DISCUSSION AND CONSIDERATION OF REVISING THE BOARD'S ADMINISTRATIVE MANUAL.

The following are attached for review:

- Board's current administrative manual, and
- Proposed amendments to manual of the Medical Board of California

State of California
Department of Consumer Affairs

BOARD MEMBER GUIDELINES AND PROCEDURES MANUAL

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Preface

This document is a summary of existing laws as well as internal Board policies and procedures. Effective February 21, 2008, the date of adoption of this document, all previous internal Board policies and procedures are rescinded.

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Introduction

Overview

The California Board of Occupational Therapy (Board) was established on January 1, 2001 (Senate Bill 1046, Chapter 697, Statutes of 2000) to protect the health, safety, and welfare of California consumers by regulating the practice of occupational therapists and occupational therapy assistants. It is one of several boards, bureaus, commissions and committees under the umbrella of the Department of Consumer Affairs (DCA), which provides administrative oversight and support services. The Board is autonomous and sets its own policies, procedures and regulations.

Strategic Plan

The Board's mission, vision, goals, objectives and action plans are in its Strategic Plan which was originally adopted in July 2004. The Strategic Plan will be reviewed annually and revised as needed.

Abbreviations

Agencies

CBOT	California Board Occupational Therapy
CDA	California Department of Aging
CDCR	California Department of Corrections & Rehab
CDE	California Department of Education
CDPH	California Department of Public Health
DCA	Department of Consumer Affairs
DDS	Department of Developmental Services
DHCS	Department of Health Care Services
DMH	Department of Mental Health
DSS	Department of Social Services
DVA	Department of Veterans Affairs
OAH	Office of Administrative Hearings
OAL	Office of Administrative Law
PTBC	Physical Therapy Board of California
SCSA	State and Consumer Services Agency
SLPAB	Speech Language Pathology & Audiology & Hearing Aide Dispensers Board

Codes

BPC	Business and Professions Code
CCR	California Code of Regulations
CFR	Code of Federal Regulations
CEC	California Education Code
CGC	California Government Code
HSC	Health and Safety Code
WIC	Welfare and Institutions Code

Abbreviations (Cont.)

Organizations

ACOTE	Accreditation Council for Occupational Therapy Education of the American Occupational Therapy Association
APTA	American Physical Therapy Association
AOTA	American Occupational Therapy Association
ASHA	American Speech-Language-Hearing Association
ASHT	American Society of Hand Therapists
CAMFT	California Association of Marriage & Family Therapists
CLEAR	Council on Licensure, Enforcement and Regulation
CPIL	Center for Public Interest Law
CPTA	California Physical Therapy Association
FARB	Federation of Associations of Regulatory Boards
HTCC	Hand Therapy Certification Commission
NBCOT	National Board for Certification in Occupational Therapy
OTAC	Occupational Therapy Association of California
RESNA	Rehabilitation Engineering Society of North America
WFOT	World Federation of Occupational Therapy

Titles

AG	Attorney General
ALJ	Administrative Law Judge
CHT	Certified Hand Therapist
COTA	Occupational Therapy Assistant Certified by NBCOT
DA	District Attorney
DAG	Deputy Attorney General
EO	Executive Officer
OT	Occupational Therapist
OTA	Occupational Therapy Assistant
OTR	Occupational Therapist Registered with NBCOT

Chapter 1. Board

Composition

(B&P section 2570.19)

The Board is composed of seven members of which, by law, includes:

- Four practitioners, including three occupational therapists and one occupational therapy assistant
- Three public members

The Governor appoints the four practitioners and one of the public members. One public member is appointed by the Assembly Speaker, and one public member is appointed by the Senate Rules Committee. Board members may serve up to two consecutive four-year terms.

Officers

(Board Policy – February 21, 2008)

(Revised December 1, 2011)

The Board shall elect from its members a President, Vice President, and a Secretary to hold office for one calendar year or until their successors are duly elected.

Elections shall take place at the last meeting of the Board held annually. New officers shall assume office at the first meeting held in the next calendar year following the Officer elections. All officers may be elected on one motion or ballot as a slate of officers unless objected to by a Board member.

If any office of the Board becomes vacant, an election shall be held at the next scheduled Board meeting. Elected officers shall then serve the remainder of the term.

Officer Duties

(Board Policy – February 21, 2008)

(Revised December 1, 2011)

The President shall preside over the meetings, and supervise the Executive Officer.

The Vice President acts in the President's absence.

The Secretary shall be responsible for taking roll and taking roll call vote when necessary.

Meetings

(B&P section 2570.19)

The Board will meet a minimum of three times a year and may meet more often as it determines necessary.

The Board will hold meetings in the cities of Sacramento, Los Angeles, and San Francisco and different geographic areas throughout the state as a convenience to the public and licensees.

Board Member Attendance at Board Meetings

(Board Policy – February 21, 2008)

(Revised December 1, 2011)

Board members shall attend or participate each meeting of the Board. If a member is unable to attend or participate, he/she is requested to promptly contact the Executive Officer, to address quorum issues.

Quorum

(Common Law)

Four members of the Board constitute a quorum of the Board for the transaction of business. (A majority of the statutory number of members, BPC 2570.19, not a majority of the appointees.)

Agenda Items

(Board Policy – February 21, 2008)

Any Board member may submit items for a Board meeting agenda to the Board President or Executive Officer. Items shall be requested during a Board meeting or at least 21 days prior to the meeting.

The Board meeting agenda package will be sent to Board members 10 or more days prior to the meeting.

Record of Meetings

(Board Policy – February 21, 2008)

(Revised December 1, 2011)

The minutes are a summary, not a transcript, of each Board meeting.

The minutes shall be prepared by Board staff and submitted for review by the Board President within 20 working days after the Board meeting and then distributed to members of the Board.

Board minutes shall be approved at the next scheduled Board meeting and serve as the official record of the meeting.

Once draft Board minutes are distributed to Board members, they will be included in any Board and Committee agenda package.

Approved minutes of the open session are available for distribution to the public and shall be posted on the Board's website.

Tape Recording

(Board Policy – February 21, 2008)

Public Board meetings are tape-recorded. Tape recordings shall be retained until the minutes are adopted; the tape(s) shall then be destroyed. Closed session proceedings shall be taped at the discretion of the Board.

