

**MEETING MINUTES**  
**March 4, 2024**  
**8:30 A.M. – 5:00 P.M.**  
**PHYSICIAN ASSISTANT BOARD**  
**Department of Consumer Affairs**  
**1747 N. Market Blvd.**  
**Ruby Room**  
**Sacramento, CA 95834**

**1. Call to Order by President**

President Earley called the meeting to order at 8:33 a.m.

**2. Roll Call**

Staff called the roll. A quorum was present.

Board Members Present:

Sonya Earley, Ed.D., PA-C, President  
Vasco Deon Kidd, DMSc, PA-C, Vice President  
Charles Alexander, Ph.D.  
Juan Armenta, Esq.  
Randy Hawkins, M.D. (via video conference)  
Diego Inzunza, PA-C  
Deborah Snow

Staff Present:

Julie Caldwell, Lead Licensing Analyst  
Jasmine Dhillon, Legislative and Regulatory Specialist  
Virginia Gerard, Probation Monitor  
Christina Haydon, Discipline Analyst  
Pearl Her, Enforcement and Licensing Support Technician  
Michael Kanotz, Attorney III  
Rozana Khan, Executive Officer  
Armando Melendez, Special Investigator  
Kristy Schieldge, Regulatory Counsel, Attorney IV  
Kristy Voong, Assistant Executive Officer (via video conference)

**3. Consider Approval of November 6, 2023, Board Meeting Minutes**

M/ Juan Armenta S/ Vasco Deon Kidd to:

Approve the November 6, 2023, Meeting Minutes.

No public comment.

Member	Yes	No	Abstain	Absent	Recusal
Charles Alexander	X				
Juan Armenta	X				
Sonya Earley	X				
Diego Inzunza	X				
Vasco Deon Kidd	X				

Deborah Snow	X				
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#### 4. Public Comment on Items Not on the Agenda

(Note: 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 for a future meeting. [Government Code Sections 11125, 11125.7(a).])

No public comment.

#### 5. President's Report

Dr. Earley reported that she and Vice President Kidd along with Executive Officer Rozana Khan, met bi-weekly to address any information pertinent to the Board. Dr. Earley reported that Ms. Khan does an excellent job in keeping her and Dr. Kidd informed of relevant news and staff changes. Dr. Earley welcomed Kristy Schieldge, Regulatory Counsel, and acknowledged that Ms. Schieldge had previously served the Board and Dr. Earley stated she is pleased to have her joining the Board again.

Dr. Earley welcomed the new staff member, Pearl Her, and reported that Ms. Her has already proven herself capable of performing her duties to the Board members during this very meeting.

Dr. Earley recognized that the Board bid farewell to Board members Jed Grant and Jennifer Carlquist, and that the Board now has three vacancies. She encouraged listeners to consider that they, or persons whom they know of excellent caliber, could go to the Board's website and complete an application to be a Board member and join the team.

Dr. Earley reported that Jasmine Dhillon does a wonderful job with her duties, but that nevertheless, she (Dr. Earley) and Ms. Carlquist did sign off of the Legislative Committee, so if in the event Ms. Dhillon should need support because of their leaving it, to please advise her of such.

Dr. Earley further thanked the Board and staff and reported that the Board's team is an outstanding one, and in particular she recognized the Executive Officer and the legislative team. Dr. Earley thanked the entire team up front for the upcoming year and stated that she appreciates the service and efforts of all.

No public comment.

#### 6. Executive Officer's Report

Ms. Khan referred members to Agenda Item 6 and reported the following.

##### A. Personnel

Effective January 30, 2024, Armando Melendez has been promoted to Special Investigator; on February 13, 2024, Administrative Analyst Ariel Gompers accepted a promotional position with the Office of Administrative Hearings; Regulatory

98 Counsel Karen Halbo accepted a position with the California Department of  
99 Industrial Relations; and Kristy Schieldge is stepping in as the Board's regulatory  
100 counsel.

## 101 B. Outreach

102  
103  
104 Due to the current state budget deficits in fiscal years 2023-24 and 2024-25, the  
105 Board will temporarily suspend all outreach activities until further notice. This  
106 includes non-essential travel plans both in-state and out-of-state, such as  
107 participation in seminars, conferences, and training. Only travel necessary to  
108 conduct official state business will be permitted during this period.

109  
110 Dr. Hawkins asked Ms. Khan if any specific impact has been made on the Board's  
111 ability to do its job by the limitations imposed through the financial restrictions. Ms.  
112 Khan noted that one of the recent goals of the Board has been to further its outreach  
113 and this has been affected.

### 114 Public comment:

115  
116  
117 Teresa Chien, Executive Director for the California Academy of Physician  
118 Associates (CAPA) expressed that the Board will always have a complimentary  
119 exhibit table at their conferences whenever outreach is available again. Ms. Chien  
120 was thanked by Dr. Earley.

121  
122 No further public comment.

## 123 **7. Board Activity Reports**

### 124 A. Licensing

125  
126 Ms. Caldwell referred members to Agenda Item 7A and reported the following  
127 Licensing Population by Type, Summary of Licensing Activity, Pending Application  
128 Workload, and Licensing Performance Measures reports.

129  
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131  
132 Dr. Kidd asked Ms. Caldwell in what way are the applicants, which are at 91 days  
133 and over, incomplete in their applications. Ms. Caldwell stated that all the applicants  
134 reflected in her report, have had their applications reviewed and are now pending  
135 action to be taken by the applicant. She provided an example, stating that some  
136 students apply expecting to pass their Physician Assistant National Certifying  
137 Examination (PANCE), and should they fail, they must wait for a certain period  
138 before retaking it. Additionally, some students apply too early before graduating and  
139 this is reflected in the additional time as well. Ms. Caldwell mentioned that the  
140 Board's website has information advising students to wait until they are within 30-45  
141 days of graduating before applying, as applying too early could prolong the  
142 application process, increasing the risk of applications expiring. When asked by Dr.  
143 Kidd if this imposes an additional workload burden, Ms. Caldwell stated it does not.

