

## **AGENDA ITEM 5**

**REVIEW AND VOTE ON APPROVAL OF THE NOVEMBER 2-3, 2023,  
BOARD MEETING MINUTES.**



**\*\*Draft\*\***

## **BOARD MEETING MINUTES**

**November 2-3, 2023**

### **Board Members Present:**

Denise Miller – Board President  
 Beata Morcos – Vice President  
 Christine Wietlisbach – Board Member  
 Richard Bookwalter – Board Member  
 Sharon Pavlovich – Board Member  
 Hector Cabrera – Board Member

### **Board Staff Present:**

Heather Martin – Executive Officer  
 Helen Geoffroy – Attorney  
 Jody Quesada – SSM I  
 Rebecca Harris – SSM I  
 Rachael Hutchison - Analyst  
 Maureen Paquette – Office Assistant

### **Board Members Absent:**

Lynna Do – Secretary

### **Thursday, November 2, 2023 9:30 a.m. – Board Meeting**

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

The meeting was called to order at 9:44 a.m., Board member Sharon Pavlovich called roll and a quorum was established.

#### **2. President’s Remarks – Information only; no Board Action to be taken.**

President Denise Miller thanked Glendale Community College (GCC) for hosting the Board meeting. GCC just received a very nice grant from the state of California to continue to advance their artificial intelligence program. Glendale is also home to the Porto’s Bakery & Cafe, which was just honored on the Today Show for Latino Heritage Month.

The President of GCC, Dr. Ryan Cornner, welcomed the Board to his campus. Dr. Cornner was happy to host the Board meeting as he is dedicated to building community. Dr. Cornner also expressed his desire to create a sense of innovation on campus. His collaborative approach to leadership encourages experimentation and innovation to better support students.

#### **3. Board Member Remarks – Information only; no Board Action to be taken.**

There were no Board member remarks.

#### **4. Public Comment for Items Not on the Agenda.**

President Miller announced that the Deputy Director of Board and Bureau Relations for the Department of Consumer Affairs (DCA), Melissa Gear, was in attendance. Ms. Gear was appointed to her current position in September 2022. Prior to that, Ms. Gear was the Chief Deputy Legislative Director at the Department of Insurance. From 2008 to 2014, Ms. Gear was a Legislative Advocate at the California State Teachers Retirement System. She was also a Legislative and Fiscal Coordinator at the California Attorney General's Office from 2005 to 2008.

#### **Public Comment**

Melissa Gear thanked President Miller for the introduction and the rest of the Board for welcoming her.

Candace Chatman, Treasurer-Elect for Occupational Therapy Association of California (OTAC), Assistant Professor of Clinical Occupational Therapy at the University of Southern California (USC) and Academic Fieldwork Coordinator at USC who stated she was representing the California Occupational Therapy Fieldwork Council, chose to introduce herself.

Samia Rafeedie, OTAC Committee Chair and Associate Professor of Occupational Science & Occupational Therapy at University of Southern California, chose to introduce herself.

There were no additional Board member remarks.  
There were no additional public comments.

#### **5. Review and vote on approval of the August 24-25, 2023, Board meeting minutes.**

President Miller noted three non-substantive changes to be made to the August Board Meeting Minutes.

- Christine Wietlisbach moved to approve the August 24-25, 2023, Board Meeting minutes and directed Board staff to make the non-substantive changes noted.
- Richard Bookwalter seconded the motion.

There were no additional Board member remarks.  
There were no public comments.

#### **Board Member Vote**

Richard Bookwalter	Yes
Hector Cabrera	Yes
Sharon Pavlovich	Yes
Christine Wietlisbach	Yes
Beata Morcos	Yes
Denise Miller	Yes

The motion carried.

#### **6. Board President to make Committee appointments.**

President Miller announced that many committees held meetings since the August Board meeting, however, she wanted to formally appoint the committee members on record. Ms. Miller thanked the members for their participation and encouraged members of the public to join the committees.

To date, the committees and their respective members are as follows:

- The Administrative Committee, a standing committee, consisted of Board President Denise Miller, Board Vice President Beata Morcos, and Executive Officer Heather Martin.
- The Legislative and Regulatory Affairs Committee consisted of Committee Chair and Board Member Richard Bookwalter, Board Secretary Lynna Do, and Board Vice President Beata Morcos.
- The Practice Committee consisted of Committee Chair and Board Member Christine Wietlisbach, Board President Elect Richard Bookwalter, Board Secretary Lynna Do, and Committee Members Diane Laszlo, Danielle Meglio, Jeannette Nakamura, Carlin Daley Reaume, Lynne Andonian, Floyd Tran, and Chi-Kwan Shea.
- The Ad Hoc Committee for Non-Licensees Serving on Board Committees consisted of Committee Chair and Board Vice President Beata Morcos, Board Member Sharon Pavlovich, Board Member Hector Cabrera, and Committee Members Ada Boone Hoerl and Carlin Daley Reaume.
- The Disaster Preparedness and Response Committee consisted of Board Members and Co-Chairs Board President Elect Richard Bookwalter and Board Member Hector Cabrera. The Board hoped to make more appointments to the committee at the February 2024 meeting.

Mr. Bookwalter added that the Legislative and Regulatory Affairs Committee did not meet in the last year and recommended discussing that committee at the February 2024 Board meeting.

There were no additional Board member remarks.

There were no public comments.

**7. Administrative Committee recommendations to the Board on amending CCR Title 16, Division 39, Section 4180, Definitions and Section 4181, Supervision Parameters, to specify supervision maximums by an occupational therapy assistant and occupational therapist.**

President Miller announced that the Board received several comments from members of the public regarding Sections 4180 and 4181.

Executive Officer Martin provided background on the amendments regarding CCR Title 16, Division 39, Section 4180, Definitions and Section 4181, Supervision Parameters, to specify supervision maximums by an occupational therapy assistant and occupational therapist. The Board had approved the proposed edits to Section 4181 at the August 2023 Board meeting and she provided a summary of the edits.

Board Member Richard Bookwalter noted that he felt that there was an assumption by the commenters that ACOTE standards were enough to protect the consumer and should be enough for the Board.

Ms. Miller responded by saying that the Administrative Committee did have a very robust discussion regarding consumer protection.

Board Member Sharon Pavlovich stated that some of the commenters were at the Administrative Committee meeting. She agreed with Mr. Bookwalter that the ACOTE guidelines do not speak to consumer protection, laws, or regulations.