Meeting Rules

(Board Policy – February 21, 2008)

Board meetings will be conducted under Robert's Rules of Order to the extent that it does not conflict with the Bagley-Keene Open Meeting Act or any other section of law.

Communication

(Board Policy – February 21, 2008)

The Board President, his/her designee or the Executive Officer shall serve as spokesperson to the media on Board actions or policies.

Any written or oral communications concerning Board matters of a sensitive nature shall be made only by the Board President, his/her designee or the Executive Officer.

Staff shall provide Board members with Committee and Board member contact information on a quarterly basis.

Correspondence

(Board Policy – February 21, 2008)

Originals of all correspondence received shall be maintained in the Board's office files consistent with the record retention schedule. Only copies of such correspondence shall be given to the Executive Officer and/or Board members as required.

Executive Officer Evaluation

(CGC section 11126(a)(4))

(Board Policy – February 21, 2008)

(Revised December 1, 2011)

Each Board Member shall provide input to the Board President regarding the performance appraisal and salary administration of the Executive Officer.

The performance appraisal of the Executive Officer shall be presented in draft form to the Board by the Board President at the annual election meeting.

The Board President may consult with the Office of Human Resources (OHR).

Matters relating to the performance of the Executive Officer shall be discussed in closed session unless he or she requests that it be discussed in open session.

Board Member Training

(CGC section 11146 et seq.)

(Board Policy – February 21, 2008)

New and continuing Board members shall complete training in accordance with the law and DCA procedures. The Executive Officer shall ensure compliance by annually reviewing the training completed by Board members.

Required training topics include, at a minimum:

- Diversity
- Ethics
- Sexual Harassment Prevention
- Privacy Protection/Identity Theft, and
- Board Member Orientation

Chapter 2. Board President

The duties of the Board President include, but are not limited to:

Supervision of Executive Officer

(Board Policy – February 21, 2008)

(Revised December 1, 2011)

The Board President means President or President's designee. The President is the immediate supervisor of the Executive Officer. Specific instructions for work on Board policy matters by the Executive Officer from board members shall be coordinated through the Board President.

The incoming Board President shall assume all duties at the next meeting, including supervision of the Executive Officer.

Performance Appraisal of Executive Officer

(CGC section 11126(a)(4))

(Board Policy – February 21, 2008)

(Revised December 1, 2011)

The Board President shall request from each Board Member input to the performance appraisal and consult with OHR regarding salary administration of the Executive Officer prior to his/her draft preparations.

The performance appraisal of the Executive Officer shall be presented in draft form to the Board by the Board President at the annual election meeting.

Matters relating to the performance of the Executive Officer shall be discussed in closed session unless he or she requests that it be discussed in open session.

Chapter 3. Board Members

Per Diem Salary

(B&P Section 103)

Business and Professions Code Section 103 regulates compensation in the form of per diem salary and reimbursement of travel and other related expenses for Board members. In relevant part, this section provides for the payment of per diem salary for Board members "for each day actually spent in the discharge of official duties," and provides that the Board member "shall be reimbursed for traveling and other expenses necessarily incurred in the performance of official duties."

Business and Professions Code Section 103 also states, "Notwithstanding any other provision of law, no public officer or employee shall receive per diem salary compensation for serving on those boards, commissions, committees, or the Consumer Advisory Council on any day when the officer or employee also received compensation for his or her regular public employment."

(Board Policy – February 21, 2008)

(Revised December 1, 2011)

Accordingly, the following general guidelines shall be adhered to in the payment of per diem salary, or reimbursement for travel:

1. Board members shall be paid per diem salary for attendance at official Board and Committee meetings of which they are members. Board members cannot claim per diem salary for time spent traveling to and from a Board or Committee meeting. Per diem salary shall not be paid for preparation time for Board or Committee meetings, which would include such things as reading the meeting materials.

   Where it is necessary for a Board member to leave early from a meeting, the Board President shall determine if the member has provided a substantial service during the meeting and, if so, shall authorize payment of salary per diem and reimbursement for travel-related expenses.

2. Board members shall be paid per diem salary for attendance at education and outreach events, or other events including but not limited to hearings, conferences or meetings other than official Board or Committee meetings that are approved in advance by the Board President and consistent with a "substantial service" as defined.

Per Diem Salary
(Cont.)

The Executive Officer shall be notified of the event prior to the Board member's attendance. Board members will be compensated for actual time spent attending events other than official Board of Committee meetings, and preparation time for said events, based on submission of an approved attendance form. Per diem salary shall be paid upon evidencing six (6) hours of actual time spent. Hours may be accumulated over several events to meet this requirement.

3. Board-specified work and performance of state roles or additional assigned duties, Board members will be compensated for actual time spent performing work authorized in advance by the Board President based on submission of an approved attendance form. Per diem salary shall be paid upon evidencing six (6) hours of actual time spent. Hours may be accumulated for Board-specified assignments to meet this requirement.

Chapter 4. Executive Officer

Appointment

(B&P section 2570.21)

The Board appoints an Executive Officer who serves at the pleasure of the Board. He/She may be terminated at any time for any reason whatsoever, with or without good cause, and notwithstanding any representation to the contrary by any individual board member.

Role

(CCR Section 4101)

(Board Policy – February 21, 2008)

(Revised December 1, 2011)

The Executive Officer is the Board's chief administrative officer. He/She implements the policies developed by the Board.

Recruitment

(Board Policy – February 21, 2008)

(Revised December 1, 2011)

The Board shall institute an open recruitment plan to obtain a pool of qualified Executive Officer candidates. It shall also utilize proven equal employment opportunity and personnel recruitment procedures. The Board shall also work with the Department of Consumer Affairs' OHR and Deputy Director for Board relations in its recruitment process.

Selection

(Board Policy – February 21, 2008)

A qualified candidate for Executive Officer must demonstrate abilities that include the supervision of employees, conflict resolution and complaint mediation, public speaking and effective written and verbal communication skills. The candidate must have knowledge and expertise in the areas of administration, licensing, enforcement, legislation and budget.

(CGC section 11125)

The selection of a new Executive Officer shall be included as an item of business, which must be included in a written agenda and transacted at a public meeting.

