

1 **MEETING MINUTES**

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3
4 **February 8, 2021**
5 **8:30 A.M. – 12:00 P.M.**

6 **Physician Assistant Board Meeting Was Held Via WebEx**

7
8
9 **1. Call to Order by President**

10 President Armenta called the meeting to order at 8:38 a.m.

11
12
13 **2. Roll Call**

14 Staff called the roll. A quorum was present.

15
16 Board Members Present: Charles Alexander, PhD
17 Juan Armenta, Esq.
18 Jennifer Carlquist, PA-C
19 Sonya Earley, PA-C
20 Jed Grant, PA-C
21 Randy Hawkins, M.D.
22 Diego Inzunza, PA-C

23
24
25 Staff Present: Rozana Khan, Executive Officer
26 William Maguire, Attorney
27 Karen Halbo, Regulatory counsel, Attorney III
28 Julie Caldwell, Lead Licensing Analyst
29 Kristy Voong, Probation Monitor
30 Armando Melendez, Complaint Analyst
31 Christina Haydon, Enforcement Analyst
32 Ariel Gompers, Administrative Analyst

33
34 **3. Approval of the November 9, 2020 Board Meeting Minutes**

35
36 M/ Jed Grant S/ Sonya Earley to:

37
38 Approve the November 9, 2020 Meeting Minutes.

39

| Member | Yes | No | Abstain | Absent | Recusal |
|--------------------|-----|----|---------|--------|---------|
| Charles Alexander | X | | | | |
| Juan Armenta | X | | | | |
| Jennifer Carlquist | X | | | | |
| Sonya Earley | X | | | | |
| Jed Grant | X | | | | |
| Randy Hawkins | X | | | | |
| Diego Inzunza | X | | | | |

40
41 Motion approved with the conditions to make the following corrections: change "The
42 Governor's responsible" on line 398 of page 9 to read "The Governor's office is
43 responsible", change "Mr. Alexander" to "Dr. Alexander" throughout the minutes, and

44 on page 19, insert the word “next” changing the text from “agenda items for the
45 meeting” to “agenda items for the next meeting”.

46
47 No public comment.

48 49 **4. Public Comment on Items not on the Agenda**

50
51 (Note: The Board may not discuss or take action on any matter raised during this
52 public comment section that is not included on this agenda, except to decide
53 whether to place the matter on the agenda for a future meeting. [Government Code
54 Sections 11125, 11125.7(a).])

55
56 No public comment.

57 58 **5. Reports**

59 a. President’s Report

60 61 **DCA Approved Waivers Relating to the Practice of Physician Assistants**

62
63
64 Mr. Armenta reported that pursuant to the Governor’s Executive Order N-39-20, the
65 Director of the California Department of Consumer Affairs (Director) may waive any
66 statutory or regulatory renewal requirements pertaining to individuals licensed
67 pursuant to Division 2 of the Business and Professions Code (Code). The Director
68 temporarily waives any statutory or regulatory requirement that individuals renewing a
69 license pursuant to Division 2 of the Code take and pass an examination in order to
70 renew a license; and or demonstrate compliance with any continuing education
71 requirements in order to renew a license. This does not apply to licensees operating
72 under any disciplinary order, and the renewal requirements may be further extended.

73
74 Additionally, the Director temporarily waives the statutory or regulatory requirement
75 that an individual seeking to reactivate or restore a license originally issued pursuant
76 to Division 2 of the Code, complete, or demonstrate compliance, with any continuing
77 education requirements in order to reactivate or restore a retired, inactive or
78 canceled license; and pay any fees in order to reactivate or restore a retired,
79 inactive, or canceled license. These waivers apply only to an individual’s license that
80 is in a retired, inactive, or on canceled status, and has been in such status no longer
81 than five years.

82
83 The Director also extended three additional orders relating to Physician Assistants,
84 Nurse Practitioners and Nurse-Midwife supervision until April 9, 2021.

85 86 **Update on Joint Sunset Review Oversight Hearing**

87
88 Mr. Grant reported that he was accompanied by Ms. Khan when presenting the
89 Board’s Sunset Report to the Legislature. For those unfamiliar with this process, the
90 Sunset Review process was created by the Legislature to assist the Legislature with
91 its oversight responsibilities and allows the Legislature to determine if various boards
92 are performing as intended. The Board is required to prepare a Sunset Report every
93 four years for submission to the Legislature, reporting what the Board is doing, and
94 whether the Board is meeting the mandates laid out for the Board regarding public
95 protection. The Board followed this process, answered the Legislature’s questions in

96 terms of Board activities and what direction the Board is moving. Mr. Grant stated
97 that currently there are no crises causing any sort of an existential threat to the
98 Board and that the main focus of the presentation was to provide a status of the
99 Board's Strategic Plan, actions taken to implement changes based on the Strategic
100 Plan, the volume of work completed by the Board to implement changes related to
101 SB 697, and the goal of ultimately becoming a fully independent board.
102

103 **Stakeholder Meeting**

104
105 Mr. Armenta reported that on January 14, 2021, select members of the Board, Board
106 staff and the Board's legal counsel met with stakeholder California Academy of
107 Physician Assistants (CAPA) via teleconference. In attendance were the following
108 individuals: Teresa Chien, CAPA Executive Officer; Brett Bergman, CAPA President;
109 Ed Howard, CAPA Advisor Attorney; Mr. Armenta, Board President; Mr. Grant,
110 Board member; Ms. Khan, Board's Executive Officer; Mr. Maguire, Board's legal
111 counsel; and Ms. Halbo, Board's regulatory legal counsel. The purpose of this
112 meeting was to receive CAPA's input and comment on regulatory matters. Mr.
113 Armenta reported that the meeting was productive, there were more agreements
114 than disagreements on how to effectuate regulatory oversight, and all participants
115 hope to continue similar interaction in the future. All participants considered the
116 points from each side, and there were some suggestions from CAPA reflected in the
117 regulatory language that were quite cogent and furthered the goals of seeking to
118 promote the practice of PAs and public protection. Mr. Armenta stated that CAPA
119 agreed to revisit Business and Professions Code (BPC), section 3502.1 and its
120 revision of tying qualifications to a specific date, which could be problematic in an
121 age where technologies are changing much faster than statues or regulations. Mr.
122 Armenta stated that the cooperation was appreciated by both himself and by the
123 Board as a whole. Leadership on both sides of the equation is new, there is a good
124 foundation moving forward and thanked everyone for their assistance.
125

126 **Acknowledge of Mr. Grant**

127
128 Mr. Armenta further commented that Mr. Grant is a Major in the United States Army
129 and will be deployed to the Middle East soon. He thanked Mr. Grant for asking him
130 to step forward and for nominating him to serve as the Board's president and Ms.
131 Earley's nomination for vice president. He thanked Mr. Grant for his service to the
132 Board and to the country and looks forward to his safe and speedy return. His
133 expertise and leadership on the Board is appreciated.
134

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

136 **Pandemic Response**

137
138
139 Ms. Khan reported that the Board's office is operational and open to the public
140 during the COVID-19 pandemic. Board staff continues to be on a rotational telework
141 schedule and is providing essential services to applicants, licensees, and
142 consumers.
143

