drug or alcohol addictions.

These bills affect all of the Healing Arts Boards, as of now these Boards have the right to deny licensure on a guilty plea without a conviction. These bills would affect that right of denial.

M/ Jed Grant S/ Charles Alexander C/ to:

Take an oppose position on AB 1351 and AB 1352 because they impair the Board's ability to protect the public.

Member	Yes	No	Abstain	Absent	Recusal
Charles Alexander	X				
Michael Bishop	X				
Cristina Gomez-Vidal Diaz	X				
Sonya Earley	X				
Jed Grant	X				
Catherine Hazelton		X			
Xavier Martinez	X				
Robert Sachs	X				

Motion approved.

SB 337 (Pavley) This bill would require medical records to reflect the supervising physician for each episode of care; require a physician assistant who transmits an oral order to identify the supervising physician; recast medical record review provisions to require the supervising physician to utilize one or more mechanisms; and allows physician assistants an alternate way in the documentation of perscribing Schedule II controlled substances.

Teresa Anderson, Public Policy Director, California Academy of Physician Assistants (CAPA) introduced Katheryn Scott, from CAPA. Ms. Scott noted that the amendments requested during the July teleconference meeting have been incorporated into the bill and it was sent to Appropriations and then the Senate.

All changes conformed to Exhibit A, as presented at the teleconference meeting. Therefore, no new motion was necessary.

SB 464 (Hernandez) This bill clarifies that health care practitioners, including physician assistants, may use patient self-screening tools that will identify patient risk factors for the use of self-administered hormonal contraceptives, for purposes of furnishing self-administered hormonal contraceptives to the patient.

Ms. Hazelton reported that the only health measurement typically reviewed when assessing the safety of birth control pills is whether a patient has hypertension or not and this is measured through blood pressure. This bill would allow patients to self-report their blood pressure.

Ms. Schiedge presented the background to this legislation. Last year a bill was enacted that allowed pharmacists to prescribe hormonal birth control pills (the pill). Since the pill can cause hypertension, which is monitored through blood pressure, the concern is, can self-screening be an acceptable tool or is it necessary for the patient to have their blood pressure taken by a medical professional before prescribing? Planned Parenthood, who is sponsoring the bill, feels that the risk of pregnancy is greater than the risk of hypertension and therefore, they believe that the self-screening tool, used appropriately, is an adequate control to provide the pill.

The Medical Board of California took a neutral position on this bill and Dr. Bishop stated that there was not any discussion on this bill at their last meeting.

The Board took no position on SB 464.

## **12. The Education/Workforce Development Advisory Committee: Update**

Mr. Grant asked about the status of letters that staff were requested to send to CHEA and PAEA. Assembly Member Medina had suggested to the Board that they seek clarification of the issue. Mr. Mitchell informed the Board that the letter to CHEA requesting them to review the process by which ARC-PA withdrew the accreditation of two California based Associate Degree training programs was completed and currently being reviewed by legal counsel. A letter was also sent to PAEA requesting information on how the Board could be involved with their workforce committee. The Board is still awaiting a response from them.

Mr. Grant reported that there are twelve new programs that have an interest in obtaining accreditation and seven of those programs have started the accreditation process with ARC-PA. The pathway to accreditation by ARC-PA is approximately two years. Mr. Grant added that with seven California programs seeking accreditation will help address workforce shortages. Each program should have 25 to 30 students with an initial start dates in 2016 and 2017.

## **13. Medical Board of California activities summary and update**

The Medical Board held its meeting on July 30 and 31, 2015 in San Francisco. It was a very busy meeting and included several educational presentations.

The Board received an update from the interested parties meeting that was held on June 30. Dr. Bishop informed the Board that the Medical Board is looking at

requiring three years of postgraduate training for both US/Canadian and International medical school graduates, versus one and two years respectively. Unfortunately the meeting on June 30<sup>th</sup> was not well attended, but the Board will be holding another meeting in October in Southern California. The Board hopes to identify any unintended consequences of such a change to the number of years of postgraduate training. In addition, the interested parties meeting also began discussions regarding physician reentry. The Board is concerned that individuals may be able to not practice for several years, for one reason or another, unbeknownst to the Board, and then just begin practicing again without any indication of the physician's competency. This is an issue that several other state boards are looking at as well. The Board is trying to identify a way to ensure consumer protection after an individual is out of practice for a certain amount of time. This issue will also be discussed at the September Board meeting.

During the Board's Education and Wellness Committee, the Board heard from Dr. Wolfe, from the Center for Medicare and Medicaid Services, who provided an update on the Affordable Care Act and Physician Compliance Programs. In addition, the Committee also had a presentation on Trauma Informed Care and its impact on lifelong health by Dr. Sciolla from the University of California, Davis.

