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TELECONFERENCE MEETING MINUTES

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July 11, 2019
PHYSICIAN ASSISTANT BOARD
2005 Evergreen Street – Room #1120
Sacramento, CA 95815
9:00 A.M. – 10:00 A.M.

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The public teleconference sites for this meeting were as follows:

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1520 San Pablo St., #4300
Los Angeles, CA 90033

41750 Rancho Las Palmas Dr., Bldg G
Rancho Mirage, CA 92270

16200 Amber Valley Dr., Rm F-31
Whittier, CA 90604

1232 Campbell Hall
University of California, Los Angeles
Los Angeles, CA 90095

Physician Assistant Board
2005 Evergreen St., Room #1120
Sacramento, CA 95815

1. Call to Order by President

President Grant called the meeting to order at 9:05 a.m.

2. Roll Call

Ms. Forsyth called roll. A quorum was present.

Board Members Present:

Charles Alexander, PhD.
Sonya Earley, PA-C
Jed Grant, PA-C
Xavier Martinez
Robert Sachs, PA
Mary Valencia

Board Members Absent:

Juan Armenta, Esq.
Jennifer Carlquist, PA-C
Javier Esquivel-Acosta

Staff Present:

Maureen L. Forsyth, Executive Officer
Kristy Schieldge, Attorney IV
Michelle Angus, Assistant Chief Counsel
Rozana Firdaus, Enforcement Analyst
Anita Winslow, Lead Licensing Analyst

3. 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

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52 whether to place the matter on the agenda for a future meeting. [Government
53 Code Sections 11125, 11125.7(a).]

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55 Members of the public present: Michele Canales, staffer for Senator Caballero
56 Megan Allred, California Medical Association; and Patrick Le, Assistant Deputy
57 Director, Department of Consumer Affairs, Board and Bureau Relations.
58

59 **4. Regulation – Update, Discussion, and Possible Action**
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61 a. Proposed Amendments to Title 16, California Code of Regulations, Section
62 1399.617 (Audit and Sanctions for Noncompliance), Issuance of Possible
63 Modified Text Notice and Documents Added to the Rulemaking File
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65 Ms. Winslow reported that on May 30, 2019, the Office of Administrative Law
66 (OAL) notified the Physician Assistant Board (Board) that OAL would not approve
67 the proposed language as submitted for filing. Board staff worked with OAL legal
68 counsel to draft modified language for the Board’s approval before moving forward
69 with a 15-day notice.
70

71 The original proposed language of the second sentence of subsection (a) stated
72 “within 65 days of the board’s request”, the proposed language has been modified
73 in order to bring clarity by adding the words “of the date” and “written”.
74

75 A second request is made by the Board when a licensee fails to respond to the
76 Board’s original continuing medical education audit request. To bring clarity, the
77 last sentence of subsection (a) of the proposed language has been modified by
78 adding “of the date”, “second written”, and “for proof of compliance”.
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80 Ms. Schieldge requested that the Board approve Option #1 if they have no
81 changes to the proposed language.
82

83 M/ Robert Sachs S/ Sonya Earley to:
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85 Approve the proposed modified regulatory text for Section 1399.617, direct staff
86 to take all steps necessary to complete the rulemaking process, including
87 preparing the modified text notice and an addendum to the Initial Statement of
88 Reasons for an additional 15-day comment period, which includes amendments
89 discussed at this meeting. If after the 15-day public comment period, no adverse
90 comments are received, authorize the Executive Officer to make any non-
91 substantive changes to the proposed regulations before completing the
92 rulemaking process, and adopt Section 1399.617 of the proposed regulations
93 with the modified text.
94

Member	Yes	No	Abstain	Absent	Recusal
Charles Alexander	X				
Juan Armenta				X	
Jennifer Carlquist				X	
Sonya Earley	X				
Javier Esquivel-Acosta				X	
Jed Grant	X				
Xavier Martinez	X				

Robert Sachs	X				
Mary Valencia	X				

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Motion approved.

No public comment.

5. Discussion and Possible Action Regarding Proposed Legislation

SB 697 – Cabellero: Physician Assistant: Scope of Practice

Mr. Grant stated that the Board members have been provided all correspondence related to SB 697 since they last met on April 29, 2019. At the last meeting, the Board took a position to oppose the bill unless amended. Events transpiring since the last Board meeting are as follows: 1) a letter was sent to the author stating the Board’s reasons for opposition, 2) a meeting with the author and sponsors to discuss the Board’s concerns and changes, 3) the release of a second set of amendments addressing some of the Board’s concerns, 4) a second letter to the author and sponsors disclosing the Board’s issues with the bill, 5) a teleconference meeting with the author’s office and sponsors, 6) release of July 1, 2019 amendments, and 7) hearing with the Assembly, Business and Professions Committee. There were no additional changes to the bill between the July 1, 2019 amendments and this teleconference. Mr. Grant attended the Assembly Business and Profession Committee to voice the Board’s continued concern and expressed appreciation to the author and the sponsors for working with the Board.

Mr. Grant stated that Mr. Chee’s summary of SB 697 includes proposed changes on pages 7-8 which will likely address some of the Board’s concerns. On July 9, 2019, the Board received a letter from the California Academy of PAs (CAPA) which listed all of the changes made to the bill at the request of the Board.

