

# **BACKGROUND PAPER FOR**

## **The Physician Assistant Board of California**

**Joint Sunset Review Oversight Hearing, November 19, 2020**

**Senate Committee on Business, Professions and Economic Development  
and the Assembly Committee on Business and Professions**

### **IDENTIFIED ISSUES, BACKGROUND AND RECOMMENDATIONS REGARDING THE PHYSICIAN ASSISTANT BOARD**

## **BRIEF OVERVIEW OF THE PHYSICIAN ASSISTANT BOARD**

### **History and Function of the Board**

The Physician Assistant Board (PAB) is a licensing board within the Department of Consumer Affairs (DCA). The PAB licenses and regulates Physician Assistants (PAs) who provide health care services with the direction and responsible supervision of a doctor of medicine or osteopathy. Although the profession has been around longer, the regulation of PAs began in California in 1975 with the passage of the Physician Assistant Practice Act.

Prior to the regulation of PA's by an independent regulatory board the Physician Assistant Examining Committee (Committee), within the jurisdiction of the Medical Board of California (MBC), was responsible for oversight of the PA professions. As a committee under the MBC, all of the licensing, enforcement and administrative duties were handled by the Committee through the MBC. During the 2012 sunset review oversight process, it was recommended that the Committee transition out of the MBC to become an independent board and, as a result, SB 1236 (Price, Chapter 332, Statutes of 2012, established a stand-alone Physician Assistant Board. While many of the Committee's regulatory activities were handled by the new PAB, it did maintain a shared services agreement with the MBC for a portion of the PAB's enforcement work.

The PAB's primary responsibility is ensuring consumer protection, driving PAB's efforts to promote safe PA practice by ensuring that only those who meet the requirements for licensure are able to obtain a license; coordinating and investigating disciplinary matters in an expeditious manner; and, managing a diversion/monitoring program for PAs who have alcohol and/or substance abuse problems. The PAB licenses approximately 14,000 PAs.

According to information provided by the PAB, PAs make clinical decisions and provide a broad range of diagnostic, therapeutic, preventative and health maintenance services. Examples of services offered by a PA include ordering x-rays and laboratory tests, performing diagnoses, administering immunizations, providing referrals within the healthcare system, performing minor surgery, and acting as first or second assistants during surgery. The laws governing the practice of PAs and the administration of the PAB are specified in statute in Business and Professions Code (BPC) § 3500 *et seq.* and in regulations California Code of Regulations (CCR) 16, § 13.8.

As stated in its 2019-2023 Strategic Plan, the PAB’s current mission statement is as follows:

*To protect and serve consumers through licensing, education, and objective enforcement of the Physician Assistant laws and regulations.*

**Board Membership and Committees**

The PAB is comprised of nine voting members and one ex-officio member, including five PAs, 4 members of the public, and one non-voting physician and surgeon licensed by the MBC. All five professional members are appointed by the Governor, as are two of the public members. The Senate Committee on Rules and the Speaker of the Assembly each appoint one public member. While BPC § 3505 specifies that the ex-officio PAB member is a MBC licensee, it also specifies that the individual is a MBC member tasked with providing MBC an update on PAB actions and discussions. This issue is discussed further in Issue #1 below.

The PAB meets approximately four times a year and PAB members receive a \$100-a-day per diem. All Committee meetings are subject to the Bagley-Keene Open Meetings Act. The PAB reports that it has not had to cancel any meetings due to issues with obtaining a quorum. Currently, there are three vacancies on the PAB. The following is a listing of the current PAB members and their background:

<b>Board Member</b>	<b>Appointment Date</b>	<b>Term Expiration</b>	<b>Appointing Authority</b>
<p><b>Charles Alexander, Ph.D., Vice President, Public Member</b>            Dr. Alexander has been associate vice provost for student diversity and director of the academic advancement program at the University of California, Los Angeles since 2006. He was associate dean for student affairs and admissions at the University of California, San Francisco School of Dentistry from 1996 to 2006 and director of multicultural concerns and assistant to the dean of the Marquette University School of Dentistry from 1990 to 1996. He served as associate dean of the college of arts and sciences at Brandeis University from 1989 to 1990 and director of multicultural affairs at Milwaukee Area Technical College from 1988 to 1989.</p>	08/17/20	01/01/24	Governor
<p><b>Juan Armenta, Esq., Public Member</b>            After earning his law degree in 1990, Mr. Armenta’s Los Angeles area practice focused on tort litigation including municipal liability defense. He formed his own firm in 1994 in Rancho Mirage, where he practices focusing on areas that overlap with medical care delivery including workers’ compensation and insurance fraud. He has been on the litigation team or lead appellate lawyer on numerous appellate opinions in the area of fraud against governmental entities and insurance companies.</p>	07/3/18	01/01/21	Assembly
<p><b>Jennifer Carlquist, PA-C, Professional Member</b>            Ms. Carlquist has been an emergency room PA at the Community Hospital of Monterey Peninsula since 2013 and a PA at Central Coast Cardiology since 2012. She was an emergency room PA at the Salinas Valley Memorial Hospital from 2009 to 2015.</p>	08/17/20	01/01/24	Governor
<p><b>Sonya Earley PA-C , Professional Member</b>            Ms. Earley is a PA and has been a certified insulin pump trainer and consultant at Animas Corporation since 2008, and a PA and certified diabetes educator at the Southern California Kaiser Permanente Medical Group since 2007. She has also been an instructor of clinical medicine at</p>	08/17/20	01/01/24	Governor

the University of Southern California Keck School of Medicine since 2004. Ms. Earley worked at the Los Angeles County and University of Southern California Medical Center as a pediatric PA from 1996 to 2005 and a pediatric resident from 1994 to 1995.			
<b>Jed Grant, PA-C President, Professional Member</b> Mr. Grant began his medical career as a US Army medic and received his PA training at the Interservice (US Military) PA Program in 1999. He has Bachelor's and Master's Degrees from the University of Nebraska and a Doctorate of Medical Science from the University of Lynchburg. He has practiced in primary care, urgent care, military, occupational, and emergency medicine, working in both clinical and management roles. He has also served as clinical and didactic faculty at PA Programs since 2003, and is a prior program director. He is currently an assistant professor and admissions director for the PA Program at the University of the Pacific, working clinically in urgent care, and serving in the California Army National Guard where he works as an aeromedical physician assistant.	11/20/19	01/01/23	Governor
<b>Randy W. Hawkins, MD., Ex-Officio Member</b> Dr. Hawkins has been assistant professor at Charles R. Drew University of Medicine and Science since 2014 and a physician and surgeon in private practice since 1985. He is board-certified in internal medicine and pulmonary and critical care medicine. Dr. Hawkins is a member of the Golden State Medical Association of California, the National Medical Association, the Charles R. Drew Medical Society and the Food and Drug Administration Cellular, Tissue and Gene Therapy Advisory Committee. Dr. Hawkins earned a Doctor of Medicine degree from Hahnemann Medical College.)	8/17/20	01/01/24	Governor
<b>Diego V. Inzunza, Professional Member</b> Mr. Inzunza has been a physician assistant at VEP Healthcare, Patterson Urgent Care, and Primary Care at Home since 2019. He was a group supervisor for the San Mateo County Probation Department from 2015 to 2019, a medical translator for Santa Clara County from 2012 to 2016 and a community outreach coordinator for the City of San Jose Vice Mayor from 2010 to 2014. Mr. Inzunza is a member of the California Academy of Physician Assistants and the American Academy of Physician Assistants. He earned a Master of Science degree in physician assistant studies from Samuel Merritt University.	8/17/20	01/01/24	Governor

