

AGENDA ITEM 11

AD HOC COMMITTEE ON SUPERVISION STANDARDS UPDATE.

Included are the following:

- The highlights from the April 12, 2024, Committee meeting.
- Meeting Materials Relied Upon
- Public Comment
 - Proposed Section 4180, Definitions, and Section 4181, Supervision Parameters.



****DRAFT****

AD HOC ON SUPERVISION STANDARDS MEETING HIGHLIGHTS

April 12, 2024

Committee Members Present

Denise Miller, OT, Board Member/Chair
 Beata Morcos, Board Member
 Sharon Pavlovich, OTA, Board Member
 Ada Boone Hoerl, OTA
 Candace Chatman, OT
 Erin Schwier, OT
 Joyce Fries, OT
 Kersten Laughlin, OT
 Liz Phelps, OT
 Penny Stack, OT
 Samia Rafeedie, OT
 Terry Peralta-Catipon, OT

Board Staff Present

Heather Martin, Executive Officer
 Rachael Hutchison, Analyst
 Jeanine Orona, Analyst

Committee Members Absent

Cesar Arda, OT
 Dominique Hendershot-Embrey, OT
 Heather Kitching, OT
 Jessica Padilla, OTA
 Julie McLaughlin Gray, OT
 Sheryl Ryan, OT

Friday, April 12, 2024

3:00 pm – Committee Meeting

The public may provide comment on any issue before the Board at the time the agenda item is discussed. If public comment is not specifically requested, members of the public should feel free to request an opportunity to comment.

1. Call to order, roll call, establishment of a quorum.

The meeting was called to order at 3:03 p.m., roll was called, and a quorum was established.

2. Chairperson opening remarks.

Chair Denise Miller thanked all the committee volunteers and members of the public for their attendance at the meeting. Chair Miller remarked that moving forward the Ad Hoc on Supervision Standards Committee would be meeting on a regular basis to discuss matters relevant to supervision.

The purpose of the committee is to review supervision standards and to make recommendations to the Board for regulatory language. The Board relies on input from the professionals that are out there in the field working with students.

3. Introductions by all Committee Members.

All committee members present chose to introduce themselves.

4. Public Comment for Items Not on the Agenda.

There were no public comments for items not on the agenda.

5. Consideration and possible recommendation to the Board on amending California Code of Regulations (CCR), Title 16, Division 39, Article 9, Section 4180, Definitions.

Chair Miller acknowledged that the language for amending California Code of Regulations (CCR), Title 16, Division 39, Article 9, Section 4180, Definitions was previously approved by the Board, however, Ms. Miller opened up the discussion to the panelists.

A robust discussion ensued regarding the term “ACOTE-accredited.” It was pointed out that some programs have students fulfilling their capstone experience during the pre-accreditation phase, therefore, using the phrase, “ACOTE-accredited and pre-accredited doctoral degree program” was recommended.

Erin Schwier noted that “pre-accreditation” meant that your program had submitted the self-study or were about to do so. Then the self-study would be paper reviewed in anticipation of your onsite review, which would happen three months later. The onsite review timeline would depend on when that Board met. Typically, a recommendation regarding the accreditation would be made following the onsite review.

A lengthy discussion involving the ACOTE accreditation process resulted.

Ms. Stack suggested the language, “educational programs that are in the process of receiving their ACOTE accreditation”

Executive Officer Heather Martin stated that she would not recommend using “pre-accredited” before “accredited.”

Ms. Miller suggested, “while enrolled in an ACOTE accredited doctoral degree program, including pre-accreditation.”

Ms. Rafeedie suggested reaching out to ACOTE about the committee’s recommended language.

Ms. Martin replied that she would reach out to Dr. Teresa Brininger, Director of Accreditation at ACOTE to attend a committee meeting.

Ms. Miller stated that the recommendation from the Supervision Standards Committee to the Board was to take out the ACOTE language in Section 4180(c).

Public Comment

Kristen Neville, American Occupational Therapy Association (AOTA) State Affairs Manager, agreed that inviting a representative from ACOTE to attend a future meeting would be a good idea.

There were no additional committee member remarks.

There were no additional public comments.

6. Consideration and possible recommendation to the Board on amending California Code of Regulations (CCR), Title 16, Division 39, Article 9, Section 4181, Supervision Parameters.

Chair Miller acknowledged that the language for amending California Code of Regulations (CCR), Title 16, Division 39, Article 9, Section 4181, Supervision Parameters was already approved by the Board.

Ms. Miller summarized the letter from Dr. Shane Jorwin Gemoto, Academic Fieldwork Coordinator and Assistant Professor at Loma Linda University's Department of Occupational Therapy dated April 10, 2024, wherein concerns about the Board's proposed changes to fieldwork and the Doctor of Occupational Therapy (OTD) Capstone supervision were addressed.

Ms. Miller stated that when discussing the language of Section 4181, the committee had a very distinguished panel that resulted in a robust conversation to get to the proposed numbers.

Sharon Pavlovich expressed her concern regarding 4181(3)(f) and the use of the term, "services." Yes, the occupational therapy practitioner provides services, however, they also educate. Ms. Pavlovich felt that the word "services" was limiting. Ms. Pavlovich suggested using the language, "prior to when providing occupational therapy services, education, supervision, and practice."

Ms. Martin suggested language for 4181(f), "the supervising occupational therapist shall determine that the occupational therapy practitioner possesses a current license or permit when providing occupational therapy services, education, supervision, and practice" or "the supervising occupational therapist shall determine that an occupational therapist or occupational therapy assistant possesses a current license or permit prior to providing occupational therapy services, education, supervision, practice, or conducting research."

Ms. Rafeedie believed that the term "services" encompassed everything and the language should not have to spell each area out.

Ms. Miller agreed with Ms. Rafeedie.

Ms. Pavlovich added that her concern is that people do not equate education with occupational therapy services.

Elizabeth “Liz” Phelps suggested defining occupational services in the general provisions.

Ms. Hoerl believed that the language should say, “faculty led clinical fieldwork” because she taught virtual fieldwork classes which have zero patient safety concerns.

Ms. Rafeedie attended the November 2023 Board meeting at which the ratios were discussed, and the public had questions as to how the Board reached those ratios. She summarized the list of next steps that came from that meeting.

Ms. Hoerl said that her research revealed that California is the only state in the top five that has any kind of Supervision cap at all. In the other four states there was no reference to any kind of limitation.

Terri Peralta-Catipon noted that she had concerns about circumstances in which the doctoral capstone student who was supervising students was not from a doctoral occupational therapy program that was ACOTE accredited.

It was pointed out that although a student requires mentorship to complete their post professional capstone, they do require supervision of their practice. However, a student completing an entry-level doctoral capstone would need supervision similar to a student completing their fieldwork, a limited permit holder, or an occupational therapy assistant.

Ms. Miller concluded that Ms. Rafeedie had provided the next steps for where the Supervision Standards Committee would go moving forward that included: looking at literature and statistics to see if the proposed ratios were justified; consulting with a representative from ACOTE and inviting them to a committee meeting; researching what the majority of the states were doing and how they look at the ratios; inviting the public to join meetings; inviting educators back to the committee to continue the discussion; discussing what “at any one time” means; and conducting a survey to ask other states were doing regarding supervision limitations and look at their practice acts.

