



BOARD OF OCCUPATIONAL THERAPY

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

April 16, 2009

Board Members Present

Mary Evert, President

Patti Horsley

Nancy Michel

Bobbi Jean Tanberg

Christine Wietlisbach

Board Staff Present

Heather Martin, Executive Officer

Norine Marks, Legal Counsel

Dianne Dobbs, Legal Counsel

Jeff Hanson, Analyst

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

Technical difficulties with the teleconference network caused a delay. At 9:44 a.m., President Mary Evert called the meeting to order. Secretary Bobbi Jean Tanberg called the roll. A quorum of the Board was present.

B. President's remarks.

Ms. Evert reported that she attended the Professionals Achieving Consumer Trust (PACT) Summit in Sacramento on April 15, 2009.

C. Board member updates/activities.

Christine Wietlisbach indicated that she also attended PACT Summit in Sacramento on April 15, 2009. Ms. Wietlisbach reported the Occupational Therapy Association of California's (OTAC) "Spring Fling" (continuing education conference) was well received. Ms. Wietlisbach taught a course to assist practitioners with re-entry into the profession; it was suggested that Ms. Wietlisbach provide the information again at OTAC's Annual Conference in October 2009.

D. Approval of the March 19, 2009, Board meeting minutes.

- ❖ Patti Horsley moved to approve the March 19, 2009, Board Meeting Minutes with grammatical and spelling edits.
- ❖ Nancy Michel seconded the motion.

Roll call vote

Mary Evert: Aye
Patti Horsley: Aye
Nancy Michel: Aye
Bobbi Jean Tanberg: Aye
Christine Wietlisbach: Aye

E. Discussion and consideration of proposed regulatory language to amend Title 16, Division 39, California Code of Regulations Section 4120 – Renewal of License or Certificate.

The proposed regulation would establish that practitioners whose fingerprint records that no longer exist with the Department of Justice (DOJ) would be required to re-submit fingerprints as a condition of renewal, effective in 2010.

Ms. Heather Martin explained that all practitioners were required to submit fingerprints as a condition of licensure. However, due to a data base conversion at the DOJ, some fingerprint records may not have successfully converted to the new system. Board staff would be working with the DOJ to identify licensee records that may not have successfully converted. Staff anticipates the impact to practitioners would be minimal based on preliminary information. The proposed regulation conforms to new Department standards regarding the submission and maintenance of fingerprint records for health care providers.

Reference to the proposed regulation becoming effective March 1, 2010, was replaced with July 1, 2010.

- ❖ Christine Wietlisbach moved to approve the language of the proposed regulation with the minor edit cited above and authorized the Board's Executive Officer and Legal Counsel to make any other minor non-substantial changes as might be needed for Noticing.
- ❖ Nancy Michel seconded the motion.

Roll call vote

Mary Evert: Aye
Patti Horsley: Aye
Nancy Michel: Aye
Bobbi Jean Tanberg: Aye
Christine Wietlisbach: Aye

F. Discussion and consideration of proposed legislation to establish a “retired” status (Senate Bill 821) and any other bills of interest to the Board.

SB 821 is the Department's omnibus bill which carries several proposed changes pertaining to occupational therapy practice. Ms. Evert reported the Board has

been trying to enact a retirement provision since 2005. Discussion ensued to expand the proposed legislation to allow practitioners that were licensed in other states to use a “retired” designation also.

Stacy Defoe, Executive Director, California Physical Therapy Association (CPTA), sought clarification of a component of the proposed bill that changes references to occupational therapy assistants as being “certified” and replacing the reference as being “licensed”.

Jane Dressler, OTAC Governmental Affairs Liaison, expressed concerns over the proposed legislation pertaining to the striking of “upper extremity” from the definition of hand therapy in Business and Professions Code Section 2570.2(l).

Ms. Dressler also cited concerns with the proposed provision that would authorize the Board to inspect records and require reports stemming from a complaint filed with the Board. Ms. Dressler’s comments paralleled correspondence received from OTAC dated April 8, 2009, outlining which provisions of Senate Bill (SB) 821 that they supported or opposed; the letter was included with the meeting agenda packets.

- ❖ Christine Wietlisbach moved for the Administrative Committee and Legal Counsel to work out expanding the language of the proposed retirement provision to allow retired out-of-state practitioners to represent themselves as being “retired”.
- ❖ Bobbi Jean Tanberg seconded the motion.

Roll call vote

Mary Evert: Aye
Patti Horsley: Aye
Nancy Michel: Aye
Bobbi Jean Tanberg: Aye
Christine Wietlisbach: Aye

G. Consideration of policy to allow the Board to hear a contested case when an individual has been issued a citation and appeals for an Administrative Procedures Act hearing.