The PAB does not have any committees outlined in statute but are established by the Board president on as needed basis. Committees are comprised of two PAB members at a minimum, with the Board president appointing membership. In the past, PAB has had: a legislative committee tasked with reviewing legislation that would impact the PAB, its licensees and consumers, and make recommendations to the PAB regarding possible positions on proposed legislation; an education/workforce committee tasked with examining education and workforce issues regarding PAs and the need to address health care needs of California Consumers; and, a budget committee which was tasked with examining the PAB's budget-related issues.

### **Fiscal and Fund Analysis**

As a Special Fund agency, the PAB does not receive General Fund (GF) support, relying solely on fees set by statute and collected from licensing and renewal fees paid by PAs.

All PAB licenses are renewed biennially, expiring on the last day of the licensees' birth month. The current PA renewal fee is \$300. The application, initial license, renewal, delinquency, and duplicate

license fees are currently at their statutory maximum. Statutory authorization will be necessary for any future fee increases.

<b>Table 2. Fund Condition</b>						
(Dollars in Thousands)	FY 2015/16	FY 2016/17	FY 2017/18	FY 2018/19	FY 2019/20	FY 2020/21
Beginning Balance	\$1,739	\$1,762	\$1,870	\$2,391	\$3,009	\$4,881
Revenues and Transfers	\$1,688	\$1,821	\$1,894	\$2,131	\$2,330	\$2,412
<b>Total Revenue</b>	\$3,407	\$3,583	\$3,764	\$4,522	\$5,339	\$7,293
Budget Authority	\$1,765	\$1,857	\$1,904	\$1,821	\$2,301	\$2,911
Expenditures	\$1,651	\$1,638	\$1,854	\$1,335	\$1,835	\$2,911
State Operations	\$3	\$75	\$93	\$119	\$123	\$114
Accrued Interest, Loans to General Fund	\$0	\$0	\$0	\$0	\$0	\$0
Loans Repaid From General Fund	\$0	\$0	\$0	\$0	\$1,500	\$0
<b>Fund Balance</b>	\$1,753	\$1,870	\$1,817	\$3,068	\$4,881	\$4,268
<b>Months in Reserve</b>	12.3	11.5	15.0	18.8	19.4	16.7

Note: Table 2 updated November 13, 2020

The PAB is subject to BPC § 128.5, which specifies that if a Board's reserve level exceeds a Board's operating expenses for two fiscal years (FY)s, the Board is required to reduce licensing fees during the following fiscal year in an amount that will reduce any surplus funds to less than the operating budget for the next two fiscal years.

As noted in the PAB's 2019 Sunset Review Report, the Board anticipated total revenue for FY 2020/21 of \$2.412 million and PAB projected to have a reserve balance of \$4.489 million (or 23.1 months). As of November 2020, the PAB projects a reserve balance for FY 2020/21 of \$4.268 million (or 16.7 months), slightly lower than 2019 projections. Additionally, for FY 2020/21, the PAB anticipates a GF loan repayment of a \$1.15 million stemming from a loan PAB made to the GF in 2011.

PAB reports that it does not project a deficit and therefore does not anticipate a future fee increase or a fee reduction. As the PAB pursues complete autonomy from the MBC, the fiscal health of the PAB will be an important consideration. The PAB recently transitioned its enforcement responsibilities provided by the MBC through a shared services agreement to the PAB's workload, which may result in a reduction of its reserve fund balance. The additional enforcement workload will require the PAB to increase its staff positions to manage the new workload.

The PAB reports the following average expenditures during the last four FYs: 57% on enforcement, 5% on examinations, 9% on licensing, 14% on administration, and 13% on pro rata. The most significant change is in the amount spent on enforcement in the last two FYs. In 2017/18 and 2018/19

the PAB significantly reduced the amount spent on enforcement, but significantly increased the amount spent on licensing. Additionally, the PAB's increased pro rata costs are close to six percent.

In 2016, the PAB reported that average expenditure was \$941,000. These expenditures excluded the pro rata amounts and were broken down as 66% on enforcement, 6% on licensing, 4% on administration, and 11% on diversion.

### **Staffing Levels**

The PAB appointed Rozana Khan as its Interim Executive Officer on September 1, 2020. The PAB is authorized for approximately 11 staff positions. Because of anticipated enforcement workload as the PAB transitions from the MBC, the PAB requested and received four additional staff positions including two Associate Government Program Analysts, a Manager 1, and an Office Technician. The PAB currently has six vacancies.

The PAB notes in its 2019 Sunset Review Report that there has been a steady increase in applications for licensure, which affected staff's ability to meet internal application processing timelines.

### **Licensing**

Currently, the PAB licenses approximately 14,000 PAs. The PAB's licensing program provides public protection by ensuring licenses are issued only to those applicants who meet the minimum requirements of current statutes and regulations and who have not committed acts that would be grounds for denial.

The PAB has established internal timeframes for all applications received to be initially reviewed within 30 days. The PAB notes in its 2019 Sunset Review Report that submitted applications, which meet the required education/experience criteria and do not have criminal or disciplinary issues are issued a license within 30-45 days of receipt of that application.

The PAB notes that it has generally been meeting the 30-day goal, however, it notes that there are instances when disciplinary or other application issues result in lengthier application processing timeframes. Application processing may be delayed due to: an increase in the number of applications received; delays in receiving primary source documents from outside sources (i.e. such as transcripts from educational institutions or examination results); delays in fingerprint clearance; or, the submission of an incomplete application.

The PAB requires primary source documentation for any educational transcripts, experience records, license verification from other states, and professional certifications. Applicants who indicate disciplinary issues or criminal convictions on their applications may require additional licensing staff time to review the conviction or action to determine whether the action would make that individual ineligible for licensure. In the past four years, the PAB has only denied two applications for licensure based on criminal history that is determined to be substantially related to the qualifications, functions or duties of the profession as specified in BPC § 480. This issue is discussed further in Item # 9 below.