Public Comment

Kristen Neville, American Occupational Therapy Association (AOTA) State Affairs Manager, stated that she had information about supervision requirements across the country from AOTA that she would share with the committee.

There were no additional committee member remarks.
There were no additional public comments.

7. Consideration and possible recommendation to the Board on other regulations effected by proposed amendments to California Code of Regulations (CCR), Title 16, Division 39, Article 9, Sections 4180 and 4181.

Ms. Miller summarized that the Supervision Standards Committee wanted to bring California Code of Regulations (CCR), Title 16, Division 39, Article 9, Sections 4180 and 4181 back to the Supervision Standards Committee for further discussion.

There were no additional committee member remarks.
There were no public comments.

8. Consideration of Board-approved legislative proposal amending Business and Professions Code Sections 2570.4 and 2570.6 and recommendation on proposed edits and rationale to support the proposed amendments.

Ms. Martin confirmed that the language for Business and Professions Code Sections 2570.4 and 2570.6 was previously approved by the Board. Ms. Martin hoped to get more information in the future regarding rationale from the Senate Business, Professions and Economic Development Committee.

There were no additional committee member remarks.
There were no public comments.

9. Consideration and possible recommendation to the Board on whether the education and training requirements for licensees demonstrating competence in the advanced practice areas should be reduced.

This agenda item was tabled.

The meeting adjourned at 5:10 p.m.



LOMA LINDA UNIVERSITY

School of Allied Health Professions

April 10, 2024

Heather Martin, Executive Officer
California Board of Occupational Therapy
1610 Arden Way, Suite 121
Sacramento, CA 95825

RE: Urgent Consideration of Modifications to CCR 4181

Dear Ms. Martin and Members of the California Board of Occupational Therapy (CBOT),

My name is Dr. Shane Jorwin Gemoto, and I am the Academic Fieldwork Coordinator and Assistant Professor at Loma Linda University's Department of Occupational Therapy. We're concerned about the CBOT's proposed changes to fieldwork and OTD Capstone supervision.

ACOTE (2023) supports a broad focus on fieldwork, including non-licensed OT mentors. We disagree with CBOT's proposed cap of three supervisees, as it could limit student choices and disregard professional expertise.

Regarding capstone supervision, due to the diversity of projects which can include research and program development, capstone students should have separate supervision ratios.

We are worried CBOT's proposed 20:1 faculty-student ratio and 3:1 clinical supervision ratio could hinder innovative fieldwork opportunities. ACOTE's current guidelines help to ensure student learning and patient safety. We hope CBOT will support institutions in meeting the ACOTE standards.

Specific concerns include the proposed changes to Sections 4181(d)(5) and 4181(e)(2), which may strain educators and impact employment. We question the evidence behind the 3:1 supervision ratio. Changes to Sections 4181(d)(6) and 4181(e)(3) may limit Level I fieldwork and have contradictory language.

We encourage the CBOT to reconsider the supervision ratio limits, especially for Capstone students. While 3:1 may work in some settings, it's not universally applicable. High student numbers benefit community programs and enhance peer learning.

Challenges like the oversaturation of OT schools, post-pandemic policy changes, and the 3:1 ratio make placements hard to find. The collaborative supervision model, where one educator oversees multiple students, meets ACOTE standards, and supports various learning styles.

In conclusion, we urge the CBOT to reconsider these changes. Collaborative efforts between educational institutions and regulatory bodies will protect consumers, foster innovation, and maintain California's high standard of occupational therapy.

Thank you for considering our concerns and recommendations.

Sincerely,

Shane Jorwin Gemoto, OTD, OTR/L

A Seventh-day Adventist Organization

DEPARTMENT OF OCCUPATIONAL THERAPY | Loma Linda, California 92350
909-558-4628 • 800- 422-4558 • fax (909) 558-0239 • www.llu.edu

CALIFORNIA CODE OF REGULATIONS, TITLE 16, DIVISION 39

Article 9. Supervision Standards

Added text is shown with underline.
Deleted Text is shown with ~~strikethrough~~.

Amend section 4180 to read as follows:

§ 4180. Definitions

In addition to the definitions found in Business and Professions Code sections 2570.2 and 2570.3 the following terms are used and defined herein:

~~(a)~~ **"Client related tasks" means tasks performed as part of occupational therapy services rendered directly to the client.**

~~(b)~~ **(a)** "Level I student" means an occupational therapy or occupational therapy assistant student participating in activities designed to introduce him or her to fieldwork experiences and develop an understanding of the needs of clients.

~~(c)~~ **(b)** "Level II student" means an occupational therapy or occupational therapy assistant student participating in delivering occupational therapy services to clients with the goal of developing competent, entry-level practitioners.

(c) "Doctoral Capstone student" means an occupational therapy student completing a capstone project or capstone experience while enrolled in an ACOTE-accredited doctoral degree program or doctoral program with ACOTE pre-accreditation or candidacy status.

(d) "Faculty-led fieldwork" means a fieldwork completed in direct in-sight supervision of a licensed occupational therapist or occupational therapy assistant employed by a California educational institution.

(e) "Supervision of a doctoral capstone experience" means the mentorship of the doctoral capstone student completing a direct patient/client care experience.

(f) "Client related tasks" means tasks performed as part of occupational therapy services rendered directly to the client.

~~(g)~~ **(g)** "Non-client related tasks" means clerical, secretarial and administrative activities; transportation of patients/clients; preparation or maintenance of treatment equipment and work area; taking care of patient/client personal needs during treatments; and assisting in the construction of adaptive equipment and splints.

~~(h)~~ **(h)** "Periodic" means at least once every 30 days.

Note: Authority cited: Sections 2570.13 and 2570.20, Business and Professions Code. Reference: Sections 2570.2, 2570.3, 2570.4, 2570.5, 2570.6, and 2570.13, Business and Professions Code.

Amend section 4181 of Division 39, Title 16 of the California Code of Regulations to read as follows:

§ 4181. Supervision Parameters

(a) Appropriate supervision of an occupational therapy assistant includes, at a minimum:

(1) The weekly review of the occupational therapy plan and implementation and periodic onsite review by the supervising occupational therapist. The weekly review shall encompass all aspects of occupational therapy services and be completed by telecommunication or onsite.

(2) Documentation of the supervision, which shall include either documentation of direct client care by the supervising occupational therapist, documentation of review of the client's medical and/or treatment record and the occupational therapy services provided by the occupational therapy assistant, or co-signature of the occupational therapy assistant's documentation.

(3) The supervising occupational therapist shall be readily available in person or by telecommunication to the occupational therapy assistant at all times while the occupational therapy assistant is providing occupational therapy services.

(4) The supervising occupational therapist shall provide periodic on-site supervision and observation of client care rendered by the occupational therapy assistant.

(b) The supervising occupational therapist shall at all times be responsible for all occupational therapy services provided by an occupational therapy assistant, a limited permit holder, a student or an aide. The supervising occupational therapist has continuing responsibility to follow the progress of each client, provide direct care to the client, and assure that the occupational therapy assistant, limited permit holder, student or aide do not function autonomously.

