



## TELECONFERENCE SPECIAL BOARD MEETING MINUTES

**July 27, 2022**

**A Special Meeting is being held pursuant to the provisions of Government Code section 11125.4(a)(2).**

Board Member(s) Present

Sharon Pavlovich –President  
 Beata Morcos – Vice President  
 Lynna Do – Secretary  
 Richard Bookwalter – Board Member  
 Denise Miller – Board Member

Board Staff Present

Heather Martin – Executive Officer  
 Jeanine Orona – Analyst  
 Demetre’ Montue – Analyst  
 Helen Geoffroy – Attorney

**3:00 pm - Board Meeting**

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

The meeting was called to order at 3:06 p.m., Secretary Lynna Do called roll and a quorum was established.

2. Finding of necessity for Special Meeting.

Board President Sharon Pavlovich stated that the meeting was noticed as a special meeting pursuant to Government Code section 11125.4 and specifically, the special meeting was to discuss pending legislation which is permitted by subdivision (a)(2).

Ms. Pavlovich reported that Assembly Bill 2671, authored by the Assembly Committee on Business and Professions, was set for hearing on August 1, 2022, and the Board next meeting would be held on August 18 and 19, 2022, which is after the deadline for bills to pass out of fiscal committees. For the Board to discuss amendments to the bill and the effects of the bill on the practice of occupational therapy, a meeting needed to be called prior to August 1, 2022. Ms. Pavlovich stated that steps to schedule a meeting of the Board were taken as soon as it was known that the Committee Hearing was being held before the next Board meeting.

Ms. Pavlovich concluded that in order to proceed with the special meeting and discuss Assembly Bill 2671, the Board must first find that the 10-day notice required for a standard meeting would impose a substantial hardship on the state body or that immediate action is required to protect the public interest.

- Richard Bookwalter moved that the necessity for a special meeting is supported by the fact that providing the usual 10-day notice for a meeting of the Board

would pose a hardship on the Board, in that the Board would be deprived of the ability to submit a position letter on Assembly Bill 2671 prior to the bill being heard in Senate Appropriations Committee on August 1<sup>st</sup>.

- Lynna Do seconded the motion.

### **Public Comment**

There was no public comment.

### **Board Member Votes**

Sharon Pavlovich:	Yes
Beata Morcos:	Yes
Richard Bookwalter:	Yes
Lynna Do:	Yes
Denise Miller:	Yes

### **The motion carried.**

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

Board President Sharon Pavlovich thanked and welcome all in attendance.

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

There were no Board member remarks.

5. Public Comment Session for items not on the Agenda.

There were no public comments for items not on the agenda.

6. Discussion, and potential action and/or position related to Assembly Bill 2671 (Assembly Committee on Business and Professions) Occupational therapy.

President Pavlovich welcomed Department Consumer Affairs'(DCA) Attorney Helen Geoffroy and informed the Board and guests that Ms. Geoffroy wished to provide information pertaining to the memo she prepared.

Ms. Geoffroy stated that she coordinated with Board staff and analyzed AB 2671 and its impact on the Board in its entirety and was able to address the Board's question from the May 2022 Board meeting regarding the impact of requiring an occupational therapy (OT) designator to an OT corporation's name. Pertaining to Ms. Geoffroy's analysis of AB 2671 she provided the Board members an Attorney/Client privileged memo that contained legal advice and options and stated that unless the Board voted to make the memo public record the Board members should refrain from quoting or referencing the memo during their discussion.

Ms. Geoffroy verbally addressed the Board's question on whether or not an occupational therapy corporation name (referred to as an OT designator) would be required for OT corporations. Attorney Geoffroy stated that the working draft of AB 2671 does not contain language requiring an OT designator and Corporations Code 13409 would apply. Corporations Code 13409 states that a professional corporation shall be named however the regulatory agency requires; the regulatory agency is the Board.

Ms. Geoffroy further clarified that the Practice Act was silent on this topic and the act would remain silent after AB 2671 was chaptered as drafted.

