



BOARD MEETING MINUTES
West Coast University

Thursday, June 1, 2017
Friday, June 2, 2017

Board Member(s) Present

Denise Miller – President
Richard Bookwalter – Vice President
Sharon Pavlovich – Secretary *(June 1, 2017 only)*
Teresa Davies
Jeff Ferro
Laura Hayth
Beata Morcos

Board Staff Present

Heather Martin, Executive Officer
Jeff Hanson, Enforcement Coordinator
Jody Quesada, Enforcement Analyst
Ileana Butu, Legal Counsel

Thursday, June 1, 2017
9:30 am - Board Meeting

1. Call to order, roll call, establishment of a quorum.

The meeting was called to order at 9:44 am, roll was called, every Board member was in attendance. A quorum was established.

2. President's Remarks – Informational only; no Board Action to be taken.

President Denise Miller commented that 2016 was a busy and productive year for the Board. Ms. Miller reported she attended the American Occupational Therapy Association (AOTA) conference and also expressed her gratitude to West Coast University for hosting the Board meeting and welcomed all in attendance.

3. Board Member Remarks – Informational only; no Board Action to be taken.

Jeff Ferro stated that he had a conversation with the Department of Apprenticeship Standards that would be addressed during Agenda item 10.

Vice President Richard Bookwalter reported that he attended the AOTA conference and he and Denise Miller worked on the Sunset Process with Agency and Board staff.

Secretary Sharon Pavlovich reported that she attended the AOTA conference and presented at the conference with Loma Linda Occupational Therapy Department Staff. Ms. Pavlovich stated that The Pavlovich Sexuality Questionnaire made its debut at the AOTA conference as well.

The remaining Board members had nothing further to report.

Special Order of Business

10:00 a.m. PEREZ, THOMAS - Petition for Early Termination of Probation

CLOSED SESSION

The Board entered in to closed session at 10:36 a.m.

RECONVENE IN OPEN SESSION

The Board reconvened in to open session at 11:16 a.m.

- 4. Public Comment session for items not on the agenda.

Chuck Wilmarth, Director, Health Policy and State Affairs, AOTA, commented that AOTA released a document regarding occupational therapists (OTs) administering medication; he added that a sentence was deleted because it was not necessary to state what an OT 'can't do.' Mr. Wilmarth stated that the finalized document is on the AOTA website.

- 5. Review and vote on approval of the March 8-9, 2017, Board meeting minutes.

The Board members pointed out grammatical and other non-substantive errors.

- ❖ Richard Bookwalter moved to adopt the minutes as amended and to allow the Executive Officer to make any technical, non-substantive changes.
- ❖ Laura Hayth seconded the motion.

Public Comment

There was no public comment.

Roll Call Vote

Richard Bookwalter	Aye
Jeff Ferro	Aye
Laura Hayth	Aye
Teresa Davies	Aye
Denise Miller	Aye
Beata Morcos	Aye
Sharon Pavlovich	Aye

- 6. Review and vote on approval of the April 7, 2017, Special Board meeting minutes.

Vice President Richard Bookwalter questioned whether or not he was in attendance.

- ❖ Jeff Ferro moved to accept the minutes as presented.
- ❖ Laura Hayth seconded the motion.

Public Comment

There was no public comment.

Roll Call Vote

Richard Bookwalter	Aye
Jeff Ferro	Aye
Laura Hayth	Aye
Teresa Davies	Aye
Denise Miller	Aye
Beata Morcos	Aye
Sharon Pavlovich	Aye

7. Review and vote on approval of the April 13, 2017, Special Board meeting minutes.

Board staff was alerted that Denise Miller’s name was listed twice in the votes and one of those entries should have been Jeff Ferro.

- ❖ Richard Bookwalter moved to accept the minutes as amended.
- ❖ Beata Morcos seconded the motion.

Public Comment

There was no public comment.

Roll Call Vote

Richard Bookwalter	Aye
Jeff Ferro	Aye
Laura Hayth	Abstain
Teresa Davies	Abstain
Denise Miller	Aye
Beata Morcos	Aye
Sharon Pavlovich	Aye

8. President’s Report on Sunset Review process and review of Assembly Bill 1706 (Committee on Business and Professions), extending Board’s Sunset date.

President Denise Miller gave an overview of the Sunset Review process that included the AdHoc committee initiated so that Board members could collaborate with Board staff on the project, and the subsequent participation by herself, Richard Bookwalter and Heather Martin at the Sunset Review Oversight Hearings before the Assembly Business and Professions and Senate Business Professions and Economic Committees.

Executive Officer Heather Martin said that she is scheduled to meet with legislative staff regarding legislative proposals and will report back at the August meeting.