(c) The level of supervision for all personnel is determined by the supervising occupational therapist whose responsibility it is to ensure that the amount, degree, and pattern of supervision are consistent with the knowledge, skill and ability of the person being supervised.

(d) Occupational therapy assistants may supervise:

(1) Level I occupational therapy students;

(2) Level I and Level II occupational therapy assistant students; and

(3) Aides providing non-client related tasks;

(4) Doctoral capstone students completing an experience in research skills, administration, leadership, program and policy development, advocacy, or education, as required by an accredited educational program;

(5) No more than a total of three Level I fieldwork students, Level II fieldwork students, or Limited Permit holders at any one time; and

(6) No more than 20 Level I fieldwork students in a faculty-led fieldwork.

(e) Occupational therapists may supervise:

(1) Doctoral capstone students completing an experience in research skills, administration, leadership, program and policy development, advocacy, and education, as required by an accredited educational program;

(2) No more than a total of three Level I fieldwork students, Level II fieldwork

students, Doctoral capstone students completing a clinical, direct patient/client care experience, limited permit holders, or occupational therapy assistants, at any one time; and

(3) No more than 20 Level I fieldwork students in a faculty-led fieldwork.

~~(e)~~ **(f)** The supervising occupational therapist shall determine that the occupational therapy practitioner possesses a current license or permit to practice occupational therapy prior to allowing the person to provide occupational therapy services.

Note: Authority: Sections 2570.13 and 2570.20, Business and Professions Code.

Reference: Sections 2570.2, 2570.3, 2570.4, 2570.5, 2570.6, and 2570.13, Business and Professions Code.

AGENDA ITEM 17

PRESENTATION BY DCA'S OFFICE OF HUMAN RESOURCES

Department of Consumer Affairs

Exempt Position Duty Statement

HR-041E (new 1/2015)

****DRAFT****

Exempt Employee's Name	
Classification Title Executive Officer	Board / Bureau / Commission / Committee California Board of Occupational Therapy
Exempt Level / Salary Range O / \$8,379 - \$9,334	Geographic Location Sacramento
Position Number 647-110-9245-001	Effective Date of Appointment

Under the administrative direction of a seven-member Board, the Executive Officer of the California Board of Occupational Therapy (Board), is responsible for carrying out the mission and policies of the Board. The Executive Officer is the chief operating officer whose duties include overseeing all functions performed by the Board and promoting the primary mission of protecting the public's health, safety and welfare by ensuring the competency and qualifications of providers of Board-regulated services. Duties include, but are not limited to:

A. Specific Assignments [Essential (E) / Marginal (M) Functions]

45% (E) POLICY DEVELOPMENT AND IMPLEMENTATION

- Develops and implements policies and procedures for the efficient administration of Board programs; provides programmatic oversight including promulgating and interpreting policies established by the Board members.
- Identifies legislative and regulation needs, implements legislative mandates, and prepares and disseminates all required reports, analyses, and evaluations.
- Guides the Board through the sunset review process; reviews and evaluates, with the help of subordinate staff, the Board's strategic plan to ensure it is current with the ever-changing environment and the future needs of the Board in providing information to licensees, other health care providers and consumers.

30% (E) PROGRAM MANAGEMENT

- Develops industry-specific disciplinary guidelines; oversees the processing of applications for licensure or registration, ensuring that only qualified applicants are issued licensure or registration; manages and directs the Board's continuing education program.
- Oversees the handling of enforcement cases and the processing of complaints, investigations, prosecutions and disciplinary actions; provides for investigation of complaints, including approval and signing of legal documents such as Accusations, Statements of Issues, Stipulated Settlements, Interim Suspension Orders and others; monitors case flow and costs; advises on disciplinary guidelines; ensures adherence to Administrative Procedures Act timelines; and ensures appropriate implementation of all Board disciplinary decisions; meets and confers with departmental or outside legal agencies on cases; serves as the Board's spokesperson on board matters; maintains confidentiality in accordance with the Public Records Act.

- Provides guidance to staff, board members, professional organizations, and the public regarding the laws and regulations governing the functions of the Board. Proposes solutions to problems identified by members, staff, consumers, and licensees.

20% (E) ADMINISTRATIVE OVERSIGHT

- Acts as principal operations officer for the Board; manages and oversees personnel including recruitment, orientation, professional staff development and evaluation of staff; acts as the Board's final level in adverse actions and other personnel actions.
- Oversees the procurement and management of space, equipment, and supplies; approves expenditures as appropriate for efficient program operations; identifies need for augmentation of operating budget and ensures that all budget change proposals, and other fiscal documents are accurate and that they support the Board's goals and mission; represents the Board to the Department of Consumer Affairs, Department of Finance, and the Legislature on budgetary matters.

5% (E) Board Liaison

- Serves as the Board's liaison to a wide array of governmental and voluntary organizations; serves as liaison to professional organizations; participates and serves as Board's staff representative to various associations; represents the Board in meetings, negotiations, hearings, and other forums.

B. Supervision Received

The Executive Officer works under the administrative direction of the Board.

C. Supervision Exercised

The Executive Officer, through subordinate managers, has indirect oversight of analytical and clerical staff who work in the Administration, Enforcement and Licensing programs.

D. Administrative Responsibility

The Executive Officer has full delegation of authority over all policy, resource allocation, personnel and licensee disciplinary matters, including approval of legal documents such as Accusations, Statements of Issues, Stipulated Settlements, Interim Suspension Orders and others. The Executive Officer administers the provisions of the State Administrative Manual, and civil service laws and regulations.

E. Personal Contacts

The Executive Officer has close contact with Board and committee members regarding sensitive/complex consumer and licensee issues; the Department of Consumer Affairs, Department of Finance, Legislature, and Business, Consumer Services and Housing Agency regarding routine state business concerning the Board; other health care boards within the Department of Consumer Affairs; associations such as the Occupational Therapy Association of California, the American Occupational Therapy Association and the National Board for Certification in Occupational Therapy; and educational programs that train occupational therapy practitioners.

F. Actions and Consequences

Failure to perform duties adequately could result in the board not operating efficiently to deliver program services to employees thus affecting the ability of the Board employees to adequately perform their job duties which ultimately impacts the Board carrying out its mission to protect California healthcare consumers through proper licensure and enforcement of occupational therapists and occupational therapy assistants.

G. Functional Requirements

No specific physical requirements are required: the incumbent works in an office setting, with artificial light and temperature control. Daily access to and use of a personal computer and telephone is essential. Sitting and standing requirements are consistent with office work. Travel is required to attend board and committee meetings held in various locations throughout California. Incumbent is required to travel by methods that are in the best interest of the State. Travel may be for one or several consecutive days.

H. Other Information

Incumbent must possess good communication skills, use good judgment in decision-making, exercise creativity and flexibility in problem identification and resolution, manage time and resources effectively, and be responsive to Board staff, Board and Committee members and DCA management needs.