144 **Personnel**

145
146 Ms. Khan reported that since the Board last met, staff has successfully filled some
147 critical positions. Effective January 4, 2021, Julie Caldwell was promoted to the Lead

148 Licensing Analyst position. Ms. Caldwell has held various positions with the Board
149 including Administrative Analyst and most recently as a Licensing Analyst. Effective
150 January 11, 2021, Christina Haydon filled the Discipline Analyst position. Ms.
151 Haydon joined the Board from the Medical Board of California's (MBC) Discipline
152 Coordination Unit where she was the public disclosure analyst for Medical Board,
153 Physician Assistant Board, and the Podiatric Medical Board since April 2011.
154 Effective January 19, 2021, Ariel Gompers filled the Administrative Analyst position
155 left vacant by Ms. Caldwell. Ms. Gompers joins the Board from Caltrans, where she
156 was the Office Technician for the Director and two other Executive staff members.
157 Staffing recruitment efforts are underway to fill the vacant Licensing Analyst position
158 and the newly created Associate Analyst position to perform the analysis of
159 legislative and regulatory workload and maintain oversight of the Board's budget.
160

161 **Information Technology**

162
163 Ms. Khan reported that Board staff is currently working with the Department of
164 Consumer Affairs' (DCA) Office of Information Technology to migrate to the DCA
165 server. This migration is tentatively scheduled for the week of February 15, 2021.
166 Once the migration is complete, board members and staff email extensions will
167 change from "@mbc.ca.gov" to "@dca.ca.gov". Board staff met with the DCA's
168 Office of Information Technology via Teams to discuss revamping the Board's
169 outdated website. The new design and layout of the website will streamline the
170 information presented and make it more user friendly. Lastly, in fulfilling the Board's
171 2019-2023 Strategic Plan - Objective 4.1, the Board continues to utilize Facebook
172 and Twitter social media platforms to maximize outreach and communication.
173

174 In response to Mr. Armenta's question of what the time frame is for filling the vacant
175 staff positions, Ms. Khan responded that the Licensing Analyst position has been
176 posted, will close this week, and applications will be screened. Interviews for the
177 Regulatory Analyst position are complete, and she is awaiting clearance from Office
178 of Human Resources (OHR).
179

180 Mr. Grant reported that as part of the personnel changes, Ms. Khan was sworn in on
181 December 1, 2020, as the Board's new Executive Officer. Mr. Grant recognizes this
182 important change and thanked her for her service to the Board while serving as the
183 Interim Executive Officer and her continued service as the Executive Officer.
184

185 Dr. Alexander also congratulated all the new hires and a special congratulations to
186 Ms. Caldwell on her promotion.
187

188 Mr. Armenta congratulated all the new staff and those being promoted.
189

190 c. Board Activity Reports

191 **Licensing**

192
193
194 Ms. Caldwell reported that the Licensing Population by Type report provides an
195 overall view of the licensing population and different statuses. As of January 25,
196 2021, the Board's licensing population is as follows:
197

198 Licensing Population by Type

200 Total Licensing Population: 20,778
201 Current Licenses: 14, 413
202 Inactive Licenses: 31
203 Total Current Licenses: 14, 444
204
205

206 Summary of Licensing Activity Report for July 1, 2020 to December 31, 2020:
207

208 Applications received – 816
209 Licenses issued – 741
210 Licenses renewed – 3,150
211

212 Pending Application Workload Report as of January 28, 2021:
213

- 214 • Pending Applications – 282
 - 215 • Desk Age:
 - 216 ○ 0-30 days: 174
 - 217 ○ 31-60 days: 77
 - 218 ○ 61-90 days: 22
 - 219 ○ 91 plus days: 9
- 220

221 Licensing Performance Measures for October 1, 2020 to December 21, 2020:
222

- 223 • Complete Applications: 126
 - 224 • Incomplete Applications: 310
- 225

226 Ms. Caldwell reported that the application age begins once the application is
227 submitted and payment received. The desk age begins once the application is
228 assigned to a specific staff member. Staff's goal is to review applications within 30
229 days of receipt. There are various reasons that impact the age of an application such
230 as failing the Physician Assistant National Certifying Examination (PANCE), applying
231 months before graduating from an approved program, or moving from another state,
232 and difficulties arising in completing the application requirements. Ms. Caldwell
233 reported that most applicants receive the initial review within 30 days of applying for
234 licensure and are frequently issued their license within the same time frame.
235

236 Mr. Grant requested clarification of whether the desk age calculation begins before
237 the application is complete, because if the calculation begins before the application
238 is complete, then the Board may need to think about what those numbers mean. Ms.
239 Caldwell stated that the application age begins once the application and payment
240 are received; however, the desk age begins once the application is assigned to a
241 staff member. Once the application is reviewed and it is determined that the
242 application is incomplete, a milestone marker is placed on the applicant's account.
243 The milestone marker stops the calculation of days that the Board is responsible for
244 the application and places it back on the applicant. For example, if an application is
245 received on January 1st (application age begins), reviewed on January 22nd and
246 application deficiencies are noted, a milestone marker is placed on the account and
247 places the responsibility back on the applicant. Ms. Caldwell stated that the most
248 common application deficiencies are the delay in receiving a verification(s) and the
249 receipt of the PANCE. Once all the requirements are met, a milestone marker end
250 date is added to the applicant's account which reverts the responsibility back to the

251 Board.

252
253 In response to Mr. Grant's question of whether the desk age accurately reflects how
254 long it's taking the Board to process applications including incomplete applications,
255 Ms. Caldwell responded, yes.

256
257 In response to Mr. Armenta's questions of whether bottlenecks are reflected on the
258 chart or is the delay the normal processing time taking into account that the clock
259 stops when the responsibility to move forward is placed on the applicant, Ms.
260 Caldwell responded yes. If the application is complete upon the initial review, the
261 application would be considered approved and the license would be issued. Once
262 the last requirement is fulfilled, there may be a delay in the issuance of the license
263 due to regularly scheduled days off or other responsibilities of the licensing desk.
264 The milestone marker end date is the date that the Board received the last
265 application requirement. Board staff is currently meeting the goal of completing the
266 initial review within 30 days of receiving the application and is frequently able to
267 issue the license within the 30-day goal.

268
269 In response to Dr. Hawkins' question of whether there is a major reason why some
270 of the desk ages are 90 days or more, Ms. Caldwell responded it may be because of
271 disciplinary history, whether it's by another agency or licensing agency within
272 California, or criminal history may play a factor. The Board's current application for
273 licensure does not contain criminal history questions, but the information may be
274 disclosed by the applicant or contained within the results of the background check,
275 and then the Board requests documentation which may result in a delay. Another
276 reason for the application age to increase may be due to the applicant failing the
277 PANCE and the applicant is required to wait before retesting. Although the Board is
278 currently accepting verifications and program certifications by email, some agencies
279 are slow to provide a verification even prior to COVID-19, and this causes a delay in
280 licensure.

281
282 In response to Mr. Armenta's question as to why an application may be considered
283 incomplete, is it due to the responsibility being placed back on the applicant, Ms.
284 Caldwell responded that it could be a combination of reasons such as the application
285 has not been reviewed or that the review is complete, but the licensing requirements
286 have not been met.

