

**CALIFORNIA BOARD OF OCCUPATIONAL THERAPY**

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State of California  
Department of Consumer Affairs  
Arnold Schwarzenegger, Governor



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**CALIFORNIA BOARD OF OCCUPATIONAL THERAPY**

**BOARD MEETING MINUTES**

January 26, 2004

San Diego, California

**A. Call to Order, Roll Call, Establishment of a Quorum**

President Luella Grangaard called the meeting to order at 10:40 a.m. and Secretary Roberta Murphy called the roll.

Board Members Present

Luella Grangaard, President

Christine Wietlisbach, Vice President

Roberta Murphy, Secretary

Cynthia Burt

Margaret Cunningham

Hugh Smith

Staff Present

Gretchen Kjose, Executive Officer

Norine Marks, Legal Counsel

Janet Yagi, Associate Governmental Program Analyst

**B. President's Remarks**

Ms. Grangaard reported on a motion she presented to the American Occupational Therapy Association (AOTA) last year requesting that the Accreditation Council of Occupational Therapy Education (ACOTE) review its standards for accreditation to make sure that education is reflective of current practice. She advised that ACOTE is now soliciting comments on its standards and will be holding an opening hearing for further comments at AOTA's annual conference in May 2004. She urged Board members and those in attendance at today's meeting to respond to this request for input.

Ms. Grangaard announced that Suzanne Sampson, public member, had resigned from the Board in early January, leaving a vacancy to be filled by the Speaker of the Assembly.

**C. Approval of the November 14, 2003 Board Meeting Minutes**

The Board reviewed the November 14, 2003, Board Meeting Minutes and made the following changes: Page 3, paragraph one was clarified to reflect that a person licensed in another state could work no more than 45 days in a calendar year *in California* without obtaining a California license; on the same page, paragraph 4, the date was changed to November 6, 2003, rather than 2004; and on page 6, paragraph 5, Norine Marks noted that denial of advanced practice

certification *would not be subject to appeal under the Administrative Procedure Act but rather, review in superior court.*

- ◆ **Roberta Murphy moved to approve the minutes as amended.**
- ◆ **Christine Wietlisbach seconded the motion.**
- ◆ **The motion carried unanimously.**

#### **D. Executive Officer's Report**

Gretchen Kjose announced that the Governor had appointed Ron Joseph, Executive Officer of the California Medical Board, as interim director of the Department of Consumer Affairs (DCA).

She noted that the Board continues to be a participant in the Older Californian Driver Safety Task Force with one goal being development of a directory of occupational therapy (OT) practitioners who offer driver rehabilitation services or who can assist consumers in discovering other ways to maintain mobility when driving is no longer an option.

Ms. Kjose stated that OTPA section 2570.4(d) was amended effective January 1, 2004, exempting persons licensed in another state from California licensure, so long as they do not work for more than 45 days in a calendar year and they work in association with an occupational therapist licensed under this chapter. She also noted that the Board would need to develop regulations that define what "in association with" means. She also reported that the Senate Business and Professions Committee had agreed to carry legislation to repeal OTPA section 2570.14(c), the provision that allows a person not engaged in practice within the five years immediately preceding application for licensure to complete a re-entry program. This legislative change is necessary because there are no re-entry programs in existence.

Ms. Kjose advised that on November 17, 2003, Governor Schwarzenegger issued Executive Order S-2-03 placing a freeze on all pending regulations for a period not to exceed 180 days to allow his administration time to review them for potential fiscal impact to California businesses. She explained that regulations must be adopted within one year from the date they are originally noticed and, that as a result of the Executive Order, the Board's continued competency and supervision regulations missed the one-year deadline which ended November 26, 2003. She said that they will be noticed again and will be subject to a 45-day comment period followed by a public hearing which will be scheduled in conjunction with the Board's April 16, 2004, meeting. She also indicated that the Board's disciplinary guidelines and limited permit regulations might suffer the same fate, as the one-year deadline will lapse on April 24, 2004.

