



**CALIFORNIA BOARD OF OCCUPATIONAL THERAPY  
BOARD MEETING MINUTES**

August 15, 2001  
Sacramento, California

**A. Ceremonial Swearing In of Board Members**

Lynn Morris, Deputy Director of Board Relations for the Department of Consumer Affairs (DCA), conducted the official swearing in of Board members.

**B. Call to Order – Roll Call – Established of a Quorum**

Gretchen Kjose, Interim Executive Officer called the meeting to order at 9:10 a.m. and call the roll.

Board Members Present

Cynthia A. Burt  
Margaret A. Cunningham  
Luella M. Grangaard  
Roberta A. Murphy  
Suzanne J. Sampson  
Collins E. Smith (Hugh) Jr.  
Christine M. Weitlisbach

Guests Present

Mary Anderson, DCA  
Eric Berumen, DCA Training and Development Unit  
Richard Bookwalter, Government Affairs Director, Occupational Therapy Association of California  
Lydia Bourne, The Flannery Group  
Jonathan Buttle, DCA Budget Analyst  
Annemarie Del Mugnaio, Executive Officer, Speech-Language Pathology & Audiology Board  
Steve Hartzell, Executive Officer, Physical Therapy Board of California  
Grace Hood, Assistant Deputy Director for Board Relations, DCA  
Diane Josephs, President, Occupational Therapy Association of California  
Lynn Morris, Deputy Director for Board Relations, DCA  
David Murphy, Public  
Felicia Price, CCAPTA  
Robert Puleo, DCA Legislative Unit Manager  
Rick Ritter, Physical Therapist  
Norma Solorio, DCA Legislative Analyst  
Justin Sotelo, DCA  
Charles Strauch, Director, Occupational Therapy Association of California

Staff Present

Gretchen Kjose, Interim Executive Officer

Laura Freedman Eidson, Legal Counsel

### **C. Introductions**

The Board members were introduced and each gave a brief summary of their education and background. Ms. Kjose explained that, although she works for the California Architects Board, she was asked by DCA's Board Relations Office to act as the interim executive office for this board to organize the first meeting. Laura Freedman Eidson introduced herself as the Board's Legal Counsel, after which the audience was given an opportunity to introduce themselves.

### **D. Department of Consumer Affairs Overview**

Ms. Morris gave an overview of DCA indicating that there are over 3,000 employees working for the 31 boards and bureaus that license over 3,000,000 people in California. She indicated that DCA is responsible for carrying out the policy directives of the Governor, examples of which include energy conservation programs, on-line technology, and e- Government. She noted that, while boards are autonomous, DCA acts as an umbrella agency providing critical resources to assist them in accounting, personnel, contractual, legislative, and regulatory efforts, to name a few. She stressed that DCA's primary focus is consumer protection and pointed out that its strategic plan emphasizes the importance of excellent, responsive and relevant services.

### **E. Board Member Orientation**

#### **1. Role of a Board Member**

#### **2. Ethics Training**

#### **3. Bagley-Keene Open Meeting Act**

Role of a Board Member Ms. Morris began the discussion by saying that each board member took an oath of office and would be held to that oath. She stated that the most important role of a board member is to protect and promote the interest of consumers. She indicated that board members are responsible for the board. They make all policy decisions and are responsible fiscally. The board gives direction to the executive officer, who is then responsible for carrying out directives through his or her staff. She indicated that board members must possess the ability to collaborate and make sensible decisions, noting that it is critical for the executive officer to keep the board informed so that sound policy decisions are made. She commented that it is important for board members to keep accessible to the public, profession, candidates and each other. She also recognized that, although board members are often active in their professional associations, it is important to keep their role as a regulator separate.

Ms. Freedman Eidson commented that board members are part of a collective body and, as such, cannot act individually to bind or represent the board's position on a subject unless the full board has votes to adopt such a position.

Ethics Training Eric Berumen, from DCA's Training and Development Unit, introduced the Board to ethics training requirements. He stated that Government Code section 11146.3 requires board

members to complete training within six months of filing Form 700 – Statement of Economic Interests, and every two years thereafter. Mr. Berumen indicated that the training covers conflicts of interest under the Political Reform Act, gift limitations, contractual conflicts, code of ethics, incompatible activities, misuse of public funds, and leaving office conflicts. He noted that training could be completed through a video presentation or through an interactive exercise on the Office of the Attorney General's web site.