Board Staff

(Board Policy – February 21, 2008)

The Board delegates all authority and responsibility for management of the civil service staff to the Executive Officer, including the annual evaluation and appraisal.

Performance Appraisal of Executive Officer

(CGC section 11126(a)(4))

(Board Policy – February 21, 2008)

The Board shall evaluate the performance of the Executive Officer on no less than an annual basis.

Matters relating to the performance of the Executive Officer shall be discussed in closed session unless he or she requests that it be discussed in open session.

Chapter 5. Committees

Standing Committees

(Board Policy – February 21, 2008)

(Revised December 1, 2011)

The Board has six standing committees subject to the Open Meetings Act:

- Administrative Committee
- Disaster Preparedness/Disaster Response Committee
- Education and Outreach Committee
- Enforcement Committee
- Legislative and Regulatory Affairs Committee
- Practice Committee

Internal organization of each committee is at its discretion, except as specified in this manual, and shall be approved by the Board.

Member terms shall be two years, and members shall serve a maximum of two full, consecutive terms.

Meetings shall be held two or three times per year or as work requires.

Administrative Committee

(Board Policy – February 21, 2008)

(Revised December 1, 2011)

The Administrative Committee consists of the President and Vice President.

Members shall serve a maximum of two full, consecutive terms.

Meetings shall be held two or three times per year or as work requires.

The purpose of the Administrative Committee is to annually update the Strategic Plan, respond to items identified in an internal audit and provide guidance to staff in fulfillment of the audit staff's recommendations, provide guidance to staff for the budgeting and organizational components of the Board (i.e., sunset review, sunrise projects, budget change proposals, out-of-state trip requests, contracts, meeting agendas and preparations) and other duties as required.

Disaster Preparedness/ Disaster Response Committee

(Board Policy – February 21, 2008)

(Revised December 1, 2011)

The Disaster Preparedness/Disaster Response Committee shall consist of five members, at least one of whom shall be a Board member.

The Committee chairperson, the assigned Board member, shall be responsible for overseeing the meeting(s) and work with the Executive Officer in development of agenda packet materials. The Board member will be responsible for providing the Committee report at the Board meeting.

The Disaster Preparedness/Disaster Response Committee is assigned to identify and provide input into reducing barriers to occupational therapy roles in disaster preparedness and response, review the current laws and regulations to ensure consistency, be responsible for the development and maintenance of the Board's Disaster Response plan, and provide input into updates of the Board's Continuity of Operations and Continuation of Government (COOP/COG) report.

Members may be asked to represent the Board at meetings held regarding emergency/disaster response (i.e., meetings held by the California Department of Public Health, the Governor's Office of Emergency Services, local govern

Education and Outreach Committee

(Board Policy – February 21, 2008)

(Revised December 1, 2011)

The Education and Outreach Committee shall consist of five members, at least one of whom shall be a Board member.

The Committee chairperson, the assigned Board member, shall be responsible for overseeing the meeting(s) and work with the Executive Officer in development of agenda packet materials. The Board member will be responsible for providing the Committee report at the Board meeting.

The Education and Outreach Committee is assigned to develop consumer and licensee outreach projects, including the Board's newsletter, website, e-government initiatives and outside organization presentations.

Members may be asked to represent the Board at meetings, conferences, health, career or job fairs, or at the invitation of outside organizations and programs.

Enforcement Committee

(Board Policy – February 21, 2008)

(Revised December 1, 2011)

The Enforcement Committee shall consist of five members, at least one of whom shall be a Board member.

The Committee chairperson, the assigned Board member, shall be responsible for overseeing the meeting and work with the Executive Officer in development of agenda packet materials. The Board member will be responsible for providing the Committee report at the Board meeting.

The purpose of the Enforcement Oversight Committee is to continually seek ways to improve the Board's enforcement activities, develop and review enforcement policies, review enforcement and discipline-related regulatory proposals, review enforcement and discipline-related forms, review and make recommendations regarding the Board's disciplinary guidelines and to assist in identifying situations where enforcement procedures might be improved.

Please note: Members will not review individual enforcement cases.

Legislative/Regulatory Affairs Committee

(Board Policy – February 21, 2008)

(Revised December 1, 2011)

The Legislative/Regulatory Affairs Committee shall consist of five members, at least one of whom shall be a Board member.

The Committee chairperson, the assigned Board member, shall be responsible for overseeing the meeting(s) and work with the Executive Officer in development of agenda packet materials. The Board member will be responsible for providing the Committee report at the Board meeting.

The Legislative/Regulatory Affairs Committee is assigned to provide information and/or make recommendations to the Board and committees of the Board on matters relating to legislation and regulations affecting the regulation of Occupational Therapists, Occupational Therapy Assistants and other items in the public interest or affecting Board operations.

The Committee's goals and objectives are to:

- Monitor current legislation on behalf of the Board and make position recommendations to the Board at each Board meeting.

Legislative/Regulatory Affairs Committee (Cont.)

- Serve as a resource to other Board committees on legislative and regulatory matters.
- Serve as a resource for the Board to implement proposed revisions to the Act and Board regulations.

The classification system to be used by the Legislative/ Regulatory Affairs Committee in recommending Board positions is:

- Support:
  The Board supports the current version of the bill. This designation commits the Board to full involvement in the legislative process including sending letters to key people, conferring with key people prior to committee hearings and testifying at hearings by Board members, Legislative Committee members or senior staff.

- Support if Amended:
  The Board generally supports the concept or intent of the bill. Technical flaws need to be corrected before the Board will fully support the bill. The Board identifies the amendments or requirements that must be met in order for support to be obtained. Should the requested amendments or requirements be accepted, the Board's position will change to support. This designation commits the Board to full involvement in the legislative process as discussed above.

- Oppose:
  The Board is opposed to the current version of the bill. This designation commits the Board to involvement in the legislative process as discussed above.

- Oppose Unless Amended:
  The Board is opposed to the bill but is willing to work with the author and sponsor of the bill to resolve the Board's concerns about the bill. The Board identifies the amendments or requirements that must be met to remove the Board's opposition. Should the requested amendments or requirements be accepted, the Board will adopt a support position.

