



CALIFORNIA BOARD OF OCCUPATIONAL THERAPY TELECONFERENCE BOARD MEETING MINUTES

Thursday, March 22, 2012

Board Members Present

Bobbi Jean Tanberg, President
Mary Evert,
Luella Grangaard
Eric Alegria

Board Staff Present

Heather Martin, Executive Officer
Norine Marks, Legal Counsel
Jeff Hanson, Staff Services Manager
Jody Quesada, Office Technician

Board Members Absent

Nancy Michel
Linda Florey
Kathay Lovell

9:30 am - Board Meeting

The public may provide comment on any issue before the committee at the time the matter is discussed.

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

President Tanberg called the meeting to order at 9:47am. Roll was called and a quorum established.

2. President's remarks. (B. Tanberg)

President Tanberg thanked California State University Dominguez Hills for their hospitality.

President Tanberg advised the meeting attendees that the Board Members would hold their closed session immediately following agenda item three.

3. Board member updates/activities. (All Board members)

Luella Grangaard commented that the last time she had the pleasure of visiting CSU Dominguez Hills was in 1997 when Occupational Therapists were working on becoming licensed and she had the opportunity to speak to the first graduating class.

Eric Alegria thanked Heather Martin and Board Staff for their ongoing efforts to keep the Board Members up to date and providing all the meeting materials in a timely manner.

The Board will convene in CLOSED SESSION pursuant to Government Code Section 1126(c)(3) to deliberate on Disciplinary Decisions.

At approximately 9:50 a.m. the Board entered into Closed Session to deliberate on disciplinary matters.

At approximately 10:30 a.m. the Board returned to open session.

4. Approval of the December 1, 2011, Board meeting minutes.

President Tanberg asked that Board Staff amend page six, paragraph three, line three by omitting the word “make”.

- ❖ Luella Grangaard moved to accept the December 1, 2011, Board Meeting Minutes.
- ❖ Eric Alegria seconded the motion.

Roll Call Vote

Mary Evert	Aye
Luella Grangaard	Aye
Eric Alegria	Aye
Bobbi Jean Tanberg	Aye

- ❖ The motion was adopted.

5. Disaster Preparedness/Disaster Response Committee Report (M. Evert)

Mary Evert reported that the committee is off to a good start. The committee has identified their purpose and discussed roles and responsibilities. Ms. Evert added that the committee would seek more input from other state agencies and licensing boards regarding how they address disaster response preparedness. Ms. Evert stated that she would research articles pertaining to the tsunami in Japan and the how the Occupational Therapists mobilized in the face of this disaster.

Ms. Evert announced that the upcoming Occupational Therapy Association of California (OTAC) newsletter will include an article addressing what therapists around the state could do to seek the required credentialing to become a Primary Responder.

Ms. Evert reported that the next committee meeting will be held in May and that there are vacancies to be filled, if anyone is interested.

- ❖ Luella Grangaard moved to accept the October 25, 2011, meeting minutes
- ❖ Mary Evert seconded the motion.

Roll Call Vote

Mary Evert	Aye
Luella Grangaard	Aye
Eric Alegria	Aye
Bobbi Jean Tanberg	Aye

- ❖ The motion was adopted.

6. Education and Outreach Committee Report (B. Tanberg)

President Tanberg reviewed the Committee's suggested revisions of the Roles and Responsibilities as follows:

Amend Role and Responsibility number one to read:

1. Develop informational consumer brochures.

Add a sixth Role and Responsibility that will read:

6. Identify and explore use of various communication tools.

President Tanberg reported that the committee worked with Heather Martin to establish the exact content of the brochure. The committee proposed that the brochure should be made as flexible as possible so that Board Staff can use it as a reference tool. The brochure should reflect all the various places a practitioner could be practicing, what a consumer should expect from provided services and how a consumer can contact the Board should they have any concerns.

Mary Evert suggested the population of practitioners be listed on the Board's website.

(Note: no vote on accepting Committee's report or recommendations.)

7. Legislative and Regulatory Affairs Committee Report (L. Grangaard)

Luella Grangaard asked that the meeting minutes from January 19, 2012 be tabled; the minutes will be brought back to the next meeting.