Bagley-Keene Open Meeting Act Ms. Freedman Eidson explained that the purpose of the Open Meeting Act is to make sure that the Board takes action in public. She quoted an excerpt from law stating that it was the intent of the Legislature that the actions of state agencies be taken openly and that their deliberations be conducted openly. She noted that, generally, government records are public, with the exception of certain provisions of the Public Records Act and the Information Practices Act. She advised that it is a misdemeanor to violate the Open Meeting Act.

She noted that the public has a right to receive the Board's agendas at least 10 days in advance of its meetings and, upon request, any background materials that re part of the agenda. She mentioned that the public has the right to comment on the Board's business. She cautioned Board members about discussing Board business in the side, indicating that where three or more Board members are present, a notice of the meeting must be sent to interested parties.

Ms. Freedman Eidson advised that since the Board has seven members, four constitute a quorum. If only three members are present, discussions can be held, but voting cannot take place. She noted that only items on an agenda can be acted upon and that votes are done in public, not by secret ballot. She reported that some business can be conducted in closed session, such as personnel actions, deliberations on disciplinary matters, litigation, and certain examination activities. She concluded by stating that if the Board violates the Open Meeting Act, private citizens, the Attorney General, or district attorneys could file injunctions against it, could require that closed sessions to be tape recorded, could file injunctions to nullify any actions taken illegally, require the board to pay costs, or file criminal charges.

- F. Status Report on Board Activities**
- 1. Budget Briefing**
  - 2. Staffing**
  - 3. Facilities**
  - 4. Future Action Items**

Budget Briefing Jonathan Buttle, DCA Budget Analyst, gave a Power Point presentation on the budget cycle, explaining how the Governor's budget is created and where the Board's budget fits in the process. He pointed out that boards within DCA are funded, not by the State's General Fund, but through license fees. However, he stated that the Board of Occupational Therapy (BOT) was loaned \$610,000 from the General Fund to begin operations, an amount that must be repaid within three to five years with revenue generated from licensing, certification and renewal fees. Mr. Buttle indicated that very little money was spent in fiscal year 2000/01, leaving approximately \$558,000 for fiscal year 2001/02. He then gave a brief overview of the various revenue scenarios that may occur once licensing activities begin after January 2002 and how the revenue flow will impact the Board's fund condition. Ms. Kjose commented that there are approximately 9,000 occupational therapists and occupational therapy

assistants who must be licensed by January 1, 2003, so the Board's fund condition will change dramatically by the end of December 2002.

Staffing Ms. Kjose advised the Board that six positions had been allocated in the budget, but that none had been filled yet. She reported that her salary as the interim executive officer was split between the California Architects Board and the BOT. She also said that once the Board hires an executive officer, recruitment to fill the other positions should commence depending on how the workload materializes.

Facilities Ms. Kjose reported that DCA's facility staff calculated the Board would need approximately 1600 square feet of office space once fully operational. She noted that DCA had made temporary office space available for the executive officer and one to two staff within the Bureau of Barbering and Cosmetology but that once an executive officer is selected, he or she would need to work with DCA's facilities staff to locate permanent offices.

Future Action Items Ms. Kjose advised that a consultant had been hired by DCA to develop the Board's licensing and enforcement computer systems and that testing of the programs would begin in October 2001. She indicated that several boards had donated office equipment to the BOT including a copier, fax machine, and color printer that should last until equipment can be purchased. She also reported that the Board's web site was being developed and would be on-line by the end of August.

## **G. Overview of Legislative Process**

Robert Puleo, of DCA's Legislative Unit, introduced Norma Solorio as the legislative analyst assigned to the BOT. He explained that the legislative unit tracks all legislation that impacts DCA, its boards and bureaus, consumers, businesses, and licenses. He reported that DCA sponsors an Omnibus Bill each year that can be used by the Board to propose clean-up language to existing statutes. He also indicated that the legislative unit is a resource for the Board and, although DCA and the Board may not always take the same position on proposed legislation, it is important to work together to understand each other's concerns.