In the past three years, the PAB has experienced a 12% increase in applications received and a 21% increase in the total number of licenses issued. The PAB notes that growth in the licensing population has substantially increased application processing timelines. The PAB reports that for those

applications with educational or disciplinary deficiencies, the processing times can increase from the 30-45 days to more than three months

Applicants for licensure are required to submit fingerprints to obtain criminal history records from the Department of Justice and the Federal Bureau of Investigation for convictions of crimes substantially related to the duties of a PA. Further, the PAB utilizes the National Practitioner Databank (NPDB) to determine if there have been disciplinary actions taken against the individual in another state or by another health care licensing program in California. The PAB does not query the NPDB for licensure renewals, but does receive subsequent arrest notifications for each licensee. The PAB reports that it is not aware of any licensees that have not been fingerprinted.

The PAB does not approve PA programs. Instead, the PAB recognizes accrediting agencies who evaluate and accredit such programs. BPC § 3513 requires the PAB to recognize a national accrediting organization's school approval, but provides the PAB with authority to approve an educational program should a national accrediting body not exist.

As specified in 16 CCR § 1399.530, the PAB currently recognizes schools approved by the Accreditation Review Commission on Education for the Physician Assistant (ARC-PA). Currently in California, there are 16 programs approved by the ARC-PA.

### **Continuing Education**

The PAB is authorized to require licensees seeking renewal to complete no more than 50 hours of Continuing Education (CE) every two years (BPC § 3524.5). As specified in 16 CCR § 1399.615, a PA is required to complete 50 hours of CE for each biannual renewal. Licensees are required to self-certify at the time of renewal that they have met the CE requirements. The PAB conducts random CE audits to verify compliance; however, the PAB has only been conducting CE compliance audits since 2016.

The PAB does not approve CE courses or CE course providers. Programs are approved by the PAB if they are pre-approved by one of the following: American Academy of Physician Assistants; American Medical Association, American Osteopathic Association Council on Continuing Medical Education; American Academy of Family Physicians; Accreditation Council for Continuing Medical Education; or, a state medical society recognized by the Accreditation Council for Continuing Medical Education.

### **Enforcement**

Prior to July 2020, the PAB's enforcement program was handled by the MBC through a shared-services agreement. Because of that relationship, the PAB adopted the MBC's timeframe for completing an investigation, which is six months from the receipt of the complaint (per BPC § 2319).

Effective July 2020, the PAB is now responsible for all of its enforcement matters. The PAB has established three levels for complaint processing: urgent, high, and routine. Urgent cases (those alleging sexual misconduct or patient injury or death) are deemed high and immediately prioritized as "urgent" and are forwarded to the Health Quality Investigative Unit (HQIU), which carries out the investigations for the MBC, the PAB and the Podiatric Medical Board of California (PMBC) for formal investigations. All other complaints are initiated in the order received and assigned to an analyst who then makes recommendations for appropriate action. A case's priority status may be changed or re-prioritized as an investigation continues.

The PAB has established internal performance targets for its enforcement program. The target to complete complaint intake is ten days. The average over the past three years is ten days. The PAB reports in 2019, that it is was meeting this goal.

The PAB’s overall target for completing investigations is 150 days from the time the complaint is received until the investigation is completed. The PAB’s average over the past three years is 149 days. The PAB reports that it is currently meeting this goal.

The PAB’s established goal for completing investigations, which result in enforcement actions, is 540 days. The PAB notes in its 2019 Sunset Review Report, that it was taking an average of 978 days to complete a case with formal discipline; which far exceeds the PAB’s goal. During the PAB’s prior sunset review, the PAB averaged 595 days.

The table below identifies the actual formal disciplinary actions taken by the PAB between FYs 2016/17-2018-19.

<b>Formal Disciplinary Actions</b>	FY 2016/17	FY 2017/18	FY 2018/19
Accusations Filed	27	19	31
Revocation	3	3	2
Voluntary Surrender	4	8	0
Suspension	0	0	0
Probation with Suspension	1	1	0
Probation	16	26	8
Probationary License Issued	5	3	2
Other	2	0	0

*Note: Information taken from the PAB’s 2019 Sunset Review Report*

Consistent with other healing arts regulatory boards, the PAB and PAs are subject to mandatory reporting requirements for settlements or other civil actions as specified in BPC §§ 801.01; 802.1; 802.5; 803; 803.5; 803.6; 805; 805.01. These report requirements specify which reports based on the civil action or settlement need to be made available to the PAB related to malpractice actions and hospital disciplinary actions of PAs, along with self-reporting by PAs of indictments and convictions.

Additionally, these reporting requirements also apply to professional liability insurers, self-insured governmental agencies, PA and/or their attorneys and employers, peer review bodies, such as hospitals to report specific disciplinary actions, restrictions, revoked privileges, and suspensions. All of the reporting requirements are mandated within a 10-30 day timeframe. In the last FY, the PAB has only received five reports. The low number of mandatory reports received is discussed further in Issue # 11 below.

The PAB is not subject to a statute of limitations; therefore, the PAB does not lose cases due to time issues with filing or prosecuting enforcement cases.

The PAB utilizes it’s cite and fine authority outlined in CCR 16 §§ 1399.570 and 1399.571 which allow the PAB’s EO to issue a citation which may include a fine and an order of abatement. Citations can be issued for a violation of the Physician Assistant Practice Act, for a regulation adopted by the PAB, or for any other statute or regulation upon which the PAB may base a disciplinary action. The

current regulations specify that a citation can range from anywhere between the amounts of \$100 to \$5,000; however the statutory maximum is \$5,000.

Since the PAB’s last review in 2016, the citation and fine regulations have not been amended.

In the PAB’s 2019 Sunset Review Report, the PAB reported that the average citation or fine amount, prior to appeal, is \$345 and the average amount, after appeals have been exhausted, is \$250. The citation and fine program is viewed as a useful enforcement tool to help address minor violations that do not merit more formal types of discipline, but warrant some type of administrative action. The citation and fine program attempts to address, correct, and educate licensees for minor violations of laws and regulations governing the practice of PAs.

The PAB noted in its 2019 Sunset Review Report that the five most common violations for which the PAB issues citations are:

- Failure to maintain CE;
- Failure to maintain adequate medical records;
- Failure to report criminal convictions;
- Unlicensed practice;
- Aiding and abetting unlicensed practice.

In the PAB’s 2015 Sunset Review Report, the top five reasons for issuing citations were:

- Conviction of a crime (such as a DUI, shoplifting, etc.).
- Failure to maintain adequate medical records/failure to order appropriate laboratory tests.
- Failure to obtain and/or review patient medical history.
- Writing drug orders for scheduled medication without patient specific authority.
- Practicing with an expired license.