144  
145 Mr. Armenta inquired if the pie chart can be expounded further to indicate that the  
146 Board is awaiting action from the applicants. Ms. Caldwell explained that it is unlikely  
147 due to how BreZE captures and reports the data. She confirmed that the major  
148 delays to processing the applications are due to students applying too early (months  
149 before graduation), waiting for passing test score results, and awaiting information

150 from entities in other states. Mr. Armenta suggested including this information in the  
151 report to address potential criticisms of the Board's efficiency in processing  
152 applications and to clarify that these delays are beyond the Licensing Unit's control.  
153 Ms. Caldwell agreed with Mr. Armenta's suggestion.  
154

155 Dr. Hawkins asserted that there is a healthcare workforce shortage and asked how  
156 physician assistants (PA) are contributing to ease the healthcare workforce shortage  
157 in California. Ms. Caldwell recalled information from the Education/Workforce  
158 Development Advisory Committee indicating that students obtaining their education  
159 in California tended to stay and work here. Although the Board does not collect this  
160 information from applicants, she noted this trend from the committee's findings. Dr.  
161 Kidd confirmed this evidence, stating that the majority of PAs educated in California  
162 remain in the state.  
163

#### 164 B. Complaints

165  
166 Mr. Melendez referred members to Agenda Item 7B and reported the following:  
167 Complaint Statistics and Complaints Received by Type and Source reports.  
168

169 Mr. Melendez was congratulated by Board members and President Earley stated  
170 she was glad to have Mr. Melendez continue his service with the Board.  
171

172 Mr. Armenta asked to confirm his interpretation of the data that the Board was slowly  
173 improving its investigation aging. Mr. Melendez confirmed that was correct.  
174

#### 175 C. Discipline

176  
177 Ms. Haydon referred members to Agenda Item 7C and reported the following  
178 Discipline Statistics Report.  
179

180 Dr. Hawkins asked about cases in the over 300 days category and queried whether  
181 the length in days was due to case complexity or other reasons in general. Ms.  
182 Haydon explained that the legal process is the reason, as the normal processes of  
183 discovery and setting up a hearing take months. She mentioned that all parties  
184 involved need to agree to a hearing date, which typically takes months to coordinate.  
185 Mr. Armenta concurred, stating that due process accounts for the extended timeline,  
186 and noted that the current numbers of 300 days were typical and lower than they  
187 had been a few years ago, when seeing 500 days was not uncommon.  
188

#### 189 D. Probation

190  
191 Ms. Gerard referred members to Agenda Item 7D and reported the following  
192 Probation Activity Report.  
193

194 Mr. Armenta inquired if the probationers are professional and respectful towards her.  
195 Ms. Gerard reported she has been received as such.  
196

197 Dr. Earley asked if the numbers of probationers was decreasing. Ms. Gerard  
198 explained while the number fluctuates, it is currently decreasing. However, she  
199 noted that the average number over time has been relatively the same.  
200

#### 201 E. Diversion

202 Ms. Gerard referred members to Agenda Item 7E and reported the Diversion  
203 Program Activity Report.

204  
205 No public comment.

206  
207 **8. Department of Consumer Affairs – Director’s Update (DCA Staff) – May**  
208 **Include Updates Pertaining to the Department’s Administrative Services,**  
209 **Human Resources, Enforcement, Information Technology, Communications**  
210 **and Outreach, as well as Legislative, Regulatory and Policy Matters**

211  
212 Judie Bucciarelli, Staff Services Manager Specialist from DCA’s Board and Bureau  
213 Relations, thanked the Board for its service to consumers. Ms. Bucciarelli stated that  
214 last month, the Business, Consumer Services and Housing Agency welcomed  
215 Secretary Tomiquia Moss.

216  
217 Ms. Bucciarelli reminded the Board of the Department of Finance’s Budget Letter  
218 that directed all State agencies under the Governor to take immediate action to  
219 reduce current year expenditures, with certain exceptions for time-sensitive,  
220 emergency-related, mission-critical, or information security (IT) needs. She also  
221 reported that DCA thanks the Board for doing its part to reduce expenses and find  
222 cost savings as part of the collective state agency effort.

223  
224 Ms. Bucciarelli reported that the Diversity, Equity, and Inclusion (DEI) Steering  
225 Committee will hold its next meeting on April 5, 2024, when it will elect a new  
226 chairperson. She reminded the Board that SOLID offers DEI training opportunities  
227 online through Learning Management System (LMS).

228  
229 Ms. Bucciarelli reported that DCA Director Kimberly Kirchmeyer (Director) testified  
230 last month at an informational legislative hearing related to interstate licensure  
231 compacts as she had been invited by the Senate Committee on Business,  
232 Professions, and Economic Development (Committee). The Director discussed the  
233 impact of licensing compacts on consumer protection, licensees, boards and  
234 bureaus, as well as the Legislature. The Director answered questions from the  
235 Committee and provided examples. DCA will continue to work with the Legislature.

236  
237 Ms. Bucciarelli reported that effective March 1, 2024, in collaboration with the DCA  
238 Executive Leadership Team and the Executive Officer/Bureau Chief Cabinet, the  
239 Division of Investigation (DOI) updated the Complaint Prioritization and Referral  
240 Guidelines for Healing Arts Boards which should be used when determining which  
241 complaints to refer to the DOI and what can remain with each respective program.  
242 Of note, referral guidelines for the professions and vocations boards/bureaus are in  
243 progress and will be completed soon.

244  
245 Ms. Bucciarelli also reminded the members of the Board to file their Annual Form  
246 700 by March 15, 2024. She further reported that the next Board Member  
247 Orientation Training is March 27, 2024, and is available on LMS. Ms. Bucciarelli  
248 thanked the Board for the opportunity to join the meeting today.