The Full Board heard two presentations regarding Physician Health Programs, one from the Medical Director of the Monitored Aftercare Program who provides the Physician Health Program in Arizona, and one from the Medical Director from the Colorado Physician Health Program. In addition, Board staff provided an analysis on licensee health programs within the Department of Consumer Affairs as well as an analysis on physician health programs in other states. As you may be aware, the Medical Board has not had a Physician Health Program for substance abusing or mentally ill licensees since the elimination of the Board's Diversion Program in 2008. The Board had requested data on other physician health programs and this presentation provided a lot of information. The Board requested staff meet with interested parties to further discuss this issue.

The Medical Board also discussed numerous bills related to the practice of medicine impacting physicians. Of interest to the Physician Assistant Board, the Board took a support position on SB 337 regarding changes to the supervision requirements for Physician Assistants. The Board also discussed federal legislation that was just introduced that would allow physicians in any state to treat California patients that are receiving Medicare. The Board opposed this legislation and requested that staff send a letter to the congressman who introduced these bills.

The Board held three regulatory hearings on regulations pertaining to the minimum passing score for the physician's and surgeon's licensing examination, outpatient surgery settings, and information posted on the Board's website. The Board also approved staff moving forward with several changes to the Board's disciplinary guidelines that will clarify and enhance the guidelines for disciplinary actions against physicians who violate the law.

The Medical Board had a presentation from two representatives from the Federation of State Medical Boards. These individuals discussed the roles and functions of the Federation and provided the Members an update on the important projects at the Federation, including a work group on marijuana and medical regulation and a workgroup on team-based regulation.

Dr. Bishop reported the Board had a presentation from Dr. Coffman from the University of California in San Francisco on their findings from their survey on electronic health records and Medi-Cal participation. They partner with the Medical Board every two years to include a special survey in the June and July physician renewals. This survey requests information from physicians on these two topics. Of note, was a significant increase, from 54% to 81%, in the use of Electronic Health records in community/public clinics from 2011 to 2013. This was attributed to the incentives that were provided by Medicare for the use of electronic health records. Also of note was a slide on the percentage of physicians accepting new Medi-Cal Patients in 2013 by specialty. Of those sampled receiving new patients the top specialty was facility-based and Obstetrics and Gynecology, and the lowest was psychiatry at only 36%.

The Board also received an update on the CURES 2.0 roll out from the Department of Justice and an update from the Department of Consumer Affairs and the Attorney General's Office on the Vertical Enforcement process. It was reported that a new Vertical Enforcement and Prosecution Joint Protocol was just released to all investigators and Deputies.

The Medical Board will be meeting next on October 29 and 30 in the San Diego Area.

The Board is appreciative of the great relationship it has with the Physician Assistant Board, specifically with Mr. Mitchell and his staff. The Board continues to offer any assistance it can provide to the Physician Assistant Board with any future issues.

#### **14. Budget Update**

Wilbert Rumbaoa, Budget Analyst, Department of Consumer Affairs reported that the Board would be reverting \$20,000 at the end of the fiscal year and the budget remains sound. Mr. Rumbaoa added that the Board is currently pursuing acquiring a budget augmentation for fiscal year 2015/2016. He added that the request is moving forward.

#### **15. Discussion of compliance with Title 16 of the California Code of Regulations Section 1399.546: Reporting of Physician Assistant Supervision – Electronic Records and Signatures**

The Board discussed the impact on Title 16, California Code of Regulations Section 1399.546, if SB 337 becomes law. Amendments may have an impact to this regulation. Specifically, the Board may need to amend the regulation to reflect technological changes on how supervision is noted using electronic medical records (EMR). EMRs have replaced paper records in most practices. The Board requested that this be placed on the next agenda for review and further discussion.

#### **16. Re-scheduling of November Board meeting.**

M/ Jed Grant S/ Charles Alexander C/ to:

Change the November Board meeting to November 2, 2015.

<b>Member</b>	<b>Yes</b>	<b>No</b>	<b>Abstain</b>	<b>Absent</b>	<b>Recusal</b>
Charles Alexander			X		
Michael Bishop	X				
Cristina Gomez-Vidal Diaz			X		
Sonya Earley			X		
Jed Grant	X				
Catherine Hazelton	X				
Xavier Martinez	X				
Robert Sachs	X				

Motion approved.

### **17. Agenda items for the next meeting**

- a. Sunset Report
- b. Report from the Physician Assistant Education/Workforce Committee: Update – letters to CHEA and PAEA.
- c. Legislation Committee – Legislation update and potential changes for staffing needs to comply with AB 12 and AB 85.
- d. Possible amendments to Title 16 California Code of Regulations Section 1399.546 to update to accommodate SB 337.
- e. Exam score and location approval.
- f. Meeting dates and locations for 2016.
- g. Discussion of U.S. Supreme Court Decision North Carolina Board of Dental Examiners v. Federal Trade Commission.
- h. Pro-rata Study – Budget
- i. Status on process for new positions – update.

### **18. Adjournment**

With no further business the meeting was adjourned at 12:04 P.M.