Mr. Grant stated that he still has a few concerns:

- The first concern centers on supervision. The bill currently reflects that anyone, in any specialty, can supervise a PA; however, the supervising physician should be in the same specialty or usual and customary practice that the PA will be functioning in. This bill also prevents the Board from enforcing a standard where the physician should have to be physically present. There are times that the physical presence of the supervising physician would be required.
- The second concern is the Board’s authority to make regulations. Mr. Grant noted Mr. Chee’s summary did list that the language in the current regulation basically tomb stones our regulations as of June 7, 2019.
- The third concern is unnecessary changes to prescribing laws. Mr. Grant stated that unnecessary changes introduces an opportunity for confusion.
- The fourth concern is with the corporate practice of medicine. This bill redefines the practice agreement to allow administrators to participate in the practice agreement and could determine the duties or scope that the PA has.

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Mr. Grant stated these are the Board's main concerns that remain. He appreciates the progress that has been made thus far.

Mr. Sachs commented he agrees with Mr. Grant regarding the prescription language. The language of furnishing relates to nurse practitioners (NPs) and doesn't understand the reason for the change as it may result in a problem.

No additional comments from the Board members.

Public Comment: Ms. Canales, staffer for Senator Caballero, expressed a few thoughts that Senator Caballero wanted to share. CAPA and the California Medical Association (CMA) believe that they have worked diligently with the Board over the last few months to address the concerns that have been brought forward. She stated they will continue to work on the remaining concerns but there may continue to remain a fundamental difference on a couple of concerns. Senator Caballero doesn't want to impede the Board's ability to implement new regulations or discipline when needed.

Public Comment: Ms. Allred, California Medical Association (CMA), stated she agrees with Senator Caballero's comment that there might be some fundamental differences with how they would like the practice agreement to look and the parity they are looking for. For PAs and NPs specifically, to relax some of the strict regulations and statutory requirements and move those to a practice agreement allowing for flexibility and the ability for the physician and PA to determine what their scope is going to be and how they are going to practice. This is the main goal of this bill and CMA feels that the language accomplishes that purpose. CMA is open to working on the language to clarify some of the issues. She stated CMA did try to address the corporate practice of medicine issue in the language and, as detailed in the Committee analysis, by referencing the corporate practice of medicine bar currently in statute to ensure that no one is violating that. Concerning the furnishing issue, while PAs don't have a furnishing number, they can order and then administer, or furnish, so it may just be a matter of terms. A place where CMA might disagree with the Board is with the "same specialty" because a physician has no scope limitation due to specialty, so technically they could supervise someone who might have more expertise in a different area but are not limited to supervising someone of the same specialty.

Mr. Grant's concern is that it really isn't supervision if you have less knowledge about the issue that you're supervising; at that point, the PA is practicing unlicensed medicine because the person supervising them has less knowledge. The reason the Board is requesting to include the use of "specialty or usual and customary practice" is to set a boundary around what the practice agreement can do in order to prevent harm to patients.

Ms. Schieldge, counsel for the Board, asked if someone could address why there was a need to add a third party to the practice agreement. Ms. Allred responded that she would check with her legal counsel as for the specific reasons as to why, but she believes it was to not limit the ability for the administrator to participate in the collaboration of the practice agreement but not to supervise. Ms. Schieldge stated the statute says the administrator of the organized health care system defines the medical services that can be performed and that is a departure from

196 current law and is not included in the nurse practitioner's practice act. She has
 197 looked at the nurse practitioner's practice act and there isn't anything that states
 198 that a third party is on their agreement and she has never seen a practice
 199 agreement for a nurse practitioner that has an administrator on the agreement.
 200 This would not provide parity with nurse practitioners. If there is interest in putting
 201 collaborative opportunities in the law, it should be placed somewhere else, not to
 202 make the scope of practice dependent upon a third party administrator participating
 203 in the scope. What the practice agreement does is set the scope of medical
 204 services and basically the scope of practice of medicine for a PA would be
 205 controlled by these three parties. The concern is the interference between the
 206 physician and PA to determine what services the PA is capable of performing.

207
 208 Ms. Allred asked to confirm the section of concern is 3501 (k), Ms. Schieldge
 209 responded yes. Ms. Allred stated she would seek clarity with her legal counsel to
 210 see if there was something specific they wanted to authorize, or if this would be
 211 something they could strike.

212
 213 Ms. Schieldge suggested the Board delegate the authority to Mr. Grant to continue
 214 to negotiate and possibly change the Board's position on the bill if the Board's
 215 concerns discussed today are addressed.

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 217 M/ Xavier Martinez S/ Sonya Earley to:

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 219 Delegate the authority to Mr. Grant to continue to negotiate and possibly change
 220 the Board's position on the bill if the Board's concerns discussed today are
 221 addressed.

Member	Yes	No	Abstain	Absent	Recusal
Charles Alexander	X				
Juan Armenta				X	
Jennifer Carlquist				X	
Sonya Earley	X				
Javier Esquivel-Acosta				X	
Jed Grant	X				
Xavier Martinez	X				
Robert Sachs	X				
Mary Valencia	X				

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 224 Motion approved

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 226 No public comment.

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 228 Ms. Canales stated the Appropriations Committee will hear the bill mid-August.

229
 230 Mr. Grant thanked CMA and the author for working with the Board.

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 232 **6. CLOSED SESSION**

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 234 Pursuant to Section 11126(c)(3) of the Government Code, the Board moved into
 235 closed session to deliberate on licensing and enforcement matters.

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M/ Bob Sachs S/ Xavier Martinez to:

Adjourn meeting.

Member	Yes	No	Abstain	Absent	Recusal
Charles Alexander	X				
Juan Armenta				X	
Jennifer Carlquist				X	
Sonya Earley	X				
Javier Esquivel-Acosta				X	
Jed Grant	X				
Xavier Martinez	X				
Robert Sachs	X				
Mary Valencia	X				

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7. With no further business the meeting was adjourned at 9:50 a.m.

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