Ms. Miller agreed with Ms. Pavlovich and Mr. Bookwalter. She expressed disappointment that the authors did not provide any solutions. The Board has worked hard with educators to seek out subject matter experts to provide input on the language needed to put it in the regulatory process and only one of the comments came from someone that was at the meeting. Ms. Miller added that she felt receiving all of these letters the day before the Board's quarterly meeting was disingenuous.

Ms. Martin added that the Board was not trying to overreach or over-regulate. Specifically, the Board did not want to become a barrier to students or programs. Ms. Martin noted that this topic had been discussed during at least four Board meetings and three committee meetings for a minimum of seven meetings, possibly even more.

Ms. Pavlovich stated that it would be helpful if the Board received this dialogue from the public and the stakeholders in the beginning. It took the Board eighteen months to two years to get to the point of proposing language. She expressed frustration that the letters came the night before the meeting. The public and the stakeholders should jump into conversations when they first start happening.

Ms. Miller moved the conversation to the second letter, which was from the University of the Pacific (UOP).

Mr. Bookwalter noted that some of the comments from UOP were similar to those already discussed, for example, the limits on the supervision. UOP proposed changing the definition for "faculty led fieldwork" to "fieldwork completed with direct, on-site supervision of a licensed occupational therapist (OT) or occupational therapy assistant (OTA) employed by an accredited California academic institution." The proposed change, as it stood, eliminated the ability of OT/OTA programs that are in the accreditation process from leading fieldwork experiences and placed an undue burden on academic institutions striving for accreditation, limiting their ability to provide essential and diverse fieldwork experiences to their students. UOP proposed a modification to the wording, "A California academic institution that has submitted a candidacy report to ACOTE."

Ms. Miller stated that those comments from the UOP letter, stood out to her as well. Also, the paragraph above it. The authors addressed the definition of "faculty led fieldwork." She noted that the authors were not using current language.

Mr. Bookwalter agreed. In the Board's current language "accredited" was removed. He suggested that Board staff respond to the UOP authors and point out that the language they referred to was already amended. Ms. Pavlovich agreed with Mr. Bookwalter's suggestion.

Ms. Miller presented the third letter which was from Loma Linda University (LLU) regarding proposed amendments to CCR Section 4181 and support of pelvic health occupational therapy practice. She read an excerpt from the LLU letter, "this is an educational

accreditation requirement that should be governed by ACOTE rather than CBOT.” Ms. Miller pointed out that ACOTE is the oversight body for education standards, but the Board is the regulatory body that regulates the occupational therapy profession; ACOTE does not have governance over the regulatory process in California.

Mr. Bookwalter added that the Board cannot regulate anybody that is not an occupational therapy practitioner.

The Board moved to the fourth letter, which was from Sacramento City College (SCC) dated October 27, 2023, regarding the limitation on how many students could be supervised at a given time.

Board Member Sharon Pavlovich said that the Board received feedback from the public members that were present at the committee meeting that limiting the number of Fieldwork Level I students to twenty was a feasible number, however, the letter stated that it was not feasible.

Ms. Miller stated that she believed the Board was getting closer to a feasible number. The Board would like more public participation which can be done by reviewing the minutes and weighing in.

Ms. Martin added that Webcast meetings are posted on the Board’s website, which is another opportunity to get the dialogue from the meetings.

Ms. Miller presented the last letter which was from the Occupational Therapy Association of California (OTAC). Ms. Miller asked the representative from OTAC, who was in attendance, to discuss the association’s concerns.

### **Public Comment**

Samia Rafeedie, OTAC Committee Chair and Associate Professor of Occupational Science & Occupational Therapy at University of Southern California, stated that OTAC’s main concern was how the Board reached the suggested supervision ratio numbers. Ms. Pavlovich stated the discussion started with the current number of three OTAs to each OT.

Mr. Bookwalter added that for a long time an OT could only supervise two OTAs but could supervise three students. He stated that those numbers seemed unbalanced because an OTA had a degree and had been through a great deal of training whereas a student was just the opposite. It made good sense to change the number of OTAs an OT could supervise to three as well.

Vice President Beata Morcos noted that being on the committee and as a public member of the Board, she looked to those in the field to help her understand this type of situation. Penny Stack of LLU and Heather Kitching of California State University, Dominguez Hills, were asked what number they would be comfortable with, and they agreed on 15-18 Level 1 fieldwork students but since the committee did not want to use a range, the committee came up with the number 20. The committee members and subject matter experts were very clear that if the number was more than 20, the quality of patient care would suffer.

Ms. Miller reiterated that the committee members were looking to limit the number to 15-18, but the subject matter experts in attendance justified limiting the supervision of up to 20 individual Level I occupational therapy students, Level I and Level II occupational therapy assistant students, or Aides providing non-client related tasks.

Ms. Pavlovich added that both of the subject matter experts described the types of labs that they used and how many students could be comfortably accommodated in terms of supervision and engaging with clients. The conversation was collaborative and productive in getting to the agreed upon number of 20.

Ms. Morcos stated that many setting-specific examples were provided at the committee meeting, and they consisted of a scenario that included eight students at a time and another that would include 12 students at one time.

Ms. Pavlovich noted that she thought one of the letters in question suggested the supervision number be raised to 30. Ms. Pavlovich added that she thought thirty is too many students for one person to supervise.

Candace Chatman stated that as educators, we are in the world of ACOTE standards and that is what is used in our decision-making; educators are not connected to the CBOT world. ACOTE and CBOT are two different bodies concerned with different things. Ms. Chatman also addressed the concern that the public was not getting involved. She noted of her peers in the meeting minutes but acknowledged that there are a lot of new practitioners who are not aware that they can come to these meetings or where they can access meeting information. Although, the literature says you can have up to six students, she is comfortable with three students. She also acknowledged that the literature does not speak to consumer protection. Ms. Chatman expressed her desire to find a middle ground for educators and the Board, because the facilities focus on protecting their business. She asked for clarification on situations where an OT supervises a Level I student one day, two Level I students on a different day, and two Level I students and yet another day and how many students that would total since it's different days.

Ms. Miller asked Ms. Chatman if a Level I Fieldwork student touched patients?

Ms. Chatman responded by saying that whether a student touched a patient is dependent on the site.