Criminal Offender Record Information:

Title 11, section 703(d) of the California Code of Regulations requires criminal record checks of all personnel who have access to Criminal Offender Record Information (CORI). Pursuant to this requirement, applicants for this position will be required to submit fingerprints to the Department of Justice and be cleared before hiring. In accordance with DCA's CORI procedures, clearance shall be maintained while employed in a CORI-designated position. Additionally, the incumbent routinely works with sensitive and confidential issues and/or materials and is expected to maintain the privacy and confidentiality of documents and topics pertaining to individuals or to sensitive program matters at all times.

Conflict of Interest:

This position is subject to Title 16, section 3830 of the California Code of Regulations, the Department of Consumer Affairs' Conflict of Interest Regulations. The incumbent is required to submit a Statement of Economic Interests (Form 700) within 30 days of assuming office, annually by April 1, and within 30 days of leaving office.

Oath of Office:

This position also requires the incumbent to take an Oath of Office prior to appointment.

I have read and understand the duties listed above and I can perform these duties with or without reasonable accommodation. (If you believe reasonable accommodation is necessary, discuss your concerns with the hiring supervisor. If unsure of a need for reasonable accommodation, inform the hiring supervisor, who will discuss your concerns with the Health & Safety analyst.)

Employee's Signature

Date

Employee's Printed Name, Classification

I have discussed the duties of this position with and have provided a copy of this duty statement to the employee named above.

Board President or Designee's Signature

Date

Board President or Designee's Printed Name

Revised: 4/2024

AGENDA ITEM 18

UPDATE TO THE BOARD ON METHOD(S) TO DETERMINE WHETHER TREATMENT(S) FALL WITHIN SCOPE OF PRACTICE (E.G., DRY NEEDLING).



Physical Therapy Board of California

BUSINESS, CONSUMER SERVICES, AND HOUSING AGENCY - GOVERNOR EDMUND G. BROWN JR.

Physical Therapy Board of California

2005 Evergreen St. Suite 1350, Sacramento, California 95815

Phone: (916) 561-8200 Fax: (916) 263-2560

Internet: www.ptbc.ca.gov



Board Members

President

Alicia Rabena-Amen, PT, DPT

Vice-President

TJ Watkins

Members

Jesus Dominguez, PT, PhD

Daniel Drummer, PT, DPT

Katarina Eleby

Tonia McMillian

Physical Therapy Board of California Adopted Meeting Minutes

September 13, 2018 9:00 a.m.

September 14, 2018 9:00 a.m.

Department of Consumer Affairs

Hearing Room

2005 Evergreen Street

Sacramento, CA 95815

Board Staff

Jason Kaiser, Executive Officer

Sarah Conley, Manager

Liz Constancio, Manager

Elsa Ybarra, Manager

Brooke Arneson, Associate

Analyst

For the sake of clarity, agenda items discussed during the meeting follow their original order on the agenda in these minutes though some agenda items may have been taken out of order during the meeting.

Thursday, September 13, 2018

1. Call to Order

The Physical Therapy Board of California (Board) meeting was called to order by President Dr. Rabena-Amen at 9:09 a.m. and recessed at 4:50 p.m. on September 13, 2018. The Board reconvened at 9:15 a.m. and adjourned at 6:30 p.m. on September 14, 2018.

2. Roll Call and Establishment of Quorum

Dominguez- Present
Drummer – Present
Eleby – Present
McMillian – Present
Rabena-Amen - Present
Watkins – Present

All members were present, and a quorum was established. Also present at the meeting were: Salwa Bojack, Legal Counsel; Jason Kaiser, Executive Officer; Liz Constancio, Elsa Ybarra, Sarah Conley, and Brooke Arneson.

the rulemaking process, make any technical or non-substantive changes to the rulemaking package, notice the proposed text for a 45-day comment period, and if no adverse comments are received and no hearing is requested, adopt the proposed regulatory changes, as modified.

M/S: Eleby/Watkins

VOTE: Dominguez- No
Drummer – Aye
Eleby – Aye
McMillian – Absent
Rabena-Amen - No
Watkins – Aye
3-2 Motion carried

18. Trigger Point Dry Needling (TDN) Presentation from Physical Therapists at the Veteran's Administration, Palo Alto, California –

Ms. Bojack identified that she is also legal counsel for the Acupuncture Board and recused herself from providing legal guidance on PTBC's scope of practice as it relates to dry needling.

Mr. Kaiser informed the public that dry needling is not within the current scope of practice of PTBC and those practicing dry needling within the Board's jurisdiction may face enforcement by the Board. Mr. Kaiser also stated that there would need to be a statutory change to the scope of practice for physical therapists within the Board's jurisdiction to practice dry needling.

Jerome Sabangan, PT, DPT, Russell Bishop, PT, DPT, Thaa De Ornelas, PT, DPT, Richard Gastillo, PT from the Veteran's Administration in Palo Alto, CA provided an informative presentation on Trigger Point Dry Needling (TDN) as performed in their Veteran's Administration Clinic in Palo Alto, CA.

During public comment, Ms. Michelle Lau, licensed acupuncturist, doctor of Traditional Chinese Medicine and president of the Council of Acupuncture and Oriental Medicine Associations, expressed her appreciation for the informative presentation on dry needling however stated that it is her belief that dry needling is practiced in California under the acupuncture practice act and physical therapists should not practice dry needling as it is outside of their scope of practice.

19. Closed Session

(A) Pursuant to Government Code section 11126(c)(3), Deliberation on Disciplinary Actions and Decisions to be Reached in Administrative Procedure Act Proceeding

The Board entered closed session on day two, September 14, 2018 at 5:04 p.m. to deliberate on Agenda Item 19(A). The Board reconvened open session to adjourn at 6:30 p.m.

(B) Pursuant to Government Code section 11126(a)(1), the Board will convene to Consider the Evaluation of Performance of the Executive Officer.

The Board entered closed session on day two, September 14, 2018 at 4:30 p.m. to consider Agenda Item 19(B) and concluded closed session on Agenda Item 19(B) at 6:30 p.m.

20. Reconvene Open Session

The Board reconvened into open session to adjourn at 6:30 p.m.

21. Presentation and Discussion of Application Process for Graduates of NonAccredited Programs Located Outside of the United States

Ms. Conley provided a presentation on the application process for graduates of nonaccredited programs located outside of the United States.

22. Application Services

(A) Staff Introductions

Board staff from the Application Services Program introduced themselves; including Sarah Conley, Application Services Manager; Angel Ottley, responsible for application intake support; Eura Trent, Lead of the Application and Licensing Services Unit; Valerie Kearney, responsible for processing CAPTE Accredited PT and PTA Applications; Paul Harrison, responsible for review and licensure of PTA applicants; and Teresa Gutierrez, responsible for processing PT and PTA applications from non-accredited programs.

(B) Statistical Report

Ms. Conley presented the Application Services Report. She noted that the website has been extensively updated with new information for CAPTE accredited graduates, including a new packet which contains a guide to the application process, checklist and forms that are required for applicants. Ms. Conley stated that this packet has only been

posted for a few months. Ms. Conley added that the website has been modified to remove detailed information from the pages and now has short links to help guide an applicant through the application process. Ms. Conley stated that the Application Services Program welcomes any feedback on these changes.