9. Discussion and consideration of proposed “Initial Experiential Learning Requirement” being considered by the American Occupational Therapy Association for occupational therapist education programs, (to replace the current fieldwork requirement), including potential impact and costs of implementing the proposed model, the legislative and policy considerations, and potential impact to students and consumers.

Chuck Wilmarth, Director, Health Policy and State Affairs, AOTA gave a brief overview of the included documents.

President Denise Miller commented that she participated in robust discussions at the AdHoc committee meeting on occupational therapy education and fieldwork, led by AOTA President Amy Lamb.

Secretary Sharon Pavlovich asked why occupational therapy assistants (OTAs) were excluded from the 'Initial Experiential Learning Requirement' recommended by the AdHoc Committee.

President Miller stated that the decision not to include the OTAs was made at the AOTA Board of Directors level.

Public Comment

Chuck Wilmarth, Director, Health Policy and State Affairs, AOTA stated that the existing fieldwork model is not sustainable and AOTA is looking to the future. Mr. Wilmarth added that under the "Initial Experiential Learning Requirement", Level 1 and Level 2 fieldwork requirements would be reduced thus alleviating the burden of finding fieldwork locations.

President Miller asked Executive Officer Heather Martin to keep this item as a placeholder for future meetings and asked Mr. Wilmarth to report any new developments.

10. Discussion and possible action regarding lack of available fieldwork sites, potential workforce shortage, and impact to students and consumers.

Executive Officer Heather Martin gave an overview of the included documents.

Jeff Ferro stated that he had conversations with Diane Ravnik, Chief, Division of Apprenticeship Standards. Mr. Ferro reported that being able to establish an apprenticeship program would potentially increase fieldwork placement slots and avoid fieldwork costs for schools which could ultimately be passed on to students. Mr. Ferro said that there would be more information to come.

Ms. Martin stated that some schools would not be able to pay for fieldwork, so if Jeff Ferro's idea of establishing an apprenticeship program was implemented it would alleviate schools' concerns with having to possibly pay for fieldwork placements in the future.

President Miller asked about any updates with Genesis and their implementation of charging for student fieldwork placement. Ms. Martin stated that there had not yet been any contact with Genesis.

Legal Counsel Ileana Butu updated the Board on the definition of distance education. Ms. Butu reported that per Education Code, Section 94834 "Distance education" is the "transmission of instruction to students at a location separate from the institution." Additionally, Ms. Butu reported that per Education Code, Section 94850.5, an out-of-state private school for the purposes of the Bureau of Private Postsecondary Education is a private school that does not have a physical presence in California that offers "distance education" to California students for a fee.

Public Comment

Heather Kitching President, OTAC stated that the occupational therapy profession should be mindful of sustainability and she encouraged “broad thinking”. Ms. Kitching also rhetorically asked “How far will we allow profit based entities to drive rigor and process of the occupational therapy profession?”

President Miller asked if OTAC had sent a position letter to Genesis. Ms. Kitching stated that OTAC had not.

Ms. Miller stated that she did not believe it was the Board’s charge to lead.

- ❖ Teresa Davies moved to have Executive Officer Heather Martin construct and send a formal letter of inquiry to Genesis.
- ❖ Richard Bookwalter seconded the motion.

Public Comment

There was no additional public comment.

Roll Call Vote

Richard Bookwalter	Aye
Jeff Ferro	Aye
Laura Hayth	Aye
Teresa Davies	Aye
Denise Miller	Aye
Beata Morcos	Aye
Sharon Pavlovich	Aye

11. Update and possible action, on pending Rulemaking files, California Code of Regulations (CCR), Title 16, Division 39:
 - Section 4130, Fees
Executive Officer Heather Martin stated that the language goes in to effect July 1, 2017. Ms. Martin informed the Board that the California Office of Administrative Law (OAL) intervened on the language regarding delinquent fees and informed Board staff that they are required to set the delinquent fee rate to half of the respective renewal fee.
 - Sections 4161, 4162, and 4163, relating to Continuing Competence
Ms. Martin stated that she anticipated this language going in to effect October 1, 2017.
 - Section 4149.5, Petition for Reinstatement or Modification of Penalty
Ms. Martin reported that the deadline to get the package over to OAL is August 25, 2017.
 - Section 4176, Notice to Consumers
Ms. Martin stated that she anticipated this language going in to effect October 1, 2017.

Public Comment

There was no public comment.

12. Consideration and possible action of establishing CCR Title 16, Division 39, Section 4147.2, Probation Monitoring Costs.