287
288 In response to Mr. Grant's question of whether it is helpful for the PA programs to tell
289 students to start the application process prior to graduating and/or before taking the
290 PANCE or would staff prefer that the student wait until they are closer to graduation,
291 Ms. Caldwell responded that she believes that the application instructions state to
292 apply within 30 days of graduation. She doesn't recommend applying three or four
293 months prior to graduation. Applicants are required to complete the application
294 process one year from the date the Board receives the application and at risk that
295 the application may expire if they experience significant delays, such as failing the
296 PANCE. If the application expires, the applicant is required to start the process over.
297 Currently, the Board is both completing the initial review and providing an update to
298 applicants within 30 days, so if the application is submitted 30 days prior to
299 completing the PA program, that is sufficient.

300
301 Mr. Armenta requested that Ms. Khan update the Board's website to include the
302 information for new graduates advising when to submit their application for licensure.

303 Ms. Earley supported that request.

304

305 No public comment.

306

307 **Enforcement**

308

309 Mr. Melendez reported the following enforcement activity for the period of October 1,
310 2020, to December 31, 2020:

311

- 312 • Complaints – Intake

- 313 ○ Complaints received – 84

- 314 ○ Assigned to desk analyst (**may include cases received in previous
315 quarters) – 93

- 316 ○ Pending at intake – 0

- 317 • Complaints and Investigations

- 318 ○ Complaints referred for investigation – 18

- 319 ○ Complaints and investigations closed** – 72

- 320 ○ Complaints pending at desk analyst** – 149

- 321 ○ Investigations pending at field** – 105

- 322 ○ Average age of pending investigations** – 357

- 323 ○ Investigation over 8 months old – 62

- 324 ○ Automatic suspension order – 0

- 325 ○ Cease practice order – 0

- 326 ○ Interim suspension order - 0

- 327 • Office of Attorney General Cases

- 328 ○ Cases initiated – 5

- 329 ○ Cases pending** - 27

- 330 ○ Average age of pending cases** - 379 days

331

332 Ms. Haydon reported the following formal actions filed, withdrawn and dismissed for
333 the period of October 1, 2020 to December 31, 2020:

334

- 335 • Formal Actions Filed/Withdrawn/Dismissed

- 336 ○ Accusations filed – 4

- 337 ○ Accusation and/or Petition to Revoke Probation Filed - 1

- 338 • Administrative Outcomes/Final Order

- 339 ○ License application denied – 1

- 340 ○ Probation – 2

- 341 ○ Surrender - 3

- 342 • Citations and Fines (July 1, 2020 to September 30, 2020)

- 343 ○ Pending – 0

- 344 ○ Fines due - \$0

- 345 • Citations and Fines (October 1, 2020 to December 31, 2020)

- 346 ○ Fines due from previous/current quarters - \$0

347

348 Ms. Haydon stated that the majority of the cite and fines are a result of the CME
349 audits. Due to the current waiver in place, the Board is not conducting any CME
350 audits.

351

352 In response to Dr. Hawkins' question as to the reasons why the application was
353 denied and the licenses surrendered, Ms. Haydon responded that she didn't have
354 the information available.

355
356 Ms. Haydon stated that as a discipline analyst she processes all of the discipline
357 cases, updates the PA's profile, posts the information on the Board's website and
358 reports the information to the National Practitioner Data Bank (NPDB). Page 49 of
359 the Board meeting packet includes an example of a website profile for a PA. When
360 there is disciplinary action or felony convictions, the information is entered into the
361 licensee's profile and is included in the public record action section and considered
362 public disclosure. The Board is federally mandated to report to the NPDB any type of
363 restriction, discipline or suspension. The reports are submitted electronically.

364
365 In response to Mr. Armenta's question of if any thought has been given to a
366 potential bottleneck once the CME waivers cease, Ms. Khan responded that the
367 number of licensees who have not completed their CMEs is low, and for those who
368 have not, the licensee has six months from the expiration date of the last waiver to
369 comply. Ms. Khan stated she is not foreseeing any major backlogs.

370
371 Mr. Grant commented that one of the reasons he believes this will not be a problem
372 is because most PAs are required by their employer to maintain their national
373 certification. Even though the waiver is in place for the state, most PAs are required
374 to maintain their national certification which satisfies the state's CME requirement
375 and reduces the amount of PAs who will fall out of compliance. Mr. Grant believes
376 the way that PA practice is set up, in terms of credentialing, it will unlikely result in a
377 large number of people who have not met the CME requirements.

378
379 Mr. Armenta commented that there seems to be a downward trend in complaints
380 filed comparing FY 2019-20 to FY 2020-21, Mr. Melendez stated that complaints
381 have decreased and it could be a result of COVID-19 and a reduction with in-person
382 visits.

383
384 **Probation**

385
386 Ms. Voong reported the following from page 64 of the Board meeting materials.

387
388 Probation Activity Report as of December 31, 2020:

- 389
- 390 ● Current Probationers – 60
 - 391 ○ Active – 50
 - 392 ○ Tolling – 10
- 393

394 Period of October 1, 2020 to December 31, 2020:

- 395
- 396 ● Entered Probation – 2
 - 397 ● Completed Probation – 3
 - 398 ● Voluntary Surrender – 1
- 399

400 Diversion Program Activity as of December 31, 2020:

- 401
- 402 ● Current participants – 4

403 In response to Dr. Hawkins' earlier question regarding the surrendered licenses in
404 the Enforcement Activity Report, Ms. Voong commented that two of the surrendered
405 licenses were stipulated to surrender their license during the administrative process
406 and one while on probation.

407
408 In response to Dr. Hawkins' question of what is the total number of PAs currently on
409 probation, Ms. Voong responded that there are currently sixty probationers of which
410 fifty are active probationers and ten are non-practice toll status. Tolling status means
411 they are not active probationers because they are not practicing in California, or they
412 are out of state and not serving in active probation with the state licensing board.

413
414 In response to Mr. Grant's question of whether any probationers have reported
415 difficulty in access and compliance due to issues regarding the pandemic, Ms.
416 Voong responded no. Participants are encouraged to follow Centers for Disease
417 Control and Prevention guidelines.

418
419 No public comment.

420 421 **6. Department of Consumer Affairs – Director's Update**

422
423 Carrie Holmes, Deputy Director of Board and Bureau Relations at the DCA thanked
424 the Board for allowing her the opportunity to provide a department update. Ms.
425 Holmes congratulated the Board's selection of appointing Ms. Khan as the Board's
426 new Executive Officer. DCA is here to support the Board as the Board continues to
427 build the team during this challenging time. COVID-19 has affected every aspect of
428 work and after another temporary closure in December due to state local stay-at-
429 home orders, DCA offices are open again with preventative measures in place to
430 safeguard the health and safety of employees and guests. DCA is maximizing
431 telework to help prevent risk for all employee and social distancing, face coverings
432 and frequent hand washing are required for those employees who cannot telework.
433 Ms. Holmes thanked Ms. Khan and Board staff for working so hard to maintain
434 excellent customer service and protect the public during these challenging times.