Ms. Miller stated that if those are the standards, then the Board must regulate to those standards. Is it necessary for the Board propose language that makes clear when a student cannot touch a patient? The Board does not want to prescribe all-encompassing guidance, but it is a priority of the Board to protect the consumer.

Ms. Pavlovich asked Ms. Chatman if she has ideas on how the Board can do outreach to these new programs? Ms. Pavlovich also wanted it to be known that she wanted more public comment from the profession.

Ms. Pavlovich commented that Level I Fieldwork can be a faculty led experience.

Ms. Chatman replied, "hands on" experiences can look a lot of different ways. At her school, it is up to the clinical reasoning of the educator, which usually looks less hands on than a Level II Fieldwork student. Level I students do a lot of observing. From what she has

learned about other colleges is that Level I students do a lot of simulated work and only visit and observe different sites about once a week.

A robust conversation ensued regarding the meaning of “at any one time.”

Ms. Miller and Ms. Pavlovich agreed that “at any one time” could be interpreted as two on one day and two different students on the next day.

Ms Wietlisbach confirmed that the language was open to interpretation.

Ms. Miller thanked Ms. Chatman for her comments and encouraged her to participate in the Board’s Education and Outreach Committee.

Ms. Pavlovich stated that the Board is charged with the enforcement of the laws and regulations of occupational therapy practice through enforcement cases and disciplinary matters, so they are aware of what is happening in terms of patient harm. The Board is privy to stories that others are not which highlights the need figure out these numbers.

Ms. Martin suggested that Level I Fieldwork students be addressed in a separate section so the language could address observation only, exposure and all other experiences and/or settings that pertain to only Level 1 Fieldwork.

Ms. Miller thought it was a good suggestion but was unsure if she wanted to move forward on adding additional language for something that may not be common. Ms. Pavlovich noted that she has seen it a lot.

Board Member Richard Bookwalter spoke in favor of the proposed language as it existed. He felt that the language gave a cushion for people who want to limit the number of students they take. Ms. Miller agreed.

Ms. Pavlovich was hesitant to agree. Her concern was that people are really worried about the numbers that can be supervised and she did not want to dismiss that. There are almost 21,000 practitioners in the state of California, and we have two people in attendance today and there were two people present at the committee meeting where the topic was discussed. You have four practitioners helping make the laws for the entire profession.

Ms. Miller asked if the Board voted on the language, when would it be presented as a regulatory package?

Ms. Martin added and there was still a lot of work to do before noticing the language because there are three agencies that would need to look at it before it was made available to the public. If the Board decides on maximum to be supervised 3, that number will need to be justified.

Ms. Martin suggested that “at any one time” or any other language is not clear that it would be best to address before the package is submitted.

Attorney Helen Geoffroy stated that it should be part of this preprocess to weed out the comments and lack of clarity and to find a number that is justified so that when it goes to the Office of Administrative Law, they do not have any questions regarding clarity or justification so that a second public comment period is required.



Board Member Pavlovich asked whether justification could include gathering supervision ratios or numbers from other states so that the Board can see what other states are doing. Ms. Geoffroy agreed.

Mr. Bookwalter recalled that when OT supervision of the OTA was increased from two to three there was public comment as to why the Board was loosening this regulation.

Vice President Beata Morcos said she saw no problem if today the OT supervises two and the next day, they supervised two different students as long as it's clarified "at one given time" and with a maximum of three being supervised. Ms. Morcos felt that any more than three consumer protection could be compromised.

President Miller summarized that Ms. Morcos is a professional, a public member and a mother who feels like three should be the max with clarification of "at one given time." Ms. Pavlovich requested more evidence and some Board members felt comfortable voting on the current language. Ms. Miller said the Board could reach out to ACOTE leadership to see what their supervision numbers might look like and invite them to the February Board meeting or send the topic back to committee and invite the public to participate.

Ms. Miller suggested sending the topic back to the committee to discuss feasibility, justification and suggest any changes to language at the February Board meeting.

Mr. Bookwalter confirmed that the committee was tasked with taking a second look at the numbers what "at one given time" means and bringing their findings before the Board.

Ms. Martin added that one of the public comments referred to the ACOTE guidelines and the fact that if the faculty led fieldwork supervision rate exceeds one to fifteen, the program must be able to provide ACOTE with a sufficient explanation and justify how safety and quality of instruction are managed. Ironically, if the Board's regulations allowed the supervision of twenty Level 1 Fieldwork students, that program would be required to advise ACOTE, which could be a burden.

Ms. Miller stated that is why she wanted the supervision of Level 1 Fieldwork students to be no more than 15.

Samia Rafeedie thanked the Board for the discussion. Ms. Rafeedie asked for clarification regarding being able to supervise 20 Level 1 Fieldwork students and the language in the OT Practice Act that states an OT cannot supervise more than three OTAs at any one time.

Ms. Martin stated that the language referring to supervising no more than three OTAs should clarify that it "excludes" or "shall not apply" to faculty-led fieldwork. Ms. Martin suggested that this clarification could be added in subsection (e)(2).

Ms. Rafeedie questioned how the Board came up with three occupational therapy assistants being supervised by one occupational therapist. Ms. Martin stated it was in Assembly Bill 2221 sponsored by OTAC in 2018 or 2019.

Ms. Rafeedie thanked Ms. Martin for her response.

Ms. Pavlovich clarified that when she asked for a feasibility study on the correct ratio of supervision of a Level 1 Fieldwork students that her intent was a gathering of statistical data.

Ms. Martin stated that Board staff could gather and present the results of a Survey Monkey to the occupational therapy fieldwork council members to obtain their opinion on supervision ratios, literature that Ms. Chatman offered to forward to Ms. Martin and the data from other states to identify what supervision ratios they follow.

Ms. Miller thanked the members of the public for their comments. There was no motion on the agenda item and no action was taken.

Mr. Bookwalter noted that there were a couple more items to address which included the acceptance of Administrative Committee meeting minutes.

There were no additional Board member remarks.  
There were no additional public comments.

- Richard Bookwalter moved that the Board accept the March 22, 2023, Administrative Committee meeting minutes and the August 18, 2023, Administrative Committee meeting minutes.
- Beata Morcos seconded the motion.

**Board Member Vote**

Richard Bookwalter	Yes
Hector Cabrera	Yes
Sharon Pavlovich	Yes
Christine Wietlisbach	Yes
Beata Morcos	Yes
Denise Miller	Yes

The motion carried.