Legislative/Regulatory Affairs Committee (Cont.)

- Watch
  The Board has some interest in the bill because it potentially may affect the work of the Board. This designation requires careful tracking through the legislative process**.**
- Neutral
  The Board takes no official position**.**

Practice Committee

(Board Policy – February 21, 2008)

(Revised December 1, 2011)

The Practice Committee shall consist of no less than five members, one of whom shall be a Board member. The members shall include a diverse representation for a variety of work settings.

The Committee chairperson, the assigned Board member, shall be responsible for overseeing the meeting(s) and work with the Executive Officer in development of agenda packet materials. The Board member will be responsible for providing the Committee report at the Board meeting.

The purpose of the Practice Committee is to review and provide recommendations to staff on Applications for Advanced Practice Post-Professional Education courses; review and provide recommended responses to the Board on various practice issues/questions submitted by licensees and consumers; provide guidance to staff on continuing competency audits; review and provide recommendations to the Board on practice-related proposed regulatory amendments; and review and provide recommendations to Board staff on revisions to various applications and forms used by the Board.

Ad Hoc Committees

(Board Policy – February 21, 2008)

(Revised December 1, 2011)

The Board may establish ad hoc committees as needed for the Board and its standing Committees.

Advisory Capacity

(Board Policy – February 21, 2008)

(Revised December 1, 2011)

Committee recommendations and reports shall be submitted to the Board in a timely manner for consideration and possible action.

Agendas

(Board Policy – February 21, 2008)

(Revised December 1, 2011)

Agendas shall focus on the specific tasks assigned by the Board and include:

- Public comment
- Time for committee members to recommend new areas of study to be brought to the Board's attention for possible assignment.
- Only those information items dealing with subjects assigned or delegated to the respective committee.

Committee chairs shall confer with the Board President prior to including any agenda item that is not clearly within that committee's assigned purview.

If more than two Board members will attend a Committee meeting, the agenda shall contain the statement: "A quorum of the Board may be present at the committee meeting. Board members who are not members of the committee may observe but not participate or vote."

Appointments

(Board Policy – Adopted date*)*

(Revised December 1, 2011)

At the last meeting before the end of the fiscal year, standing committees shall make recommendations for possible members.

The Board President shall appoint the members to fill positions with expired terms of each standing committee and appoint members to ad hoc committees.

Attendance at Committee Meetings

(Board Policy – February 21, 2008)

(Revised December 1, 2011)

Board members who are not members of the committee may attend a committee meeting and observe but not participate or vote.

It is required that non-Committee Board members sit in the audience and not participate in the meeting discussion.

Dual Membership

(Board Policy – February 21, 2008)

A non-Board member cannot serve concurrently on more than two standing advisory committees.

Meeting Rules

(Board Policy – February 21, 2008)

Meetings will be conducted under Robert's Rules of Order to the extent that it does not conflict with the Bagley-Keene Open Meeting Act or any other section of law.

Minimum Qualifications

(Board Policy – February 21, 2008)

The minimum qualifications for a licensee member of a standing advisory committee are:

- Five years of professional experience,
- Current California licensure as an occupational

Minimum Qualifications (Cont.)

Therapist or occupational therapy assistant, without restriction,

- No pending or prior disciplinary action.

Record of Meetings

(Board Policy – February 21, 2008)

The minutes are a summary, not a transcript of each committee meeting. The minutes shall be prepared by Board staff and submitted for review by Committee members within 20 working days of the meeting.

Committee's minutes shall be approved at the next scheduled Committee meeting and serve as the official record of the meeting.

Approved minutes of the open session are available to the public, upon request, and shall be posted on the Board's website.

Recruitment

(Board Policy – February 21, 2008)

The Board shall recruit interested persons to serve on appropriate committees.

Reimbursement of Travel-related Expenses

(Board Policy – February 21, 2008)

Committee members are entitled to be reimbursed for all travel-related expenses to attend Committee meetings.

Residence Requirement

(Board Policy – February 21, 2008)

A member of a standing advisory committee must be a California resident.

Staff Participation

(Board Policy – February 21, 2008)

Board staff provides advice, consultation and support to committees.

Tape Recording

(Board Policy – February 21, 2008)

Committee meetings are tape-recorded. Tape recordings shall be retained until the minutes are adopted; the tape(s) shall then be destroyed.

Chapter 6. Travel Procedures

Travel Approval

(Board Policy – February 21, 2008)

(Revised December 1, 2011)

Board members shall have the Board President's approval for all travel except for regularly scheduled Board and Committee meetings to which the Board member is assigned.

Arrangements for Board member travel are made by Board members or the Board's staff.

Arrangements for Committee member travel are made by the Board's staff.

If a conference is held out of state, the President and/or Executive Officer may only attend if an Out of State Travel Request has been approved by the Department of Finance. If the conference is not an approved OST, there will be no reimbursement for travel-related expenses and the individual may not represent the Board.

Claims for Reimbursement of Travel-related expenses

(Board Policy – February 21, 2008)

Board members shall have the Board President's approval for all travel except for regularly scheduled Board and Committee meetings to which the Board member is assigned.

Chapter 7. Security Procedures

Request for Records Access

(Board Policy – February 21, 2008)

No Board member may access a licensee's or applicant's file without the Executive Officer's knowledge and approval of the conditions of access except as consistent with the Public Records Act, Information Practices Act, and other relevant sections of law. A notation of the Board member's access to the record shall be entered in the file. Records or copies of records shall not be removed from the Board's office.

Contact with Applicants, Licensees, Complainants, and Respondents

(Board Policy – February 21, 2008)

(Revised December 1, 2011)

Board members shall not intervene on behalf of a applicant, licensee, or complainant for any reason. They shall forward all contacts or inquiries to the Executive Officer or Board staff.

Board members shall not directly participate in complaint handling and resolution or investigations. If a Board member is contacted by a respondent or his/her attorney, he/she shall refer the individual to the Executive Officer or Board staff.

Gifts from Applicants

(Board Policy – February 21, 2008)

Gifts of any kind to Board members or staff from applicants for licensure, applicants or other interested organizations with the Board shall not be permitted.