435
436 DCA is pleased to announce that on January 12, 2021, Governor Newsom
437 appointed Monica Vargas to the role of Deputy Director of Communications at DCA.
438 Ms. Vargas has been an Information Officer at the Governor's Office of Emergency
439 Services since 2015 and was an Information Officer at DCA from 2013 to 2015. On
440 February 2, Governor Newsom appointed Sarah Murillo as Deputy Director of
441 Administrative Services. Ms. Murillo gained a wide range of experience in her nearly
442 20 years of service to Californian's in various state departments including California
443 Complete Count Census 2020. Ms. Murillo comes to DCA with a skill set that makes
444 her well suited to support all the entities within the DCA.

445
446 Ms. Holmes stated one of her top priorities at Board and Bureau Relations is
447 appointments. Currently the Board has three vacancies; one public member
448 appointed by the Senate and two licensee members appointed by the Governor. She
449 stated DCA and all the appointing authorities share the goal of a fully seated, diverse
450 and effective Board. Filling current and upcoming vacancies is a priority. If any
451 members know any great candidates, or if any members of the public attending the
452 meeting are interested in getting involved, please find the link titled "board member
453 resources" on the homepage of the DCA website, www.dca.ca.gov, to apply for an
454 appointment.

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Ms. Holmes advised that 2021 is a mandatory Sexual Harassment Prevention Training year and all employees and board members are required to complete the training. Ms. Holmes reminded the board members that Form 700 filings are due by April 1, 2021. Board members as designated appointees are required to complete a Statement of Economic Interest Form 700, even if there is no reportable interest. For any questions, please contact DCA's filing officer in the OHR. The Board and Bureau Relations has partnered with Solid Training and has developed a new Board member orientation to be held via WebEx on March 11, 2021. As a reminder, newly appointed and reappointed board members are required to take the training within a year. For more details, please visit the Board Member Resource Center at www.dca.ca.gov.

Lastly, to enhance DCA's services to all boards and bureaus, two exciting new initiatives were launched by DCA Director Kimberly Kirchmeyer for 2021. The first initiative is the Executive Officer Cabinet. This group of board and bureau executives will maintain regular communication, provide feedback and information at DCA and assist with special projects that will impact all boards and bureaus. The second initiative is the Enlighten Licensing Project. This work group is being formed to utilize licensing subject matter experts within the entire DCA. The group will help individual boards and bureaus streamline and make their licensing process more effective and efficient by utilizing best practices, information technology, and cost saving measures. These two initiatives are just kicking off and additional updates will be provided. Ms. Holmes stated that the Board and Bureau Relations is here to help and if assistance is required, to please reach out.

In response to Dr. Alexander's question on whether the sexual harassment training required by his employer would satisfy the training required by the DCA, Ms. Holmes responded that she believes it would fulfil the DCA required training but urged Dr. Alexander to provide the information to Ms. Khan in order to work with OHR to determine if it would qualify.

In response to Dr. Hawkins' comment that he was required to complete an ethics training at the end of 2020 as a requirement for a public service position he holds with one of the advisory committees of the Food and Drug Administration (FDA) and questioned if there is a general rule regarding substituting trainings, Ms. Holmes responded that there isn't a general rule due to the many factors and the decision to substitute certificates of completion would be based on a case-by-case situation.

Mr. Grant commented that in the past the Board members discussed the possibility of creating a spreadsheet to track the required trainings and impending due dates, and then to receive an email from Board staff reminding the Board member of the required training, deadline and how to access the training. Ms. Caldwell commented that Ms. Gompers is scheduled to attend a training liaison meeting and will be working on a spreadsheet to provide to Board members and staff outlining required training.

Ms. Earley also commented that the email reminders were very helpful and looks forward to receiving them in the future.

No public comment.

507 **7. Budget Update (DCA Budget Analyst)**

508
509 Paul McDermott, DCA Budget Analyst, introduced himself as the Board's new
510 budget analyst, and stated that he has the distinct privilege of assuming the position
511 vacated by Marie Reyes. Ms. Reyes, who is now retired, served as the Board's
512 previous budget analyst and left him with well executed reports. Mr. McDermott
513 presented and reviewed the Fund Condition Report and the Projected Expenditures
514 Report.

515
516 **Fund Condition Report**

517
518 This report shows the fund as a Board, the Board's revenue streams are located at
519 the top of the report and the expenditures are located toward the bottom of the
520 report. Included in the report for fiscal year (FY) 2019-20 is the repayment of a \$1.5
521 million dollar General Fund (GF) loan and an interest payment of \$45,000 related to
522 the repayment of the GF loan. The revenue stream for FY 2020-21 is on track;
523 renewal fees are higher this FY compared to last FY. Mr. McDermott stated that the
524 current year column, FY 2020-21, includes projected dollars based on what he has
525 seen for the first five months. The amounts are fluid, they will change, but provide a
526 close to a real time revenue stream as he can provide.

527
528 FY 2020-21 shows a GF loan of \$116,000 to assist with the DCA's costs due to the
529 pandemic. Similar GF loans were made by all boards and bureaus. The GF loan is
530 scheduled to be repaid within 3-4 years or immediately if the Board becomes
531 insolvent.

532
533 Total projected expenditures for FY 2020-21 are \$2.697 million. Expenditures for FY
534 2019-20 were \$1.8 million. The Board's projected fund balance is \$4.583 million
535 dollars with a 17.6 month reserve. The reserve is important because if all resources
536 and revenues were to cease, the Board would still be able to operate for 17.6
537 months. A six to twelve month reserve is considered a healthy fund. Mr. McDermott
538 stated he doesn't see anything that the Board has to worry about as long as the
539 trends stay the way they are.

540
541 In response to Ms. Earley's request to elaborate as to the reason why there is a loan
542 increase when the Board's expenditures have decreased in areas such as travel and
543 mail services, Mr. McDermott responded that the loan itself was not part of the
544 original expenditure projection for the current fiscal year, but because of the
545 pandemic the loan has grown. Statute provides authority for the DCA to borrow a
546 percentage for the GF and they divide it up amongst all the boards. If there was not
547 a pandemic, then that line item would have been zero.

548
549 In response to Mr. Grant's question of why Mr. McDermott anticipates the Board's
550 expenditures increasing each year and a reminder that if the fund gets to twenty-four
551 months, the Board has to revert money, Mr. McDermott responded by reviewing the
552 Expenditure Projection Report.