**8. Ad hoc Committee report to the Board recommendation on criteria for non-licenses to serve on Board committees.**

*This agenda item was discussed on November 3, 2023.*

President Miller introduced the agenda item, noting that it had been brought to her attention that not everything that took place in the Ad Hoc Committee meeting had been captured in the meeting highlights.

Vice President Beata Morcos, the Ad Hoc Committee Chair, stated that she did not realize that a full transcript from the meeting would not be in the materials. She wanted to make sure that it was on the record that a lot of the discussion was about the ratios of licensee to non-licensee participants on a committee, and believed it was important that the Board know where the recommendations came from.

President Miller identified the Ad Hoc Committee members: Committee Chair Beata Morcos, Board Member Sharon Pavlovich, Ada Boone Hoerl, and Carlin Daley Reaume and thanked them for their participation in that meeting.

Ms. Morcos noted that the first recommendation to the Board for a non-licensee to participate on a committee as a public member was to have three years of professional experience related to the purpose of the committee, no pending, current or prior disciplinary actions of any healthcare license issued by the state of California or other profession, and no pending criminal charges in any state.

The second recommendation to the Board was to allow an occupational therapist student and an occupational therapy assistant student to participate on a committee as a public member, as long as they had completed one calendar year of education in a California Occupational Therapy education program, have a letter of support from an occupational therapy program director or fieldwork educator, and no pending, current, or prior disciplinary actions of any healthcare license issued by the state of California or other profession, and no pending criminal charges in any state.

Ms. Morcos stated that she was uncomfortable with the suggested 25% ratio because if the committee had four members consisting of one student, one public member, one Board member, and one licensee, and the participating Board member was not a licensee, this would equate to only having the opinion of *one* licensee on the committee. {Emphasis added.}

Board member Wietlisbach agreed that 25% is low representation for licensees serving on a committee.

Ms. Morcos replied that committee member Ada Boone Hoerl's suggestion that the committee consist of 25% public members made sense but only when the committee consists of a larger number of volunteers. She also stated that she felt every committee should consist of at least two licensees.

Ms. Wietlisbach opined that public members and students shouldn't be limited but the committee and Board should focus on the percentages of licensees.

Ms. Pavlovich mentioned that a part of the Board's strategic plan was outreach and there are a lot of students that are interested in advocacy. The ad hoc committee discussed a student's participation on a committee after their first year in a program, which is when they would have more time to participate. She noted that she saw this as a great time to plant the seed for advocacy and leadership. Ms. Pavlovich suggested the committee look at percentages of licensees.

Ms. Morcos said that she had a different perspective prior to the ad hoc meeting in that she thought that students should attend meetings and participate during public comment, but they did not have to be a committee member. She found it contradictory that the Board requires licensees to have three years of experience but will allow students with no experience to serve on a committee.

Ms. Wietlisbach stated that she did not think it appropriate for a student to be on the Practice Committee due to their lack of experience. Ms. Morcos agreed.

Ms. Pavlovich said that she thinks there is value in a student's perspective, regardless of what year in school they are in.

Ms. Wietlisbach responded that the committee could get their perspective as public members.

Ms. Miller said she understood the importance of student participation but wondered if there was a different approach that the Board could take to involve students in the process. She stated that she was compelled by the argument that a student being allowed to participate on a committee would not be held to the same standard of years of experience than a licensee.

Ms. Pavlovich gave the example of people in Washington DC that are first year students in government and policy, being mentored into the process. Ms. Pavlovich remarked that a student's value should be noted and that the mentorship that could occur on this Board could be very powerful. She agreed that students will not have the knowledge of the rest of the Board, but she believes they would have something to contribute from a lens that we are not often listening to.

Ms. Miller reiterated that she firmly believed that students should not participate on the Practice committee. However, she could see students participating on the Legislative and Regulatory Affairs Committee or the Education and Outreach Committee.

Mr. Bookwalter stated that he thought participation on some of the committees would be good for the student, but for the actual business of the committee, expertise was needed. It would be a great development and mentoring experience for the student, but less great for the committees of this Board and the business they have been assigned. He also agreed with the suggestion to have students participate in a different way, especially the Practice Committee. He thought the Education and Outreach Committee could have a student, and that would be more relevant. As for participating on the Legislative and Regulatory Affairs Committee, he thought it would depend on the student.

President Denise Miller stated that this could be an opportunity to partner with the universities and come up with criteria where they would give their students some type of credit for participating like extra credit, volunteer hours or service hours. Ms. Miller requested that the ad hoc committee explore that.

Attorney Helen Geoffroy stated that she was unaware of the ability for someone to be on a committee, but not have the ability to vote. Typically, anybody who is on a committee would have the right to vote.

Ms. Pavlovich requested that Ms. Geoffroy research whether or not a student could participate on a committee without voting power.

Ms. Miller added that as Committee Chair, Vice President Morcos had heard from at least three Board members that they do not want the student participants to have voting power. President Miller asked if Ms. Morcos wanted to say more about her concerns, because the minutes did not reflect her dissention.

Ms. Pavlovich stated that she would not describe Ms. Morcos' position as dissention but as participation in a robust discussion.

Ms. Morcos replied that the committee talked about the topic in depth and the majority of the committee supported students participating on committees.

She opined that students could attend committee meetings, but due to their lack of experience, they should not be allowed to vote. Ms. Morcos closed with her preference being to not give a student or non-licensure voting power on a committee and for them to not exceed or have equal numbers of participation to that of a licensee.

Board Member Hector Cabrera was not in favor of excluding students from participating on a committee as a voting member. He pointed out that the Board members were once students, and they need to get the experience one way or the other.

President Miller summarized that the ad hoc committee would meet again to discuss the matter, including the comments from this meeting, to include a percentage of licensees that should participate on each committee. The committee should also discuss Attorney Geoffroy's findings pertaining to non-voting participation and whether it is specific to certain committees such as the practice committee and consider examples of the make-up of committees from other Boards or other states.

Ms. Morcos agreed that the committee would come back again with their recommendation.

Ms. Morcos announced the committee's next recommendation to the Board was that a practitioner whose license was retired for more than five years could be considered under public member criteria for committee participation.

The final recommendation to the Board from the committee was that the manual be updated to add that anyone who wanted to be considered for committee appointment must provide a curriculum vitae (CV).

There were no additional Board member remarks.

There were no public comments.