Executive Officer Heather Martin gave an overview of the included handout that included two new changes that staff was recommending be added to draft language previously approved by the Board. Ms. Martin stated that the changes were designed to further coordinate and administer the proposed action.

- ❖ Richard Bookwalter moved to approve the language as presented.
- ❖ Laura Hayth seconded the motion.

Public Comment

There was no public comment.

Roll Call Vote

Richard Bookwalter	Aye
Jeff Ferro	Aye
Laura Hayth	Aye
Teresa Davies	Aye
Denise Miller	Aye
Beata Morcos	Aye
Sharon Pavlovich	Aye

13. Consideration and possible action of amending CCR Title 16, Division 39, Section 4161, Continuing Competency; to eliminate waiver for completing professional development units for first-time license renewals.

Executive Officer Heather Martin gave an overview of the included handout that outlined the changes to CCR Section 4161 outlined by the Board members at a previous meeting.

- ❖ Richard Bookwalter moved to approve the language as presented and to allow the Executive Officer to make any technical, non-substantive changes.
- ❖ Beata Morcos seconded the motion.

Public Comment

There was no public comment.

Roll Call Vote

Richard Bookwalter	Aye
Jeff Ferro	Aye
Laura Hayth	Aye
Teresa Davies	Aye
Denise Miller	Aye
Beata Morcos	Aye
Sharon Pavlovich	Aye

14. Discussion and possible action on bills of interest to the Board:
- a. Assembly Bill (AB) 703 (Flora), Professions and vocations: licenses: fee waivers
Executive Officer Heather Martin reported to the Board that this bill addresses fee waivers for spouses of an active duty member of the armed forces.

- b. AB 710 (Wood) Department of Consumer Affairs: boards: meetings.
Executive Officer Heather Martin reported that this bill would require the Board to meet once every other calendar year in a rural location.
- c. AB 1005 (Calderon), Professions and vocations: fines: relief.
Executive Officer Heather Martin reported that this bill states that when there is a confirmed violation and it is corrected within thirty (30) days, the licensee will not have to pay the citation and fine amount.
- d. AB 1510 (Dababneh), Athletic Trainers.
Executive Officer Heather Martin reported that this is now a two (2) year bill.
- e. Senate Bill (SB) 762 (Hernandez), Healing arts licensees: license activation fee: waiver.
Executive Officer Heather Martin reported that this bill states that a renewal fee will be waived for a healing arts practitioner that certifies they are restoring their license for the sole purpose of providing voluntary, unpaid service to medically underserved or critical-need population.
- f. SB 1217 (Stone), Healing arts: reporting requirements: professional liability resulting in death or personal injury.
Executive Officer Heather Martin stated that the included bill was not the appropriate attachment and should be disregarded.

Public Comment

Teresa Davies asked if AB 703 language included the active duty member as well.

Legal Counsel Ileana Butu stated that an active duty member of the armed forces was covered under Business and Professions Code – BPC 114.

Chuck Wilmarth, Director, Health Policy and State Affairs, AOTA stated that with regard to SB 762, the Board would still incur costs and that he felt that volunteer services being less scrutinized is a problem and should still be subject to oversight.

Additionally, Mr. Wilmarth referred to AB 387 that called for interns to receive minimum wage. Mr. Wilmarth reported that this bill received a lot of support from the labor community in addition to a long list of opponents. Mr. Wilmarth stated that he felt the bill would cause problems for fieldwork sites.

Heather Kitching President, OTAC stated that the implementation of this bill would have a catastrophic domino effect, starting with the closure of fieldwork sites, the closure of schools and the subsequent loss of jobs. Ms. Kitching indicated that OTAC sent a formal letter of opposition.

CLOSED SESSION

The Board entered in to closed session at 2:56 p.m.

RECONVENE IN OPEN SESSION

The Board reconvened in to open session at 3:16 p.m.

15. Recess for the day.

The meeting adjourned at 3:17 p.m.

Friday, June 2, 2017

9:00 am - Board Meeting

16. Call to order, roll call, establishment of a quorum.

The meeting was called to order at 9:18 am, roll was called, Sharon Pavlovich was absent. A quorum was established.

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

Public Comment

There was no public comment.

18. Consideration and possible action on the National Board for Certification in Occupational Therapy (NBCOT) conducting a California-specific practice analysis for occupational therapists (OT) and occupational therapy assistants (OTA) as part of NBCOT's practice analysis to validate the national OT and OTA examinations.

Executive Officer Heather Martin gave an overview of events that had happened to date regarding a practice analysis: DCA's Office of Professional Examination Services (OPES) provided information regarding conducting a practice analysis at the March meeting, including a project schedule and budget projections, and NBCOT's offer to carve out California-specific data from their on-going national practice analysis and examination validation at no cost to the Board.