The PAB is authorized to utilize the Franchise Tax Board’s tax intercept program to collect outstanding fines. However, the PAB reports that it has not had to utilize the program. The PAB is authorized to collect the full amount of the unpaid fine prior to renewal of a license and the fine must be paid before an individual may renew their license.

Pursuant to BPC § 125.3, the PAB is authorized to collect full recovery for the cost of its investigation and enforcement costs for cases that result in formal discipline. The amount of cost recovery ordered during the last four FYs has increased approximately 292%.

Cost Recovery	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19
Total enforcement expenditures	\$1,020	\$999	\$906	\$925
Potential cases for cost recovery	8	15	20	8
Cases recovery ordered	9	20	23	10
Amount of cost recovery ordered	\$43,902.00	149,699.25	229,400.00	172,492.25
Amount collected	\$34,276.00	50,576.50	41,172.87	83,802.44



(Dollars in Thousands)

*Note: Information taken from the PAB's 2019 Sunset Review Report*

For more detailed information regarding the responsibilities, operations, and functions of the PAB or to review a copy of the PAB's *2019 Sunset Review Report*, please refer to the PAB's website at [www.pab.ca.gov](http://www.pab.ca.gov).

## **PRIOR SUNSET REVIEW: CHANGES AND IMPROVEMENTS**

PAB was last reviewed by the Legislature through sunset review in 2016. During the previous sunset review, 10 issues were raised. In December 2019, PAB submitted its required sunset report to the Senate Committee on Business, Professions and Economic Development and Assembly Committee on Business and Professions (Committees). In this report, PAB described actions it has taken since its prior review to address the recommendations made, including adopting a 2019-2023 Strategic Plan and appointing a new Executive Officer on September 1, 2016. Issues which were not addressed and which may still be of concern to the Committees are more fully discussed under "Current Sunset Review Issues."

## **CURRENT SUNSET REVIEW ISSUES FOR THE PHYSICIAN ASSISTANT BOARD**

The following are unresolved issues pertaining to the Physician Assistant Board, or areas of concern that should be considered, along with background information for each issue. There are also Committee staff recommendations regarding particular issues or problem areas PAB needs to address. PAB and other interested parties have been provided with this Background Paper and PAB will respond to the issues and staff recommendations.

### **ADMINISTRATIVE ISSUES**

**ISSUE #1: (BOARD COMPOSITION).** The Physician Assistant Practice Act requires that one member of the PAB include a non-voting licensee of the MBC, typical for committees within another board's jurisdiction, but not common for a stand-alone board that makes decisions about regulating a specific profession. Is the non-voting physician and surgeon appointee still relevant now that PAB exists as a board, rather than a committee under the MBC?

**Background:** Current law (BPC § 3505) requires the PAB to have five PAs and four public members. Additionally, the statute requires an additional non-voting physician and surgeon member who is also a member of the MBC.

When all positions are filled, there are five PAs, four public members and one non-voting physician and surgeon member. Currently, the PAB has three vacancies, including a PA member, and two public

members. The non-voting physician and surgeon position had been vacant since approximately 2017; however, that vacancy was recently filled on August 17, 2020.

The composition of the PAB was considered during the transition of the PAB from a committee under the jurisdiction of the MBC into an autonomous board in 2012. At the time of transition, the PAB decided to continue its use of the MBC for certain services (many of which were provided when the PAB was a Committee under the MBC's jurisdiction, including enforcement, information technology, and fund management via a contract with MBC). At that time, PAB recommended that the existing non-voting physician and surgeon member should remain on the PAB.

During the PAB's 2016 sunset review, the committee staff raised the issue of the PAB's composition and inquired as to whether or not the non-voting physician and surgeon member should be continued.

The PAB responded at that time "While eliminating the physician member is a possible solution, the PAB believes that, even as a nonvoting member, this member provides valuable input which assists the PAB in carrying out their consumer protection mandate. The PAB would not want the collaborative relationship to change. Additionally, since the PAB has a shared services agreement with the MBC in which they provide IT, cashiering, consumer complaint, and disciplinary case functions, retaining a MBC member would be beneficial to both the PAB and MBC. The PAB recognizes that this change recently took place, and, perhaps, it is too early to make a determination if the change would affect our relationship with the MBC. The PAB respects and is committed to supporting the will of the Legislature and is committed to ensuring that the physician member of the MBC is able to successfully carry out their duties as a valued member of the PAB. Perhaps this issue could be evaluated and included in a future PAB sunset review."

Now that the PAB has been an independent board for eight years, the question arises again, as to whether or not the PAB needs to continue to have a non-voting physician and surgeon member on the PAB.

***Staff Recommendation:*** *The PAB should advise the Committees on whether or not it believes a non-voting physician and surgeon member of the PAB is beneficial to the work of the PAB and the profession of PAs or if that position should be eliminated.*

**ISSUE #2: (VACANCIES).** Vacancies affect the ability of any regulatory body to effectively conduct its work and carry out its responsibilities. Are PAB vacancies affecting the Board's operations?

**Background:** Per BPC § 3505, the PAB is required to have nine voting members. Seven members are appointed by the Governor (two public members and five professional members), and the Senate Rules Committee and Speaker of the Assembly each appoint a public member. Per BPC § 3511, five members of the PAB are necessary in order to achieve a quorum. As noted above, the PAB currently has three vacant positions. The PAB plays a vital role in the regulation and administration of the PA Practice Act. The PAB is responsible for making decisions in licensing, disciplinary matters, contracts, budget issues, executive staffing and consumer outreach. Further, many of these decisions are made at PAB meetings, which are public forums. If there are not a sufficient number of PAB members to participate at a PAB meeting, the transaction of business cannot commence. While the PAB notes in its 2019 Sunset Review Report, that it has not had to cancel any meetings due to a lack of quorum, the

current 3 vacancies could become problematic for future administrative operations to carry out the PAB's duties, which could impact probationers seeking probation modifications or other enforcement-related actions; providing legislative feedback; or, delaying the development, approval or disapproval of regulatory changes, among others.

***Staff Recommendation:*** *The PAB should advise the Committees on any concerns it has with the current vacancies on the PAB and what, if any, conversations it has had with the Administration to encourage vacancies be filled in a timely manner. The PAB should advise the Committees if it projects any quorum issues resulting from the current vacancies.*

### **ISSUE #3: (SB 697) Does the PAB forecast any regulatory challenges associated with the implementation of SB 697?**

**Background:** SB 697 (Caballero, Chapter 707, Statutes of 2019), made significant revisions to the PA Practice Act. The bill completely revised the way in which PAs and physician and surgeons arrange and handle supervision. Among numerous other provisions, the bill allowed multiple physicians and surgeons to supervise a PA and redefined the supervision agreement. What was once referred to as a *delegation of services agreement*, is now referred to as a *practice agreement*. Further, the bill eliminated the statutory requirement for a medical records review by a physician and surgeon, which aimed to provide increased flexibility for supervising physician and surgeons in determining the appropriate level of supervision for a PA's practice.