[Legal Counsel to provide more language regarding Fair Political Practice Committee requirements]

Chapter 8. Affiliation With The Department of Consumer Affairs (DCA)

Overview of DCA

(Board Policy – February 21, 2008)

The Department of Consumer Affairs (DCA) is mandated to protect and serve California consumers while ensuring a competent and fair marketplace. DCA helps consumers learn how to protect themselves from unscrupulous and unqualified individuals. The Department also protects professionals from unfair competition by unlicensed practitioners.

The Department of Consumer Affairs includes 40 regulatory entities (nine bureaus, one program, twenty-five boards, three committees, one commission, and one office). These entities establish minimum qualifications and levels of competency for licensure. They also license, register, or certify practitioners, investigate complaints and discipline violators. The committees, commission and boards are semiautonomous bodies whose members are appointed by the Governor and the Legislature. DCA provides them administrative support. DCA's operations are funded exclusively by license fees.

Pursuant to B&P Code Section 127 the director may require reports from any board, commission, examining committee, or other similarly constituted agency within the department as he deems reasonably necessary on any phase of their operations.

Chapter 9. Affiliation With Other Organizations

AOTA

(Board Policy – February 21, 2008)

The Board shall maintain membership in the American Occupational Therapy Association (AOTA). The President, President's designee, and/or Executive Officer shall represent the Board at AOTA's Annual Conference. If AOTA's Annual Conference is held out of state, the President and/or Executive Officer may only attend if an Out of State Travel Request has been approved by the Department of Finance. If the conference is not an approved OST, there will be no reimbursement for travel-related expenses.

CLEAR

(Board Policy – February 21, 2008)

The Board may maintain membership in the Council on Licensure, Enforcement and Regulation (CLEAR). If CLEAR's Annual Conference is held out of state, the President and/or Executive Officer may only attend if an Out of State Travel Request has been approved by the Department of Finance. If the conference is not an approved OST, there will be no reimbursement for travel-related expenses.

NBCOT

(Board Policy – February 21, 2008)

The Board may maintain membership in the National Board for Certification in Occupational Therapy (NBCOT). If NBCOT's Annual Conference is held out of state, the President and/or Executive Officer may only attend if an Out of State Travel Request has been approved by the Department of Finance. If the conference is not an approved OST, there will be no reimbursement for travel-related expenses.

OTAC

(Board Policy – February 21, 2008)

The Board shall maintain membership in the Occupational Therapy Association of California (OTAC). The Board shall ensure representation by attending OTAC Annual Conference and other events as operationally practicable.

Chapter 10. Information

Disciplinary Actions

(Board Policy – February 21, 2008)

All final decisions by the Board following formal disciplinary proceedings of alleged violations of the Act shall be published on the Board's website after the effective date of the decision.

Conclusion

This Board Member Administrative Procedure Manual serves as reference for important laws, regulations, Department of Consumer Affairs' policies and Board policies in order to guide the actions of the Board members and ensure Board effectiveness and efficiency.

References

The procedures in this manual are specific to the Board. Suggested references for additional important information are:

Board Member Orientation and Reference Manual, DCA

Business and Professions Code, sections 103, 106, 106.5, 2570-2571, 17500

California Code of Regulations, sections 4100-4184

California Government Code, sections 1750, 11120 et seq., 11146 et seq.

State Administrative Manual, section 700 et seq.

Appendix 1
Board Member Responsibilities

Board members represent the State of California and although he/she is an individual member, Members have an obligation to represent the Board as a body. Each member should carefully consider each responsibility and time commitment prior to agreeing to become a Board Member.

Attending meetings (12-20 days per year)

- Attend all meetings; be prepared for all meetings by reviewing and analyzing all Board materials; actively participate in meeting discussions; serve on committees of the Board to provide expertise in matters related to the Board

Disciplinary Matters (12-40 days per year)

- Review and analyze all materials pertaining to disciplinary matters and provide a fair, unbiased decision; timely respond to every request for a decision on any disciplinary matter; review and understand the Board's disciplinary guidelines; review and amend the Board's disciplinary guidelines on a regular basis to align with the policies set by the Board

Policy Decision Making (included above)

- Make educated policy decisions based upon both qualitative and quantitative data; obtain sufficient background information on issues upon which decisions are being made; seek information from Board staff regarding the functions/duties/requirements for the licensees being overseen; allow public participation and comment regarding matters prior to making decisions; ensure public protection is the highest priority in all decision making

Governance (2-4 days per year)

- Monitor key and summary data from the Board's programs to evaluate whether business processes are efficient and effective; obtain training on issues pertaining to the Board (e.g. budget process, legislative process, enforcement/licensing process, etc.); make recommendations regarding improvements to the Board's mandated functions

- Participate in the drafting and approval of a Strategic Plan; oversee the Strategic Plan on a quarterly basis to ensure activities are being implemented and performed; monitor any new tasks/projects to ensure they are in-line with the Strategic Plan

- Provide guidance and direction to the Executive Officer on the policies of the Board; annually evaluate the Executive Officer; assist the Executive Officer in reaching the goals for the Board

Outreach (1-4 days per year)

- When approved by the Board, represent the Board in its interaction with interested parties, the legislature, and the Department of Consumer Affairs

Training (2 day per year)

- Obtain the required Board Member training, i.e. Board Member Orientation Training, Sexual Harassment Prevention Training, and Ethics Training

Total Time: 29 – 70 days per year

DCA Orientation: July 27, 2010

Board Member Training Requirements

Upon initial appointment, Board Members will be given an overview of Board operations, policies, and procedures by Board Executive Staff.

(B&P Code section 453)

Every newly appointed Board Member shall, within one year of assuming office, complete a training and orientation program offered by the Department of Consumer Affairs. This is in addition to the Board orientation given by Board staff. This is a one-time training requirement.

(Government Code section 11146)

All Board Members are required to file an annual Form 700 statement of economic interest. Members must also complete an orientation course on the relevant ethics statutes and regulations that govern the official conduct of state officials. The Government Code requires completion of this ethics orientation within the first six months of appointment and completion of a refresher every two years thereafter.

(Government Code section 12950.1)

AB 1825 (Chapter 933, Statutes of 2004, Reyes) requires supervisors, including Board Members, to complete two hours of sexual harassment prevention training by January 1, 2006, and every two years thereafter.