## **9. Practice Committee report to the Board and recommendation to the Board on prioritization of Committee assignments and next steps.**

Practice Committee Chair Christine Wietlisbach announced that the committee met on October 13, 2023. The highlights of that meeting were provided in the meeting materials. The Practice Committee decided that at their next meeting on December 8, 2023, they would discuss whether or not suture removal is within the scope of practice for occupational therapists and whether advanced practice in hand therapy is required to treat cumulative trauma issues such as carpal tunnel. Diane Laszlo will provide staff with some background information to help with that discussion. The committee will provide the Board with recommendations on those two items at the February Board meeting.

Ms. Wietlisbach announced that the Practice Committee is actively looking to recruit a practitioner who has a private practice. Their expertise is needed for the discussion about how long a private practice should maintain records.

Ms. Pavlovich recommended Beth Awning at Palm Desert Clinic because Ms Awning has been in private practice a long time.

Ms. Wietlisbach replied that she believed that she had reached out to Ms. Awning and did not hear back from her. It is a possibility she did not receive that message.

Ms. Miller suggested Freddy Berger.

Ms. Wietlisbach announced that the Practice Committee did discuss the item that the board believed to be public comment received via email. What the email was looking for was Board guidance on relevant laws or regulations that pertain to physician's orders and weight bearing status precautions. The committee's recommendation to the Board was that they remove the public comment from the purview of the Practice Committee and direct Board staff to inform the author that they should rely on their knowledge skills and abilities along with the protocol of their specific employer. The Practice Committee agreed that the topic raised was too big and too generic for the committee to respond to appropriately.

President Miller expressed that she agreed with the Practice Committee's recommendation.

There were no additional Board member remarks.

There were no public comments.

- Christine Wietlisbach moved to direct Board staff to remove the public comment regarding physician's orders and weight bearing status precautions from the purview of the Practice Committee and direct staff to respond to the author.
- Sharon Pavlovich seconded the motion.

**Board Member Vote**

Richard Bookwalter	Yes
Hector Cabrera	Yes
Sharon Pavlovich	Yes
Christine Wietlisbach	Yes
Beata Morcos	Yes
Denise Miller	Yes

The motion carried.

**10. Executive Officer update on scheduling of Committee meetings.**

Board Member Christine Wietlisbach announced that the next Practice Committee meeting will take place on December 8, 2023.

Executive Officer Martin added that the Disaster Preparedness and Response Committee meeting would be scheduled for the Wednesday before the February 2024.

**11. Executive Officer's Report.**

*This agenda item was discussed on November 3, 2023.*

- a) Operational report  
Executive Officer Heather Martin stated she had provided information in the meeting materials that highlighted the progress that the Organizational Improvement Office had made in documenting different processes.

Ms. Martin announced that Board staff would be holding interviews for another enforcement analyst. Rebecca Harris, Staff Services Manager I, met with candidates earlier that week.

- b) Fiscal month (FM) 13 revenue and expenditure reports for FY 2022-23.  
Ms. Martin reviewed the included report documents with no questions from the Board.
- c) FM 3 revenue and expenditure reports and fund condition statement.  
Ms. Martin reviewed the included documents with no questions from the Board.
- d) Licensing data.  
Ms. Martin reviewed the included data with no questions from the Board.
- e) Enforcement data.  
Ms. Martin reviewed the included data with no questions from the Board.
- f) Future Agenda Items.  
Ms. Martin noted that she would add sending a Survey Monkey to the Fieldwork Council and education programs and add discussion pertaining to the Legislative and Regulatory Affairs Committee to a future agenda.
- g) Data/Information requested at prior meeting.  
Ms. Martin explained that the “unknown” gender option was added in the BreEZe Application for Licensure in June 2021. That has since been updated to provide the options: “female, male, non-binary, and unknown.”

President Miller asked if Board staff has reached out to the public commenter on the gender options from the August 2023 Board meeting.

Ms. Martin responded that Board staff has not reached out to the public commenter with the update, but they would.

When the Office of Statewide Health Planning and Development was renamed the Department of Health Care Access and Information, they mandated that healthcare Boards to collect specific information. At the last Board meeting the Board had asked Ms. Martin to share the demographic information that had been collected. Ms. Martin provided screen shots of this information in the Board meeting materials.

- h) Other Informational items.  
Ms. Martin noted that the America Occupational Therapy Association Fall newsletter was included in the Board meeting materials.

Ms. Martin announced that she extended the Board’s invitation to Shaun Conway, Senior Director, External and Regulatory Affairs, with the National Board for Certification in Occupational Therapy, Inc., to the Board’s February 2024 meeting. Items to cover might include an update on the Licensure Compact, a summary of the recently released OTR/COTA Certification book, and changes to the licensure exam coming in January 2024.

### **Public Comments**

Bryant Edwards thanked Ms. Martin for her report and expressed his appreciation for her time and effort.

There were no additional Board member remarks.

There were no additional public comments.

### **BREAK FOR LUNCH**

### **12. Petitioner Hearing 1:00pm – Danielle Clendenen, Petition for Reinstatement**

The Petition for Reinstatement hearing for Ms. Danielle Clendenen was held. The presiding Administrative Law Judge was Thomas Heller and the Deputy Attorney General was Langston Edwards. Ms. Clendenen was without counsel and represented herself.

### **CONVENE CLOSED SESSION**

The Board convened in Closed Session at 2:14 p.m.

### **OPEN SESSION**

The Board convened in Open Session at 3:55 p.m.

### **ADJOURNMENT**

The Board meeting adjourned at 3:55 p.m.



# **BOARD MEETING MINUTES**

**November 2-3, 2023**

## **Board Members Present:**

Denise Miller Board – President  
Beata Morcos – Vice President  
Christine Wietlisbach – Board Member  
Richard Bookwalter – Board Member  
Sharon Pavlovich – Board Member  
Hector Cabrera – Board Member

## **Board Staff Present:**

Heather Martin – Executive Officer  
Helen Geoffroy – Attorney  
Jody Quesada – SSM I  
Rebecca Harris – SSM I  
Rachael Hutchison - Analyst  
Maureen Paquette – Office Assistant

## **Board Members Absent:**

Lynna Do – Secretary

## **Friday, November 3, 2023**

### **9:30 a.m. – Board Meeting**

#### **13. Call to order, roll call, establishment of a quorum.**

The meeting was called to order at 9:31 a.m., Board member Sharon Pavlovich called roll and a quorum was established.

