

CALIFORNIA BOARD OF OCCUPATIONAL THERAPY

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State of California
Department of Consumer Affairs
Arnold Schwarzenegger, Governor



**CALIFORNIA BOARD OF OCCUPATIONAL THERAPY
BOARD MEETING MINUTES**

**August 26, 2005
San Diego, California**

Board Members Present

Luella Grangaard, President

Margaret Cunningham

Mary Evert

Hugh Smith

Christine Wietlisbach

Staff Present

Gladys Mitchell, Interim Executive Officer

Norine Marks, Legal Counsel

April Freeman, Associate Governmental Program Analyst

Jeff Hanson, Staff Services Analyst

Marsha Gove, Office Technician

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

President Luella Grangaard called the meeting to order at 9:13 a.m. The Secretary Mary Evert called the roll. A quorum of the Board was present.

B. President's Remarks

Ms. Grangaard discussed an article from the professional publication OT Practice entitled *Legal and Ethical Practice, A Professional Responsibility* (September 6, 2004). She believes the article would be an informative guide for staff.

Ms. Grangaard discussed an article from the professional publication Advance entitled *Playing By New Rules, The California Hand Credential*. Ms. Grangaard expressed concern with the article's interpretation of her interview. She contends that statements were taken out of context and changed.

C. Approval of the May 19, 2005 Board Meeting Minutes

The Board reviewed the May 19, 2005 Board Meeting Minutes and made two corrections as follows: (1) list Mary Evert as a member absent with clarification that she was excused for medical reasons, and (2) phone calls made to Pomerado Hospital were to ascertain if any members of the public were present. Ms. Marks indicated that it should be the decision of each individual Board member as to whether they want their reason for absence clarified in the minutes.

- ◆ **Christine Wietlisbach moved to approve the May 19, 2005 Board Meeting Minutes as corrected.**
- ◆ **Margaret Cunningham seconded the motion.**
- ◆ **The motion carried unanimously.**

D. Executive Officer's Report

1. Legislation Update

April Freeman reported that of the legislation submitted to the Senate Business & Professions (B&P) Committee in the spring, only the repeal of B&P Code section 2570.8 was included in the Omnibus Bill (SB 1111). SB 1111 was last amended in the Assembly on August 16, 2005.

B&P Code section 2570.12 (Retired Status) and section 2570.4(d) (Persons Exempt from Requirements) were not included in the Omnibus Bill. A request will be made to include these two sections in the Sunset Bill.

2. Budget Report

Interim Executive Officer Gladys Mitchell reported that the Board spent \$684,228 of its \$705,718 (or 96.95%) budget during fiscal year 2004/05. The budget for fiscal year 2005/06 is \$763,000. At the November meeting, Ms. Mitchell will provide the Board with the reason for the increase in the budget.

Ms. Mitchell reported that the fund condition at the close of fiscal year 2004/05 was very strong at 21.7 months. If fees remain the same, the fund condition will grow and by fiscal year 2009/10 the reserve will be 81 months (approximately \$5 million). The proposed fee decrease will change this number.

2a. Budget Change Proposal for Office Move

Ms. Mitchell reported that the Board has submitted a Budget Change Proposal for additional office space. Originally, the Board was going to move within the 444 North 3rd Street location for the purpose of gaining additional space for files and a conference room. However, due to issues relating to security and professionalism, the Board would like to move to another building in the Natomas area. The current rent rate of \$1.65 per square foot would increase to \$1.85 per square foot at the new location. The current rent budget is \$44,000 per fiscal year and would increase approximately \$18,000 per year.

3. Executive Officer Meeting Highlights

Ms. Mitchell summarized the topics of the Department of Consumer Affairs' (DCA) June 29, 2005, Executive Officer's Meeting. DCA is researching a program that would only print the last four digits of licensees' social security numbers on their renewal notices. DCA Public Relations' unit is emphasizing the importance of customer service and will continue to remind Boards of its importance. Other topics discussed were the Annual Report, the On-line iLicense Optimization Project and sexual harassment training.

4. OTAC 29th Annual Conference

Ms. Mitchell reported that the Board purchased a booth for the OTAC conference to be held in Santa Clara October 28-30, 2005. Staff will work on items to be distributed in the booth, including applications, newsletters and a fact sheet on continuing competency.