Ms. Martin reported that policy is being formulated. Staff will bring a proposed policy to the June meeting for the Board to consider.

H. Executive Officer’s report.

1. Update on establishing Expert Panel to evaluate occupational therapy educational programs courses.

Ms. Martin advised the Board that she had contacted potential reviewers, however, there were no firm commitments nor were any materials sent out.

Ms. Dressler expressed concern over the establishment of an Expert Panel to evaluate whether teaching didactic courses constituted practice.

2. Other informational items

Ms. Martin referenced meeting materials, including a letter from Occupational Therapy Association of California (OTAC) to the Board providing a “neutral” position on Assembly Bill (AB) 721 and an email from Ms. Evert to Cheryl Resnik, President, CPTA, regarding the Board’s concerns about the provisions contained in AB 721. AB 721 would allow patients direct access to a physical therapist without a physician’s referral (copy provided).

Board members discussed the continued concerns regarding the provisions of AB 721. Ms. De Foe, clarified to Board members that all physical therapists are educated/trained in the “direct access” model and provided a copy of “Differential Diagnosis Entry to Practice Content in California Physical Therapist Education Programs.”

Ms. Martin also referred Board members to an email received from Debby Bolding, Chair, of the Board’s Practice Committee, regarding the continued use of the Practice Committee and its roles and responsibilities. Ms. Martin indicated that she advised Ms. Bolding that due to the timing of the email and the agenda, this was informational only and would be placed on the June Board meeting agenda.

I. Discussion of Strategic Plan and development of Strategic Plan Action Plan and assignments.

Ms. Evert instructed Board Members to review the material provided and report to Ms. Martin items that need to be updated for the Strategic Plan, which will cover the time period July 2009 – June 2012.

J. Future agenda items:

The Board discussed holding a teleconference meeting on July 30th to discuss and prioritize legislative proposals. The Board also reviewed the future agenda items as presented:

Tentative meeting date: June 18, 2009

1. Discussion and consideration of proposed regulatory language to establish Infection Control Practices.
2. Discussion of emerging non-traditional/developing OT practice arenas and the fieldwork guidelines issued by the Accreditation Council on Occupational Therapy Education (ACOTE) regarding these arenas.
3. Discussion of specialized OT skills acquired post entry-level (i.e., wound care, lymphedema treatment, etc.) and the Board’s role in monitoring these areas.
4. Regulatory hearing – Amendments to Title 16, Division 39, California Code of Regulations Section 4100 Definitions, to add and define “incompetence,” “negligence” and “gross negligence” and add substantial relationship criteria.
5. Regulatory hearing – Amendments to Title 16, Division 39, California Code of Regulations Section 4120 Renewal of License or Certificate, to require

- fingerprinting as a condition of license renewal, under certain conditions, as directed by the Board.
6. Regulatory hearing – Amendments to Title 16, Division 39, California Code of Regulations Section 4180 Definitions, to add and define “Clinical instructor” and “fieldwork site instructor” and amend “non-client related tasks.”
 7. Discussion and consideration of member selection for Committee members (Education and Outreach, Enforcement, Disaster Preparedness and Response, Legislative and Regulatory Affairs)
 8. Ethical Decision Making training course (for Board members).

A proposed policy for Board Members to hear contested citation cases directly is being added to the list of future agenda items.

Ms. Evert requested that OTAC provide information on agenda items J(2) and J(3) (i.e., definitions or other information on these areas) to assist the Board with their future discussion and consideration of these items.

Ms. Wietlisbach requested the Board discuss the use of the title “Doctor” by occupational therapists in written and verbal communication at a future meeting.

Tentative meeting date: October 26, 2009

1. Discussion of occupational therapy assistants in leadership roles.
2. Regulatory hearing – Amendments to Title 16, Division 39, California Code of Regulations to Infection Control Practices.

K. The Board will convene in CLOSED SESSION pursuant to Government Code Section 11126(c)(3) to deliberate on Disciplinary Decisions.

The Board convened in closed session to deliberate on two disciplinary decisions. The first session was conducted immediately after roll call and establishment of a quorum. The first session began at 9:47 a.m. to allow Dianne Dobbs, Legal Counsel, to provide assistance if needed. At 10:09 the first session adjourned.

The second session convened at 11:35. At 12:10 the second session adjourned.

L. Return to open session.

At 10:12 a.m. the Board returned to open session after the first Disciplinary Decision session concluded. At 12:14 p.m. the Board returned to open session after the second Disciplinary Decision session concluded.

M. Public comment session for items not on the agenda.

There was no public comment regarding items that were not on the agenda.

N. Adjournment.

At 12:15 p.m. the meeting adjourned.