#### **14. President’s Remarks – Informational only; no Board Action to be taken.**

President Denise Miller did not have any remarks.

#### **15. Board Member Remarks – Informational only; no Board Action to be taken.**

Board Member Sharon Pavlovich reminded the Board and the members of the public in attendance that the OTAC Conference was the following week in Pasadena, California.

President Denise Miller added that she and Executive Officer Heather Martin would be presenting at the OTAC conference.

#### **16. Public Comment for items not on the Agenda.**

### **Public Comments**

Nicole DePaola, a pelvic health occupational therapist in Torrance, California, chose to introduce herself.

Bryant Edwards, the President of OTAC, chose to introduce himself.

President Miller acknowledged that Melissa Gear, the Deputy Director of the Department of Consumer Affairs, Board and Bureau Relations, was in attendance.

Ms. Gear thanked Ms. Miller for the introduction.

There were no additional public comments.

## **17. Discussion and possible action on whether pelvic health is within the occupational therapy scope of practice.**

President Miller announced that the Board received a public comment from Loma Linda University regarding 1) the proposed modification to CCR Section 4181, and 2) the support of occupational therapy's role in pelvic health.

Board Attorney Helen Geoffroy reminded the Board that during the August 2023 Board meeting, she was asked to determine if pelvic health was legally or clearly within the occupational therapy scope of practice.

Ms. Geoffroy reviewed the Occupational Therapy Practice Act (OTPA) and determined that the OTPA referenced standards for practice and competency provisions, however, no specific coursework, knowledge or experience relating to pelvic health was mentioned. Therefore, the Board could not assert that pelvic health therapy was statutorily required as educational experience or knowledge that all practitioners have

Ms. Geoffroy also reviewed the ACOTE standards, however, they were general in nature and a copy of their statement regarding physical interaction with patients was included in the Board meeting materials but did not include anything specifically referencing the pelvic area of the patient.

It was Ms. Geoffroy's legal opinion that there was nothing that the Board, as an entity within the State of California, could point to that unambiguously referenced pelvic health therapy was within the occupational therapy scope of practice.

She mentioned that the Board could seek legislation to add pelvic health therapy within the statutory scope of practice or add education requirements to specify the standard of education and experience the Board feels is appropriate before an occupational therapist can practice pelvic health therapy.

She stated that since the OTPA has statutory references to advanced practices, the Board could seek legislation to include pelvic health within advanced practices, rather than for all occupational therapists. Building this language into the law could have the additional benefit of the Board being able to remove it if disciplinary matters arose.

Ms. Geoffroy noted another option could be to petition ACOTE, but the language would have to be so ambiguous that the Board could then regulate to the effect that the legislature agreed that the standards are so clear that pelvic health could be considered within the scope of practice.

Ms. Pavlovich noted that addressing sexuality is within the occupational therapy scope of practice, but not addressed in the Board's laws and regulations. She asked why should pelvic health therapy be treated differently?

Executive Officer Heather Martin clarified that there is no question that pelvic health therapy is being safely performed by therapists that are trained to do so. however, if someone asked to point to the law that states that occupational therapists can perform pelvic health therapy, it does not exist.

Board Member Richard Bookwalter noted, for the record, that occupational therapists address, including but not limited to “*toileting, incontinence management, bladder management, perineal hygiene, adaptive techniques for bladder management, adaptive equipment for bladder management, management of the neurogenic bladder, urinary incontinence garments, urinary incontinence appliances, catheter selection, catheter use, how to do a straight catheter for a neurogenic ladder, scheduling toileting, scheduled catheter use, getting to the toilet, home modifications for toileting, self-catheterization, self-catheterization in a reclining wheelchair, self-catheterization in bed, bowel management, bowel hygiene, negotiating sexual relations, adaptive techniques for bowel management, management of the neurogenic bowel, digital stimulation, scheduling the bowel program, bringing the bowel program into the daily schedule, positioning for a bowel program, pressure relief, home modification, sexual activity including menstruation management, adaptive techniques for menstruation management, adaptive equipment for menstruation management, disability and sexual positions, and adaptive positioning,*” yet none of those appear in the ACOTE Guidelines. Mr. Bookwalter said that if the Board was unable to issue a public statement stating that pelvic health therapy was within the occupation therapy scope of practice, then he felt that the Board should at least get their discussion in the meeting minutes.

Board Member Christine Wietlisbach agreed with Mr. Bookwalter. She added that anything within the occupation of living, is covered by occupational therapy. Ms. Wietlisbach said that occupational therapy practitioners should never do anything that they are not trained to do, however, the Board cannot make a laundry list of everything practitioners do.

Ms. Geoffroy clarified that the Board was not expected to list out anything and everything that an occupational therapist does, could do or may do while conducting business but having a reference in law would protect a practitioner that was trying to protect themselves. She reiterated that the Board does not have the ability to specifically declare that pelvic health therapy is within the scope of practice.

Ms. Miller suggested that the Practice Committee discuss this topic and come back to the Board with recommendations.

### **Public Comments**

Bryant Edwards added that in the ACOTE standards there are several references to ensuring that those who have completed their education be prepared to articulate and apply therapeutic use of occupations with persons, groups, and populations for the purpose of facilitating performance and participation activities and occupations role situation in the home, workplace, community, and other settings as they apply to the occupational therapy practice framework. Mr. Edwards said he understood that the Board could not declare that pelvic health therapy was within scope, but they also could not declare that it is not within scope.

Nicole DePaola thanked the Board for their support of pelvic health therapy. She was one of three pelvic health occupational therapists in an insurance based pelvic health clinic. She noted that it was important that the community knows that occupational therapists are uniquely suited to be treating this area.

President Miller noted that the Board has two options: Find someone to carry the bill to specify it in statute or do nothing.

Mr. Bookwalter noted that in the past, there was a reference to the AOTA code of ethics. The Board was asked to remove it because it was a fluid document, from an outside entity, that put the Board under the influence of a document that could change or get stuck with. The Board intentionally specified its own code of ethics to get away from the AOTA document at the recommendation of DCA legal counsel.

Ms. Geoffroy explained that there would have to be something within the statute that referenced the practice framework.

### **Public Comments**

Nicole DePaola stated that she had researched this topic. She asked physical her physical therapy colleagues; their Board has not said anything because there is nothing different with muscle inside pelvis compared to any other muscle in the body.

