



CALIFORNIA BOARD OF OCCUPATIONAL THERAPY

2005 Evergreen Street, Suite 2250, Sacramento, CA 95815-3831

T: (916) 263-2294 F: (916) 263-2701

E-mail: cbot@dca.ca.gov Web: www.bot.ca.gov



**TELECONFERENCE SUNSET REVIEW AD HOC COMMITTEE
MEETING MINUTES**

Monday, November 7, 2016

Committee Members Present

Laura Hayth, OT, Chair
Denise Miller, OT
Teresa Davies

Board Staff Present

Heather Martin, Executive Officer
Jeff Hanson, AGPA

Committee Member Absent

Beata Morcos

Public Attendees

Ivan Altamura, Capitol Advocacy on behalf of OTAC
Alex Macilraith, DCA, Legislative and Policy Review
Division

1. Call to order, roll call.

Laura Hayth called the meeting to order at 4:11 p.m. and a quorum was established; contact was made between all teleconference locations.

2. Public Comment session for items not on the agenda.

There was no public comment.

3. Review and vote on approval of the October 20, 2016, committee meeting minutes.

A motion was made by Ms. Hayth to accept the minutes from the October 20, 2016 Committee meeting. The motion was seconded by Ms. Miller.

Roll Call Vote

Teresa Davies	Aye
Denise Miller	Aye
Laura Hayth	Aye

Motion carried.

4. Consideration and possible recommendation to Board relating to the identification and development of new issues to be identified in the Board's 2016 Sunset Report.

The Committee was provided with a letter dated June 30, 2016, from OTAC. Ms. Hayth asked the Committee if they had reviewed the letter. Ms. Martin stated there is a newer version of the OTAC letter dated August 15, 2016, that was emailed to the Committee members. Ms. Martin reviewed the revised letter with the Committee indicating that on page 2, after the legislative proposal, there were recommendations regarding options that OTAC would like the Board to consider regarding advance practice.

There was discussion by Ms. Miller regarding the receipt of public comment documents and she asked that any written comment(s) be provided to the Board in a timely manner. She stated that in order to provide a conscious focus on an item it would be good to have the right document to the right people at the right time.

Teresa Davies provided comments on the letter from OTAC and agreed that during sunset review it's a good time to recommend the suggested changes to edit the Business and Professions Code language. Secondly, she indicated as a public member she does not have the knowledge of how the advanced practices will translate into the day-to-day operations and interactions with the patients; therefore, she does not have any context on this matter to give input.

Ms. Miller questioned Ms. Martin if there has been any background provided to the Committee regarding the purpose for some of the comments presented by OTAC. Ms. Martin explained there has not been any additional background other than what was mentioned during the Scope of Practice Committee and the Sunset Committee. She further stated that she discussed the legislative language with Ivan Altamura and Jennifer Snyder earlier this year. Ms. Martin believes that that discussion may have helped prompt OTAC to formally make a suggestion recognizing if this legislative proposal goes forward it would give the Board greater flexible in amending regulations.

Ms. Miller had some follow-up questions to this item, she asked if under the draft Sunset Report if OTAC is making a suggestion either in Concept One or Two on specific language that would be placed in the Sunset Report; or is this just a concept in theory that OTAC would like to consider.

Public Comment

Ivan Altamura provided a response indicating the specific language that OTAC recommended in their August 15th and June letter regarding the amendments to B&P Code section 2570.20 were only specific to the code section, they were not referencing anything specific in the current sunset review report. He stated they were just suggesting that that amendment to the B&P Code section could be added to the Sunset Report.

Ms. Miller asked in reference to that code section, is OTAC requesting specifically to take out a portion and include their suggested language. Mr. Altamura responded "Yes." Ms. Miller referred to the code section and asked him to clarify this for her; Mr. Altamura responded that the proposal is 2570.20 subsection (b). Mr. Altamura explained that the Concept One and Two were included more as a big picture thought behind why they felt that the issue of mental health needed to be addressed. OTAC originally felt it made a lot of sense to be very specific in the scope of practice amendments to talk about mental health issues and do this through amending the scope of practice Act. The tactic they are now suggesting is to have the Board look at it through the sunset review by amending 2570.20(a) and (b). This was as a result of conversations between Jennifer, Heather, and himself that it seemed like it made more sense to give the Board a little broader authority to interpret the current practice Act and to look at what the current practice Act allows and how it states that occupational therapy helps patients with body and mind and to interpret the mind portion.