553
554 **Expenditure Projection Report**

555
556 The second column titled "Budget" is the budgeted amount of \$645,000 for salaries.
557 This column increased basically because of increases in salaries that include a merit
558 salary adjustments (MSA) increase. Even though this year the budgeted amount for

559 salaries started with a small decrease because of the 10% pay cut across the Board,
560 the Board is filling more positions this year and this line item captures that increase.
561 Last fiscal year the budgeted amount for salaries was \$401,000, there was a salary
562 savings because the Board didn't fill positions; however, because he is projecting to
563 fill these positions, he has carried the salary of \$482,000 going forward to the end of
564 the year. There is also an increase in the amount for benefits because that number
565 increased proportionally with the number of positions. The salary and benefit
566 expenditures increased in total from \$659,000 last fiscal year to a projection of
567 \$881,000 for this fiscal year. Additional increases to the Board's budget are due to
568 an increase in Attorney General (AG) fees from \$455,000 last year to a projected
569 \$618,000 this fiscal year, and an increase in rent/facilities from \$70,000 to \$120,000.
570

571 In response to Mr. Grant's comment about reversion, Mr. McDermott stated that the
572 Board's total project expenditures is \$2.66 million which equals a reversion of about
573 7.62% of the allocated money or about \$220,000. The \$220,000 is a savings that is
574 earmarked or projected to go into reversion, which will then go back into this fund
575 condition. Mr. McDermott stated that he has had to put procedures in place for
576 boards exceeding the twenty-four month statute, but the Board is doing fine even
577 though it is currently on the high end because there is a downward trend due to the
578 increased expenditures that will reduce the Board's fund reserve to about ten
579 months.
580

581 In response to Dr. Hawkins' question of whether the AG projected expenditure line
582 item includes the fee increase or is the expenditure based on other AG costs, Mr.
583 McDermott responded, that the expenditure projection does include the AG fee
584 increase.
585

586 In response to Ms. Carlquist's question of whether the Board is anticipating an AG
587 increase due to their salary because she believes the volume of complaints has
588 reduced due to the pandemic and the Board is utilizing them less, Mr. McDermott
589 responded that he only reports what has been paid. He takes the first five months on
590 the books and extrapolates the average over the next seven months. When he has
591 the figure for fiscal month six, he will re-average the amount. If there is a downward
592 trend when it comes to cases, the projected amount will decrease.
593

594 Ms. Khan stated that one point taken into consideration when making this projection
595 was that there are several petitions out at the field, which will be going to the AG's
596 office and then set for hearing. This accounts for one of the reasons why there is an
597 increase in the AG and the Office of Administrative Hearing costs because there are
598 at least seven or eight petition hearings that the Board is anticipating.
599

600 Mr. McDermott stated that Ms. Khan is being fiscally responsible with the funds that
601 she is charged with and he does not see any issues with the fund or the
602 expenditures.
603

604 No public comments.
605

606 **Returned from Recess - Roll Call**

607
608 Staff called the roll. A quorum was present.
609

610 Board Members Present:

611 Charles Alexander, PhD
 612 Juan Armenta, Esq.
 613 Jennifer Carlquist, PA-C
 614 Sonya Earley, PA-C
 615 Jed Grant, PA-C
 616 Randy Hawkins, M.D.
 617 Diego Inzunza, PA-C

618
 619 **8. Discussion and Possible Action on New Physician Assistant Board Logo**
 620

621 Ms. Khan stated that previously she reported that she has been working with DCA’s
 622 Office of Technology to upgrade the Board’s website and requested to open a
 623 discussion regarding updating the Board’s logo. Ms. Khan stated that an
 624 organization’s logo is the graphical visual symbol representing the company or
 625 brand. It is designed uniquely, so that it is easily identifiable and can set itself apart
 626 from other organizations. Ms. Khan questioned if the current Physician Assistant
 627 Board (PAB) logo reflects what the Board stands for, or if there a need for it to be
 628 broader and more purpose oriented to create an understanding of what our
 629 organization stands for. Ms. Khan stated that she believes by redesigning the
 630 Board’s logo, the Board will be able to better market and educate stakeholders. If
 631 approved, staff will work with the DCA’s Office of Publication Design and Editing to
 632 begin the process of updating the logo.
 633

634 Dr. Hawkins’ endorsed the discussion to update the Board’s logo.
 635

636 Ms. Earley commented that it is difficult to determine if the current logo contains a
 637 stethoscope and welcomes the opportunity for change.
 638

639 In response to Mr. Armenta’s question of whether the logo will be designed in-house,
 640 Ms. Khan responded that Board staff will work with DCA’s Office of Publication
 641 Design and Editing team.
 642

643 Mr. Grant commented that the point is well taken and the examples provided of other
 644 board’s logos do represent their profession and the Board’s current logo does not
 645 represent PAs or what PAs do. He supports a redesign. In response to Mr. Grant’s
 646 question of whether design options will be presented to the Board for a vote, Ms.
 647 Khan responded yes, she is hoping to provide design options at the August meeting
 648 or sooner.
 649

650 M/ Jed Grant S/ Sonya Earley to:
 651

652 Direct staff to provide options for a revised logo.
 653

| Member | Yes | No | Abstain | Absent | Recusal |
|--------------------|-----|----|---------|--------|---------|
| Charles Alexander | X | | | | |
| Juan Armenta | X | | | | |
| Jennifer Carlquist | X | | | | |
| Sonya Earley | X | | | | |
| Jed Grant | X | | | | |
| Diego Inzunza | X | | | | |

654

655 No public comment.

656

657 **9. Report on Medical Board of California Activities**

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Dr. Hawkins' reported that the Medical Board of California (MBC) last met on February 4-5, 2021, and the agenda is available on www.mbc.ca.gov. MBC officers elected on November 13, 2020, are as follows: Kristina D. Lawson, J.D. - President, Howard R. Krauss M.D. – Vice President, Randy W. Hawkins, M.D. - Secretary. New Governor appointments include: Alejandra Campoverdi of Los Angeles and Ryan Brooks of San Francisco. The MBC approved the November 2020 meeting minutes and they will be available on MBC's website in a few weeks. The February 2021 MBC meeting agenda is available on the MBC website, www.mbc.ca.gov.

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Dr. Hawkins' reported that when the MBC last met the following updates and discussions regarding the state's response to the COVID-19 crisis, SB 48 Limón: Dementia and Alzheimer's Disease, SB 57 Wiener: Controlled Substances: Overdose Prevention Program, and the Mexico Pilot Program were held.

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677

Dr. Hawkins' reported that the MBC's 2020 Sunset Review report was submitted to Senator Roth and Assembly Member Low on December 31, 2020 and is available on the MBC's website. MBC staff members met with the Legislature to discuss the following board requests:

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1. Increasing various fees by 20-50% to cover previously incurred expenses and anticipated increases to programs including personnel and enforcement. Based on the MBC's projected revenues and expenses, the board expects to become insolvent within eighteen months. The MBC has not had a fee increase for a minimum of ten years.
2. Seeking to increase the allowed reserve amount from a four- month reserve to a maximum of twenty-four months of operating expenses.
3. Authority to seek recovery of some of the investigation costs.
4. Ease access to medical and pharmaceutical records.
5. Increase use of non-adversarial "letters of advice" in non-quality care matters that might lead to educational courses or other simple remediation efforts.
6. Create a new board to regulate licensed midwives.

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Presentations provided during the meeting included MBC's enforcement process (slide deck available on www.mbc.ca.gov), revising the MBC's Guidelines for Prescribing Controlled Substances (last updated in 2014), and AB 890 given by the Board of Registered Nursing.

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702

Dr. Hawkins stated that the MBC receives a substantial number of comments from members of the public during its meetings. Some members of the public have strong feelings about the MBC's disciplinary guidelines and whether it is honoring its mandate to protect the public. While the MBC believes it is honoring the its mandate, there are members of the public who are reaching out to legislators questioning whether or not the MBC is reaching the mandate of public protection.