- ❖ Luella Grangaard moved that the Board accept the minutes from the August 16, 2011, and November 2, 2011, meetings.
- ❖ Mary Evert seconded the motion.

Roll Call Vote

Mary Evert	Aye
Luella Grangaard	Aye
Eric Alegria	Aye
Bobbi Jean Tanberg	Aye

- ❖ The motion was adopted.

Ms. Grangaard reported that the Committee went through and prioritized the items below that were previously approved by the Board, recommending that the legislative proposal be considered a high, medium or low priority. By focusing on the legislative proposals that the Board believes are a higher priority, the process of finding an author(s) for the legislative proposals should be a bit easier for staff.

- Amend Business and Professions Code (BPC) Section 146, Violations of specified authorization statutes as infractions; Punishment and Section 149, Notice to cease advertising in telephone directory; Contest and hearing; Disconnection of service.

Recommended priority – technical; request Senate B&P carry in annual omnibus bill.

- Amend BPC Section 2570.2, Definitions. **Recommended priority - HIGH**
- Amend BPC Section 2570.3, Licensing requirement. **Recommended priority - HIGH**
- Amend BPC Section 2570.16, Fees. **Recommended priority - HIGH**
- Amend BPC Section 2570.18, Representation. **Recommended priority - LOW**
- Amend BPC 2570.27, Discipline; Initial license issued on probation. **Recommended priority – MEDIUM**
- Add new BPC Section requiring mandatory reporting of employees who are terminated or suspended for cause, as specified, and consequences for failure to report. **Recommended priority - HIGH**
- Add new BPC Section regarding limiting liability of occupational therapists providing services in an emergency, disaster, or state of war. **Recommended priority - HIGH**
- Add new BPC Section establishing new language which would allow the Board to inspect records. **Recommended priority - HIGH**
- Add new BPC Section establishing standards of practice for telehealth by occupational therapists. **Recommended priority - HIGH**
- Add new BPC Section requiring the Board to perform a workforce study and authorize an appropriate expenditure for the study. **Recommended priority – LOW (so low, not even consider at this point.)**

Ms. Grangaard reported the committee's recommendation to the Board on the Bill's as follows:

- Assembly Bill (AB) 171(Beall), Autism.
The Committee recommended supporting this Assembly Bill.
- AB 374 (Hayashi), Provides for licensure of Athletic Trainers.
The Committee recommended watching this Assembly Bill.
- AB 386 (Galgiani), Prisons: telehealth systems.
The Committee recommended watching this Assembly Bill.
- AB 439 (Skinner), Health care information.
The Committee recommended supporting this Assembly Bill.
- AB 518 (Wagner), Elder and dependent adult abuse: mandated reporters.
The Committee recommended supporting this Assembly Bill.
- AB 608 (Pan), Telemedicine.
The Committee recommended watching this Assembly Bill.
- AB 783 (Hayashi), Professional Corporations.
Luella asked that the Board discuss this Assembly Bill.
- AB 800 (Huber), Boards and Commissions: Time Reporting.
The Committee recommended remaining neutral on this Assembly Bill.
- AB 958 (Berryhill) – Statute of limitations for disciplinary actions.
The Committee recommended opposing this Assembly Bill.
- AB 1003 (Smyth) Professional and vocational licenses.
The Committee recommended opposing this Assembly Bill.
- Senate Bill (SB) 399 (Huff), Healing Arts: Advertising.
The Committee recommended supporting this Senate Bill.
- SB 462 (Blakeslee), Provides for certification of special education advocates.
The Committee recommended watching this Senate Bill.
- SB 544 (Price), Professions and Vocations: Amendments to the Business and Professions Code; general provisions and the Occupational Therapy Practice Act.

The Committee recommended watching this Senate Bill.

- SB 924 (Price), Physical therapists: direct access to services: professional corporations.

The Committee recommended watching this Senate Bill.

Ms. Martin reported that both the Occupational Therapy Association of California (OTAC) and the American Occupational Therapy Association (AOTA) took a neutral position on Senate Bill 924.

- ❖ Mary Evert motioned to look at the possibility of having Occupational Therapists included in additional corporations.
- ❖ Luella Grangaard seconded the motion.