Effective, January 1, 2020, a physician and surgeon who supervises a PA does not need to be physically present when a PA is treating a patient, but must have the specifications of the supervision agreed to in the practice agreement and the physician and surgeon must be available by telephone or other electronic communication methods at the time the PA is examining a patient.

The new practice agreement is written between a supervising physician and surgeon and a PA (which could be one or more supervisors/supervisees). The agreement defines the medical services that a PA is authorized to perform along with policies and procedures to ensure adequate supervision, methods for evaluating competency, the specific authorizations for furnishing or ordering drugs or devices and any other provisions agreed to by the supervising physician and surgeon and the PA. The bill did not alter or expand a PA's scope of practice and as a result, the medical services performed by a PA are only authorized within the PA scope of practice as specified in the PA practice Act.

The provisions of SB 697 went into effect on January 1, 2020. As a result, it would be helpful to know how the PAB prepared for the transition. In addition, if it has received an increased number or complaints regarding PAs, or if there have been any challenges to the Board's operations with the newly implemented law. It would also be helpful to understand whether PAB needs to update regulations or its model disciplinary guidelines because of the new law.

***Staff Recommendation:*** *The PAB should advise the Committees on whether or not there have been any implementation challenges because of changes to the PA practice act through the passage of SB 697 (Caballero, Chapter 707, Statutes of 2019). In addition, the PAB should inform the Committees on its methods to inform both licensees and consumers about changes to the laws for PAs.*

**ISSUE #4: (AUTONOMY FROM MBC) How is the PAB preparing to transition from a shared-services agreement with the MBC? Does the PAB project any increased costs when it moves to conduct certain activities on its own?**

**Background:** SB 1236 (Price, Chapter 332, Statutes of 2012) formally recognized the transition of the former PA Committee to its current status as board within the DCA. At the time of its transition to a board, the decision was made to establish a shared-services agreement with the MBC which resulted in the MBC's continuation of services that had been provided by the MBC when the PAB was operating as a committee under its jurisdiction including: enforcement, information technology, and fund management.

Although the PAB recently eliminated its shared services agreement, the MBC continues to have a shared-services agreement with, the Podiatric Medical Board, and smaller programs that do not have near the infrastructure and administrative support that a large board like MBC does, in order to assist these boards in efficiently conducting their business. At one time, many of today's independently operating boards were committees or others entities under the jurisdiction of the MBC.

As part of the PAB's 2019-2023 strategic plan, the PAB sought to: *Research the feasibility of the [PAB] becoming completely independent of the [MBC] to increase efficiencies and enhance consumer protection.* The PAB notes that because of moving all of its regulatory functions under the PAB's purview, it would increase efficiencies and enhance consumer protection.

The PAB noted in its 2019 Sunset Review Report, that there were serious deficiencies with meeting its formal discipline goals because the enforcement program was not handled solely by the PAB. The PAB's overall target to complete the enforcement process for cases resulting in formal discipline is 540 days, or 18 months. Currently, the average time to complete formal discipline in taking approximately 978 days. While many entities play a role in formal discipline, including the MBC, the Attorney General's office and the Office of Administrative hearings, the longevity of formal discipline cases is not in the best interest of consumer protection.

It is unclear if the PAB's transition from relying on MBC services will alleviate this lengthy delay, or if the delay is because of the MBC's role in the PAB's enforcement case. The PAB stated in its 2019 Sunset Review Report, "it is imperative that the Board's Enforcement Program workload be completed in-house, and not through a shared service agreement with MBC to maintain a total span of control and accountability over all of its enforcement processes and adequately and effectively carry out its enforcement mandates by utilizing best enforcement practices."

The PAB requested, and approved, for additional staffing positions through a Budget Change Proposal, specifically \$535,000 in 2020-21 and \$461,000 ongoing for 4.0 positions, 3.0 of which to address enforcement functions that are currently being performed by the MBC. However, for FY 2018/18, the PAB paid approximately \$85,000 for MBC's shared services agreement. It would be helpful for the Committees to better understand how this transition was achieved and what, if any efficiencies have been gained. It would also be helpful for the Committees to understand what actual delays in enforcement stemmed from the shared services agreement, as opposed to delays in the process based on investigator timeframes and the length of time the Attorney General's office. Additionally, how will PAB having its own complaint staff contribute to better outcomes and swifter action against PABs posing a threat to patient safety?

**Staff Recommendation:** *The PAB should advise the Committees on what it perceives to be the benefits to transitioning enforcement from the MBC. In addition, the PAB should inform the Committees about the steps it has taken or is preparing to take to aid in this transition. How does the PAB believe the transition will improve bottlenecks in current enforcement timeframes?*

**ISSUE #5: (INDEPENDENT CONTRACTORS).** Does the new test for determining employment status, as prescribed in the court decision *Dynamex Operations West Inc. v. Superior Court*, have any unresolved implications for licensees working in the PA profession as independent contractors?

**Background:** In the spring of 2018, the California Supreme Court issued a decision in *Dynamex Operations West, Inc. v. Superior Court* (4 Cal.5th 903) that significantly confounded prior assumptions about whether a worker is legally an employee or an independent contractor. In a case involving the classification of delivery drivers, the California Supreme Court adopted a new test for determining if a worker is an independent contractor, which is comprised of three necessary elements:

- A. That the worker is free from the control and direction of the hirer in connection with the performance of the work, both under the contract for the performance of such work and in fact;
- B. That the worker performs work that is outside the usual course of the hiring entity’s business; and
- C. That the worker is customarily engaged in an independently established trade, occupation, or business of the same nature as the work performed for the hiring entity.

Commonly referred to as the “ABC test,” the implications of the *Dynamex* decision are potentially wide-reaching into numerous fields and industries utilizing workers previously believed to be independent contractors. Occupations regulated by entities under the Department of Consumer Affairs have been no exception to this unresolved question of which workers should now be afforded employee status under the law. In the wake of *Dynamex*, the new ABC test must be applied and interpreted for licensed professionals and those they work with to determine the rights and obligations of employees.

In 2019, the enactment of Assembly Bill 5 (Gonzalez, Chapter 296, Statutes of 2019) effectively codified the *Dynamex* decision’s ABC test while providing for clarifications and carve-outs for certain professions. Specifically, physicians and surgeons, dentists, podiatrists, psychologists, and veterinarians were among those professions that were allowed to continue operating under the previous framework for independent contractors.

