



CALIFORNIA BOARD OF OCCUPATIONAL THERAPY

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BOARD MEETING MINUTES
Thursday, September 17, 2015 and Friday, September 18, 2015

Board Member(s) Present

Denise Miller – President
Richard Bookwalter – Vice President
Laura Hayth
Nancy Michel
Beata Morcos

Board Staff Present

Heather Martin, Executive Officer
Jeff Hanson, AGPA
Jody Quesada, SSA
Norine Marks, Supervising Legal Counsel
Ileana Butu, Legal Counsel

Thursday, September 17, 2015

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

The meeting was called to order at 9:37 a.m., roll was called, Jeff Ferro and Sharon Pavlovich were absent. A quorum was established.

2. President's remarks.

President Denise Miller thanked Board staff and SOLID staff for the successful Strategic Planning session. Ms. Miller stated that she presented at the Los Angeles Occupational Therapist Leadership Forum on the Board. Ms. Miller said the number one feedback received was that it was exciting to hear about the Board. Ms. Miller commented that she will also be presenting at the state conference in October.

3. Board member updates/activities.

Laura Hayth reported that she published her book titled "Integrating Spirituality and Occupational Therapy Treatment: A Practical Guide." Ms. Hayth described her book as a "hands on" approach that an occupational therapist or any health care provider can use to help their patient(s) get back to their spiritual roots.

Vice President Richard Bookwalter, reported that his territory at work had expanded.

Members Beata Morcos and Nancy Michel had nothing to report.

4. Public Comment session for items not on the agenda.

Sabrena McCarley, Chair of Advocacy and Government Affairs for the Occupational Therapy Association of California (OTAC) introduced herself.

Matt, from Center for Public Interest Law (CPIL), University of San Diego, introduced himself.

There was no further public comment.

5. Review and vote on approval of the June 3-4, 2015, Board meeting minutes.
 - ❖ Nancy Michel moved to accept the minutes as presented.
 - ❖ Laura Hayth seconded the motion.

Public Comment

There was no public comment.

Roll Call Vote

Denise Miller	Aye
Richard Bookwalter	Aye
Laura Hayth	Aye
Nancy Michel	Aye
Beata Morcos	Aye

6. Review and vote on approval of the June 25-26, 2015, Board meeting minutes.
 - ❖ Laura Hayth moved to accept the minutes as presented.
 - ❖ Richard Bookwalter seconded the motion.

Public Comment

There was no public comment.

Roll Call Vote

Denise Miller	Aye
Richard Bookwalter	Aye
Laura Hayth	Aye
Nancy Michel	Abstain
Beata Morcos	Aye

7. Update on ACOTE action on entry-level degree requirements for occupational therapists and occupational therapy assistants.

President Miller stated that the entry level degree has been an important discussion in recent months and that she felt it necessary to address this issue at the previous Board meeting because the Board would be going into their Strategic Planning session and could possibly have to regulate on this issue in the future.

Executive Officer Heather Martin, stated that the Accreditation Council for Occupational Therapy Education's (ACOTE's) position on this topic as of August 2015, is that both Masters' and Doctoral degrees will be acceptable methods used to enter the profession.

Vice President Richard Bookwalter asked for confirmation that the American Occupational Therapy Association's (AOTA's) position was still that the Doctoral degree be the only method of entry accepted; Ms. Martin confirmed that was her understanding.

Public Comment

There was no public comment.

8. Review and possible action on proposed Strategic Plan.

Nancy Michel commented that the document was very easy to understand and is great reference material.

The remaining Board Members agreed with Ms. Michels' assessment and commented that it was the best run Strategic Planning session they ever attended. The Board members asked Ms. Martin to pass on their feedback to the facilitators.

The Board members discussed minor grammatical, non-substantive changes to the Strategic Plan and directed the Executive Officer to implement the changes.

- ❖ Nancy Michel moved to approve the document with proposed edits and to allow the Executive Officer authority to make technical, non-substantive changes.
- ❖ Laura Hayth seconded the motion.