If the Board's proposed language that was suggested at the May 2022 Board meeting is included prior to AB 2671 being chaptered, that would result in licensee's who wished to be a professional corporation to be required to incorporate the OT designator into their corporation's name.

Ms. Geoffroy informed the Board that the current version of AB 2671 contains only what is needed for a licensee to become a professional corporation and the Board can now choose to require it, revise it, or omit their recommendations to the language proposed at the May 2022 Board meeting.

President Pavlovich asked the Board members whether they were prepared to bring forth a motion to waive the Attorney/Client privilege on the AB2671 analysis memo prepared by Attorney Geoffroy or if they felt they had enough information in order to move forward without directly referencing the memo during their discussion.

A discussion ensued by the Board members regarding their thoughts and position on the memo and the majority of the Board decided that the memo should remain as Attorney/Client privilege because an organic discussion could be had regarding next steps for AB2671.

Ms. Geoffroy informed the Board that no motion nor subsequent vote was needed since the memo is Attorney/Client privileged and a vote was only necessary to waive that privilege.

Board member Denise Miller stated that in the interest of transparency that she wanted to clarify that her reason for agreeing with her fellow Board members was that she believed in Attorney/Client privilege and the process of a Regulatory board. Ms. Miller assured the public that there was nothing significant in the memo that needed to be shared with the public.

### **Public Comment**

There was no public comment.

Executive Officer Heather Martin reviewed the included documents consisted of the Legislature's amended language for AB 2671 from June 13, 2022, at the top of the document followed by the Board's May 2022 proposed language based on PT corps language.

Ms. Martin clarified that the Board had not yet seen the June 13, 2022, amendments at the top of the page because they were made after the Board's May 2022 meeting at which they supported the bill with proposed amendments.

President Pavlovich asked for discussion.

Board member Richard Bookwalter voiced his support for replacing the 'Definition' section of the Board's proposed amendments made at the May 2022 meeting with the Legislature's new 2572 language from June 13, 2022, and approving the rest of the sections below that. Mr. Bookwalter further explained that after replacing the

“Definition” paragraph with the new 2572 language, there should be an added sentence that starts with “Occupational Therapy Practitioners” and a subsequent definition outlining that a Practitioner is an Occupational Therapist (OT) and an Occupational Therapy Assistant (OTA). The addition will be added to the fourth line following the sentence ending with the word “services”.

Ms. Miller asked for clarification on timelines and whether any changes agreed upon at the meeting would even be considered for AB 2671 by the legislature.

Executive Officer Heather Martin explained that any changes proposed by the Board would be drafted immediately by Board staff to be submitted to the AB 2671 Authors’ office, and Senate Appropriations Committee prior to the bill being heard.

Board Secretary Lynna Do and Vice President Beata Morcos spoke in favor of Mr. Bookwalter’s proposed change.

Ms. Miller and Board President Pavlovich sought clarification from Attorney Helen Geoffroy that if the legislature approved the language in its current version, that the Board would still have the opportunity to be even more prescriptive about OT corporations in the Board’s regulations. Ms. Geoffroy agreed.

Ms. Miller then asked Mr. Bookwalter if he could elaborate as to why the Board’s proposed changes should be added in statute rather than addressed in regulation.

Mr. Bookwalter stated that he has always preferred prescriptive language be addressed in regulation, however, the corporations language was addressed by other boards in statute and since the opportunity to add corporations language was brought forth by the Sunset Committee and bill, it seemed to be in line with the status quo. Mr. Bookwalter reminded the Board that any regulation changes would take two or more years to enact which would prolong the Board having guidance to reference and address corporation questions/issues from licensees. Mr. Bookwalter also stated that he wished to hear the opinion of the public.

Executive Officer Heather Martin requested that due to the impact on Board staff, Board funds and the licensees, that the Board consider asking to be included in the exemption from Section 13041 of the Corporations Code. This would alleviate the Board from having to issue certificates of registration in order for licensees to render professional services through their occupational therapy corporation.

President Pavlovich voiced her support of the request as it was more cost-effective to not have to issue certificates of registration.