Discussion ensued between the Board members and Sean Conway, Senior Director, Credentialing Services, regarding timelines, the carve out of California-specific data, and what data NBCOT would make available to the Board.

Legal Counsel Ileana Butu clarified that the Board is not required to use OPES for the practice analysis. Ms. Butu stated that in the event that the Board chose to pick another option, the Board would be required to obtain bids.

Mr. Conway advised, if the Board wished for NBCOT to provide the Board with the California-specific data, that NBCOT would need a formal written request from the Board.

Public Comment

Chuck Wilmarth, Director, Health Policy and State Affairs, AOTA, stated that AOTA is opposed to the idea due to the "no cost to the Board" aspect and also expressed concern with the survey size. Mr. Wilmarth mentioned that AOTA may be interested in assisting the Board with the practice analysis, but the cost would be passed on to the Board.

President Miller stated the Board has discussed this matter several times and this was the first time the Board had heard AOTA express interest in assisting with the practice analysis; she advised AOTA the Board would be open to reviewing their outline.

Vice President Richard Bookwalter reminded the Board that all applicants for licensure are required in regulation to take and pass the NBCOT; as such, “Who better to provide data on the content of the exam, than the only entity offering the exam,” he asked. Mr. Bookwalter said that he was prepared to ask NBCOT to share their California practice analysis data, if they were so willing.

Teresa Davies expressed her concern about how it would look for the Board to accept NBCOT’s help free of charge and any other legalities.

Heather Kitching President, OTAC stated that OTAC agreed with AOTA and also opposed the Board accepting NBCOTs offer to provided California-specific data to the Board.

- ❖ Richard Bookwalter moved to request the California specific carve out analysis compared to national data, from NBCOT, and to provide the Board with access to the data as needed for further analysis subject to any Public Records Act requirements.
- ❖ Beata Morcos seconded the motion.

Public Comment

There was no additional public comment.

Roll Call Vote

Richard Bookwalter	Aye
Jeff Ferro	Aye
Laura Hayth	Aye
Teresa Davies	Nay
Denise Miller	Aye
Beata Morcos	Aye

19. Update and possible action on the Board’s Strategic Plan Action Plan

Executive Officer Heather Martin informed the Board that the Strategic Plan Action Plan will be a standing item at future Board meetings.

President Denise Miller asked that the applicant checklist be brought to the Board members prior to posting on the website. (Action Plan Item 1.1)

Ms. Martin stated that assigning Board staff as the responsible party for Action Plan Item 4.2, may not be the best option. Ms. Martin asked if the Board felt it was a better idea to wait for the results of the Practice Analysis. The Board members agreed.

Public Comment

There was no public comment.

20. Presentation of licensing and enforcement data and reports for the quarter ending March 31, 2017.

Executive Officer Heather Martin and Board staff member Jeff Hanson gave an overview of the licensing and enforcement data and reports. The Board members had no questions.

Public Comment

There was no public comment.

21. Executive Officer's Report.

a. Operational Report.

Ms. Martin reported that the advertisement to fill two part-time positions closed and the application review process would begin the following week.

Ms. Martin stated that the budget/revenue handout included information through April 30, 2017. Ms. Martin informed the Board that she purchased a card printer with the intention of printing hard cards in office to replace the current paper cards and that a post card would be printed and sent to every licensee as a courtesy reminder of the fee increase. Ms. Martin also reported that the Board set aside money for an office expansion and still had an estimated reversion of \$208,000.

b. Future Agenda Items

Ms. Martin reported the future agenda items as:

- Board staff to research what other states are doing and report to the Board on and differentiation/limitation on earning of PDUs in-person vs online/technological means.
- Make appointments to the Education and Outreach Committee.
- Make appointments to Practice Committee.
- Practice Committee's recommendation on the records retention requirement for an occupational therapy business that closes or is sold or if the practitioner is no longer in private practice.
- Review/update of Board Member Administrative Manual.
- Review/update of Board Member Disciplinary Resource Manual.
- Review/update of Board's Disciplinary Guidelines (requires regulatory amendments).
- Discussion of the lack of fieldwork sites.
- Report the Board's number of Facebook/Twitter followers.
- Information on whether other states limit the amount of online professional development units (PDUs) that can be used toward a renewal.

c. Other Informational Items – No Board discussion or action

22. Suggested agenda items for a future meeting.

Ms. Martin recapped the agreed upon future items contained in her report, keeping the lack of field work sites on the agenda, and added her reporting back to the Board on the number of Facebook and Twitter followers. The Board members agreed.

Adjournment.

The meeting adjourned at 11:34 a.m.