**Staff Recommendation:** *The Board should inform the committees of any discussions it has had about the Dynamex decision and AB 5, and whether there is potential to impact the current landscape of the profession unless an exemption is enacted.*

## **BUDGET ISSUES**

**ISSUE #6: (RESERVE BALANCE)** How does the PAB manage to maintain a healthy reserve when so many other boards are near deficits? Are the PAB’s fiscal numbers accurate? What is the status of the unpaid general fund loan? How will the PAB’s transition out of the MBC impact its fiscal health?

**Background:** Multiple boards within the DCA are facing budget and funding shortfalls, however, as reported in the PAB’s 2019, Sunset Review Report, the PAB projects a healthy reserve. Those figures most likely do not include a GF loan repayment of \$1.5 million stemming from a 2011 loan that PAB expects to receive repayment. The PAB noted that it does not project a deficit, or have a plan to increase fees in the future due to the PAB’s fund balance.

<b>Table 2. Fund Condition</b>						
(Dollars in Thousands)	FY 2015/16	FY 2016/17	FY 2017/18	FY 2018/19	FY 2019/20	FY 2020/21
Beginning Balance	\$1,739	\$1,762	\$1,870	\$2,391	\$3,009	\$4,881
Revenues and Transfers	\$1,688	\$1,821	\$1,894	\$2,131	\$2,330	\$2,412
<b>Total Revenue</b>	\$3,407	\$3,583	\$3,764	\$4,522	\$5,339	\$7,293
Budget Authority	\$1,765	\$1,857	\$1,904	\$1,821	\$2,301	\$2,911
Expenditures	\$1,651	\$1,638	\$1,854	\$1,335	\$1,835	\$2,911
State Operations	\$3	\$75	\$93	\$119	\$123	\$114
Accrued Interest, Loans to General Fund	\$0	\$0	\$0	\$0	\$0	\$0
Loans Repaid From General Fund	\$0	\$0	\$0	\$0	\$1,500	\$0
<b>Fund Balance</b>	\$1,753	\$1,870	\$1,817	\$3,068	\$4,881	\$4,268
<b>Months in Reserve</b>	12.3	11.5	15.0	18.8	19.4	16.7

While the Board’s fiscal outlook is rather bright, it is unclear how the PAB’s fiscal situation changes as the PAB moves all of its enforcement services in-house. It would be helpful for the Committees to understand the impacts, including expected changes to pro rata expenses paid to the DCA.

**Staff Recommendation:** *The PAB should advise the Committees on its current fiscal outlook and what, if any, fiscal challenges it anticipates because of eliminating the shared-services agreement.*

**ISSUE #7: (COST RECOVERY). Are eligible enforcement costs being recovered?**

**Background:** Per BPC § 125.3, the PAB is authorized to collect the full cost recovery of its investigation and enforcement costs for its cases that result in formal discipline. Reimbursement of costs associated with an enforcement case is a standard term of probation as noted in the PAB’s disciplinary guidelines. Below is a table provided by the PAB exhibiting the amount of money collected in cost recovery relative to the amount of cost recovery that is ordered by the PAB, as part of formal discipline. The PAB receives less than 50% of the cost recovery ordered. Given that the PAB has expressed an increase in enforcement workload due to the rising numbers of complaints, it would be beneficial to understand if the PAB can enhance its cost recovery efforts.

<b>Table 11. Cost Recovery</b> (dollars in thousands)				
	FY 2015/16	FY 2016/17	FY 2017/18	FY 2018/19
Total Enforcement Expenditures	\$1,020	\$999	\$906	\$925
Potential Cases for Recovery *	8	15	20	8
Cases Recovery Ordered	9	20	23	10
Amount of Cost Recovery Ordered	\$43,902.00	\$149,699.25	\$229,400.00	\$172,492.25
Amount Collected	\$34,276.0	\$50,576.50	\$41,172.87	\$83,802.44

\* "Potential Cases for Recovery" are those cases in which disciplinary action has been taken based on violation of the license practice act.

Note: Information taken from the PAB's 2019 Sunset Review Report

**Staff Recommendation:** *The PAB should advise the Committees about its efforts to collect ordered cost recovery. Further, the PAB should explain to the Committees about whether or not the amount ordered is sufficient to cover the cost of an enforcement case.*

### **LICENSING ISSUES**

#### **ISSUE #8: (ACCESS TO CARE) Are there enough PAs in California to meet the need for access to primary care?**

**Background:** According to the PAB, a PA is a licensed and highly skilled health care professional who is academically and clinically prepared to provide health care services with the direction and responsible supervision of a doctor of medicine or osteopathy. Within the physician-PA relationship, PAs make clinical decisions and provide a broad range of diagnostic, therapeutic, preventive, and health maintenance services. A PA must attend and graduate from an accredited physician assistant program associated with a medical school that includes classroom studies and clinical experience. The professional curriculum for PA education includes basic medical, behavioral, and social sciences; introduction to clinical medicine and patient assessment; supervised clinical practice; and health policy and professional practice issues.

PAs predominantly practice in primary care service settings such as private practice physician offices and hospitals; however, PAs also provide services in community health clinics and rural health clinics. As reported by the Bureau of Labor Statistics, nationally, the majority of PAs work in physicians' offices (55%) and in hospital settings (26%).

There is a vast amount of research that acknowledges a PA's role as part of a healthcare team for providing basic, but critical healthcare services across the state and country. With the rising need for an educated and prepared PA workforce in California, it is arguably imperative that the PAB have a robust licensing and enforcement process and that its licensing system is able to keep up with demand for the workforce, which includes streamlined access to training and education opportunities in California. The PAB noted in its 2019 Sunset Review Report that the issue of PA education and workforce development is "ongoing" from the PAB's perspective, however, it is unclear what that means.

Nationally, the Bureau of Labor Statistics has reported that the employment of PAs is projected to increase by 31% from 2018 to 2028, which is much faster than the average for all other occupations. The BLS further notes, “as demand for healthcare services grows, [PAs] will be needed to provide care to patients.”

California is home to approximately 14,000 PAs, which is one of the highest licensing populations of PAs across the country; however, as noted in a September 2018 report from the Healthforce Center at UCSF, California is one of a few states with a low rate of PAs per capita. The American Academy of Physician Assistants reports that across the country there are approximately, 131,000 PAs. Even with those numbers, there are still reports of potential primary care workforce shortages especially in rural communities.

According to an August 2017, research report released by the University of California San Francisco Healthforce Center, California will likely face a shortfall of primary care clinicians (which includes PAs, nurse practitioners, and physicians) in the next 15 years. The report noted, “Mid-range forecasts indicate that California will have shortages of primary care clinicians in 2025 and 2030, and would need approximately 4,700 additional primary care clinicians in 2025 and approximately 4,100 additional primary care clinicians in 2030 to meet demand.”