Roll Call Vote

Mary Evert Aye
Luella Grangaard Aye
Eric Alegria Aye
Bobbi Jean Tanberg Aye

- ❖ The motion was adopted.
- ❖ Luella Grangaard motioned on behalf of the Committee to recommend the Board support AB 171, AB 439, AB 518, and SB 399 and direct the Executive Officer to write letters of support on the Board's behalf.
- ❖ Mary Evert seconded the motion.

Roll Call Vote

Mary Evert Aye
Luella Grangaard Aye
Eric Alegria Aye
Bobbi Jean Tanberg Aye

- ❖ The motion was adopted.
- ❖ Luella Grangaard motioned on behalf of the Committee that the Board watch AB 374, AB 386, AB 608, SB 462, SB 544, and SB 924.
- ❖ Mary Evert seconded the motion.

Roll Call Vote

Mary Evert Aye
Luella Grangaard Aye
Eric Alegria Aye
Bobbi Jean Tanberg Aye

- ❖ The motion was adopted.
- ❖ Luella Grangaard motioned on behalf of the Committee that the Board remain neutral on AB 800.
- ❖ Mary Evert seconded the motion.

Roll Call Vote

Mary Evert Aye
Luella Grangaard Aye
Eric Alegria Aye
Bobbi Jean Tanberg Aye

- ❖ The motion was adopted.
- ❖ Luella Grangaard motioned on behalf of the committee that the Board oppose AB 958 and AB 1003 and direct the Executive Officer to write the letters of opposition on the Board's behalf.
- ❖ Mary Evert seconded the motion.

Roll Call Vote

Mary Evert Aye
Luella Grangaard Aye
Eric Alegria Aye
Bobbi Jean Tanberg Aye

- ❖ The motion was adopted.

Ms. Martin agreed to draft letters of support and opposition, and present them to Luella Grangaard for review before submitting to the author's offices.

8. Consideration and adoption of proposed regulatory language to amend Title 16, CCR Section 4180, Definitions, Section 4184, Delegations of Tasks to Aides, and establish section 4187, Supervision Plan for an Occupational Therapist.

Ms. Martin clarified that this topic was being brought back to the Board for review due to the response from AOTA. Although AOTA's comments weren't specific to the deleted language, they were specific to the meaning and intent of the language.

- ❖ Mary Evert motioned to amend CCR Section 4187, line three, by striking "shall only", replacing it with "may," removing the clinical supervision requirement and noticing the modified text for fifteen days.
- ❖ Eric Alegria seconded the motion.

The proposed language with amendments would read:

"...the provision of occupational therapy services may provide administrative responsibilities in a setting where permitted by law."

Roll Call Vote

Mary Evert Aye
Luella Grangaard Aye
Eric Alegria Aye
Bobbi Jean Tanberg Aye

- ❖ The motion was adopted.

- ❖ Mary Evert motioned to delegate the Executive Officer authorization to adopt the language absent any negative comment.
- ❖ Bobbi Jean Tanberg seconded the motion.

Roll Call Vote

Mary Evert	Aye
Luella Grangaard	Aye
Eric Alegria	Aye
Bobbi Jean Tanberg	Aye

The motion was adopted

Ms. Evert expressed appreciation for the responses received regarding the amendments made to regulations governing supervision.

Ms. Martin reported that Board Staff was required to respond to the input from interested parties in the final statement of reasons of the rule making package.

9. Review of proposed Board Member Disciplinary Resource Manual.

Ms. Martin requested feedback from the Board Members regarding the manual and reported that the manual would be reviewed by Legal Counsel and the Attorney General's office.

Ms. Evert suggested that Board Staff include an item number eighteen that reads "A violation of the Code of Ethics" on page one under "Examples of complaints that fall within the Board's jurisdiction...."

Ms. Evert also suggested that Staff add verbiage to page one, section "Complaints that are outside the Board's jurisdiction...." That will make it very clear as to what is an ethical violation and what is not.

Ms. Evert asked that Board Staff spell out any acronym the first time it is used within this manual and also add it to the definitions page. The acronym "NOD" on page eight, paragraph four, and page 15, paragraph three was referenced in particular.

Ms. Martin commented that she would ask Legal Counsel, Norine Marks to add clarifying information regarding what "vacate" means in legal terms.