Ms. Conley reported that there is an overall increase in the applications received from CAPTE graduates, with a decrease in applications from foreign educated applicants. Ms. Conley stated that the licenses issued has increased due to process and staffing changes the Board has made to allow for greater efficiency.

23. Licensing Services

(A) Staff Introductions

Board staff from the Licensing Services Program introduced themselves, including Sarah Conley, Licensing Services Manager; and Justin Silva, responsible for license maintenance including processing address changes, duplicate certificates, name changes, return mail and inquiries from all PT and PTA licensees.

(B) Statistical Report

Ms. Conley presented the Licensing Services Report. She reported that the licensing population is continuing to grow. Ms. Conley noted that there has been a decrease in address changes due to licensees using other methods to update their address, other than just a name changes transaction. Ms. Conley reported that duplicate license requests has seen a decrease due to help with the automation of the BreEze system.

24. Continuing Competency Services

(A) Staff Introductions

Board staff from the Continuing Competency Services Program introduced themselves; including Veronica Gutierrez who is responsible for conducting continuing competency audits and working directly with approval agencies for continuing competency.

(B) Statistical Report

Ms. Gutierrez presented the Continuing Competency Services Report. Ms. Gutierrez directed the members to the report included in the agenda book. She reported that for quarter 3, FY 2017/18, PT continuing competency audits had a 92% pass rate with 135 licensees selected. There were 124 PTs who passed, 9 PTs who failed, and 2 PTs that are still pending because the Board requires additional information from the licensee. PTA continuing competency audits also concluded with an 89% pass rate with 46 selected; there were 41 PTAs who passed, and 5 PTAs that failed. Ms. Gutierrez stated that the website has been updated to reflect continuing competency approval agencies

that are recognized by the Board. Ms. Gutierrez stated that staff are currently working on continuing competency audits for quarter 4.

25. Consumer Protection Services

(A) Staff Introductions

Board staff from the Consumer Protection Services Program introduced themselves, including: Vincent Azar, responsible for complaint initiation, processes endorsements, resident reports and also is the Information Technology liaison for the Board; David Laxton, responsible for low level adverse actions and discipline in other states, cease and desist, unlicensed practice and assists other consumer protection analysts in their cases; Carole Phelps, enforcement analyst for the Board and is responsible for handling consumer complaints; and Marney Kincaid, enforcement analyst responsible for working with applicants who have criminal conviction history and also works with continuing competency citations.

(B) Statistical Report

Ms. Ybarra thanked Ms. Karen Nelson for DCA's recognition of Mr. Azar's contribution to the QBirt project.

Ms. Ybarra presented the Consumer Protection Services Report. Ms. Ybarra directed the members to the report included in the meeting materials. She stated that although the licensing population continues to grow, the intake on complaints and discipline has not increased; it is steady. Ms. Ybarra reported that the enforcement performance measure report, which has not been included in the materials, is being revamped by DCA for a better display and will be provided hopefully during the first quarter of next year. Ms. Eleby stated she appreciated the 5-year Performance Measures Milestone sheet included in the materials.

26. Probation Monitoring Report

Ms. Ybarra presented the Probation Monitoring Report on behalf of Monny Martin. Ms. Ybarra directed the members to the probation monitoring report included in the agenda book. She stated that the number of probationers has decreased. Ms. Ybarra reported that fewer licensees have entered into the Maximus program. Last year, there were 11 licensees in the program. This year there were only 4 licensees in the program. Ms. Ybarra informed the Board that the number of licensees that have entered probation is steady.

27. Public Comment on Items Not on the Agenda

Please note that the Board may not discuss or take action on any matter raised during this public comment section that is not included on this agenda, except to decide

whether to place the matter on the agenda of a future meeting. [Government Code sections 11125, 11125.7(a).]

The Board requested public comment on items not on the agenda and no public comments were made. The Board thanked Mr. Floris Van de Ven for attending the meeting and providing public comment under Agenda Item 17(E) and for encouraging his students to attend the meeting.

28. Agenda Items for Future Meeting –

December 5-6, 2018
TBD, Bay Area, CA

Mr. Watkins stated he would be interested in a presentation from acupuncturists on their viewpoint of dry needling to contribute to the Trigger Point Dry Needling (TDN) presentation under Agenda Item 18. Mr. Kaiser stated that he would look into it for a future meeting and would prefer that it be done in Sacramento, rather than during a travelling meeting. Dr. Rabena-Amen noted that the Board was approached regarding the dry-needling presentation, and that it was not solicited.

29. Adjournment

The meeting adjourned at 6:30 p.m.



Physical Therapy Board of California

BUSINESS, CONSUMER SERVICES, AND HOUSING AGENCY - GOVERNOR EDMUND G. BROWN JR.

Physical Therapy Board of California

2005 Evergreen St. Suite 1350, Sacramento, California 95815

Phone: (916) 561-8200 Fax: (916) 263-2560

Internet: www.ptbc.ca.gov



you

Board Members

President

Alicia Rabena-Amen, PT, DPT

Vice-President

TJ Watkins

Members

Jesus Dominguez, PT, PhD

Daniel Drummer, PT, DPT

Katarina Eleby

Tonia McMillian

Physical Therapy Board of California Adopted Meeting Minutes

December 5, 2018 9:00 a.m.

December 6, 2018 9:00 a.m.

University of the Pacific
Day One: Room PHS201
Day Two: Room PHS201
757 Brookside Road,
Stockton, CA 95211

Board Staff

Jason Kaiser, Executive Officer

Sarah Conley, Manager

Liz Constancio, Manager

Elsa Ybarra, Manager

Brooke Arneson, Associate

Analyst

For the sake of clarity, agenda items discussed during the meeting follow their original order on the agenda in these minutes though some agenda items may have been taken out of order during the meeting.

Wednesday, December 5, 2018

1. Call to Order

The Physical Therapy Board of California (Board) meeting was called to order by President Dr. Rabena-Amen at 8:59 a.m. and recessed at 5:02 p.m. on December 5, 2018. The Board reconvened at 9:00 a.m. and adjourned at 3:55 p.m. on December 6, 2018.

2. Roll Call and Establishment of Quorum

Dominguez- Present
Drummer – Present
Eleby – Present
McMillian – Present
Rabena-Amen - Present
Watkins – Present

All members were present, and a quorum was established. Also present at the meeting were: Salwa Bojack, Legal Counsel; Jason Kaiser, Executive Officer; Elsa Ybarra, Sarah Conley, Brooke Arneson, Monny Martin and April Beauchamps.

Dr. Dominguez read the Board's mission statement: To advance and protect the interests of the people of California by the effective administration of the Physical Therapy Practice Act.

3. Special Order of Business – 9:05 a.m.

(A) Petition for Termination of Probation – Vivian Eisenstadt, PT

This matter was heard before a quorum of the Board. Marcie Larson, Administrative Law Judge (ALJ), Office of Administrative Hearings, sat with the Board and presided over the hearing. John Gatschet, Deputy Attorney General, represented the Attorney General of the State of California, under Government Code section 11522. Petitioner Vivian Eisenstadt, PT was present and was represented by legal counsel, Adam Richards. Evidence was received, the record was closed, and the matter was submitted for decision.