Most importantly, Ms. Kjose reported that an exemption from the regulatory freeze for the advanced practice regulations was approved by the Department of Finance (DOF) on January 15, 2004 and the rulemaking file was sent to the Office of Administrative Law (OAL) on January 23, 2004. She noted that OAL has 30 business days to complete their review and either approve or reject the regulations. Ms. Kjose thanked the Occupational Therapy Association of California (OTAC) and their lobbyist for their help in obtaining the freeze exemption and persuading DOF and OAL to put these regulations on a fast track.

Ms. Kjose advised that advanced practice certification began for hand therapy and physical agent modalities on January 1, 2004, based on education and training requirements cited in law. However, she said that certification in swallowing assessment, evaluation and intervention could not begin until the regulations take effect because the education and training requirements for that advanced practice area are contained in the proposed regulations, not in law.

Ms. Kjose reminded the Board that the AOTA annual conference would be held on May 20-23, 2004, in Minneapolis, Minnesota and the National Board for Certification in Occupational Therapy's Annual Meeting would be held April 23-24, 2004, in Orlando, Florida. She indicated that out-of-state travel had been restricted by the Administration so any board members or staff who would like to attend these meetings would have to pay their own way.

Ms. Kjose reported that as of January 15, 2004, 7,394 OTs and 1,330 OTAs had been licensed/certified and 227 limited permits had been issued. In addition, 564 advanced practice certifications in both hand therapy and physical agent modalities, 79 certificates in hand therapy and 11 in physical agent modalities had been issued.

She noted that a total of 372 enforcement cases had been opened, 343 closed, and 29 were pending as of the writing of this report. The Board had denied 19 applications, of which 9 were later granted probation (three of whom have completed probation) and 6 were appealed and were waiting for administrative hearings. One accusation was filed and a stipulated settlement for probation was reached in that case. She also advised that a Writ of Mandate filed by an applicant denied licensure because she had not practiced within five years of applying was denied in Superior Court on December 19, 2003.

Ms. Kjose noted that Board members Cindy Burt and Roberta Murphy spoke to several hundred occupational therapy practitioners on January 15, 2004, at Rancho Los Amigos National Rehabilitation Center and indicated that the Board would be speaking to individual OTAC chapters throughout the state in the coming months.

## **E. Practice Committee Report and Recommendations**

Committee Chair, Janet Jabri reported that two applications had been reviewed from individuals who had not practiced within five years of applying for license. She indicated that, based on information submitted from both individuals regarding prior experience and recent completion of continuing education, it was the Committee's recommendation that licensure be granted to both. Ms. Burt pointed out that one of the applicants was also seeking advanced practice certification in hand therapy and physical agent modalities. Ms. Jabri responded by stating that the Committee dealt only with the applications for initial licensure. Ms. Kjose advised that the Advance Practice Committee would review the request for advanced practice certification once the license had been issued.

Christine Wietlisbach mentioned that one of the applicants was a social worker whose continuing education focused on social work. Ms. Jabri explained that the applicant was present at the meeting and was able to articulate her past experience in OT and relate how her current position incorporates many of the skills she learned as an OT. Ms. Murphy also relayed that this applicant is currently licensed as an OT in Washington D.C.

Ms. Burt suggested that the Board define, in regulation, the type of continuing education needed for people to re-enter the field after an absence from practice. Ms. Kjose also commented that the five-year window might be too long because there is nothing in law that defines how much the person needed to have worked within those five years. Conceivably, an OT might have worked only one or two weeks within that period but would still qualify for licensure so long as those weeks were within the five-year period. The Board agreed to take up these issues in the near future.

- ◆ **Roberta Murphy moved to accept the recommendation of the Practice Committee and grant licensure to both applicants upon payment of the initial license fee.**
- ◆ **Hugh Smith seconded the motion.**
- ◆ **The motion carried unanimously.**

Following the vote, Ms. Burt stated that she had received several questions when she spoke at Rancho Los Amigos. The questions are listed below.

- Is icing considered a modality when it's being performed in the context of a sensory stimulation?
- Is biofeedback with someone with swallowing problems advanced practice?
- Is a diet modification advanced practice?
- If you thicken a liquid, is that advanced practice?
- What part of a bedside evaluation is advanced practice? What part is considered "feeding" to screen out someone with swallowing problems?
- What kind and how much supervision is required for OTs who are working toward collecting hours of experience?
- If someone is offering hand therapy with the intent of becoming certified, do they need to notify the Board of their intentions?
- What does "substantially equivalent" education and training mean.
- What is a "statement of learning?"