Although the Bureau of Labor statistics notes an increase in PA growth nationally, the workforce trends continue to see potential shortages on the horizon in California for primary care clinicians, which include both PAs and NP in addition to the MD professions, especially as it relates to regional disparities. In the past, the PAB has listed the number of PAs practicing in each county in California on its internet website. However, it does not appear that the data has been updated on the PAB’s website since 2010. Regional workforce data may be helpful when assessing workforce trends and determining areas where critical shortages may be present in California.

Further noted in a September 2018 report from the California Health Care Foundation, while California is home to [now 16] nationally approved schools providing the required education; however, those school are found to be situated predominately in the Greater Bay Area and the Los Angeles Area. If PA educational programs are not regionally accessible, it could pose a challenge in efforts to train for a profession that is necessary to assist in providing critical primary care services.

***Staff Recommendation:*** *The PAB should inform the Committees about its efforts to monitor PA workforce issues in California. Should the PAB attempt to capture data about PA practice and services areas to help inform if, and where, potential workforce needs may be greatest? Is there anything the PAB can do to help ensure educational opportunities are accessible?*

**ISSUE #9:** (AB 2138). What is the status of the Board’s implementation of Assembly Bill 2138 (Chiu/Low) and are any statutory changes needed to enable the Board to better carry out the intent of the Fair Chance Licensing Act?

**Background:** In 2018, Assembly Bill 2138 (Chiu/Low, Chapter 995, Statutes of 2018) was signed into law, making substantial reforms to the license application process for individuals with criminal records. Under AB 2138, an application may only be denied based on prior misconduct if the applicant was formally convicted of a substantially related crime or was subject to formal discipline by a licensing board. Further, prior conviction and discipline histories are ineligible for disqualification of applications after seven years, with the exception of serious and registerable felonies, as well as



financial crimes for certain boards. Among other provisions, the bill additionally requires each board to report data on license denials, publish its criteria on determining if a prior offense is substantially related to licensure, and provide denied applicants with information about how to appeal the decision and how to request a copy of their conviction history. These provisions are scheduled to go into effect on July 1, 2020.

Because AB 2138 significantly modifies current practice for boards in their review of applications for licensure, it was presumed that its implementation will require changes to current regulations for every board impacted by the bill. Currently, the PAB is in the process of finalizing its regulations to revise its denial criteria to incorporate the changes from the bill. It is also likely that the PAB may identify potential changes to the law that it believes may be advisable to better enable it to protect consumers from license applicants who pose a substantial risk to the public.

***Staff Recommendation:*** *PAB should provide an update in regards to its implementation of the Fair Chance Licensing Act, as well as relay any recommendations it has for statutory changes.*

**ISSUE #10: (CE AUDITS) Can the PAB improve upon its efforts to ensure that licensees actually complete required continuing education?**

**Background:** BPC § 3524.5 authorizes the PAB to require a licensee to complete continuing medical education (CE or CME) as a condition of licensure renewal. CCR 16 § 1399.615 specifies that a physician assistant who renews his or her license on or after January 1, 2011, is required to complete 50 hours of approved CME during each two year renewal period, unless they are certified by the National Commission on Certification of Physician Assistants. If they have met that certification, they are deemed to have met the CE requirements. The Board only started conducting audits of its licensing population in 2016 to determine compliance with CE requirements. CE is considered an important tool in the healthcare workforce arena as it helps practitioners continue to learn and evolve with the fast-paced and continuously changing medical field, however, if healthcare practitioners are simply self-certifying CE completion and no formal compliance occurs, it is difficult to justify the requirement as a condition of licensure renewal.

The PAB noted in its 2019 Sunset Review Report, that it has only conducted audits of 1,675 licensees. Of those audited, 19% failed the audit (approximately 1.13% of its licensing population). However, since May 2016, when the Board started auditing its licensees for compliance, it has only conducted audits on approximately 13% of its total licensing population.

According to the Board, if a PA is found in violation of the CE requirements, they are simply required to make up any deficiencies during the next biennial renewal cycle. If they fail to complete CE at that time, then the licensee is ineligible for renewal, placed in inactive status, and is not authorized to practice until such time the deficient hours are completed. It would be helpful to understand the implications for this, including projected workload and cost for the PAB to actually verify CE, as well as what methods may be available for streamlined verification like receiving evidence of completion directly from CE providers.

***Staff Recommendation:*** *The PAB should advise the Committees on its CE program and audits to determine compliance.*

## **ENFORCEMENT ISSUES**

**ISSUE #11: (MANDATORY REPORTING).** PAB receives reports related to PAs from a variety of sources. These reports are critical tools that ensure PAB maintains awareness about its licensees and provide important information about licensee activity that may warrant further investigation. Is PAB receiving necessary information?

**Background:** There are a number of mandatory reporting requirements designed to notify the PAB about possible violations. These reports provide the PAB with information that may warrant further investigation of a PA.

**B&P Code section 801.01** requires the reporting of settlements over \$30,000 or arbitration awards or civil judgements of any amounts. The report must be filed within 30 days by either the insurer providing professional liability insurance to the licensee, the state or governmental agency that self-insures the licensee, the employer of the licensee if the award is against or paid for by the licensee, or the licensee if not covered by professional liability insurance.

**B&P Code section 802.1** requires a physician assistant to report criminal charges as follows: the bringing of an indictment charging a felony and/or any conviction of any felony or misdemeanor, including a verdict of guilty or plea of no contest. These incidents appear to be reported as required. In addition, the Board receives reports of arrest and convictions independently reported to the Board by the DOJ through subsequent arrest notifications. The Board issues citations to licensees who fail to report their criminal conviction as required by this statute.

**B&P Code section 802.5** requires a coroner who receives information, based on findings reached by a pathologist that indicates that a death may be the result of a physician assistant's gross negligence or incompetence, to submit a report to the Board. The coroner must provide relevant information, including the name of the decedent and attending physician as well as the final report and autopsy.

**B&P Code sections 803, 803.5 and 803.6** requires the clerk of a court to transmit a judgment that a licensee has committed a crime, or is liable for any death or personal injury resulting in a judgement of any amount caused by the licensee's negligence, error or omission in practice, or his or her rendering of unauthorized professional services, to the Board within 10 days after the judgment is entered. In addition, the court clerk is responsible for reporting criminal convictions to the Board and transmitting any felony preliminary hearing transcripts concerning a licensee to the Board.