249  
250 No public comment.

251  
252 **9. Budget Update**

253 Budget Analyst Andrew Trute referred members to Agenda Item 9 and reported the  
254 following fund condition and expenditure reports.

255  
256 Mr. Trute reported in FY 2023-24, the Board has a budget of about \$3.2 million. The  
257 Board is projected to use 41.67% of its expenditure on Personal Services which  
258 includes salaries and benefits; 25.39% for Operating Expenses & Equipment which  
259 includes contracts, purchases, and travel; and 37.26% for Enforcement which is for  
260 the Office of Administration Hearings (OAH) and the Attorney General (AG). The  
261 Board is estimated to have -4.32% in Reversion.

262  
263 For the Board's fund condition, Mr. Trute stated for FY 2022-23 actuals, the Board  
264 has a beginning balance of \$4.5 million with prior year adjustment of \$51,000, giving  
265 the Board an adjusted beginning balance of \$4.6 million. The Board has an overall  
266 revenue of \$2.8 million, and total expenditure of \$3.1 million, which gives a fund  
267 balance of 4.2 million (15.0 months in reserve).

268  
269 Mr. Trute stated for current year 2023-24, the Board has a beginning balance of \$4.2  
270 million, estimated revenue of \$2.9 million, estimated expenditure of \$3.4 million,  
271 giving a fund balance of \$3.8 million (13.2 months in reserve). There are no  
272 immediate concerns for this fund.

273  
274 Budget Manager Suzanne Balkis informed the Board, of a deficit of \$137,000.  
275 However, she assured them that the Budget Office, the Department of Finance, and  
276 Ms. Khan are working to get an AG augmentation for the Board for this year, which  
277 will cover that deficit.

278  
279 Mr. Armenta inquired whether receiving the AG augmentation for this year, would  
280 reverse the trend of seeing a decline in months in reserve. Ms. Balkis explained that  
281 the Budget Office always tries to over project in case of unexpected expenses. As  
282 they gather more reports and expenditures overtime, they can better project future  
283 finances. However, for now, the current projection remains as reported.

284  
285 No public comment.

## 286 287 **10. Report on Medical Board of California Activities**

288  
289 Dr. Hawkins, President of the Medical Board of California (MBC) reported the MBC  
290 last met February 29-March 1, 2024, in Los Angeles. He reported that highlights of  
291 the meeting included a presentation by Alice Quo, M.D., Ph.D. titled, "Rethinking  
292 Autism: Identity, not Disease." Dr. Hawkins found it to be informative and he  
293 recommended it to all. Another highlight of the meeting was the "Discussion on the  
294 Final Report of the Enforcement Monitor." He said that MBC will be doing a deep  
295 dive to determine which recommendations can be implemented.

296  
297 Dr. Hawkins reported the MBC had two member resignations, and two new  
298 appointees. He reported the MBC is still deficient in members, specifically on the  
299 non-physician member side.

300  
301 Dr. Hawkins reported attending the Federation of State Medical Boards (FSMB) one-  
302 day symposium in January titled, "Artificial Intelligence and Healthcare." He  
303 mentioned that the MBC will soon have a presenter on that subject and will inform  
304 the Board when it occurs.

305 Dr. Hawkins also announced his plan to appoint two MBC Board members to a task  
306 force aimed at addressing issues regarding the mental health questionnaire portion  
307 of the application and reinstatement. Additionally, he will appoint a committee to  
308 investigate racial disparities in maternal mortality, citing a presentation given on the  
309 matter at their August 2023 meeting.

310  
311 Lastly, due to MBC being able to secure the license fee increase, Dr. Hawkins  
312 outlined the following MBC priorities: implement an online complaint tracking system,  
313 establishing a complainant liaison unit, and conducting complaint/representative  
314 interviews before closing a quality-of-care case.

315  
316 Dr. Earley inquired about pushback issues related to their fee increase. Dr. Hawkins  
317 explained that although certain medical professional groups were against the  
318 request, MBC's inability to function without the fee increase led to its approval. He  
319 emphasized that MBC had not had a substantial fee increase in 15 years and  
320 needed it to fulfill its public protection duties.

321  
322 Dr. Alexander asked about the prioritization of new complaint staffing, wondering if it  
323 was due to an increase in complaints. Dr. Hawkins acknowledged that MBC receives  
324 large numbers of complaints but clarified that the goal of the new priorities is to  
325 improve responsiveness to the public and enhance transparency in the complaint  
326 process.

327  
328 Mr. Armenta pointed out that Dr. Hawkins as President of the MBC, undoubtedly  
329 assisted in getting these priorities addressed. Dr. Hawkins thanked Mr. Armenta and  
330 attributed the achievement to teamwork and acknowledged the efforts of past Board  
331 President, Christina Lawson, and a great MBC staff. Dr. Hawkins added that the new  
332 system would primarily show processing information and that access to this  
333 information would be limited to specific individuals. Dr. Hawkins also stressed the  
334 importance of legislature support for effective Board operations.

335  
336 Mr. Armenta and Dr. Earley agreed that if the MBC successfully implements the  
337 system, that the Board should consider a similar approach.

338  
339 No public comment.

## 340 341 **11. Discussion and Possible 2024 Board Meeting Dates**

342  
343 Dr. Earley indicated that since the February board meeting was rescheduled to  
344 March, the Board need to consider other dates and make sure each meeting is  
345 within its 100-day limit. Dr. Earley proposed changing the meeting from April 29,  
346 2024, to May 20, 2024, and stated that meeting would be held in Sacramento.

347  
348 The next proposed date was changing the meeting date from August 5, 2024, to  
349 August 9, 2024. This meeting would be held in Southern California. The next  
350 proposed meeting date was November 8, 2024.