Ms. Miller referred back to subsection (a) and asked if it was more of a grammatical recommendation or conjectural. Mr. Altamura indicated that Ms. Martin had mentioned to Jennifer and him the change in subsection (a) regarding the approval of examinations and

that the language was antiquated with the current B&P Code and that it might be something that could be added into the sunset review as a potential minor change. Ms. Martin added that the “and approve the examinations” is not necessary because there is another section of the law that states applicants must take and pass an exam. Ms. Miller was satisfied with the explanations on subsection (a).

Ms. Miller referred to subsection (b), Mr. Altamura explained that the language is almost identical to the Physical Therapy Board’s authority to interpret and adopt regulations. Ms. Martin stated one reason this came up was that in the third line where it states “...rules relating to professional licensure and to the establishment of ethical standards of practice...” is much narrower and, therefore, by eliminating that reference it allows the Board a broader authority to adopt or amend regulations. Ms. Miller asked if these changes to subsections (a) and (b) were based on a conversation between lobbyists at OTAC and Ms. Martin. Ms. Martin responded, “Yes” and stated she agreed with the recommended changes and that they actually started with the Scope of Practice Ad Hoc Committee.

Ms. Miller stated that she was not clear on the Concept One and Concept Two that was recommended in the OTAC letter. Mr. Altamura replied that OTAC was trying to give some context to the Board and Ad Hoc Committee how occupational therapy fits into the mental health arena. What they anticipated is not so much that Concept One and Concept Two would make their way into the regulation, as much as they were hoping the Board adopted the changes that they are suggesting to the B&P Code section and looking at the concepts to further define the practice of occupational therapy and what practitioners could do as it relates to mental health.

Public comment concluded.

The Committee discussed this matter further. Ms. Miller stated that the advanced practice guidelines hold a higher level of consumer safety than what might be done at an entry level. Ms. Davies stated she appreciated the proposed changes that OTAC provided.

The August 2016, OTAC letter recommending an amendment to 2570.20 was not a part of the Scope of Practice Ad Hoc Committee’s recommendation to the Board regarding amending the scope of practice. Ms. Miller asked for an explanation. Ms. Martin stated that it was because the Committee was only looking at the scope of practice. Ms. Miller asked whether or not it can be considered at this time as part of the sunset. Ms. Martin indicated that the Committee could make a recommendation to the Board that this be another legislative proposal to be considered as part of the sunset review process.

A motion was made by Ms. Miller to take Concept One and Two to the Board meeting for consideration and discussion. There was a second by Ms. Hayth.

Roll Call Vote

Teresa Davies	Aye
Denise Miller	Aye
Laura Hayth	Aye

Motion carried.

A motion was made by Ms. Davies to accept the proposal for section 2570.20 for consideration within the sunset review report as proposed legislative language. There was a second by Ms. Hayth.

Roll Call Vote

Teresa Davies	Aye
Denise Miller	Aye
Laura Hayth	Aye

Motion carried.

Public Comment

Mr. Altamura asked for clarification on the advanced practice recommendations contained in OTAC's letter dated August 15, 2016, per Ms. Miller's comments earlier. He asked if she would like OTAC to provide to the Board a better understanding of what the Board should consider at its next meeting regarding how the Committee and/or the Board should be looking at any changes to the advance practice requirements.

Ms. Miller stated she was asking that OTAC be very specific about the language to assist the Committee. She stated that she has no timeline regarding the advance practice recommendations provide by OTAC, just that she would like to see specificity in the language. Mr. Altamura was confirming that the issue was not dead today and Ms. Miller indicated it was not.

Public comment concluded.

5. Review draft 2016 Sunset Report.

Ms. Hayth referred to Section 1, Background and Description of the Board and Regulated Profession of the Sunset Report indicating that she believes it accurately describes occupational therapy for the general public consumption to understand. Ms. Miller indicated she would like some minor edits to the first highlighted paragraph to reflect the description of mental health and evidence based literature. Ms. Martin asked the Committee if they had any comments on pages 11 through 16 of Section 1. There were no comments by the Committee.

Ms. Hayth moved to Section 2, Performance Measures and Customer Satisfaction Surveys and asked the Committee for feedback. Ms. Miller expressed that she does not understand why a survey would go out after an enforcement action takes place. She believes that the results would not be good. Ms. Miller suggested that a survey be sent out 30-days after the case is closed. Ms. Hayth suggested that the Board provide the satisfaction survey independent of enforcement cases and possibly have a system where it's done once a year and sent out to everyone. Ms. Martin explained to the Committee that the statement "To increase the number of survey responses" is a new process. She explained that DCA developed postcards, along with a QR code, as DCA wants all the Boards reaching out and asking for this information. In addition to the customer satisfaction survey that's on the Board's website, which is usually completed by licensees, recruiters and a few applicants, this is in addition to that survey. The last sentence at the bottom "In further attempts to increase survey responses," staff thought we could send out an email blast with a link to the survey on a quarterly basis.