(B) Petition for Termination of Probation – Shannon Hill, PT

This matter was heard before a quorum of the Board. Marcie Larson, ALJ, Office of Administrative Hearings, sat with the Board and presided over the hearing. John Gatschet, Deputy Attorney General, represented the Attorney General of the State of California, under Government Code section 11522. Petitioner, Shannon Hill, PT was present and represented herself. Evidence was received, the record was closed, and the matter was submitted for decision.

4. Closed Session

(A) Pursuant to Government code section 11126(c)(3), the Board will convene to Deliberate on Disciplinary Actions and Decisions to be Reached in Administrative Procedure Act Proceedings

(B) Pursuant to Government code section 11126(a)(1), the Board will convene to Consider the Evaluation of Performance of the Executive Officer.

The Board went into closed session at 12:15 p.m. and reconvened at 1:58 p.m. on day one, December 5, 2018 to deliberate on Agenda Item 3. The Board went back into closed session at 3:40 p.m. and adjourned at 5:02 p.m. on day one, December 5, 2018 to deliberate on Agenda Item 4(A).

5. Reconvene Open Session

The Board reconvened at 1:58 p.m. after going into closed session at 12:15 p.m. on day one, December 5, 2018. The Board went back into closed session at 3:40 p.m. and adjourned at 5:02 p.m. on day one, December 5, 2018 to deliberate on Agenda Item 4(A).

6. Review and Approval of June 20-21, 2018 Meeting Minutes – Brooke Arneson

Ms. Arneson presented the draft June 2018 meeting minutes. Dr. Drummer recommended that the Board’s mission statement be added to the meeting minutes. Ms. Eleby corrected the date under Agenda Item 6 from 2017 to 2018. Dr. Rabena-Amen under Agenda Item 16(C), added the year, 2019, to the CPTA Annual Conference. Dr. Drummer requested to add the date and which day of the meeting to adjournment and recess times in the meeting minutes for clarity. Dr. Drummer requested that the motions for removing the approval agency recognition under Agenda Item 21(B) be consistent. Ms. Bojack, legal counsel, recommended that wording of motions be addressed as they occur, as the notetaker’s responsibility is to capture the motions verbatim. Dr. Drummer stated he would like the editorial language to be consistent for the motions.

MOTION: Move that the motion language be consistent across all of the motions in Item 21(B) of the June 2018 meeting minutes that remove approval agency recognition to state “Remove recognition from [insert program name] as a continuing competency approval agency.”

M/S: Drummer/Dominguez

VOTE: Dominguez- Aye
Drummer – Aye
Eleby – Aye
McMillian – Aye
Rabena-Amen - Aye
Watkins – Aye
6-0 Motion carried

Dr. Rabena-Amen amended Agenda Item 23, to read Consumer Protection Services Report. Ms. McMillian amended Agenda Item 24, line 678 to remove a duplicate statement and amended Agenda Item 25 page 675 to add counsel in front of legal.

MOTION: Approve the proposed June 20-21, 2018 Meeting Minutes, as amended.

M/S: Eleby/Rabena-Amen

VOTE: Dominguez- Aye
Drummer – Aye
Eleby – Aye

McMillian – Aye
Rabena-Amen - Aye
Watkins – Aye
6-0 Motion carried

7. Review and Approval of September 13-14, 2018 Meeting Minutes – Brooke Arneson

Ms. Arneson presented the draft September 2018 meeting minutes. Dr. Rabena-Amen questioned whether the request to place the increase of the exempt level of the Executive Officer on the agenda was for annually or at every meeting. Ms. Arneson confirmed the request was made for it to be placed on the agenda annually. Ms. Bojack recommended to add the subsections noticed on the agenda in the Executive Officer's Report meeting minutes. Mr. Kaiser stated that if all subsections in the Executive Officers report are discussed, they can be added to the meeting minutes in the future. Dr. Drummer amended Agenda Item 18 to state that dry needling was performed in the Veteran's Administration Palo Alto Clinic to provide clarity that they are not performing dry needling under the jurisdiction of this Board. Ms. Ybarra, during public comment amended Agenda Item 26, Probation Monitoring Report, page 22, line 852 to better capture what was reported. Mr. Kaiser solicited the Board for their feedback on the meeting minutes. Dr. Drummer responded that he would be in favor of less detail as the webcast is available to add clarity to the discussion. Ms. Bojack, legal counsel, recommended that some agenda items include more detail, for example, rulemaking discussions as detailed minutes are helpful for the rulemaking file.

MOTION: Approve the proposed September 13-14, 2018 Meeting Minutes, as amended.

M/S: Eleby/Watkins

VOTE: Dominguez- Aye
Drummer – Aye
Eleby – Aye
McMillian – Aye
Rabena-Amen - Aye
Watkins – Aye
6-0 Motion carried

8. President's Report – Alicia Rabena-Amen

(A) 2019 Proposed Meeting Calendar

Mr. Kaiser stated that staff have two recommendations for the 2019 calendar. He explained that Thursday and Friday meetings are difficult logistically and incur increased travel expenses and suggested reverting back to Wednesday and Thursday meetings. In addition, he encouraged that the March and December meetings be held in Sacramento and the June and September meetings on the road to due to scheduling logistics during the holidays and to increase student participation and outreach when the Board visits campuses. The Board responded that Thursday and Friday meetings worked better for their schedules. Mr. Kaiser suggested having the March and December meetings in Sacramento on Thursday and Friday and the June and September meetings on the road on Wednesday and Thursday. The Board agreed with Mr. Kaiser's suggestion. Dr. Drummer asked if the June meeting dates could be moved to Thursday, Friday, June 20-21, 2019 so that he and Dr. Dominguez could attend BMOT training on Wednesday, June 19, 2019 before the meeting. Mr. Kaiser stated that he would connect with CSU Long Beach to see if they had availability to host on Thursday and Friday instead.

MOTION: Approve the proposed 2019 Meeting Calendar as amended.

M/S: Drummer/Eleby

VOTE: Dominguez- Aye
Drummer – Aye
Eleby – Aye
McMillian – Aye
Rabena-Amen - Aye
Watkins – Aye
6-0 Motion carried

(B) 2020 Proposed Meeting Calendar

Mr. Kaiser suggested that the Board implement the changes made to the 2019 calendar to the 2020 calendar. The Board agreed with the amendments to the 2020 calendar. Dr. Drummer asked that Board members receive meeting materials as early as possible to allow for adequate review before the Board meeting.

9. **Executive Officer's Report – Jason Kaiser**

Mr. Kaiser presented the Executive Officer's Report.

(A) Administrative Services

Mr. Kaiser reported that the Administrative Services Program is recruiting for an Office Technician to serve as the receptionist and provide administrative support to the programs. He reported that staff have arranged for temporary staffing from

ACC Senior Services, which assists with job training and finding employment. The Board welcomes Wanda Hoggard who has been tremendously helpful.

(B) Applications

The Board was referred to Agenda Item 22 for a detailed report.