351  
352 Mr. Kanotz reminded the members of the current traditional single-location option,  
353 the traditional teleconference option, and the new teleconference option available  
354 under the Bagley-Keene Open Meetings Act.

356 Dr. Earley reiterated the importance of providing the earliest notification possible if  
357 one cannot make the meeting, so the appropriate adjustments can be made.  
358

359 M/ Juan Armenta S/ Vasco Deon Kidd to:  
360

361 Approve the proposed 2024 meeting dates of May 20, 2024, August 9, 2024, and  
362 November 8, 2024.  
363

364 No public comment.  
365

Member	Yes	No	Abstain	Absent	Recusal
Charles Alexander	X				
Juan Armenta	X				
Sonya Earley	X				
Diego Inzunza	X				
Vasco Deon Kidd	X				
Deborah Snow	X				

366  
367 **12. Update, Discussion, and Possible Action on Proposal to Amend 16 CCR**  
368 **Sections 1399.502, 1399.540, 1399.541, and 1399.545 – SB 697 Implementation,**  
369 **Proposed Modified Text and Consideration of Public Comments**  
370

371 Ms. Schieldge, Regulations Counsel, stated in April 2019 she provided the Board  
372 with a detailed analysis regarding the effects of the enactment of Senate Bill (SB)  
373 697. They discussed the fact that the legislation if enacted could supersede any  
374 regulations that require “personal presence”, prescribe the qualifications for a PA to  
375 perform specified medical services, or how medical services must be provided  
376 pursuant to a practice agreement (formerly known as a delegation of services  
377 agreement) since Business and Professions Code (BPC) sections 3501, 3502, and  
378 3502.3 as proposed to be amended by that bill would set those requirements in law.  
379 In addition, SB 697 struck the Board’s previous rulemaking authority at BPC 3502 to  
380 establish “alternative mechanisms” for the adequate supervision of PA by regulation.  
381 This was section 3 of the bill, BPC 3502(c)(3). Ms. Schieldge recently reviewed the  
382 law in these areas and her opinion regarding the legal effect on the Board’s  
383 regulatory authority remains the same. Under the Administrative Procedure Act,  
384 which is the law that governs the adoption of regulations by state agencies, at  
385 Government Code Section 11342.2, no regulations are valid unless authorized and  
386 not inconsistent with the Board’s enabling laws, which in this case is the Physician  
387 Assistant Practice Act (Act). As a result, it is her opinion that any regulatory proposal  
388 that retains the requirement that the supervising physician be physically present,  
389 have a “personal presence,” be available “in person,” or be “immediately available to  
390 attend to a patient” would likely not be successful when presented to the Office of  
391 Administrative of Law (OAL). Ms. Schieldge and staff recommend that the Board  
392 accept all of CAPA’s comments on the last modified text proposal and revise the  
393 proposed regulatory language as set forth in the Second Modified Text which is  
394 provided in Attachment 1. If the Board agrees with the proposed responses set forth  
395 in the meeting materials and text as proposed in Attachment 1, Ms. Schieldge and  
396 staff are requesting that the Board pass the motion set forth in Option A on page  
397 eight of the memo.  
398



399 Mr. Armenta asked Ms. Schieldge whether, in her opinion, these changes affect the  
400 substance of what the Board is trying to accomplish. Ms. Schieldge responded that  
401 significant change lies in the attempt to retain some elements of personal presence,  
402 as outlined in the prior text in Attachment 2. For example, the proposal in  
403 Attachment 1 would strike any reference to the requirements for the physician to be  
404 personally present or required to be immediately available to attend to the patient.  
405

406 Ms. Schieldge explained that her overall recommendation in 2019 was for the Board  
407 to oppose the legislation if it had concerns about retaining its regulatory authority to  
408 set minimum standards for supervision. However, after working out agreements with  
409 the sponsor and author, the Board ended up supporting the legislation, which was  
410 subsequently signed into law by the Governor in September 2019. She noted that by  
411 removing regulatory authority to set the supervision standards, which are determined  
412 through the practice agreement, would require a legislative change from the Board.  
413 Ms. Schieldge mentioned that CAPA has raised arguments that the Board does not  
414 have the authority to prescribe how surgical procedures are supervised by a  
415 supervising physician with respect to PAs. It appeared to Ms. Schieldge that the  
416 Board attempted to retain some of that authority in the last modified text notice, and  
417 Ms. Schieldge would suggest striking that language. The biggest contentious issue  
418 is 16 CCR 1399.541 where the Board previously tried to include text stating “the  
419 physician assistant may so act without the personal presence of the supervising  
420 physician if the supervising physician is immediately available to the physician  
421 assistant” and text defining “immediately available.” The definition as proposed in the  
422 modified text notice includes: “Immediately available” when used in this section  
423 means a supervising physician is physically accessible and able to attend to the  
424 patient, without any delay, to address any situation requiring a supervising  
425 physician’s services.” Ms. Schieldge and staff recommend removing these  
426 provisions because the law sets the standards for how supervision occurs by a  
427 supervising physician.  
428

429 Mr. Armenta disagreed with this recommendation because he stated that the Board  
430 presume the Legislature knew what it meant when it used personal presence as a  
431 precise definition. Ms. Schieldge advised that the Legislature specified physical  
432 presence, and that BPC 3501(f)(1) states that supervision shall not be construed to  
433 require the physical presence of the physician and surgeon.  
434

435 Mr. Armenta responded by stating that physical presence has a certain definition  
436 and that does not affect the practice agreement requirements, including that the  
437 physician can be in the room. Ms. Schieldge advised that physical presence means  
438 personally available to attend, which means the physician can generally be in the  
439 building for example. Mr. Armenta disagrees with that interpretation, and stated the  
440 problem with that is if there is an emergency, the physician is to be available nearby,  
441 not somewhere on a large campus.  
442