5. Personnel Updates

Ms. Mitchell reported that the Board hired two high school students to assist with basic office tasks. The students are no longer working as they have both returned to school. The vacant Office Assistant position was filled in July but is now going to be vacant again. The new Office Assistant is transferring to the Acupuncture Board.

6a. Board Member Orientation

Ms. Mitchell explained that Board members are required to attend board member orientation. The only member who hasn't attended will be enrolled in the December session. Members will also be provided with information regarding the on-line ethics course.

Ms. Mitchell announced the 11th Annual NBCOT National Conference on Occupational Therapy State Regulation. She will review the out-of-state travel budget to determine if out-of-state travel funds are available for this conference.

E. Discussion of Professional Development Unit Requirements and Documentation

Ms. Grangaard reported that the continuing competency regulations go into effect on January 1, 2006. She would like staff to begin working on a form for collecting continuing competency data to be completed by the OTAC conference. Jeff Hanson explained that work has begun and that the renewal form is already under construction.

Ms. Evert questioned the possibility of collecting the data on-line. Mr. Hanson explained that on-line reporting is part of an ongoing DCA project but not yet available to the Board.

Mr. Grangaard questioned the audit procedure including what percentage of licensees would be audited, possible automatic triggers, and when and how often will the audits be conducted. The Board directed staff to provide information regarding methods and procedures for conducting continuing competency audits and have a draft form for collecting data available at the November meeting.

F. Adoption of Proposed Fee Reduction, Title 16 C.C.R. Section 4130

Norine Marks reported that the public hearing for the proposed regulatory changes to Title 16 of the California Code of Regulations, section 4130, concerning the Board's fees was conducted on August 25, 2005, in San Diego. No public comments were received. Ms. Freeman reported that no written comments were received prior to the August 22, 2005, deadline.

- ◆ **Christine Wietlisbach moved to adopt the regulatory language for the proposed fee reduction.**
- ◆ **Mary Evert seconded the motion.**
- ◆ **The motion carried unanimously.**

G. Discussion Regarding Status/Restructure of the Board Committees

The Board discussed the current structure and members of the Practice Committee, Advanced Practice Regulatory Committee, Regulatory Committee, and the Advanced Practice Review Committee.

The following members were appointed to the Regulatory Committee: Luella Grangaard, Mary Evert and Margaret Cunningham.

H. Report from Advanced Practice Regulatory Committee

Christine Wietlisbach, Committee Chair, reported that representatives from the Physical Therapy Board, the Medical Board of California, and the Pharmacy Board attended the August 25, 2005, meeting to discuss language for the regulations concerning topical medications. Staff will draft language based on the Physical Therapy Board's regulatory language, not to include any language regarding medication applied outside iontophoresis and phonophoresis.

The representative from the Pharmacy Board recommended that the Board seek an amendment to the statute, which would allow occupational therapists to have prescriptions filled for use with iontophoresis and phonophoresis.

Staff will provide draft language to member and the above-mentioned representatives prior to the November meeting.

Ms. Wietlisbach also reported that the Committee discussed advanced practice portfolios. Staff was directed to review portfolios received prior to October 1, 2004 and advise applicants of a reasonable time frame to submit outstanding information. Staff was also directed to review and provide copies of the Initial Statement of Reasons and the Final Statement of Reasons for the initial advanced practice regulations to determine the definition and intent of the term "post-professional."

- ◆ **Christine Wietlisbach moved to adopt the Advanced Practice Regulatory Committee's report.**
- ◆ **Hugh Smith seconded the motion.**
- ◆ **The motion carried unanimously**

I. Strategic Planning Session – Update

Ms. Mitchell asked the Board to review and comment on the updates that were made to the 2005 Strategic Plan. Members suggested the following changes:

- Section 4.7 – Change date to November 2006
- Section 4.8 – Change the word "ensure" to "promote"
- Section 5.2 – Change date to September 1, 2005

Staff will make the above changes and begin working to meet the new goals. Staff will provide Board members with a copy of the updated Plan as well as having it posted on the website.