(C) Licensing/Continuing Competency

The Board was referred to Agenda Item 23 and 24 for a detailed report.

(D) Consumer Protection Services

The Board was referred to Agenda Item 25 for a detailed report.

(E) Outreach

The Board was referred to Agenda Item 21(B) for a detailed report.

(F) PTBC Relocation

Mr. Kaiser reported that there has been progress in planning and evaluating the Board's space needs for the move upstairs and staff have been working with DCA and DGS in finalizing the numbers and continuing with the space planning. The square footage numbers have been recalculated several times to project for future growth incorporating legislative and budget change proposals. Mr. Kaiser informed the Board that the estimates for square footage have changed from 4400 sq. feet to 8500 sq. feet. Mr. Kaiser stated that they started demo this week and staff are hopeful that possibly at this time next year the Board may be in its new space. Dr. Rabena-Amen questioned what will happen when the lease expires in March 2019? Mr. Kaiser responded that the Board will enter a month to month lease until it is able to move upstairs and that the landlord is very amendable to keeping the Board as tenants in the building.

(G) Strategic Plan

Mr. Kaiser reported that staff have been working with DCA's Publishing Design and Editing unit and the strategic plan was published and distributed on September 26, 2018. He stated that staff have already met with SOLID to create an action plan to guide completion of the strategic objectives by establishing timelines, identifying major tasks and assigning responsible parties. Dr. Rabena-Amen stated that she liked having an update on the strategic plan in the Executive Officer's Report. Dr. Drummer added that he shared the Board's strategic plan at the FSBPT annual meeting and everyone was impressed. Mr. Kaiser stated that only 4 states out of the 53 jurisdictions do strategic planning, so it is an unfamiliar concept to the other jurisdictions that attended the FSBPT meeting.

10. Discussion and Possible Board Action for the Increase in the Exempt Level of the Executive Officer – *Alicia Rabena-Amen*

Dr. Rabena-Amen stated that the Board asked for the increase in the exempt level of the Executive Officer be placed on the agenda each year to revisit to look at the growth of the Board and provide a status update of the request. Dr. Rabena-Amen added that the Board formed a committee at the previous meeting to draft a letter and prepare and draft supporting documentation for presentation at the December meeting.

Ms. Eleby reported on behalf of the committee. She stated that she met with Mr. Watkins and they drafted a letter which they sent to Board staff for feedback. Mr. Kaiser provided the letter to the Board which included staff's feedback. Mr. Watkins reported that the committee suggested a face to face meeting with Business, Consumer Services and Housing Agency (Agency) Secretary, Alexis Podesta to hear the reasons why the requested level of the Executive Officer was not approved. Dr. Drummer thanked the Committee on their hard work on crafting the letter. The Board reviewed and made edits to the letter provided by the committee. Dr. Drummer suggested to revise the signature of the letter and proposed that the Board President sign the letter on behalf of the Board and list the names of the Board members. The Board agreed with this edit. Mr. Watkins clarified that this letter would be the first step for the Board to get information on why the level increase of the Executive Officer was not approved and therefore the letter should stand alone, and request a meeting with Agency, and not be a cover for the entire exempt level increase package.

Ms. Bojack, legal counsel, advised that where the letter was not identified on the agenda or included in the meeting materials that the Board might wish to consider taking up the letter at the next Board meeting for a motion. Dr. Drummer responded that the minutes from the September meeting show that the intent of the committee and letter was clear; that at the December meeting action would be taken on the letter. Dr. Rabena-Amen asked counsel for clarification on what the agenda should look like in the future to address this agenda item for the Board to take a motion. Ms. McMillian stated that discussion and possible board action should suffice, and Ms. Eleby agreed. The Board further reviewed and made edits to the letter drafted by the committee. Dr. Rabena-Amen thanked the committee for their hard work on the letter.

MOTION: Adopt the letter as amended, from the committee, and authorize the Board President to present the letter to Alexis Podesta with the Business, Consumer Services and Housing

Agency and grant the Board President the authority to make non-substantive changes should any be required.

M/S: Drummer/McMillian

VOTE: Dominguez- Aye
Drummer – Aye
Eleby – Aye
McMillian – Aye
Rabena-Amen - Aye
Watkins – Aye
6-0 Motion carried

11. Consumer and Professional Associations and Intergovernmental Relation Reports

(A) Federation of State Boards of Physical Therapy (FSBPT)

No representatives were present. Mr. Kaiser reported that there is potential for Board members to attend regulatory training at FSBPT in June 2019, and that staff are waiting to hear back from FSBPT on additional information and how many members per jurisdiction may attend. Mr. Kaiser informed the Board that once we know more about the training, staff will reach out to members to see who is interested and available to participate in the regulatory training. Dr. Rabena-Amen added that the last email she received from FSBPT regarding the regulatory training was soliciting for feedback on availability.

Dr. Rabena-Amen stated that because the Foreign Educated Standards Committee did such great work in the past, there aren't any pressing issues to continue the committee, so the committee has been dissolved and if there is a need in the future they will form a taskforce.

(B) Department of Consumer Affairs (DCA) – Executive Office

Karen Nelson, Assistant Deputy Director of Board and Bureau Services provided an update to the Board on behalf of DCA. Ms. Nelson reported that the Director's Quarterly Meeting was held on October 29, 2018 and the Director provided an update on the Division of Investigation's (DOI) Client Survey, the Executive Officer's salary study and shared draft plans to assist the Boards and Bureau's with implementing AB 2138 by 2020.

Ms. Nelson reported that DCA's Public Affairs Office previewed a new video which provides an overview of DCA. She stated that December 7th is the second Board member and advisory leadership call and look forward to having Mr. Watkins on the call.

Ms. Nelson thanked the Board for being active in the licensing enforcement workgroups which continue to occur monthly and in October and November OIS previewed an interactive data tool to show performance metrics and performance measures and allow programs to customize that data to look at trends and any other analysis of that data. Ms. Nelson thanked Mr. Azar from the Board for being so helpful in these workgroups.

Ms. Nelson reported that the Future Leadership Program in September had its second cohort and thanked Mr. Kaiser for his active participation in the steering committee. Ms. Nelson stated that the Executive Officer's salary study is expected to take about 6 months and is anticipated to conclude Spring of 2020 and the consulting firm will be sending out a survey for completion to the Executive Officer's. Ms. Nelson reported that Board Member Orientation Training (BMOT), which is required within one year of appointment or reappointment to the Board, will be held March 27, 2019, June 19, 2019 and October 23, 2019.

Dr. Drummer asked where the BMOT training will be held in June and Ms. Nelson responded in the Southern California area, a location has not been finalized yet.

Mr. Watkins asked Ms. Nelson what the primary objective of the Executive Officer's Salary study is, and Ms. Nelson responded that it will look at the complexity, size and different responsibilities of the Executive Officer's within DCA.

Dr. Rabena Amen asked Ms. Nelson to provide additional information regarding DOI's Client Survey. Ms. Nelson responded that DOI partnered with SOLID to provide a survey to DCA's Board's and Bureau's to rate the level of service. Ms. Nelson stated she would be happy to share the results of the survey with the Board upon completion.