Ms. Miller asked if the survey that Ms. Martin is referring to is separate from the survey that DCA has created. After further discussion, it was agreed to move the third paragraph under item 7 to be included at the end of the first paragraph. Further, Ms. Miller's feedback was to breakup this section so that it is clear that there are two different surveys and to move the second paragraph under number 7 to the end of the survey on page 28. Ms. Miller stated she does not have any further comments from page 17 through 28. Ms. Hayth asked Ms. Davies for any comments, she had no comments.

Ms. Hayth moved on to Section 3, Fiscal and Staff, there were no comments from the Committee.

Ms. Hayth moved to Section 4, Licensing Program and stated that she did not have any concerns with the wording and asked the Committee if they had anything to add, change or comments. Ms. Davies asked about the continuous query statement where it states that due to the lack of hits received it was not the most efficient use of Board funds. Ms. Martin explained to Ms. Davies that as a result of only receiving two reports during that time period, the value is not that great for the cost involved. Ms. Davies suggested adding a statement to indicate that this feature was no longer utilized.

Ms. Miller had a question on Table 7a. Licensing Data for Occupational Therapists under the approved section and asked why there was such a big increase for 2015/2016. There was discussion about Stanbridge College opening their additional campus and Master's program and that may have contributed to the increase in licenses. Ms. Martin pointed out that some of the applicants in the prior fiscal year (2014/2015) could be included in the amount "approved" for the 2015/2016 fiscal year. She indicated staff will double check the numbers and report back at the next meeting.

Ms. Miller pointed out on page five of 30 the sentence above section e, where it states "For these reasons the Board has not created a plan nor sought legislation that would require applicants to pay for the national practitioner data bank query fee" that this statement is crucial and important as it relates to outreach and increasing the fees. Ms. Hayth suggested not doing anything in regards to this for the Sunset Report, but that it is highlighted for the statement in outreach when they are working with other people.

Ms. Miller referred to page six of 30 toward the bottom of the page under number 22 item (b)(1) last sentence where it states "AOTA's Career Mobility Program," she indicated the last evidence regarding this program was in 1981 and asked if it was still in effect. Ms. Martin explained that it is no longer in effect; however, there was a point in time when people in the past would complete the Career Mobility Program, receive a license in another state and work in another state and then come to California and they could not provide proof of completing an AOTA approved program. Ms. Miller suggested that for the next sunset review this be removed or revisited at that time.

Ms. Miller indicated that the last question she had was on page 27 of Section 5, Enforcement Program, unless Ms. Davies had something to add. Ms. Davies indicated that she does not have any more comments. Ms. Miller asked for clarification on the Citation and Fine table under "Administrative Hearing Held with ALJ" whether there were really zero cases. Ms. Martin explained that individuals issued a citation have the right to appeal, which is the same as somebody who comes before the Board for a disciplinary reason. This chart is specific to only hearings held for individuals who have appealed citations. Ms. Miller asked which table outlines the hearings that came before the actual

Board; Ms. Martin indicated it is under Table 9b "Disciplinary Outcomes." Ms. Miller asked if these outcomes included all the mail votes, whether by mail or in front of an administrative law judge. Jeff Hanson responded, "Yes." Ms. Martin indicated that she does not see any data on the chart where it indicates the hearings held by the Board. Ms. Miller was asking if this information could be included in the report. Ms. Martin indicated that the hearings held before the Board for unlicensed practice greater than a year is unique to this Board. Ms. Martin suggested on page 20, question 35, staff add something in that section regarding hearings held by the Board. The Committee agreed with this suggestion.

Ms. Martin indicated that as a result of the changes from the meetings, as well as the additional sections, if she can email the sections to the Committee and follow-up with a hard copy. The Committee agreed to this suggestion. Ms. Martin asked the Committee if they want the staff to make the edits suggested in today's meeting and take them to the Board meeting on Friday. The Committee members indicated, "Yes." Ms. Martin stated that she would report back at the Board meeting about the legislative proposals and how the Committee wants it in the Sunset Report.

There were no further comments by the Committee.

6. Adjournment.

The meeting adjourned at 5:39 p.m.