Request for Records Access
(Board Policy)

No Board Member may access the file of a licensee or candidate without the Executive Director's knowledge and approval of the conditions of access. Records or copies of records shall not be removed from the MBC's office.

Communication with Interested Parties

Board Members are required to disclose at Board Meetings all discussions and communications with interested parties regarding any item pending or likely to be pending before the Board. The Board minutes shall reflect the items disclosed by the Board Members. All agendas will include, as a regular item, a disclosure agenda item where each Member relays any relevant conversations with interested parties.

Ex Parte Communications
(Government Code section 11430.10 et seq.)

The Government Code contains provisions prohibiting *ex parte* communications. An "*ex parte*" communication is a communication to the decision-maker made by one party to an enforcement action without participation by the other party. While there are specified exceptions to the general prohibition, the key provision is found in subdivision (a) of section 11430.10, which states:

> *"While the proceeding is pending, there shall be no communication, direct or indirect, regarding any issue in the proceeding to the presiding officer from an employee or representative or if an agency that is a party or from an interested person outside the agency, without notice and an opportunity for all parties to participate in the communication."*

Occasionally, an applicant who is being formally denied licensure, or a licensee against whom a disciplinary action is being taken, will attempt to directly contact Board Members.

If the communication is written, the member should read only enough to determine the nature of the communication. Once he or she realizes it is from a person against whom an action is pending, he or she should reseal the documents and send them to the Executive Director, or forward the email.

If a Board Member receives a telephone call from an applicant or licensee against whom an action is pending, he or she should immediately tell the person ~~they~~ he or she cannot speak to him or her about the matter. If the person insists on discussing the case, he or she should be told that the Board Member will be required to recuse himself or herself from any participation in the matter. Therefore, continued discussion is of no benefit to the applicant or licensee.

If a Board Member believes that he or she has received an unlawful *ex parte* communication, he or she should contact the Board's assigned attorney or Executive Director.

Board Member Disciplinary Actions
(Board Policy)

A member may be censured by the Board if, after a hearing before the Board, the Board determines that the member has acted in an inappropriate manner.

The President of the Board shall sit as chair of the hearing unless the censure involves the President's own actions, in which case the Vice President of the Board shall sit as President. In accordance with the Open Meeting Act, the censure hearing shall be conducted in open session.

Removal of Board Members
(B&P Code sections 106 & 2011)

The Governor has the power to remove from office, at any time, any member of any Board appointed by him or her for continued neglect of duties required by law or for incompetence or unprofessional or dishonorable conduct.

Resignation of Board Members
(Government Code section 1750)

In the event that it becomes necessary for a Board Member to resign, a letter shall be sent to the appropriate appointing authority (Governor, Senate Rules Committee, or Speaker of the Assembly) with the effective date of the resignation. Written notification is required by state law. A copy of this letter also shall be sent to the director of the Department, the Board President, and the Executive Director.

Conflict of Interest
(Government Code section 87100)

No Board Member may make, participate in making, or in any way attempt to use his or her official position to influence a governmental decision in which he or she knows or has reason to know he or she has a financial interest. Any Board Member who has a financial interest shall disqualify himself or herself from making or attempting to use his or her official position to influence the decision. Any Board Member who feels he or she is entering into a situation where there is a potential for a conflict of interest should immediately consult the Executive Director or the Board's legal counsel.

Board Members should refrain from attempting to influence staff regarding applications for licensure or potential disciplinary matters.

Gifts from Candidates
(Board Policy)

Gifts of any kind to Board Members from candidates for licensure with the Board shall not be permitted.

Chapter 5. Board Administration & Staff

Board Administration
(DCA Reference Manual)

Board Members should be concerned primarily with formulating decisions on Board policies rather than decisions concerning the means for carrying out a specific course of action. It is inappropriate for Board Members to become involved in the details of program delivery. Strategies for the day-to-day management of programs and staff shall be the responsibility of the Executive Director. Board Members should not interfere with day-to-day operations, which are under the authority of the Executive Director.

Strategic Planning

The Board will conduct periodic strategic planning sessions.

Executive Director Evaluation
(Board Policy)

Board Members shall evaluate the performance of the Executive Director on an annual basis.

Board Staff
(DCA Reference Manual)

Employees of the Board, with the exception of the Executive Director, are civil service employees. Their employment, pay, benefits, discipline, termination, and conditions of employment are governed by a myriad of civil service laws and regulations and often by collective bargaining labor agreements. Because of this complexity, it is most appropriate that the Board delegate all authority and responsibility for management of the civil service staff to the Executive Director. Board Members shall not intervene or become involved in specific day-to-day personnel transactions.

Business Cards

Business cards will be provided to each Board Member with the Board's name, address, telephone and fax number, and Web site address.

Roles of Board Officers/Committee Chairs/Panel Officers

President

- Spokesperson for the Medical Board – may attend legislative hearings and testify on behalf of the Board, may attend meetings with stakeholders and Legislators on behalf of Board, may talk to the press on behalf of the Board, and signs letters on behalf of the Board
- Meets and communicates with the Executive Director on a regular basis
- Communicates with other Board Members for Board business
- Authors a president's message in every quarterly newsletter
- Approves Board Meeting agendas
- Chairs and facilitates Board Meetings
- Chairs the Executive Committee
- Signs specified full board enforcement approval orders
- Signs the minutes for each of the Board's quarterly Board Meetings

Vice President

- Is the Back-up for the duties above in the President's absence.
- Is a member of Executive Committee

Secretary

- Signs the minutes for each of the Board's quarterly Board Meetings
- Is a member of Executive Committee

Past President

- Is responsible for mentoring and imparting knowledge to the new Board President
- May attend meetings and legislative hearings to provide historical background information, as needed
- Is a member of Executive Committee

Committee Chair

- Approves the Committee Agendas
- Chairs and facilitates Committee Meetings

Panel Officers

- Chair – Chairs and facilitates Panel Meetings
- Chair – Signs orders for Panel decisions
- Vice Chair – Acts as Chair when Chair is absent

Chapter 4. Selection of Officers & Committees

Officers of the Board
(B&P Code Section 2012)

The Board shall select a President, Vice President, and Secretary from its Members.