703

704

705

706

Mr. Grant stated that he appreciates Dr. Hawkins' comments, he has attended a few MBC meetings and was surprised by the amount of public comment. Mr. Grant stated that the culture between the PA and the Physician Assistant Board (PAB) differs from the MBC and its licensees. He also stated that the PAB has been fairly

707 aggressive with the public protection mission which may account for why the PAB
708 has not received some of those type of comments. Mr. Grant stated that Dr.
709 Hawkins' input is valuable and will be helpful in order to avoid similar types of
710 problems when the PAB is making various decisions.

711
712 No public comment.

713 714 **10. Regulations**

715 716 a. Review, Consider and Possible Action on Previously Adopted Draft Regulatory 717 Language to Amend 16 CCR sections 1399.502, 1399.506, 1399.507, 1399.511, 718 1399.530, 1399.540, 1399.541, 1399.545 and 1399.546 Changes to Existing 719 Regulation Sections to Align with SB 697 Statutory Changes

720
721 Ms. Halbo stated that select staff and board members met with CAPA to discuss the
722 proposed language related to implementing SB 697. She stated that included in the
723 board meeting materials is a memo highlighting the changes, a November 12, 2020
724 letter from CAPA regarding their concerns and issues raised, and subsequent
725 changes to the proposed text previously approved by the Board. Ms. Halbo stated
726 that the changes shown as a double underline indicate new text since last approved
727 by the Board, and double strikethrough indicates the removal of text since last
728 approved by the Board. Ms. Halbo stated that the language in the memo walks the
729 reader through each of the changes and asked if there were any questions about
730 any of the changes, or concerns related to the more substantive changes to Title 16
731 of the California Code of Regulations (16 CCR), section 1399.541 regarding
732 supervision during a surgical procedure.

733
734 Mr. Grant commented that Ms. Halbo's memo included in meeting materials does a
735 really good job of describing the changes made to the previously approved proposed
736 text, during the meeting with CAPA. He stated that the changes put in place for the
737 current regulations reflects the intent of SB 697. Mr. Grant stated that the point made
738 during the last Board meeting was to work more closely with stakeholders prior to
739 bringing proposed text to the Board to vote on in hopes of avoiding comments during
740 the review process that may result in the Board having to start the process over. Mr.
741 Grant extended his thanks to CAPA for collaborating on the proposed text. There is
742 a minor amount of disagreement related to how physician assistants are supervised
743 while a patient is under general anesthesia and with the tombstoning of the Board's
744 regulatory authority to ensure that the controlled substance education courses are
745 compliant with the Board's intent for the courses. Mr. Grant stated that the proposed
746 language brings the regulations up-to-date and into compliance with SB 697.

747
748 Mr. Armenta expressed his thanks to both CAPA and Ms. Halbo. Mr. Armenta stated
749 that the immediate availability is critical for protection of the public under general
750 anesthesia. The anecdotal information that Ms. Halbo included in the memo is
751 correct. Under general anesthesia there is a fear that while the doctor does not need
752 to be in the actual operating theater, if allowed to be too remote, would have an
753 inability to respond. This is a safe balancing act that protects the public and fulfills
754 the legislative intent of the statute. Mr. Armenta stated that from a legislative
755 interpretation and statutory point of view, the Board is on solid ground in terms of
756 Office of Administrative Law (OAL) approving this package. Mr. Armenta stated that
757 regarding the subject of the tombstone date, at some point technology and drug

758 standards are going to change and it does not seem wise to tie the Board to what
759 might be an antiquated system.

760
761 In response to Mr. Inzunza's question of whether it might be more appropriate to
762 change the reference of "physician and surgeon" in several sections of the
763 regulations to "physician and/or surgeon", Ms. Halbo responded that most
764 individuals do not realize that the license issued to doctor's is a physician and
765 surgeon license. The Board defines a supervising physician as a physician and
766 surgeon; if "supervising" is there, it just says supervising physician, but if it does not
767 have "supervising" before it, the formal term of physician and surgeon is used.

768
769 In response to Mr. Grant's question of whether the official name of the Physician
770 Assistant Board could be changed from the Physician Assistant Board of the Medical
771 Board of California to the Physician Assistant Board, Ms. Halbo responded that she
772 would need to research that question before providing an answer. Mr. Grant stated
773 that because the Board is submitting changes to the regulations it might be a good
774 idea to include changing the name of the Board in the regulatory package. Mr.
775 Maguire stated that this current regulatory package doesn't include amending the
776 definitions. Mr. Grant stated that BPC section 1399.502 states that Board means
777 Physician Assistant Board, but the official name of the Board is the Physician
778 Assistant Board of the Medical Board of California and he would like to ensure that
779 this gets fixed so that the official name of the Board is the Physician Assistant Board.
780 Mr. Maguire commented that BPC section 3501 (a) simply says that "Board" means
781 Physician Assistant Board. Mr. Grant stated that he does see the Board referred to
782 as the Physician Assistant Board of the Medial Board of California on charging
783 documents, he does not have the specific BPC that supports the use of the
784 Physician Assistant Board of the Medical Board of California but wanted to make
785 sure that as these regulations move forward the name is fixed. Mr. Maguire stated
786 that he does not see the name mentioned in the current package, statute,
787 regulations, or amended regulations, but it may be an operational point if it is
788 included in the charging documents; it may be a relic of the past and needs to be
789 updated.

790
791 Ms. Khan commented that included in the Board's Sunset Review are legislative
792 proposals to meet the Board's Strategic Plan for 2019-2023, by statute and striking
793 out all reference of the Board being within the jurisdiction of the MBC except for
794 references to standards and grounds for discipline BPC section 3527, grounds for
795 discipline.

796
797 Ms. Halbo commented that Mr. Grant had pointed out, and it is in the memo, that the
798 Board gets malpractice information from the National Practitioner Data Bank
799 (NPDB). That NPDB only reports malpractice claims with judgements or settlements
800 that are greater than \$30,000. The Board should decide if it wants to require
801 disclosures of malpractice claims with judgements or settlements that are less than
802 \$30,000. Mr. Grant confirmed the Board is already requiring a NPDB report, so
803 requiring them to disclose other malpractice, as Mr. Howard pointed out, is really
804 broad and could be problematic for the Board. Mr. Grant suggested that subdivision
805 (e) of 16 CCR 1399.506 be removed since the Board is already requiring a NPDB
806 report, the applicant does not need to disclose anything other than what would be
807 included that report.