- ◆ **Mary Evert moved to adopt the 2005 Strategic Plan as amended.**
- ◆ **Margaret Cunningham seconded the motion.**
- ◆ **The motion carried unanimously**

J. Report from Sunset Review Committee

Mary Evert gave the Sunset Review Report on behalf of Hugh Smith, Committee Chair, who was not present at the Committee meeting on August 25, 2005. Ms. Evert reported that Luella Grangaard was

appointed as a temporary Committee member for purposes of discussion. A page by page review was conducted at the meeting. The Committee held off on discussing amendments made by legal counsel and enforcement additions that were not reviewed prior to the Committee meeting. Members were asked to review those changes prior to the Board meeting.

Mr. Smith had no further changes to the report. He cautioned that if the report becomes too specific, the Board would have a harder time finalizing the draft. Ms. Mitchell advised members that the report was reviewed by the Dental Board's Chief of Enforcement who believed the enforcement section was on point with what the Joint Committee is looking for.

The Board requested that the Sunset Review Report be bound with a cover and submitted to the Joint Committee on Boards, Commissions and Consumer Protection on Thursday, September 1, 2005. The hearing will probably be held in late 2005 or early 2006. Any Board members who wish to attend are welcome.

- ◆ **Hugh Smith moved to accept the Sunset Review Report as amended, including any minor changes submitted by members no later than Monday, August 29, 2005.**
- ◆ **Christine Wietlisbach seconded the motion.**
- ◆ **The motion carried unanimously.**

K. Discussion Regarding the Speech-Language Pathology & Audiology Board designation of OT's as Speech Aides

The Board discussed a legal opinion issued to the Speech-Language Pathology & Audiology Board (SLPAB) that advises occupational therapists be registered as speech aides prior to being supervised by a speech-language pathologist. They also discussed the American Speech Language-Hearing Association's (ASHA) position that speech-language pathologists should not train, via professional education courses or on-the-job training, or provide direct clinical supervision to individuals or groups of individuals from other professions in the delivery or evaluation and treatment for infants, children, and adults with swallowing and feeding disorders.

Ms. Grangaard explained that this situation is problematic for occupational therapists who are attempting to gain on-the-job supervision hours required for advanced practice certification in the area of swallowing assessment, evaluation and intervention. She reminded the Board that the reason speech-language pathologists were identified in the regulations as one of the professionals that are authorized to provide supervision was because some settings did not have many options for occupational therapists to be supervised by anyone else. The Speech-Language Pathology & Audiology Board did not have objections to the language during the development of the OT regulations.

Ms. Marks advised that other Boards have the authority to determine how their rules and regulations are interpreted.

The Board discussed possible ways to modify its regulations to remove the specific reference to other professionals supervising occupational therapists. Richard Bookwalter of the Occupational Therapy Association of California (OTAC) cautioned the Board against removing reference to specific professions that are training in the area of dysphagia. He explained the difficulty to both licensees and Board staff if they were required to determine if a supervisor was qualified on a case by case basis. Mr. Bookwalter believes that this problem will resolve itself eventually when enough OTs become certified and can

supervise other OTs. He indicated that OTAC and the American Occupational Therapy Association (AOTA) have been involved with ASHA and SLPAB, however, these organizations are within their authority to defend their policies and regulations and the Board is not likely to be successful in any attempts to change these policies.

The Board directed staff to research the definition of “vestibular testing” as used in the DCA Legal Office’s legal opinion regarding *Supervision of Aides & Occupational Therapists*.

L. Executive Officer Search Process

Ms. Wietlisbach advised the Board that the Executive Officer Search Committee has been working with Les Chan of the DCA Personnel Office. They received approximately 10-12 applications. They held initial interviews with four applicants on August 4, 2005 in Sacramento, and will schedule second level interviews with two of those applicants.

The Board will schedule the three interviews for Thursday, October 13, 2005, with an alternate date of Wednesday, October 12, 2005. Ms. Wietlisbach will provide copies of the duty statement and resumes to all Board members.

M. Closed Session Pursuant to Government Code Section 11126(c)(1) to Interview candidates for the Executive Officer Position

The Board did not have any business to conduct in closed session.

N. Adjournment

The meeting adjourned at 11:45 a.m.