Election of Officers
(Board Policy)

The Board shall elect the officers at the ~~last~~ first meeting of the ~~calendar~~ fiscal year. Officers shall serve a term of one year beginning the next ~~calendar year~~meeting day. All officers may be elected on one motion or ballot as a slate of officers unless more than one Board Member is running per office. An officer may be re-elected and serve for more than one term.

Panel Members
(B&P Code section 2008)

A Panel of the Board shall at no time be composed of less than four Members and the number of public Members assigned shall not exceed the number of licensed physician and surgeon Members assigned to the Panel. The Board President shall not be a member of any Panel if a full complement of the Board has been appointed (15 Members). The Board usually is comprised of two panels, however, if there is an insufficient number of Members, there may only be one Panel.

Election of Panel Members
(B&P Code section 2008)

Each Panel shall annually, at the ~~first~~ last meeting of the calendar year, elect a Chair and a Vice Chair.

Officer Vacancies
(Board Policy)

If an office becomes vacant during the year, an election shall be held at the next meeting. If the office of the President becomes vacant, the Vice President shall assume the office of the President. Elected officers then shall serve the remainder of the term.

Committee Appointments
(Board Policy)

The Board President shall establish Committees, whether standing or special, as he or she deems necessary. The composition of the Committees and the appointment of the Members shall be determined by the Board President in consultation with the Vice President, Secretary, and the Executive Director. Committees may include the appointment of non-Board Members.

Attendance at Committee Meetings
(Government Code section 11120 et seq.)

~~If a~~ Board Members are encouraged ~~wishes~~ to attend a meeting of a Committee of which he or she is not a member~~, that Board Member should notify the Committee chair and staff~~. Board Members who are not Members of the Committee that is meeting cannot vote during the Committee meeting and may participate only as observers if a majority of the Board is present at a Committee meeting.

Duties of the Officers

The following matrix delineates the duties of the Board officers, Committee Chairs, and Panel officers.

Accordingly, the following general guidelines shall be adhered to in the payment of salary per diem or reimbursement for travel:

1. No salary per diem or reimbursement for travel-related expenses shall be paid to Board Members, except for attendance at an official Board, Committee, or Panel meeting, unless a substantial official service is performed by the Board Member. Attendance at gatherings, events, hearings, conferences, or meetings other than official Board, Committee, or Panel meetings, in which a substantial official service is performed, shall be approved in advance by the Board President. The Executive Director shall be notified of the event and approval shall be obtained from the Board President prior to Board Member's attendance.
2. The term "day actually spent in the discharge of official duties" shall mean such time as is expended from the commencement of a Board, Committee, or Panel meeting to the conclusion of that meeting. ~~Where it is necessary for a Board Member to leave a meeting early, the Board President shall determine if the member has provided a substantial service during the meeting and, if so, shall authorize payment of salary per diem and reimbursement for travel-related expenses.~~

For Board-specified work, Board Members will be compensated for actual time spent performing work authorized by the Board President. That work includes, but is not limited to, authorized attendance at other gatherings, events, meetings, hearings, or conferences. It includes preparation time for Board, Committee, or Panel meetings.

Chapter 3. Travel & Salary Policies & Procedures

Travel Approval
(DCA Memorandum 96-01)

The Board President's approval is required for all Board Members for travel, except for travel to regularly scheduled Board and Committee meetings to which the Board Member is assigned.

Travel Arrangements
(Board Policy)

Board Members should make their own travel arrangements ~~through Giselle's Travel~~ but are encouraged to coordinate with the Executive Director's ~~Executive~~ Administrative Assistant on lodging accommodations.

Out-of-State Travel
(SAM section 700 et seq.)

For out-of-state travel, Board Members will be reimbursed for actual lodging expenses, supported by vouchers, and will be reimbursed for meal and supplemental expenses. Out-of-state travel for all persons representing the State of California is controlled by and ~~must be~~ approved by the Governor's Office.

Travel Claims
(SAM section 700 et seq. and DCA Memorandum 96-01)

Rules governing reimbursement of travel expenses for Board Members are the same as for management-level state staff. All expenses shall be claimed on the appropriate travel expense claim forms. The Executive Director's ~~Executive~~ Administrative Assistant maintains these forms and completes them as needed. Board Members should submit their travel expense forms immediately after returning from a trip and no later than two weeks following the trip.

For the expenses to be reimbursed, Board Members shall follow the procedures contained in DCA Departmental Memoranda, which are periodically disseminated by the Executive Director and are provided to Board Members.

Salary Per Diem
(B&P Code section 103)

Compensation in the form of salary per diem and reimbursement of travel and other related expenses for Board Members is regulated by B&P Code Section 103.

In relevant part, this section provides for the payment of salary per diem for Board Members "for each day actually spent in the discharge of official duties," and provides that the Board Member "shall be reimbursed for traveling and other expenses necessarily incurred in the performance of official duties."

1. If, during a Board meeting, a person attempts to provide the Board with substantive information regarding matters that are currently under or subject to investigation or involve a pending administrative or criminal action, the person shall be advised that the Board cannot properly consider or hear such substantive information, and the person shall be instructed to refrain from making such comments.

2. If, during a Board meeting, a person wishes to address the Board concerning alleged errors of procedure or protocol or staff misconduct, involving matters that are currently under or subject to investigation or involve a pending administrative or criminal action, the Board will address the matter as follows:

   a. Where the allegation involves errors of procedure or protocol, the Board may designate either its Executive Director or a Board employee to review whether the proper procedure or protocol was followed and to report back to the Board.
   b. Where the allegation involves significant staff misconduct, the Board may designate one of its Members to review the allegation and to report back to the Board.

3. The Board may deny a person the right to address the Board and have the person removed if such person becomes disruptive at the Board meeting.

(Government Code section 11120 et seq.)

4. Persons wishing to address the Board or a Committee of the Board shall complete a speaker request slip in order to have an appropriate record of the speaker for the minutes. At the discretion of the Board President or Chair of the Committee, speakers may be limited in the amount of time to present to give adequate time to everyone who wants to speak. In the event the number of people wishing to address the Board exceeds the allotted time, the Board President or Chair of the Committee may limit each speaker to a statement of his/her name, organization, and whether they support or do not support the proposed action.