Board Member Hector Cabrera then asked if Mr. Bookwalter and Ms. Wietlisbach if they performed pelvic health therapy and Ms. Wietlisbach replied that they did not.

Board Member Sharon Pavlovich explained that sexual health is part of the activities of daily living. She does not perform pelvic health therapy, however, as generalists, occupational therapists can address sexuality and sexual positioning and the psychosocial aspect of that because it is in the practice framework to work on sexual health, which is all-encompassing.

Bryant Edwards, OTAC President, stated that they were collaborating with subject matter experts and the AOTA to develop a position statement related to occupational therapy in relation to pelvic health.

Ms. DePaola reported that she went to the pelvic health conference in August where the AOTA President mentioned that pelvic health is in her “top 3” list of important topics to address this year.

Ms. Martin asked if OTAC wrote a position letter on AB 47 as there was not a bill analysis online for that bill. Ms. Martin asked if Mr. Edwards thought that it would be helpful if there was something from the Board specifically to get the amendment in the bill.

Mr. Edwards responded that he was not sure if that would help, but OTAC has had conversations with the author, and she articulated being amenable to one of two options. One option was to remove “physical” from “physical pelvic floor therapy” to make the language general. The second was to include occupational and physical therapy both in the language.

It was President Miller’s opinion for the Board to do nothing, noting that the Board would be looking to the associations to provide the Board with language to reference when they are making regulatory decisions.

Vice President Beata Morcos acknowledged that the profession has a broad range of skills and treatments, and as long as the consumer is protected, she would support not acting on this.

Ms. Wietlisbach added that if a disciplinary case came to the Board involving pelvic health therapy, the Board would employ a subject matter expert who has expertise in that area to evaluate the standard of care.

Vice President Beata Morcos asked Ms. Depaola if she felt limited in her profession because there was not specific language in the Board's laws or regulations.

Ms. DePaola replied that she did not feel limited. She added that she felt that it is not well known that occupational therapists with the proper training can perform pelvic health therapy.

The Board agreed to take no action.

There were no additional Board member remarks.

There were no additional public comments.

### **18. Discussion and possible action on whether the use of dry needling, as an intervention, is within the occupational therapy scope of practice.**

President Miller noted that this agenda item originated from a public comment.

Executive Officer Heather Martin shared with the Board that NBCOT recently conducted a survey asking states whether dry needling was within the occupational therapy scope of practice and if so, was it specified within laws or regulations. The Board received an inquiry from an occupational therapist who holds a Battlefield Acupuncture (BFA) certificate asking if dry needling was within an occupational therapist's scope of practice in California.

Board Member Richard Bookwalter said that he needed more information about what dry needling is before deciding, however, he would also be inclined to do nothing, as it was not specified in the Occupational Therapy Practice Act.

#### **Public Comment**

Bryant Edwards, President of OTAC, agreed with Mr. Bookwalter.

Ms. Martin suggested that the Board invite the author to do a presentation on dry needling and staff find additional information to bring back to the Board. She also clarified that the author asked whether or not she could do dry needling in California.

Ms. Pavlovich replied that dry needling was an intervention and that the Board does not have anything in the laws or regulations that would prevent the author from doing it.

President Miller suggested that the Board either not respond to the inquiry or respond that the Board is not prepared to weigh in on dry needling.

Ms. Martin added that there is not a consensus on dry needling from state to state.

Ms. Pavlovich agreed with Ms. Miller that the Board did not have enough information to respond to the author.

The board agreed to bring the dry needling discussion back as a future agenda item with

more information and directed Board staff to respond to the author that the Board did not have statutory authority to prevent her from performing dry needling.

There were no additional Board member remarks.  
There were no additional public comments.

**19. Consideration and possible action to amend CCR, Title16, Division 39, Section 4150, Definitions, and add that language to current regulatory package proposing amendments to sections 4151, 4152, 4153, and 4154, relating to advanced practices, and Sections 4161 and 4162, relating to continuing competence.**

Executive Officer Heather Martin explained that language for these sections was brought to the last Board meeting, except for Section 4150.

**Public Comments**

Bryant Edwards, OTAC President, asked if AB 2221 specifically removed the limitation of post-professional training and education. His understanding was that the regulations were being changed to address that.

Ms. Wietlisbach responded that the language “subsequent to the qualifying degree program” meaning that it would be after graduation or “beyond current ACOTE standards,” meant it could be within their education in the current qualifying degree program(s). Once ACOTE standards are more closely aligned with the Board’s standards the Board can change the language.

Mr. Edwards asked if an advanced practice applicant must demonstrate both the coursework and training for the specific content area? If the applicant was going to take a course that had four hours of content related to that curriculum that was part of the ACOTE standard that would not be able to be utilized as curricular evidence of their education in those content areas?

Ms. Martin clarified that the language in Section 4150 (b) states that, “subsequent to the qualifying degree program or beyond current ACOTE standards” was helpful in the past, when there was not an ACOTE standard for it. However, some programs provided content that was ‘beyond ACOTE standards’ and that allowed the student to use some of the content from their program towards the advanced practice education requirement. Several educational programs would get their courses pre-approved by the Board to ensure that those courses would be able to be applied toward an application once the student had completed the education and training hours required.

Mr. Bookwalter added that the ACOTE standards barely include any training, it is mostly education. There has been dialogue for twenty-three years with ACOTE about aligning their standards with the advanced practice requirements in California.

- Christine Wietlisbach moved to approve the proposed language amend CCR, Title16, Division 39, Section 4150, Definitions, and add that language to current regulatory package proposing amendments to sections 4151, 4152, 4153, and 4154, relating to advanced practices, and Sections 4161 and 4162, relating to continuing competence as presented and directed staff to submit the text and other required documents to the Director of the Department of DCA and the Business, Consumer

Services, and Housing Agency for review, take all steps necessary to initiate the rulemaking process, and set the matter for hearing, if requested.

- Richard Bookwalter seconded the motion.

**Board Member Vote**

Richard Bookwalter	Yes
Hector Cabrera	Yes
Sharon Pavlovich	Yes
Christine Wietlisbach	Yes
Beata Morcos	Yes
Denise Miller	Yes

The motion carried.