- Richard Bookwalter moved that Board staff write a letter of support on behalf of the Board to recommend that the legislature amend the second provision of Section 13401.5 to exempt the Board from issuing certificates of registration to occupational therapy corporations.
- Denise Miller seconded the motion.

## **Public Comment**

Carlin Daley Reaume, Advocacy and Government Chair for the Occupational Therapy Association of California (OTAC) thanked the Board for the discussion. Ms. Daley Reaume expressed OTAC's support of AB 2671 and their hope that the bill moves through as efficiently and effectively as possible.

Ms. Daley Reaume also stated that as a private practitioner and sole proprietor business owner she wanted to acknowledge that the inclusion of corporation language as amended would help to remove barriers for her personally and professionally if she ever decided to incorporate.

President Pavlovich acknowledged and thanked Ms. Daley Reaume.

Mr. Bookwalter asked Ms. Daley Reaume her opinion on whether the OT designator should be required.

Ms. Daley Reaume expressed that she would like there to be some flexibility for the practitioner to decide and she would be ok to set that language aside for now.

Lindsay Gullahorn, OTAC voiced her support of AB 2671 as it relates to the Board and expressed her appreciation of the Legislature for the inclusion of occupational therapy corporations in the professional corporations language.

President Pavlovich thanked Ms. Gullahorn for her input and attendance.

Mr. Bookwalter agreed to amend his previous motion and Ms. Miller agreed to remove her second to the previous motion.

- Richard Bookwalter moved that the Board support the proposed changes to the second provision of section 13401 of the Corporations code to include the Board in the exemption of issuing certificates of registration for occupational therapy corporations.
- Denise Miller seconded the motion.

## **Public Comment**

There was no public comment.

## **Board Member Votes**

Sharon Pavlovich:	Yes
Beata Morcos:	Yes
Richard Bookwalter:	Yes
Lynna Do:	Yes
Denise Miller:	Yes

## **The motion carried.**

Attorney Helen Geoffroy stated that no matter what amendments the Board chose to make to Business and Professions code section 2572 that it is her legal recommendation that amendments to sections 13401 and 13401.5 of the Corporations Code be included.

- Richard Bookwalter moved that the Board support the language added to AB 2671 when amended on June 13<sup>th</sup> and request that the legislature also support adding the five sections of the Board's proposed language titled:

‘Unprofessional Conduct – Licensee, Unprofessional Conduct – Corporation, Directors and Officers, Income, and the Regulations’ and empower the Executive Officer to write a letter indicating as much.

- Beata Morcos seconded the motion.

Mr. Bookwalter confirmed that he did not include the ‘Corporation Name’ section in his motion and he used the Legislature’s added language from June 13th because it is similar to the Board’s proposal but ultimately asks for less changes to AB 2671.

**Public Comment**

There was no public comment.

**Board Member Votes**

Sharon Pavlovich:	Yes
Beata Morcos:	Yes
Richard Bookwalter:	Yes
Lynna Do:	Yes
Denise Miller:	Yes

The motion carried.

Attorney Helen Geoffroy asked that the Board return to discussion regarding Corporation names and the Board move to discuss the topic at another time or omit the topic altogether.

- Lynna Do moved to table the discussion regarding ‘Corporation Name’ to a future meeting.
- Richard Bookwalter seconded the motion.

**Public Comment**

There was no public comment.

**Board Member Votes**

Sharon Pavlovich:	Yes
Beata Morcos:	Yes
Richard Bookwalter:	Yes
Lynna Do:	Yes
Denise Miller:	Yes

**The motion carried.**

President Pavlovich acknowledged the letter of support submitted by OTAC President Bryant Edwards.

Mr. Bookwalter appreciated the letter and the support it offered pertaining to AB 2671.

President Pavlovich agreed.

The Board revisited Agenda Item 5 which was ‘Public Comment for items not on the agenda.’

**Public Comment**

There was no public comment.

**Adjournment.**

President Pavlovich thanked all in attendance and adjourned the meeting at 4:37 p.m.