Public Comment

There was no public comment.

Roll Call Vote

Denise Miller	Aye
Richard Bookwalter	Aye
Laura Hayth	Aye
Nancy Michel	Aye
Beata Morcos	Aye

9. Consideration and possible action on developing procedure for handling Orders resulting from hearings on Petitions for Reinstatement, Petitions for Early Termination of Probation, and Petitions for Modification of Probationary Terms, written by an Administrative Law Judge (ALJ) that are not consistent with the Board's Decision.

Ms. Martin, suggested that a policy be drafted for instances where an Administrative Law Judge writes an order that is not consistent with the Board's decision.

Beata Morcos stated that in the event that errors are discovered by a Board member, said errors should be discussed amongst all the Board members, so as not to leave anyone in the dark as to what the concerns are.

The Board members reviewed and discussed the draft language presented in their materials. The Board members suggested that the order of a couple of paragraphs be changed, as well as clarification on certain items and adding a few minor grammatical changes to the draft.

- ❖ Richard Bookwalter moved to adopt the language as amended.
- ❖ Nancy Michel seconded the motion.

Public Comment

There was no public comment.

Roll Call Vote

Denise Miller	Aye
Richard Bookwalter	Aye
Laura Hayth	Aye
Nancy Michel	Aye
Beata Morcos	Aye

The Board members directed the Executive Officer to implement these changes and bring the completed document to the next Board meeting for their review.

- 10. Consideration and possible action on developing procedure for handling Orders resulting from a Statement of Issues hearing written by an ALJ that isn't consistent with the Board's Decision.

The Board members asked to revisit this topic at the November meeting and discuss the policy that Board members hear Statement of Issues cases involving unlicensed practice for one year or longer.

Public Comment

There was no public comment.

- 11. Consideration of using a proposed form during an Administrative Hearing heard by the Board, with an ALJ presiding, to ensure consistency in the Board's direction to the ALJ and the resulting Order.

The Board members commented that this checklist would be helpful and supported the implementation of the document.

Legal Counsel Ileana Butu asked that a reminder be added that the decision include the "standard of proof" used and indicate who had the burden. Board members also requested that a "notes" section be added to item 9, Continuing Education Requirements and to correct the revision date of the document.

The Board members decided that the Board's Secretary and Legal Counsel would compare their notes and checklists regarding the details of the Board's decisions and provide the Administrative Law Judge with this information to use when drafting the Board's decisions.

- ❖ Richard Bookwalter moved to adopt the language as amended and directed the Executive Officer to make any technical, non-substantive changes.
- ❖ Laura Hayth seconded the motion.

Public Comment

There was no public comment.

Roll Call Vote

Denise Miller	Aye
Richard Bookwalter	Aye
Laura Hayth	Aye
Nancy Michel	Aye
Beata Morcos	Aye

Administrative Hearing

1:00 PEREZ, THOMAS - Petition for Early Termination of Probation

CLOSED SESSION

The Board entered into closed session at 2:48 p.m.
Closed Session adjourned at 4:20 p.m.

RECONVENE IN OPEN SESSION

12. Meeting adjournment for the day.

The Board returned to open session for the purpose of adjourning the meeting for the day.
The meeting adjourned at 4:22 p.m.

Friday, September 18, 2015

9:00 am - Board Meeting

Board Member(s) Present

Denise Miller – President
Richard Bookwalter – Vice President
Laura Hayth
Nancy Michel
Beata Morcos

Board Staff Present

Heather Martin, Executive Officer
Jeff Hanson, AGPA
Jody Quesada, Staff Services Analyst
Ileana Butu, Legal Counsel

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

The meeting was called to order at 9:07 a.m., roll was called, Jeff Ferro and Sharon Pavlovich were absent. A quorum was established.

14. Public Comment session for items not on the agenda.

There was no public comment.

15. Consideration and possible action of approving of proposed regulatory language to amend Title 16, CCR Section 4161, Continuing Competency and Section 4162, Completion and Reporting Requirements.