## **H. Overview of Occupational Therapy Practice Act and Regulatory Process**

Ms. Freedman Eidson began the discussion by noting that the Board is charged with the responsibility of regulating the profession of occupational therapy through the Occupational Therapy Practice Act (Act). She identified the composition of the Board as being four licensed occupational therapists, one occupational therapy assistant and three public members. She stated that the law requires the Board to hold at least three meetings annually, one each in Sacramento, San Francisco, and Los Angeles and that the meetings are subject to the Open Meeting Act. She pointed out that the BOT would undergo sunset review in 2006.

Ms. Freedman Eidson said that the Act is both a title and a practice act, meaning that a person must be licensed or certified or practice occupational therapy and cannot use the title occupational therapist or occupational therapy assistant without a license or certification. She informed the Board of the education, experience, examination and application requirements. She mentioned that applicants must be at least 18 years of age, not be addicted to alcohol or controlled substances to denial under Business

and professions Code section 480. She advised that the Board has authority to deny a license and to discipline a license for violations of law.

She reported that the Board is charged with the responsibility of developing regulations on supervision, feeding and swallowing assessment, evaluation and intervention and hand therapy. She also noted that there is a requirement that anyone seeking certification to practice hand therapy notify the Board of their intention to do so after January 1, 2002. She commented that the Board might want to consider legislation to change this date to January 2003 to be consistent with other dates in the Act.

Ms. Freedman Eidson then gave an overview of the regulatory process. She advised the regulations are a form of law, listing them as part of a hierarchy, with the Federal and State Constitutions leading, followed by statutes, followed by regulations. She pointed out that regulations interpret, make specific, and clarify the law and noted that they must meet certain standards. They must be necessary, the Board must have authority to regulate the area being addressed, they must be consistent with law and include the reference to law, be clear, and non-duplicative. She advised that the Office of Administrative Law (OAL) is the state agency that makes sure the regulations comply with the standards.

She then briefly described the process of adopting regulations from the point of identifying the need, drafting the language and preparing the rulemaking file, advising the public that regulations are being considered, holding public hearings, to the various levels of departmental and other control agencies' reviews, to final accept by OAL, and filing with the Secretary of State.

**I. Review and Approval of Proposed Regulations to Adopt Title 16, Division 39, California Code of Regulations Sections 4100-Definitions; 4101-Delegation of Certain Functions; 4102-Filing of Addresses; 4110-Form; 4111-Place of Filing; 4112-Review of Application; 4113-Permit Processing Times; 4114-Abandonment of Application; 4120-Renewal of License or Certificate, Forms; 4121-Renewal of Expired License or Certificate, Application, Fees, Effective Date of Renewal; 4122-Inactive Status; and 4130-Fees**

Ms. Kjose advised that the proposed regulations are structural provisions identifying the application, licensing and renewal processes and associated fees. She gave a brief explanation of each proposed section and explained that the regulations must be adopted before licensing activities can begin. She advised that, if approved by the Board at today's meeting, they would be finalized and sent to the OAL for publication on September 7, 2001. The public hearing would be conducted on October 22, 2001, after which the rulemaking file would undergo the levels of review and approval explained under Agenda Item F. She advised that if there are no delays, the regulations could take effect as soon as February 2002 and licensing could begin shortly thereafter.

Luella Grangaard asked whether the initial license and certification fees should be the same for occupational therapists and occupational therapy assistants. Ms. Kjose indicated that some states charge less for occupational therapy assistants than occupational therapists but some charge the same. After discussion, the Board agreed that both receive the same level of service from the Board, both have the same responsibility to consumers, and both should pay the same fees.

- ◆ **Roberta Murphy moved to adopt the proposed regulations.**
- ◆ **Suzanne Sampson seconded the motion.**

◆ **The motion carried unanimously.**

**J. Report on Proposed Regulations Regarding Board Structure and Operations**  
**1. Appointment of Regulatory Committee**

Ms. Kjose indicated that other regulations requiring matter expertise are needed in areas including, but not limited to, hand therapy, feeding or swallowing assessment, evaluation or intervention, ethical standards or practice, disciplinary guidelines, citation and fines, and continuing education. She recommended that the Board appoint a regulatory committee of at least three Board members to work in collaboration with the Speech-Language Pathology and Audiology, Physical Therapy and Registered Nursing boards to begin the process of developing these regulations. Ms. Grangaard commented that this would be a very big job and suggest appointing two regulatory committees, one to deal with practice issues, and one to work on professional and administrative regulations. Cynthia Burt, Margaret Cunningham and Christine Wielisbach were appointed to work on practice issues. Ms. Burt was asked to chair the committee. Suzanne Sampson, Roberta Murphy and Hugh Smith were appointed to work on the professional/administrative regulatory committee. Ms. Sampson agrees to chair the committee.