443 Ms. Schieldge advised that she understands the public policy issues raised, but that  
444 amendments enacted by SB 697 at BPC 3501(f)(1)(A) amended the Act so that it  
445 now states, “[a]dherence to adequate supervision as agreed to in the practice  
446 agreement”, so adequate supervision is decided in the practice agreement, not by  
447 Board regulation. The legislative history supporting the bill was to remove the  
448 Board’s authority to set those standards by regulation, so Ms. Schieldge advised that  
449 the Board will have a difficult time retaining the “immediately available” definition in  
450 text. BPC 3501 sets the minimum standard on how supervision is determined by the

451 practice agreement, and BPC 3502(a) supports that by stating “[n]otwithstanding any  
452 other law, a PA may perform medical services as authorized by this chapter if the  
453 following requirements are met:

- 454 (1) The PA renders the services under the supervision of a licensed physician  
455 and surgeon...
- 456 (2) The PA renders the services pursuant to a practice agreement that meets  
457 the requirements of Section 3502.3.
- 458 (3) The PA is competent to perform the services.
- 459 (4) The PA’s education, training, and experience have prepared the PA to  
460 render the services.”  
461

462  
463 Ms. Schiedge advised that she believes that BPC 3502.3 specifies the requirements  
464 for a practice agreement and, also states “nothing in this section shall be construed  
465 to require approval of a practice agreement by the board,” so the Board does not  
466 have the authority to review practice agreements or set the contents of the  
467 agreement.  
468

469 Mr. Armenta stated his interpretation of that provision is that the Board cannot  
470 review individual practice agreements, not that the full autonomy to decide adequate  
471 supervision is given to the practitioners when it comes to practice agreements. Mr.  
472 Armenta stated the question is what did the Legislature mean when they defined  
473 physical presence in BPC 3501(f)(1)? He stated that his interpretation is prohibiting  
474 the requirement that the physician be “in the room” in this context.  
475

476 Ms. Schiedge stated that she does not understand how the definition the Board  
477 proposed for “immediately available” in the prior modified text (Attachment 2) is any  
478 different than requiring someone to be physically present in the room. Mr. Armenta  
479 said the proposed regulation defining “immediately available” does not require the  
480 physical presence of the physician, but they could be called on the phone to attend  
481 to the patient.  
482

483 Ms. Schiedge advised that when the physician is called to come to “attend to the  
484 patient” they are actually being required to be physically present because they have  
485 to be physically present in order to immediately “attend” to the patient (i.e., return to  
486 the “room” where the patient is). As a result, it could be argued that the “physically  
487 accessible and able to attend to the patient” requirement is a physical presence  
488 requirement, which is prohibited from being required by the Board per BPC  
489 3501(f)(1). Mr. Armenta stated he understood that point, but this change in policy  
490 direction raises public protection concerns for him, and he does not see the clarity of  
491 that point reflected in the Board’s statutes.  
492

493 Dr. Kidd agreed that the focus of the practice agreement is on determining  
494 supervision at the practice level between the physician and PA, rather than being  
495 prescribed by the Board. For example, if a PA administers anesthesia and performs  
496 procedures, such actions must be approved by the credentialing and privileging  
497 body of a health system or a hospital, which typically does not permit such practices.  
498 He noted that a physician supervising a PA, there are rules and administrative  
499 policies around that, and even with a practice agreement, there are still delineations  
500 of privilege agreements, administrative policies, bylaws, and regulations that PAs  
501 and physicians must adhere to. Dr. Kidd concurred with CAPA’s comment and  
502 interpretation that the Board cannot require the physical presence of a physician. He

503 elaborated that general supervision typically means electronically available, direct  
504 supervision means to be generally somewhere on-site, and personal supervision is  
505 to be immediately available in the room as something is being done.  
506

507 Mr. Armenta disagreed with that interpretation and asked why the Legislature did not  
508 specifically state in the statute that it was authorizing the professions to have  
509 complete autonomy to set supervision standards if that was the intent.  
510

511 Ms. Schieldge advised that she believed the statutes and bill analysis support this  
512 interpretation. She noted that the statutes specify that PAs may perform the services  
513 if they meet the requirements of BPC 3502.3. Therefore, she is having trouble  
514 understanding how the Board has any authority to say otherwise. This change in the  
515 law does not prevent the Board from disciplining if a PA falls below the standard of  
516 care, or taking any enforcement action, but it does prevent the Board from setting  
517 minimum standards before something occurs.  
518

519 Mr. Armenta responded by stating that BPC 3502.3(b) gives the Board authority to  
520 set regulations when it states, “[n]otwithstanding any other law, in addition to any  
521 other practices that meet the general criteria set forth in this chapter or regulations  
522 adopted by the board...”  
523

524 Dr. Kidd stated coming up with minimum standards is best determined at the  
525 practice level. The Board is not an expert on all the areas a PA would practice, and  
526 the expertise lies in the practice based on factors that hospital systems, doctor’s  
527 offices, and clinics look at to determine competency required to perform the tasks  
528 and activities. The physician and PAs are experts in the field, and they know what  
529 competency is required for what they do in that clinical space. Dr. Kidd does not  
530 believe that the Board should prescribe those supervision standards, and that is  
531 intent of SB 697 so that the PA and physician are determining the level of  
532 supervision.  
533

534 Ms. Schieldge reviewed BPC 3502.3(b) and advised that she believes that section  
535 has to do with authorizing the Board to provide exemplars of the types of services  
536 that may be authorized. She directed the Board to 16 CCR 1399.541, which is the  
537 existing regulation interpreting the Board’s regulatory authority referred to in BPC  
538 3502.3. She advised that 16 CCR 1399.541 provides a list of examples for the types  
539 of services performable (a “blueprint” for what a physician can put in a practice  
540 agreement) and was not adopted by the Board to set the standards for how  
541 physicians and PAs determine the content of the practice agreement and  
542 supervision.  
543