**20. Executive Officer update on Public Law 117-333, Portability of Professional Licenses of Servicemembers and their Spouses.**

Executive Officer Martin noted that she previously reported on Public Law 117-333 and DCA was in the process of developing a system for the ‘registration’ for these individuals since individuals can practice under federal law in the state of California without a California license. Since these individuals will be registered, but not licensed in the state of California they will not appear in the DCA license search. There will be a new link where consumers can look up the registration of these individuals. There will be a new military resource webpage as well.

There were no Board member remarks.

There were no public comments.

**21. Report on Board’s Pending Regulatory Proposals.**

Ms. Martin noted that she mentioned at the previous meeting that she will be reporting on pending regulatory proposals due to the number of packages that the Board has approved. The report will be a standing agenda item. The Board will be able to track the status of the various packages.

There were no Board member remarks.

There were no public comments.

**22. Status update to increase and establish new fees. Ad hoc Budget Committee to revise statutory language for the Board to consider at a future meeting.**

Due to continuing cost saving measures, the Board’s expenditures were lower than projected. There was also a slight increase in the annual revenue which resulted in the timeline for the fee increases being extended to a later date.

Executive Officer Heather Martin noted that the proposed language approved by Board appeared to generate too much revenue. Therefore, her recommendation was to send the fee increase discussion back to the Ad Hoc Budget Committee. The committee would review the fees and decide which would not need to be increased as much in order to align the revenue more closely with the Board’s budget.

Board Member Richard Bookwalter supported sending the topic back to the Ad Hoc Budget Committee to review the numbers again.

President Miller asked OTAC President Bryant Edwards whether OTAC would ever support the fee increase language.

### **Public Comments**

Bryant Edwards, OTAC President, replied that in his opinion seeing drilled down figures and recognizing the efforts to reduce expenditures could shift the OTAC response.

Mr. Edwards closed in saying although he could not speak for the OTAC board that he thought at the very least, OTAC may remain silent on the topic if they feel satisfied with what is provided.

Ms. Martin stated that she understood Mr. Edwards and agreed that it might be difficult for OTAC to support the Board's fee increase, but hoped they would remain silent and not oppose.

Ms. Martin noted that the Board has a 14-year reversion history that shows they have underspent their budget by a large margin.

Mr. Edwards added that OTAC offers opportunities in terms of outreach to educate the broader public and they can help in cascading information if the Board wishes to collaborate.

President Denise Miller agreed that the fee increase discussion should be sent back to the Ad Hoc Budget Committee and return as an agenda item for the February 2024.

There were no further Board member remarks  
There were no additional public comments.

### **23. Report on 2023 Chaptered legislation.**

Ms. Martin mentioned that some of the bills had changed in terms of content prior to submission of the Board's position letters. One concern was SB 544 which had language that is an outgrowth of the pandemic and suspended many of the provisions of the Bagley-Keene Act.

Ms. Geoffroy explained that beginning in 2024 the Board will have a codified option to do a teleconference. However, a majority of the Board must be present at a physical location. Those above the majority can appear virtually and must be on camera at all times barring technology issues. The members do not have to disclose their address at the private sites though they must disclose anyone who is 18 years of age or above who is present and divulge their general relationship. If they have someone present at that address that wanted to comment, they must be able to do so. The public must also be able to attend virtually, however, that can also be telephonically. The public must be able to attend at a publicly accessible teleconference site where they have both audio and visual access. For advisory bodies there must be one publicly accessible site where they can attend and participate and at least one staff member must be present, however, all the advisory members can be virtual, and they do not have to post their location. They do have to stay on camera.



### **Public Comments**

Bryant Edwards, OTAC President, expressed his enthusiasm for there to be a remote option for the public.

There were no additional Board member remarks.

There were no additional public comments.

#### **24. Report on pending legislation and consideration of taking a position, or updating a previous position taken, on proposed legislation impacting the Board, including:**

**a) Assembly Bill (AB) 47 (Boerner), Pelvic floor physical therapy coverage.**

**b) AB 381 (Rubio), Teacher credentialing: services credential with a specialization in health: occupational and physical therapists.**

**c) AB 796 (Weber), Business and Professions Code, relating to athletic trainers.**

**d) AB 1028 (McKinnor), Reporting of crimes: mandated reporters.**

**e) AB 1612 (Pacheco), Health and Safety Code, relating to clinics licensure.**

**f) Senate Bill (SB) 802 (Roth), Licensing boards: disqualification from licensure: criminal conviction.**

Executive Officer Heather Martin reported that all the bills mentioned in this agenda item were two-year bills that will be brought back in February 2024.

The Board agreed to discuss the pending legislation at the February 2024, Board meeting.

### **Public Comments**

Bryant Edwards, President of OTAC, commented that the language of AB 47 is for “pelvic physical therapy”, but hoped the Board would submit a letter of support, if amended to include occupational therapy.

Mr. Bookwalter stated that the Board did take a position of support of AB 47, if amended to include occupational therapy in May 2023.

There were no additional Board member remarks.

There were no additional public comments.

#### **25. Discussion and possible action on format of Board meetings held in 2024 (e.g., in person, WebEx, hybrid).**

*This agenda item was tabled for a later date.*

#### **26. New suggested agenda items for a future meeting.**

Board Member Sharon Pavlovich suggested a discussion regarding deadlines for public comments. She proposed establishing a deadline for comments that are to be included in the meeting which would allow enough time for the Board members to review the comments prior to the meeting.

Board Attorney, Helen Geoffroy, explained that according to the Bagley Keene Open Meeting Act, a public member can bring a comment to meeting. The Board might be able to

include a request on the Notice and Agenda for the public to send comments no less than five days before the scheduled meeting. Ms. Geoffroy agreed to research the Board's options. Ms. Geoffroy explained that the Board does not have to discuss the public comments at all and could decide whether or not to put the comment on as a future agenda item.

### **Public Comments**

Bryant Edwards, President of OTAC, inquired about the timeline for the posting Board meeting materials.

Ms. Geoffroy replied according to the Bagley Keene Open Meeting Act, the Board meeting notice and agenda must be posted and available no later than 10 days prior to the scheduled meeting.

Mr. Edwards inquired about the Webcast option for committee meetings, in which, Ms. Geoffroy explained that committees have the option to go fully remote, however for the Board meetings the majority of the members must be physically present in one location.

There were no additional Board member remarks.  
There were no additional public comments.

### **27. Election of 2024 Board officers.**

*This agenda item was tabled for a later date.*

### **ADJOURNMENT**

The meeting was adjourned at 3:55 p.m.