Margaret Cunningham asked whether the Board should address, in regulation, section 2570.3(g)(2) of the Act that requires occupational therapists seeking certification in hand therapy to notify the board on or after January 1, 2002 of their intention to do so. Ms. Grangaard explained that the date should have been changed last year when all the other dates were changed to January 2003. Ms. Freedman Eidson said that legislation would be needed to change the date, and suggested that the Board revisit this issue at its next meeting. In the meantime, she suggested that the Board could adopt a policy to not enforce this provision of law since it is inconsistent with the date on which the licensing requirements take effect.

**K. Discussion of Executive Officer Appointment Process**

Ms. Morris explained the Board's options in selecting an executive officer. She noted that they could appoint the interim executive officer to the position or go through a recruitment process and appoint an interim executive officer to serve during the process. She advised that DCA's Board Relations Office had developed a manual on how to conduct a search, complete with suggested interview questions and indicated that her staff would be happy to assist. She advised that the executive officer serves at the pleasure of the board and stressed that the Board must have complete confidence in its executive officer to carry out its directives.

**L. Closed session [pursuant to Government Code sections 1126(a)(1)]**  
**1. Interview Candidates**  
**2. Appointment of Executive Officer**  
**3. Appointment of Interim Executive Officer, if necessary**

Following closed session, the Board announced that Ms. Kjose had accepted the position of executive officer.

**M. Election of Officers**

Ms. Freedman Eidson advised the Board to decide on what offices to establish, i.e., president, vice president, secretary, before electing officers. She explained that officers typically serve one-year terms.

- ❖ **Suzanne Sampson moved to establish the offices of president, vice president, and secretary.**
- ❖ **Hugh Smith seconded the motion**
- ❖ **The motion carried unanimously.**

Luella Grangaard, Hugh Smith, and Suzanne Sampson expressed interest in becoming president.

- ❖ **Roberta moved that Luella Grangaard be elected president.**
- ❖ **Margaret Cunningham seconded the motion.**
- ❖ **The motion carried unanimously.**

- ❖ **Roberta Murphy moved that Hugh Smith be elected vice president.**
- ❖ **Margaret Cunningham seconded the motion.**
- ❖ **The motion carried unanimously.**

Christine Wietlisbach expressed interest in serving as the Board's secretary.

- ❖ **Hugh Smith moved that Christine Wietlisbach be elected secretary.**
- ❖ **Roberta Murphy seconded the motion.**
- ❖ **The motion carried unanimously.**

## **N. Upcoming Agenda Topics**

Ms. Kjose explained that future agenda topics would include periodic budget briefings, recommendations for clean-up legislation, on-going regulatory proposals, and strategic planning, among other things. She also advised that Board members could ask for issues to be placed on agendas as well.

## **O. Tentative Schedule of Future Meetings**

The Board set its next meeting for November 7, 2001 and asked staff to select a location in the Southern California area.

## **P. Public Comment Session**

Physical Therapist, Rick Ritter, commented that on or after January 1, 2002, current law requires occupational therapists seeking hand therapy certification to notify the Board of their intentions. He stated that if they do so, they can practice hand therapy under supervision of an occupational therapist or a physical therapist certified in hand therapy. He asked whether that is such an onerous requirement that it would get in the way of what practitioners do or what to do, and expresses his opinion that occupational therapists could comply with the requirement by simply writing a letter to the Board. Steve Hartzell stated that the Board should determine whether the date should have been changed to 2003 and, if so, said the Board could ask its executive officer to seek a legislative fix this year if possible. Ms. Grangaard indicated this topic would be discussed at the next board meeting.

**Q. Adjournment**

The meeting adjourned at 4:45 p.m..