544 Mr. Armenta stated he interprets BPC 3502.3(b) to mean notwithstanding the  
545 Board’s regulations, the practice agreement can still include the services listed in  
546 BPC 3502.3(b)(1) – (3), but regulations can be adopted if they don’t affect BPC  
547 3502.3(b)(1) – (3).  
548

549 Ms. Schieldge advised that the purpose of this section is for those unfamiliar with  
550 practice agreements to show what services can be included in the practice  
551 agreement. Ms. Schieldge advised that this language was in effect prior to SB 697  
552 and the Board, by regulation at 16 CCR 1399.541, has interpreted it that way. In her  
553 opinion, BPC 3502.3 does not allow the Board to limit or prohibit the services that  
554 are performable but instead authorizes the Board to promulgate regulations to

555 specify “other practices” “in addition” to those authorized by the Act that may be  
556 included in a practice agreement, but those “other practices” set by regulation  
557 cannot conflict with the Act by law. Otherwise, she was unclear why the Legislature  
558 would make a point of adopting the new qualifying criteria for practice agreements  
559 as authorized by SB 697 in BPC 3502(a), where it states “Notwithstanding any other  
560 law” the PA may perform the services if the listed criteria are met.  
561

562 Mr. Armenta stated that he would agree with Ms. Schieldge if that sentence in BPC  
563 3502.3(b) was not retained. Mr. Armenta also stated the Board had significant  
564 negotiations with stakeholders to get to this point in the rulemaking process and now  
565 they want to claw back those agreements, which he finds troubling.  
566

567 Dr. Kidd stated Mr. Armenta’s point is focusing on supervision; whereas he thinks  
568 that the intent of SB 697 was to put it in the hands of the physician and PA at the  
569 practice level. Dr. Kidd noted that nurse practitioners have similar “blueprint” laws  
570 and so he agrees that the BPC 3502.3(b) has authorized the Board to provide  
571 practitioners with a blueprint for how to construct a practice agreement.  
572

573 Mr. Armenta stated that he is still opposed to changing the “immediately available”  
574 component of the regulations.  
575

576 Dr. Kidd thanked Ms. Schieldge for her work on this item and announced that he  
577 would be making a motion in support of the proposed changes.  
578

579 M/ Vasco Deon Kidd S/ Sonya Earley to:

580  
581 Adopt the proposed responses to comments and the Second Modified Text and  
582 direct staff to send the Second Modified Text in Attachment 1 out for a 15-day public  
583 comment period. If no adverse public comments are received on the Second  
584 Modified Text, instruct the Executive Officer to take all steps necessary to complete  
585 the rulemaking process, authorize the Executive Officer to make any technical or  
586 non-substantive changes to the rulemaking package and adopt the amendments to  
587 16 CCR sections 1399.502, 1399.540, 1399.541, and 1399.545, as noticed in the  
588 Second Modified Text.  
589

<b>Member</b>	<b>Yes</b>	<b>No</b>	<b>Abstain</b>	<b>Absent</b>	<b>Recusal</b>
Charles Alexander	X				
Juan Armenta		X			
Sonya Earley	X				
Diego Inzunza	X				
Vasco Deon Kidd	X				
Deborah Snow	X				

590  
591 Mr. Inzunza wondered if 16 CCR 1399.541 could be interpreted as an exhaustive list  
592 where it states “In any setting, including for example, any licensed health facility, out-  
593 patient settings, patients’ residences, residential facilities, and hospices, as  
594 applicable, a physician assistant may, pursuant to a delegation and protocols where  
595 present...” Ms. Schieldge responded that the words “In any setting, including for  
596 example” do not add a limitation to the statement because it provides an example of  
597 settings only. Dr. Kidd stated that by stating “any setting” it allows for any setting to  
598 be included in this section. Mr. Armenta agreed that this section does not exclude

599 any setting from being included because the words “any setting” are included in the  
600 text.

601  
602 Public comment:

603  
604 Brett Bergman, past president of CAPA, speaking on behalf of CAPA, expresses  
605 CAPA’s support for Option A. In regard to Mr. Armenta’s concern of the PA  
606 performing surgery independently on a patient under anesthesia, he wanted to  
607 highlight the legislative provisions restricting what a practice agreement can  
608 authorize a PA to perform found in BPC 3502(a)(3) and (4) is that the PA has to be  
609 competent to perform the services, and that the PA’s education, training, and  
610 experience has prepared the PA to render those services. If the PA is not competent  
611 or does not have the education, training or experience they cannot render the  
612 service. The practice agreement cannot authorize the PA to perform a service that  
613 they are not competent to perform. He agrees with Dr. Kidd’s assessment that  
614 hospitals and surgical facilities are accredited by numerous governing bodies and  
615 national and state agencies. The process of privileging is how a facility indicates  
616 what services a PA can perform in the surgical setting. That is also aligned with BPC  
617 3502 in that privileges are granted based on competencies. So, if not competent,  
618 they would not be authorized to do so. A PA would not have privileges to  
619 autonomously perform a heart transplant surgery independently as they are not  
620 trained to do so. Nor would an orthopedic surgeon who has a plenary license under  
621 California law, is not restricted by the nature of their medical license rather based on  
622 the standard of care and the hospital in granting those privileges. BPC 3502(f) states  
623 the PA shall be supervised by a physician and surgeon with privileges, again  
624 highlighting the aspect of the importance of privileges. He noted that Board  
625 Regulations Counsel mentioned the remedy within the Board’s authority is discipline  
626 of the PA whose conduct falls outside of the standard of care and outside of the  
627 language found in BPC 3502.