These questions will be considered by the Advanced Practice Regulatory Committee. Ms. Burt suggested that once these questions are answered, a FAQ sheet should be placed on the web site.

## **F. Advanced Practice Committee Report**

Ms. Grangaard began her report by indicating that what to include in a "statement of learning" is explained on the advanced practice application instruction sheet. She noted that there seems to be confusion as to what constitutes "hand therapy" citing the fact that many portfolios describe training in handwriting, splinting, NDT, myofascial release, etc. She also said there seems to be the same confusion regarding physical agent modalities because many portfolios reflect the practitioner's experience in kinesiotaping, lymphatic massage, splinting, and joint mobilization.

She stated that the best portfolios are clear, concise and address all of the requirements named in law. She noted that letters from supervisors attesting to the individual's skills and expertise, with an estimate of the number of hours of experience they have completed, is very helpful. Ms. Grangaard commented that Kaiser Permanente seems to have an excellent training program judging from the portfolios received from OTs employed by them.

An OT from the audience who worked in an acute in-patient rehabilitation facility asked whether when working with someone with multiple injuries that include a wrist fracture, certification in hand therapy would be required before treating the wrist? Ms. Burt commented that people seem to have lost sight as to what constitutes occupational therapy. She said that occupational therapists treat residual dysfunction that results from injury. The therapist should be looking at what functional activity the person cannot do, and address that with occupational therapy. Following discussion, the Board agreed that there are many issues to address to clarify when advanced practice certification is required and when the treatment being performed is simply occupational therapy.

Ms. Wietlisbach asked when provider applications would be approved and Ms. Kjose indicated that the Advanced Practice Committee would begin to review provider applications when the regulations take effect.

### **G. Sunset Review Overview**

Ms. Kjose gave an overview of the Joint Legislative Sunset Review Committee (JLSRC), whose responsibility it is to systematically examine and evaluate all consumer boards under the DCA to ensure that they are carrying out their primary mission. She indicated that, pursuant to OTPA section 2570.19(l), the Board would become inoperative on July 1, 2006, and the law would be repealed on January 1, 2007, unless extended by the JLSRC.

She advised that the Board would need to prepare an analysis of its activities and submit a report in September 2004 that would be reviewed by the JLSRC in December 2004. She noted that the JLSRC would publish the report format and questions in March 2004. Ms. Kjose asked that the Board appoint a committee to prepare the sunset report.

Ms. Grangaard asked Hugh Smith, Cindy Burt, Diane Josephs, and Richard Bookwalter to serve on the committee, with Mr. Smith acting as Chair.

- ◆ **Christine Wietlishbach moved to appoint Hugh Smith, Cindy Burt, Diane Joseph, and Richard Bookwalter, and give the Chair the discretion of appointing another member if additional expertise is needed.**
- ◆ **Roberta Murphy seconded the motion.**
- ◆ **The motion carried unanimously.**

### **H. Development of 2004 Strategic Plan**

Travis McCann, Training Officer for the DCA, gave a brief overview of the strategic planning process and indicated that he would forward external/internal scans and Strengths/Weaknesses/Opportunities/Threats forms to Board members and staff to gather data for the next strategic planning session. Ms. Kjose summarized the goals and objectives that had been met in the 2003 Strategic Plan and identified those that were targeted for the next two years. The Board will hold another strategic planning session on April 17, 2004.

**I. Schedule of Future Meetings**

The Board scheduled the following dates and locations for the remainder of 2004:

April 16-17, 2004 – Sacramento

July 19, 2004 – Los Angeles

November 15, 2004 – San Francisco

**J. Election of Officers for 2004**

Luella Grangaard was elected President, Cynthia Burt, Vice-President, and Roberta Murphy, Secretary for 2004.

**K. Public Comment Session**

There were no public comments under this agenda item.

**L. Closed Session Pursuant to Government Code Section 11126(c)(3) to Deliberate on Disciplinary Decisions**

There were no items set for closed session.

**M. Adjournment**

The meeting adjourned at 3:05 p.m.