**B&P Code section 805** requires the chief of staff and chief executive officer, medical director, or administrator of a licensed health care facility to file a report when a licensee's application for staff privileges or membership is denied or the licensee's staff privileges or employment is terminated or revoked for a medical disciplinary cause. The reporting entities are also required to file a report when restrictions are imposed or voluntarily accepted on the licensee's staff privileges for a cumulative total of 30 days or more for any 12-month period. The report must be filed within 15 days after the effective date of the action taken by the peer review body. To determine if the reports are received pursuant to Section 805, the Board compares information with the National Practitioners Databank (NPDB)

**B&P Code section 805.01** requires the chief of staff or chief executive officer, medical director, or administrator of a licensed health care facility to file a report within 15 days after the peer review body makes a final decision or recommendation to take disciplinary action which must be reported pursuant to section 805. This reporting is only required if the recommended action is taken for the following reasons:

- Incompetence, or gross or repeated deviation from the standard of care involving death or serious bodily injury to one or more patients in such a manner as to be dangerous or injurious to any person or the public.
- The use of, or prescribing for or administering to him/herself, any controlled substances; or the use of any dangerous drug, as defined in Section 4022, or of alcoholic beverages, to the extent or in such a manner as to be dangerous or injurious to the licentiate, or any other person, or the public, or to the extent that such use impairs the ability of the licentiate to practice safely.
- Repeated acts of clearly excessive prescribing, furnishing or administering of controlled substances or repeated acts of prescribing, dispensing, or furnishing of controlled substances without a good faith effort prior examination of the patient and medical reason therefor.
- Sexual misconduct with one or more patients during a course of treatment or an examination.

The PAB reported it has not experienced any problems receiving the required reports within the statutory timeframes; however, there is not a mechanism in place to verify if the PAB receives every report. During the last FY, the PAB reported that it only received five settlement reports.

**Staff Recommendation:** *The PAB should advise the Committees on steps it takes to ensure timely compliance with BPC Section 805 reporting requirements.*

## **COVID-19 ISSUES & RESPONSE**

**ISSUE #12: (COVID-19).** Since March of 2020, there have been a number of executive issued waivers, which affect licensees and future licensees alike. Do any of these waivers warrant an extension or statutory changes?

In response to the COVID-19 pandemic, the Governor instituted a number of actions and issued numerous executive orders in order to address the immediate crisis, including impacts on the state’s healthcare workforce stemming from the virus. On, March 4, 2020, the Governor issued a State of Emergency declaration, as defined in Government Code § 8558, which immediately authorized the Director of the Emergency Medical Services Authority (EMSA) to allow licensed healthcare professionals from outside of California to practice in California without a California license. Under BPC § 900, licensed professionals are authorized to practice in California during a state of emergency declaration as long as they are licensed and have been deployed by the Director of EMSA.

Following that executive order, on March 30, 2020, the Governor issued Executive Order N-39-20 authorizing the Director of DCA to waive any statutory or regulatory professional licensing relating to healing arts during the duration of the COVID-19 pandemic – including rules relating to examination, education, experience, and training. Three examples of waivers affecting the PAB and its licensing population include.

DCA-20-69 waives for individuals whose active licenses expire between March 31, 2020, and December 31, 2020, any statutory or regulatory requirement that individuals renewing a license take and pass an examination in order to renew a license; and, any statutory or regulatory requirement that an individual renewing a license complete continuing education requirements in order to renew a

license. These do not apply to any continuing education, training, or examination required pursuant to a disciplinary order against a license.

DCA-20-67 waives BPC § 3516, subdivision (b), which prohibits a physician and surgeon from supervising more than four physician assistants at any one time, and waives statutory and regulatory requirements that a practice agreement or written delegation of services agreement exist for a physician assistant to perform medical services, as specified.

DCA-20-57 waives any statutory or regulatory requirement that an individual seeking to reactivate or restore a license meet CE requirements in order to reactivate or restore a retired, inactive, or canceled license; and pay any fees in order to reactivate or restore a retired, inactive, or canceled license (including renewal, delinquency, penalty, or late fees, or any other statutory or regulatory fees). This is only applicable to an individual's license that is in a retired, inactive, or canceled status for no longer than five years.

Many of the above-mentioned waivers are extended, while some are set to expire in December 2020. The question remains as to whether or not any of these waivers are still relevant during the pandemic or necessary. Should any waivers be a permanent change?

**Staff Recommendation:** *The Board should advise the Committees on its COVID-19 waiver requests and whether or not any of the waivers be permanent or for a set time, or if any waivers are no longer necessary.*

## **TECHNICAL CHANGES**

**ISSUE #13: (TECHNICAL CHANGES MAY IMPROVE EFFECTIVENESS OF THE PA PRACTICE ACT AND PAB OPERATIONS.) There are amendments that are technical in nature but may improve PAB operations.**

**Background:** There are instances in the PA Practice Act where technical clarifications may improve PAB operations and application of the statutes governing the PAB's work.

Since the PAB's last review in 2015, the PAB has sponsored or been impacted by approximately 13 legislative actions which affect many of the PAB's duties, oversight authority, enforcement and licensee operations. As a result, there may be a number of non-substantive and technical changes to the practice act, which would correct deficiencies or other inconsistencies in the law.

Because of numerous statutory changes and implementation delays, code sections can become confusing, contain provisions that are no longer applicable, make references to outdated report requirements, and cross-reference code sections that are no longer relevant. The PAB's sunset review is an appropriate time to review, recommend and make necessary statutory changes.

For example, the current licensure examination for PAs is administered by a national organization, not the PAB. However, BPC § 3517 requires the PAB to establish a passing score for the examination, and

set the time and place of the examination. Given that the PAB no longer administers a licensing examination, these provisions are outdated and should be removed.

BPC § 3505 specifies the Board-membership for the PAB; however, it appears that some of the statutory requirements specified in this code section are out-of-date and may need statutory clean-up. Specifically, BPC § 3505 states that: the members of the board shall include four physician assistants, one physician and surgeon who is also a member of the Medical Board of California, and four public members. Upon the expiration of the term of the member who is a member of the Medical Board of California, that position shall be filled by a physician assistant. This transition has already occurred and the PAB currently has five physician assistants, four public members and one non-voting member. Code clean-up may be necessary to correctly reference the current Board membership.

**Staff Recommendation:** *The Committees may wish to amend the Act to include technical clarifications.*

## **CONTINUED REGULATION OF THE PROFESSION BY THE CURRENT PROFESSION BY THE PHYSICIAN ASSISTANT BOARD**

**ISSUE #14:** (CONTINUED REGULATION BY THE PAB.) **Should the licensing and regulation of PAs be continued and be regulated by the current PAB?**

**Background:** The PAB needs to continue with its efforts to reduce enforcement backlogs, collect cost recovery fees, ensure a robust enforcement program, and continue to focus on those issues that affect the PAB and its licensees.

**Staff Recommendation:** *The PAB's current regulation of PA's should be continued, to be reviewed again on a future date to be determined.*