628  
629 Mr. Armenta stated that while he respects Mr. Bergman’s opinion, it does not change  
630 his view on the statutory interpretation issues he raised previously. Mr. Armenta then  
631 asked what the next steps would be for completing this rulemaking. Ms. Schieldge  
632 outlined the Board’s options for completing the rulemaking. She explained that the  
633 Board has until July 26, 2024, to complete the rulemaking and the Board may have  
634 to schedule another meeting if adverse comments are received from the public or if  
635 OAL has issues with the Board’s proposed changes to existing text to try to  
636 complete the rulemaking within this timeframe.

### 637 638 **13. Regulations – Update on Pending Regulatory Packages**

639  
640 Ms. Dhillon referred members to Agenda Item 13 for the detailed updates on the  
641 following packages.

#### 642 643 1. 16 CCR 1399.514, 1399.615 – SB 697: License Renewal and Continuing Medical 644 Education Required

645  
646 Staff is currently working on initial documents with regulations counsel and the  
647 Budget Office to submit for initial review.

#### 648 649 2. 16 CCR 1399.502, 1399.540, 1399.541, 1399.545 – SB 697: SB 697 650 Implementation

651 The Board needs to adopt the revised regulatory language in response to the  
652 comments received.

653  
654 3. 16 CCR 1399.506, 1399.507, 1399.511, 1399.546 – SB 697: Application, Exam  
655 Scores, Addresses, & Recordkeeping

656  
657 Staff is working on initial documents to submit for initial review.

658  
659 4. 16 CCR 1399.515 – AB 2461: Retired Status to Include Fingerprint Requirement

660  
661 Staff will begin working on initial documents to submit for initial review this calendar  
662 year.

663  
664 5. 16 CCR 1399.523 – SB 1441: Implement Uniform Standards Related to  
665 Substance Abusing Licensees and Update of Disciplinary Guidelines

666  
667 Staff will work on the proposed language in the next few months for Board approval.

668  
669 Ms. Schiedge asked if it has been decided which package is priority. Ms. Dhillon  
670 responded it was decided the Application, Exam Scores, Addresses &  
671 Recordkeeping package is priority.

672  
673 No public comment.

674  
675 **14. Education/Workforce Development Advisory Committee: Update on**  
676 **Physician Assistant Education Programs and Applicants in California**

677  
678 Dr. Kidd referred members to Agenda Item 14 for the detailed Education and  
679 Workforce Sub-Committee Report. He reported that the Committee was unable to  
680 confirm if the two developing programs mentioned in the report were still pursuing  
681 accreditation at this time. The average number of students per cohort in California is  
682 50, slightly higher than the national average of 45 students per cohort. Notably,  
683 California State University Monterey Bay (CSUMB) will close its program in 2024  
684 and has voluntarily withdrawn its accreditation. The 2024 class will be able to  
685 graduate; however, CSUMB is trying to find accredited programs to which they can  
686 transfer their 2,025 students. There is no guarantee these students will be absorbed  
687 by another program. With the closure of the CSUMB program, there will be about  
688 133 less graduates per year. CSUMB began with a provisional accreditation in 2019.

689  
690 Dr. Earley stated that it will be difficult for that 2,025 CSUMB class who must be  
691 absorbed into other programs unless there are already open spots.

692  
693 Dr. Hawkins recalled that a similar program had trouble sending their class to other  
694 programs and asked if anyone had an update regarding this. Dr. Kidd confirmed the  
695 issue and mentioned that Western University of Health Sciences reached out to  
696 other programs in a similar manner as CSUMB is doing.

697  
698 Dr. Hawkins asked if there is an issue that the Board needs to be aware of as to why  
699 these programs are having difficulties. Dr. Kidd explained that these programs are  
700 failing to meet accreditation standards. The status of each program's compliance  
701 with the standards is public information and is listed on their webpage. When a

702 program fails to meet the standards, they are either placed on probation or  
703 voluntarily withdraw their accreditation.

704  
705 Dr. Hawkins asked if the two applying programs were aware of the issues faced by  
706 the other two programs and if they are taking steps to avoid similar issues. Dr. Kidd  
707 expressed that he believes they are aware and are working with the accreditor to  
708 understand and meet the high standards required for program accreditation.

709  
710 No public comment.

711  
712 **15. Report by the Legislative Committee; Legislative Update**

713  
714 Ms. Dhillon referred members to Agenda Item 15 for the detailed report on the  
715 following bills.

716  
717 A. AB 2194 (Patterson) Physician assistants: supervision: podiatrists

718  
719 Staff may need to implement regulations in accordance with this bill. The Board  
720 would need to update forms and information included on the Board's website for  
721 licensees to reflect the new supervision requirements. This is something that can be  
722 done by staff and is supported by the Board's current pro rata costs to DCA.

723  
724 Dr. Kidd stated that he opposes this bill as the mechanism for supervision already  
725 exists to assist podiatric providers and there are no accredited training programs for  
726 PAs in podiatry, nor standards.

727  
728 Dr. Earley agreed and confirmed there are no clinical rotations in podiatry.

729  
730 Mr. Armenta stated he was also troubled by this bill as it removes [Business and  
731 Professions Code section] 3502(b) completely.

732  
733 Dr. Alexander questioned where this bill came from.

734  
735 Mr. Kanotz advised that this bill was just filed, and no analysis has been completed  
736 on it.

737  
738 M/ Vasco Deon Kidd S/ Juan Armenta to:

739  
740 Oppose this bill.

741

Member	Yes	No	Abstain	Absent	Recusal
Charles Alexander	X				
Juan Armenta	X				
Sonya Earley	X				
Diego Inzunza	X				
Vasco Deon Kidd	X				
Deborah Snow	X				

742  
743 No public comment.