808

809 Mr. Armenta agreed with analysis. The section is ill-defined in terms of malpractice
810 history.

811
812
813 M/ Jed Grant S/ Sonya Earley to:

814
815 Motion to remove 16 CCR 1399.530 from this regulation package, to strike
816 subdivision (e) from 16 CCR 1399.506 and otherwise approve the revisions to the
817 legal text language as shown on the attached text with the board materials, and
818 direct the Executive Officer to take all steps necessary to initiate the rulemaking
819 process, authorize the Executive Officer to make any technical or non-substantive
820 changes to the rulemaking package, notice the revised text for a 45-day comment
821 period, and if no adverse comments are received during the 45-day comment period,
822 and no hearing is requested, adopt the proposed regulatory changes.
823

| Member | Yes | No | Abstain | Absent | Recusal |
|--------------------|-----|----|---------|--------|---------|
| Charles Alexander | X | | | | |
| Juan Armenta | X | | | | |
| Jennifer Carlquist | X | | | | |
| Sonya Earley | X | | | | |
| Jed Grant | X | | | | |
| Diego Inzunza | X | | | | |

824
825 Public comment: Edward Howard, CAPA, commented that he had four quick points.
826 First, to reiterate the comments that Mr. Armenta made at the outset of the meeting
827 as CAPA is grateful for the conversation held with the Board regarding the
828 regulations and the ability to communicate constructively.
829

830 Second, CAPA still has questions and is puzzling through the consequences of the
831 retention of the phrase "immediately available". CAPA thanks the Board for the
832 proposed clarifications otherwise to that proposed regulation and will be prepared in
833 time certainly for public comment. He just wanted to flag that, but also to express
834 gratitude to the changes that were made to that regulation.
835

836 Third, the Board materials invite a Board discussion on the question of malpractice
837 history disclosure at the time of application for licensure. CAPA is not necessarily
838 opposed to some form of malpractice history disclosure of time of licensure. There
839 are some questions that fellow boards, especially the MBC, have had to grapple with
840 in trying to figure out what is relevant for the Board consideration. For example,
841 malpractice cases that are dismissed with prejudice, should those be considered by
842 the Board? Those dismissed on the merits but not with prejudice, should those be
843 considered by the board? A jury verdict for the defense? Does a malpractice history
844 include cases where an appeal is pending and not final as this can suspend the
845 underlying trial case? If someone has threatened a lawsuit but has not filed one?
846 Lawsuits that are filed but not settled for a de minimis nuisance value? Lawsuits that
847 have been filed by people who have decreed to be vexatious litigants? Again, CAPA
848 is not necessarily against malpractice history certainly at the margins that could
849 easily be relevant to the Board's mission of patient protection. Just to highlight some
850 of the remaining questions CAPA thinks that would make sure that the Board is
851 getting relevant information for it.

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Fourth, to circle back briefly on the question related to BPC section 3502.1 and those regulations. As stated in the meeting, and to report to the full Board, at CAPA's last board meeting this was the focus of an extremely substantial and detailed conversation and CAPA does hope to be circling back with the Board on CAPA's thoughts and fingers crossed, with a proposal for the Board.

b. Status of 16 CCR sections 1399.525, 1399.526 and 1399.527 – Substantial Relationship Criteria, Rehabilitation Criteria for Denials and Reinstatements, Rehabilitation Criteria for Suspensions and Revocations

This package is the AB 2138 implementation package and it is under review at the OAL. This package is in the extension period, but the package is progressing.

c. Status of 16 CCR section 1399.523.5 - Required Actions Against Registered Sex Offenders. 16 CCR sections 1399.514 and 1399.615 - Renewal of License and Continuing Medical Education Required, and 16 CCR section 1399.616 – Approved Continuing Medical Education Programs – Implicit Bias

This package relates to requiring continuing medical education regarding implicit bias. The package was reviewed by legal and the DCA Director's Office before being sent to the Business, Consumer Services and Housing Agency (Agency) in October of 2020, and it is expected to be filed with OAL in the next few weeks.

12. Report by the Legislative Committee; Discussion and Possible Action to Consider Positions Regarding the following Legislation

a. SB 48 – Limon: Dementia and Alzheimer's Disease

Ms. Earley stated that this bill would require that the PA Board adopt regulations to require each person renewing their license, as a condition of license renewal, to complete at least 10 hours of continuing education on the special care needs of patients with dementia. This bill is currently in progress so it may have impact, meaning that licensees would have to complete an additional ten hours. So, this is something for the Board to consider.

Mr. Grant stated that PAs practice across the spectrum and there are probably many PAs that do not interact with dementia patients at all. For example, a general surgery PA or an individual who is in pediatric practice, probably does not deal with these issues very much, or at all; therefore, it is a bit onerous to require them to complete 10 continuing education hours every two years. Mr. Grant commented that he was unsure of what the political implications are of making a formal opposition, but if the Board is going to take a position, he recommended to only include people who are practicing with a patient population that includes a reasonable likelihood of encountering dementia. Ms. Earley agreed.

Dr. Hawkins stated that the MBC also had a discussion regarding this bill and it was decided that a letter of opposition, unless amended, would be sent to the author regarding this bill.

Mr. Armenta stated that there should be a position of opposition this for the reasons given by Ms. Earley and Mr. Grant. In response to Mr. Armenta's question of

904 whether to direct staff to study this and look at what our position would be in terms of
 905 modifications, or does the Board simply oppose unless modified, Mr. Grant
 906 responded that in the past when the Board took a position of opposed unless
 907 amended, the Board would direct staff to send a letter of opposition to the author of
 908 the bill and include a list of requested changes. At a subsequent meeting, the Board
 909 would then look at any changes made to the bill to see if the Board wanted to
 910 change their position.

911
 912 Dr. Hawkins commented that one of the reasons he wanted to be part of drafting
 913 MBC's letter of opposition is that the MBC's board president is a lawyer, the vice
 914 president is ophthalmologic neurosurgeon, and he himself is in private practice
 915 mostly internal medicine. Their discussions included specialists who are not dealing
 916 with this group of important individuals, should that person be required to take these
 917 courses. Also, should the Legislature be in the habit of dictating what is appropriate
 918 continuing education.

919
 920 In response to Ms. Earley's question on if the PAB's proposal is in alignment with
 921 what the MBC is requesting, Mr. Hawkins' responded that the letter has not been
 922 drafted but he suspects it will be similar. He is not sure why the Legislature stated
 923 that PAs need 10 continuing education hours and physicians have 4 hours,
 924 particularly the internal medicine and family practice PAs who are seeing a large
 925 number of the same groups of patients, so that they would be exposed to this. Mr.
 926 Hawkins' commented that the Board can try to acknowledge what the Legislation
 927 intent, but should ask does this accomplish the goal of the bill of addressing the
 928 large group of citizens with this diagnosis, acknowledging that there is a need,
 929 addressing this as early as possible, have a standard of evaluating and treating this
 930 group of patients. One needs to careful that if the legislation passed, and suddenly
 931 you see many drugs directed at treating this condition is it the pharmaceutical
 932 companies the ones who are pushing this. Research needs to be completed in this
 933 area.

934
 935 M/ Jed Grant S/ Sonya Earley to:

936
 937 Oppose SB 48 unless amended, direct staff to send a letter to the author requesting
 938 that the number of continuing education hours required for PAs be the same number
 939 of continuing education hours required for physicians, and that the bill would be
 940 restricted only to those that regularly practice in a patient population where there is a
 941 higher incidence of dementia such as geriatrics, internal medicine or primary care.