Dr. Rabena-Amen asked Ms. Nelson if there were plans to have a joint meeting the Director with Board leadership and the Executive Officer in attendance. Ms. Nelson responded that last year one of the four scheduled meetings included a joint attendance of Board President and Executive Officer and it will be the same this year.

(C) California Physical Therapy Association (CPTA)

Stacy DeFoe, Executive Director of the California Physical Therapy Association (CPTA), informed the Board that in April, CPTA will be holding student conclave at University of Pacific, Stockton and that the Board will be in attendance and

covering one of the sessions. Ms. DeFoe reminded the Board that CPTA's annual conference this year is a joint conference and will be held in Las Vegas, NV and that she is aware there may be logistical issues with travel for the Board, however would love to see the Board attend the conference and if there was anything CPTA could do to help facilitate the Board's attendance CPTA would be happy to do so.

Ms. DeFoe updated the Board that AB 2423, Physical Therapists: Direct Access to Services: Plan of Care Approval was signed by the Governor and will go into effect January 1, 2019.

Ms. DeFoe reported that physical therapists (PT's) and occupational therapists (OT's) who are providing contract services to Nonpublic, Nonsectarian Agency (NPA) and Nonpublic, Nonsectarian School (NCS) were being required by the California Department of Education (DOE) to submit to an audit. She stated this was causing a hardship to those providing these services as clear language on what the audit would entail was not provided and it could be very costly. CPTA worked with DOE and was able to get clarification that PT's and OT's providing these services were not required to participate in the audit. Dr. Rabena-Amen asked Ms. DeFoe to provide an example of an NPA. Ms. DeFoe stated that there are agencies working with children that are set up as private agencies and contract with PT's to provide services; they usually work with the school; but are not a public agency or school, they are private.

Ms. DeFoe informed the Board that CPTA believes that the Athletic Trainer bill will be back during the next legislative session and reported that CPTA is not in opposition to regulation of athletic trainers however wanted to make sure that it is in line with their education and training.

Ms. DeFoe reported that an issue with third party payers especially in the areas of workers compensation; she stated that there are third party entities that come in and work with payers and provide discounts to the payers at the expense to PTs providing the services. She stated that CPTA has been looking at this over the past few years and is working with other organizations to put together strategies to resolve this issue.

Dr. Rabena-Amen shared that the Board had a great presentation at the September meeting on dry needling and asked CPTA if they had any comment. Ms. DeFoe responded that CPTA does not currently have any comment and that

Acupuncture Laws Relevant to Discussion on Dry Needling

BPC 4927

As used in this chapter, unless the context otherwise requires:

(a) “Board” means the Acupuncture Board.

(b) “Person” means any individual, organization, or corporate body, except that only individuals may be licensed under this chapter.

(c) “Acupuncturist” means an individual to whom a license has been issued to practice acupuncture pursuant to this chapter, which is in effect and is not suspended or revoked.

(d) “Acupuncture” means the stimulation of a certain point or points on or near the surface of the body by the insertion of needles to prevent or modify the perception of pain or to normalize physiological functions, including pain control for the treatment of certain diseases or dysfunctions of the body, and includes the techniques of electroacupuncture, cupping, and moxibustion.

(e)(1) “Supervising acupuncturist” means a person who meets the following conditions:

(A) Is licensed to practice acupuncture in this state and that license is current, valid, and has not been suspended or revoked or otherwise subject to formal disciplinary action, unless approved by the board.

(B) Has practiced as a licensed acupuncturist in this state for at least five years.

(2) Is in compliance with subdivision (j) of Section 4955.

(f)(1) “Acupuncture assistant” means a person who, without a license, may perform basic supportive acupuncture procedures under the supervision and order of an acupuncturist.

(2) The supervising acupuncturist shall be physically present and available in the place of practice during the performance of any ordered basic supportive acupuncture procedures.

(3) The supervising acupuncturist engaging the services of an acupuncture assistant shall be responsible for the training and overall competency of the acupuncture assistant, including the ability to perform any specific basic supportive acupuncture service.

(4) The supervising acupuncturist shall ensure the acupuncture assistant meets the following:

(A) Is enrolled in an approved educational and training program and has completed at least a minimum of 700 hours of clinical practice or has completed an approved educational and training program.

(B) Holds a certificate in Clean Needle Technique issued by the Council of Colleges of Acupuncture and Herbal Medicine, or its successor entity, or has

completed an approved educational and training program's Clean Needle Technique course using the Council of Colleges of Acupuncture and Herbal Medicine Clean Needle Technique, 7th edition, revised 1/2016.

(g)(1) "Basic supportive acupuncture service" means any of the following:

(A) Needle removal.

(B) Cupping.

(C) Moxibustion.

(D) Gua sha.

(E) Any other service listed under subdivision (b) of Section 4937.

(2) "Basic supportive acupuncture service" does not include diagnosis, point location, needle insertion, electrical stimulation, rendering advice to patients, or any other procedure requiring a similar degree of judgment or skill.

(Amended by Stats. 2023, Ch. 682, Sec. 1. (AB 1264) Effective January 1, 2024.)

BPC 4935

(a) (1) It is a misdemeanor, punishable by a fine of not less than one hundred dollars (\$100) and not more than two thousand five hundred dollars (\$2,500), or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment, for any person who does not hold a current and valid license to practice acupuncture under this chapter or to advertise or otherwise represent that he or she is practicing or engaging in the practice of acupuncture.

(2) It is a misdemeanor, punishable by a fine of not less than one hundred dollars (\$100) and not more than two thousand five hundred dollars (\$2,500), or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment, for any person to fraudulently buy, sell, or obtain a license to practice acupuncture, or to violate the provisions of this chapter.

(b) Notwithstanding any other law, any person, other than a physician and surgeon, a dentist, or a podiatrist, who is not licensed under this article but is licensed under Division 2 (commencing with Section 500), who practices acupuncture involving the application of a needle to the human body, performs any acupuncture technique or method involving the application of a needle to the human body, or directs, manages, or supervises another person in performing acupuncture involving the application of a needle to the human body is guilty of a misdemeanor.

(c) A person advertises or otherwise represents that he or she is practicing or engaging in the practice of acupuncture by the use of any title or description of services incorporating the words "acupuncture," "acupuncturist," "certified acupuncturist," "licensed acupuncturist," "Asian medicine," "oriental medicine," or any combination of those words, phrases, or abbreviations of those words or phrases, or by representing that he or she is trained, experienced, an expert, or otherwise qualified to practice in the field of acupuncture, Asian medicine, oriental medicine, or any other complementary or integrative medicine that

involves acupuncture and is associated with an Asian subgroup, including Chinese medicine, Japanese medicine, or Korean medicine.

(d) Subdivision (a) shall not prohibit a person from administering acupuncture treatment as part of his or her educational training if the person is either of the following:

(1) Engaged in a course or tutorial program in acupuncture, as provided in this chapter.

(2) A graduate of an approved educational and training program and participating in a postgraduate review course that does not exceed one year in duration at an approved educational and training program.

(Amended by Stats. 2018, Ch. 596, Sec. 4. (AB 3142) Effective January 1, 2019.)