744

745 B. AB 2442 (Zbur) Healing arts: expedited licensure process: gender-affirming health  
746 care and gender-affirming mental health care

747 This bill would require staff to update the Board's licensing process to ensure  
748 applicants who meet the gender-affirming health care and gender-affirming mental  
749 health care criteria can get their license application expedited. This would require the  
750 license application form to be updated for applicants to demonstrate their intent.  
751 Staff projects there will not be an increase in licensing workload related to the new  
752 provisions of this bill.

753  
754 Dr. Kidd stated that this is not needed as there is no bottleneck for PA applicants  
755 and there are no throughput issues in terms of processing application, therefore do  
756 not see that this bill is warranted.

757  
758 Ms. Dhillon recalled a similar bill was filed last year that did not pass.

759  
760 Mr. Armenta suggested the Board take a watch position at this time until they learn  
761 further.

762  
763 Dr. Earley agreed.

764  
765 C. SB 1041 (Portantino) Physician assistants: licensure: Armenian Doctor Pilot  
766 Program

767  
768 This bill would require staff to update the Board's licensing process to ensure  
769 applicants who meet the pilot program requirements are licensed. This would require  
770 the license application form to be updated for applicants to apply for the pilot  
771 program. Staff projects there will not be an increase in licensing workload related to  
772 the new provisions of this bill.

773  
774 Mr. Armenta stated that he opposes this bill. He further stated that the imposing of  
775 additional licensing requirements, and the development of a program, should not be  
776 placed on the Board, and even if it were, it should not be done for just one university.

777  
778 Dr. Earley stated that she is opposed to this bill. She stated that there is a path for  
779 international doctors to become doctors in the United States. She questions why  
780 doctors elsewhere would be vetted to a be PA here. Being a PA is not a secondary  
781 fall back onto profession should one be unable to pass the requirements for being a  
782 doctor. She cited the accrediting body stating that there are no additional pathways  
783 to becoming a PA outside the standards and this would not follow those many  
784 standards. Passing this would put the Board outside its mission of protecting the  
785 public by regulating the standards of practice.

786  
787 Dr. Kidd stated that these individuals would not be eligible to take the PANCE and  
788 they would not be able to complete the rotations at federally qualified healthcare  
789 centers. These persons would then be competing for clinical rotations and displacing  
790 PA students already in their rotations and complying with standards. For these  
791 reasons and the reasons already stated, he opposes this bill.

792  
793 Dr. Hawkins stated he agrees with the Board members on this bill.

794  
795 Mr. Kanotz stated that the Legal Division does not take positions on the legality of  
796 bills; however, he wanted to say that this bill creates an issue about whether it is



797 unconstitutional based on national origin discrimination. Mr. Armenta supplied that  
 798 would be based on the “equal protection” clause. Mr. Kanotz confirmed.  
 799 Dr. Alexander queried if this bill came about because there was a lack of Armenian  
 800 PAs in this particular community, as he recalled years ago that because of the lack  
 801 of dental providers in the central valley, the Dental Board of California allowed  
 802 dentists licensed in Mexico to fill in the void.  
 803

804 Dr. Earley ventured to posit that this is not the case here. She found in her  
 805 experience Armenians seem well represented in PA programs. She maintained that  
 806 it is a medical doctor issue, in that these individuals are not seeking to pass the  
 807 exams mandated in this country to become a doctor, and are seeking to practice  
 808 medicine in some capacity, and are therefore seeking to be a PA through other  
 809 means, and as a safety net, “second place” license as it were. She feels that if the  
 810 individuals could pass the exams to be a doctor in this country, the Board would not  
 811 be looking at this bill.  
 812

813 Dr. Hawkins also recalled the MBC’s Mexico pilot program was successful and  
 814 provided for individuals who met the standard required in California and were  
 815 providing services to underserved parts of Spanish-speaking communities. Dr.  
 816 Hawkins stated that is very much different from what this bill proposes. Also, he  
 817 noted that the Mexican government opposed that pilot program because they were  
 818 losing practitioners.  
 819

820 Dr. Alexander brought up that the MBC involved in the Mexico pilot program went to  
 821 Mexico to visit their educational programs to determine their standards to allow this  
 822 pilot program to take place. Dr. Hawkins confirmed this. Dr. Alexander stated this bill  
 823 does not allow for this visit to determine if the university in this bill is up to standards  
 824 here.  
 825

826 Dr. Earley stated the significant difference between the Mexico pilot program and  
 827 this bill proposal was that the Mexico program was MD to MD (and DDS to DDS),  
 828 not MD to PA: a different license.  
 829

830 M/ Juan Armenta S/ Deborah Snow to:

831  
 832 Oppose this bill.  
 833

Member	Yes	No	Abstain	Absent	Recusal
Charles Alexander	X				
Juan Armenta	X				
Sonya Earley	X				
Diego Inzunza	X				
Vasco Deon Kidd	X				
Deborah Snow	X				

834  
 835 No public comment.  
 836

837 D. SB 1067 (Smallwood-Cuevas) Healing arts: expedited licensure process:  
 838 medically underserved area or population  
 839

840 This bill would require staff to update the Board's licensing process to ensure  
841 applicants who meet the medically underserved area or serving a medically  
842 underserved population criteria can get their license application expedited. This  
843 would require the license application form to be updated for applicants to  
844 demonstrate their intent. Staff projects there will not be an increase in licensing  
845 workload related to the new provisions of this bill.  
846

847 Dr. Kidd stated this bill brings up the same issues that were present in AB 2442, and  
848 that the Board should take the same watch position.  
849

850 No public comment.  
851

## 852 **16. Agenda Items for Next Meeting**

853  
854 1) Include specific data for the Board activity reports (Licensing Report).  
855

856 No public comment.  
857

## 858 **17. CLOSED SESSION**

859  
860 None this meeting.  
861

## 862 **18. Adjournment**

863  
864 With no further business the meeting was adjourned at 11:39 p.m.  
865

866 Minutes do not reflect the order in which agenda items were presented at the Board  
867 meeting.  
868