942

| Member | Yes | No | Abstain | Absent | Recusal |
|--------------------|-----|----|---------|--------|---------|
| Charles Alexander | X | | | | |
| Juan Armenta | X | | | | |
| Jennifer Carlquist | X | | | | |
| Sonya Earley | X | | | | |
| Jed Grant | X | | | | |
| Diego Inzunza | X | | | | |

943

944 No public comment.

945

946

b. AB 29 – Cooper: State Bodies: Meetings

947

948 Ms. Earley stated that this bill would add requirements pertaining to what information
949 is being made public before board meetings. This notice would include all writings or
950 materials provided for the noticed meeting to a member of the state body by the staff
951 of a state agency, board, or commission. The material must be made available on
952 the state bodies' internet website, and to any person who requests the writings or
953 material in writing, on the same day as the dissemination of the writings and
954 materials to members of the state body or at least 72 hours in advance. The bill
955 would prohibit a state body from discussing those writings or materials, or from
956 taking action on an item to which those writings or materials pertain, at a meeting of
957 the state body unless the state body has complied with these provisions.

958
959 Mr. Armenta commented that transparency in government is important and does not
960 see anything in this bill that would make the staff's job more difficult. The Board is
961 currently working with a deadline, that of the meeting date itself, and moving the time
962 line back 72 hours would simply adjust the workflow to ensure that the board
963 meeting packets are updated. For this reason, Mr. Armenta did not have a particular
964 problem with the bill.

965
966 Mr. Grant commented that the 72 hour policy is a concern because sometimes the
967 Board is updating the meeting material packets right before the meeting. He
968 requested comment from the Board's executive officer, on whether the 72 hour rule
969 would impact the Board. Ms. Khan stated that this may impact the Board because
970 sometimes staff "walks-in" meeting materials the day of the meeting. All meeting
971 materials for this Board meeting were available and posted long before the meeting,
972 but there may be circumstances where materials would not be available. For
973 example, maybe a report needs to be re-run for accuracy and it would be provided at
974 the time of the meeting.

975
976 Mr. Grant further commented that over the last several years it has not been that
977 unusual to have last minute updates to the meeting materials packet and wonders if
978 the bill might result in incomplete information in the meeting materials packet or a
979 delay in discussion of a topic because of last minute changes. Ms. Khan stated that
980 Board staff submits requests to the DCA's internet team to post meeting materials to
981 the website, the DCA does have other boards and bureaus that they provide this
982 service to and she would have to work with them to ensure the time line involved
983 with replacing board meeting materials posted to the Board's website.

984
985 In response to Mr. Grant's question directed to staff of whether there would be any
986 significant impact on the workflow in terms of preparing board meeting packets and
987 conducting meetings if this bill were to pass, Ms. Khan responded that this could
988 impact staff's ability to "walk-in" meeting material and she would like an opportunity
989 to discuss this with the DCA internet team, but given she feels that staff currently
990 has adequate time to prepare meeting materials and the 72 hours would not impact
991 staff's ability to prepare complete packets.

992
993 The Board took no position but agreed to watch the bill.

994
995 c. AB 54 – Kiley: COVID-19 Emergency Order Violation: License Revocation

996
997 Ms. Earley stated that this bill regards the Department of Consumer Affairs' COVID-
998 19 emergency order violation, regarding license revocation. This bill would prohibit
999 the Department of Consumer Affairs, a board within the Department of Consumer

1000 Affairs, and the Department of Alcoholic Beverage Control from revoking a license
1001 for failure to comply with any COVID-19 emergency orders unless the board or
1002 department can prove that lack of compliance resulted in transmission of COVID-19.

1003
1004 Mr. Grant commented that it is his understanding that this bill and SB 102 seek to
1005 discipline a licensee if their failure to comply with proper preventive measure causes
1006 the transmission of COVID-19 but restricts discipline if it does not cause
1007 transmission. For example, a licensee refuses to wear a mask when seeing patients
1008 and it does not result in any transmission of COVID-19, the licensee cannot be
1009 disciplined; but if the licensee refuses to wear a mask and it does result in some
1010 transmission of COVID-19, their license could be disciplined.

1011
1012 In response to Ms. Carlquist's question of how one would prove that the
1013 transmission of COVID-19 occurred due to the licensee not wearing a mask, Mr.
1014 Armenta responded that from a legal perspective, that is a near impossible standard.
1015 Mr. Armenta stated that he does not see how the Board would meet this standard to
1016 clearly identify any disease spread that is airborne transmissible was due to the lack
1017 of compliance resulting in the transmission. The Board would of course exercise
1018 discretion whether to bring an action, but from a legal perspective, the scientific
1019 problems are insurmountable. If this is construed as some type of mandatory duty to
1020 impose discipline it could create all kinds of problems and waste for the Board
1021 because the Board would not be able to prove evidence.

1022
1023 In response to Ms. Carlquist's question of what is the intent of the bill and why is this
1024 on the radar as there is a current mandate to wear masks, Mr. Grant responded that
1025 he believes that the intent is willful disregard for personal protective equipment. If
1026 there is someone who just willfully refuses to take appropriate precautions against
1027 transmission and they cause a lot of transmission, they want that person disciplined.

1028
1029 In response to Ms. Carlquist's question of whether this should be the employer's
1030 decision to discipline the licensee, Mr. Grant responded that the Legislature is
1031 looking at it from a public safety perspective, which is how it got to the Board. The
1032 problem is that due to the nature of COVID-19, it would be basically impossible to
1033 prove that the licensee was the cause of the person acquiring it. Mr. Grant stated
1034 that he understands the Legislature's idea behind the bill, if there is a health care
1035 provider that refuses to take appropriate precautions against transmission, then their
1036 license should be disciplined or revoked. From a practical perspective, it is hard to
1037 see how the Board would make this work. The Board already has the authority to
1038 take action against a licensee under unprofessional conduct if one licensee was
1039 responsible for a super spreader event. In response to Mr. Grant's question on
1040 whether the MBC has taken a position on these bills, Dr. Hawkins responded that
1041 these bills have not been discussed by the board.

1042
1043 Ms. Earley agreed with the comments made by the Board members and suggested
1044 to continue to watch this bill.

1045
1046 The Board took no position but agreed to watch the bill.

1047
1048 d. SB 102 – Melendez: COVID-19 Emergency Order Violation: License Revocation

1049
1050 Ms. Earley stated that SB 102 is similar to AB 54 and suggested placing on the
1051 watch list as well.

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The Board took no position but agreed to watch the bill.

No public comment.

13. Agenda Items for the Next Meeting

In response to Mr. Armenta's question of whether any board members had requests for items to be placed on the next agenda, beyond what is usually contained on the agenda, Mr. Grant responded that the Accreditation Review Commission for PAs will have met prior to the next Board meeting and requested that an update from the Education and Workforce Committee be added to the agenda. In response to Ms. Earley's question of who is on the committee with Mr. Grant, Mr. Grant responded that committee is comprised of himself and Dr. Alexander.

Mr. Armenta thanked Mr. Grant for his service, CAPA, congratulated Ms. Earley on her appointment and staff on their promotions. Ms. Earley thanked Mr. Grant for his service to both the Board and the country, congratulated staff on their promotions and thanked Mr. Armenta for a successful first meeting with him serving as the Board's new president.

In response to Mr. Grant's question of whether or not the Board is required to take a motion to adjourn the meeting, Mr. Maguire responded that it is not required, it is at the discretion of the Board.

No public comment.

14. Adjournment

Adjournment will immediately follow closed session and there will be no other items of business discussed.

Minutes do not reflect the order in which agenda items were presented at the Board meeting.