Board Members concurred that this manual was extremely helpful and they expressed their gratitude to Heather Martin for her hard work. Mary Evert proposed that the Board Members seek some recognition for Ms. Martin due to the fact that this manual is innovative and could be very helpful to other Boards.

10. Executive Officer's report. (H. Martin)

Ms. Martin confirmed the next Board meeting on June 27-28, 2012, in Sacramento. The November 8, 2012, meeting has been tentatively changed to November 1, 2012, with a start time of 10:00am.

Ms. Martin reported that a draft of the Sunset Review Report will be available for the Board Members to review because she believes the report will be due on December 1, 2012.

A. Budget information.

Ms. Martin reviewed her included charts of the Board's budget and stated that the Board was on target to exceed the budget; however the Board plans to underspend enough money in other areas to cover the increased spending in the Attorney General (AG), Office of Administrative Hearings (OAH) and court reporter costs. Ms. Martin said that in the event there are insufficient monies that she will prepare a deficiency request and ask the Department of Finance (DOF) to augment the Board's AG and OAH budgets.

Ms. Martin reported that repayment of the General Fund Loan may be moved out to fiscal year (FY) 2012-2013, due to the fact that every year the budget isn't fully spent, it extends repayment of the General Fund Loan.

B. Personnel update.

Ms. Martin reported that all permanent positions at the Board are filled and the two vacant limited term positions will expire September 30, 2012.

C. Performance measurements.

Ms. Martin referenced the graphs and commented on the marked improvement displayed in the Annual Report's formal discipline average. The Board Members concurred that the Department's day-to-day commitment is making a real difference.

D. Other informational items.

Ms. Martin informed the Board Members that copies of the Strategic Plan will be sent to all the Occupational Therapy programs, AOTA, OTAC and anybody else the Board members wished to include.

Ms. Evert suggested issuing a challenge to the schools to have students provide good practice photographs of therapists to include in the public copy of the Board's Strategic Plan. (It was suggested that release forms be provided for photographs used.)

11. Regulations Update Report. (H. Martin)

A. Title 16, Division 39, CCR Sections 4100, 4101, 4146, 4148 4149, 4149.1, Definitions, Delegation of Certain of Functions, Definitions, Mental or Physical Examination of Fitness for Licensure, Other Actions Constituting Unprofessional Conduct, and Revocation for Sexual Contact.

Ms. Martin reported that this package is currently pending Department of Consumer Affairs (DCA) and awaiting Department of Finance review.

B. Title 16, Division 39, CCR Sections 4116, 4117, 4118, 4119, for Sponsored Free Health Care Events, including Definitions, Sponsoring Entity Registration, Out-of-State Authorization to Participate, and Termination of Authorization and Appeal.

Heather Martin reviewed the proposed modified regulatory language and the updated application which coincides with the application that is being used by other boards.

- ❖ Mary Evert motioned to delegate the authority to receive and process the applications to DCA, approve the modified text, notice it for fifteen days and authorize the Executive Officer to approve the language barring any negative comment.
- ❖ Eric Alegria seconded the motion.

Roll Call Vote

Mary Evert	Aye
Luella Grangaard	Aye
Eric Alegria	Aye
Bobbi Jean Tanberg	Aye

The motion was adopted.

Ms. Martin stated that she would work with Legal Counsel, Norine Marks on a resolution delegating the authority to DCA and preparing it for President Tanberg’s signature.

C. Title 16, Division 39, CCR Section 4155, Advanced Practice Application to Provide Physical Agent Modalities.

Ms. Martin reported that the Physical Agent Modalities (PAMS) application has been submitted to Office of Administrative Law (OAL) and should be approved in the next few weeks. After approval the applications will be posted online, our website will be updated and a Facebook blast will be sent out.

12. Enforcement data and reports for the period 10/1 – 12/31/2011. (J. Hanson)

Jeff Hanson reviewed the included charts and reported that complaints seem to be leveling off in comparison to the previous year.

Ms. Evert noted that she was pleased to see that the oldest complaints are remarkably different from the previous year.

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

There was no public comment.

14. Agenda Items for Next Meeting.

Ms. Grangaard asked that the possible questions pertaining to the Sunset Review be provided.

Ms. Martin expressed her hope to be able to provide a draft outline or at least some progress in that area.

Adjournment.

The meeting was adjourned at 12:51 p.m.