Agenda Items
(Board Policy)

Any Board Member may submit items for a meeting agenda to the Executive Director not fewer than 30 days prior to the meeting with the approval of the Board President or Chair of the Committee.

Notice of Meetings
(Government Code section 11120 et seq.)

In accordance with the Open Meetings Act, meeting notices (including agendas for Board, Committee, or Panel meetings) shall be sent to persons on the Board's mailing list at least 10 calendar days in advance. The notice shall include the name, work address, and work telephone number of a staff person who can provide further information prior to the meeting.

Notice of Meetings to be Posted on the Internet
(Government Code section 11125 et seq.)

Notice shall be given and also made available on the Internet at least 10 days in advance of the meeting and shall include the name, address, and telephone number of any person who can provide further information prior to the meeting, but need not include a list of witnesses expected to appear at the meeting. The written notice shall additionally include the address of the Internet site where notices required by this article are made available.

Record of Meetings
(B&P Code section 2017)

The Board and each Committee or Panel shall keep an official record of all their proceedings. The minutes are a summary, not a transcript, of each Board or Committee meeting. They shall be prepared by staff and submitted to Members for review before the next meeting. Minutes shall be approved at the next scheduled meeting of the Board, Committee, or Panel. When approved, the minutes shall serve as the official record of the meeting.

Tape Recording/Web Casting
(Board Policy)

The meeting may be tape-recorded if determined necessary for staff purposes. Tape recordings will be disposed of upon approval of the minutes in accordance with record retention schedules. The meeting will be Web cast, as DCA staff is available, ~~including the Committees of the Board.~~ The Web cast will be posted on the Board's Web site within ~~two~~ three weeks and ~~ckpt~~ for 10 years or more.

Meeting Rules
(Board Policy)

The Board will use Robert's Rules of Order, to the extent that it does not conflict with state law (e.g. Bagley-Keene Open Meeting Act), as a guide when conducting its meetings.

Public Comment
(Board Policy)

Due to the need for the Board to maintain fairness and neutrality when performing their adjudicative function, the Board shall not receive any substantive information from a member of the public regarding any matter that is currently under or subject to investigation or involves a pending criminal or administrative action.

Chapter 2. Board Meeting Procedures

Frequency of Meetings
(B&P Code sections 2013, 2014)

The Board shall meet at least once each calendar quarter in various parts of the state for the purpose of transacting such business as may properly come before it.

Special meetings of the Board may be held at such times as the Board deems necessary.

Four Members of a panel of the Board shall constitute a quorum for the transaction of business at any meeting of the panel.

Eight Members shall constitute a quorum for the transaction of business at any Board meeting.

Due notice of each meeting and the time and place thereof shall be given each member in the manner provided by the law.

Board Member Attendance at Board Meetings
(B&P Code sections 106, 2011)

Board Members shall attend each meeting of the Board. If a member is unable to attend, he or she must contact the Board President and ask to be excused from the meeting for a specific reason. The Governor has the power to remove from office any member appointed by him for continued neglect of duties, which may include unexcused absences from meetings.

Board Members shall attend the entire meeting and allow sufficient time to conduct all Board business at each meeting.

Public Attendance at Board Meetings
(Government Code section 11120 et. seq.)

Meetings are subject to all provisions of the Bagley-Keene Open Meetings Act. This act governs meetings of state regulatory boards and meetings of committees of those boards where the committee consists of more than two Members. It specifies meeting notice and agenda requirements and prohibits discussing or taking action on matters not included on the agenda.

If the agenda contains matters ~~which~~ that are appropriate for closed session, the agenda must cite the particular statutory section and subdivision authorizing the closed session.

Quorum
(B&P Code section 2013)

Eight of the Members of the Board constitute a quorum of the Board for the transaction of business. The concurrence of a majority of those Members of the Board present and voting at a duly noticed meeting at which a quorum is present shall be necessary to constitute an act or decision of the Board.

General Rules of Conduct

Board Members shall not speak to interested parties (such as vendors, lobbyists, legislators, or other governmental entities) on behalf of the Board or act for the Board without proper authorization.

Board Members shall maintain the confidentiality of confidential documents and information.

Board Members shall commit time, actively participate in Board activities, and prepare for Board meetings, which includes reading Board packets and all required legal documents.

Board Members shall respect and recognize the equal role and responsibilities of all Board Members, whether public or licensee.

Board Members shall act fairly and in a nonpartisan, impartial, and unbiased manner.

Board Members shall treat all applicants and licensees in a fair and impartial manner.

Board Members' actions shall uphold the Board's primary mission – protection of the public.

Board Members shall not use their positions on the Board for political, personal, familial, or financial gain.

Chapter 1. Introduction

Overview

The Medical Board of California (MBC) was created by the California Legislature in 1876. Today the MBC is one of the boards, bureaus, commissions, and committees within the Department of Consumer Affairs (DCA), part of the State and Consumer Services Agency under the aegis of the Governor. The Department is responsible for consumer protection and representation through the regulation of certain licensed professions and the provision of consumer services. While the DCA provides oversight in various areas including, but not limited to, budget change proposals, regulations, and contracts, and also provides support services, MBC has policy autonomy and sets its own policies procedures, and initiates its own regulations. (See Business and Professions Code sections 108, 109(a), and 2018.)

The MBC is presently comprised of 15 Members. By law, seven are public Members, and eight are physicians. The Senate Rules Committee and the Speaker of the Assembly each appoint one public member. Board Members may serve two full four-year terms. Board Members fill non-salaried positions, and are paid $100 per day for each ~~meeting~~ day worked and are reimbursed travel expenses.

This procedure manual is provided to Board Members as a ready reference of important laws, regulations, and Board policies, to guide the actions of Board Members and ensure Board effectiveness and efficiency.

Due notice of each meeting and the time and place thereof shall be given each member in the manner provided by law.

Definitions

B&P	Business and Professions Code
SAM	State Administrative Manual
President	Where the term "President" is used in this manual, it includes "his or her designee"

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Appendix 1

Board Member Responsibilities – DCA Orientation 14

Revised ~~5/09~~2/13

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