Executive Officer Heather Martin stated that this was the same language approved in June 2015, however Section 4162 (e), specifically line 2, where “immediately upon...” was requested to be added was not clear.

Board members agreed that “immediately upon...” should be replaced with:

“not more than 30 days of conclusion of the supervision period, using the Fieldwork Education PDU Attestation form (Form FEA New 9/2015) hereby incorporated by reference, and shall contain a statement under penalty of perjury regarding the truthfulness of the information contained therein.”

Vice President Richard Bookwalter, Chair of the AdHoc committee, added that the Committee would most likely support the timeframe of not more than 30 days of conclusion of the supervision period.

- ❖ Richard Bookwalter moved to approve the proposed regulatory action as amended and direct staff to notice the language for public comment without setting a hearing.
- ❖ Nancy Michel seconded the motion.

Public Comment

Sabrena McCarley, Chair of Advocacy and Government Affairs for OTAC, stated that immediately seemed fair because it could be completed at the “exit interview”. Ms. McCarley said that 30 days is more than generous.

Roll Call Vote

Denise Miller	Aye
Richard Bookwalter	Aye
Laura Hayth	Aye
Nancy Michel	Aye
Beata Morcos	Aye

16. Consideration and possible action of approving proposed regulatory language to amend Title 16, CCR Section 4163, Exemption from Continuing Competency Requirements.

Ms. Martin apprised the Board of the fact that Board staff is receiving more exemption requests. Ms. Martin presented proposed language that further details and clarifies the requirements to seek exemption.

Mr. Bookwalter spoke in support of the proposed text.

- ❖ Nancy Michel moved to approve the proposed regulatory action to Section 4163 as presented and direct staff to notice the language for public comment without setting a hearing.
- ❖ Richard Bookwalter seconded the motion.

Public Comment

Sabrena McCarley, Chair of Advocacy and Government Affairs for OTAC, stated that the language made sense.

Roll Call Vote

Denise Miller	Aye
Richard Bookwalter	Aye
Laura Hayth	Aye
Nancy Michel	Aye
Beata Morcos	Aye

17. Consideration and possible action of approving proposed regulatory language to add Title 16, CCR Section 4176, Notice to Consumer.

Legal Counsel, Ileana Butu, stated that all the proposed language included in this amendment is what the law states has to be in the regulatory language; there is nothing extra added and the proposed language has her legal approval.

Discussion ensued about the best way to satisfy the law and still make it convenient to the practitioner.

- ❖ Richard Bookwalter moved to approve the proposed regulatory action to Section 4176 as presented and direct staff to notice the language for public comment without setting a hearing.
- ❖ Nancy Michel seconded the motion.

Public Comment

Sabrena McCarley, Chair of Advocacy and Government Affairs for OTAC, asked for clarification regarding which part of 4176 (a), (b) and (c) exempted skilled nursing facilities and acute care hospitals.

Ms. Butu stated that they are exempt from 4176 (c)(1) and (c) (2).

Ms. Butu then suggested that the Board clarify the language of Section 4176 (d) to read as follows:

“The requirements set forth in CCR Section 4162 (c)(1) and (2) shall not apply to occupational therapists or occupational therapy assistants who work in the following types of facilities.”

Ms. McCarley asked for clarification as to what would be required pertaining to 4176(a) and providing notice. She asked if it would be similar to what the Physical Therapy Board implemented.

Ms. Butu said it would be similar and it is a requirement for all boards.

Mr. Bookwalter withdrew his previous motion in light of the public comment discussion.

Mr. Bookwalter asked for clarification of Section 4176 (c)(1) line 7 and whether the license number is a requirement.

Ms. Butu said it was not a requirement.

Thus, Mr. Bookwalter asked that line 7 read as follows:

“License type and”

- ❖ Laura Hayth moved to approve the proposed regulatory action as amended and direct staff to notice the language for public comment without setting a hearing.
- ❖ Nancy Michel seconded the motion.

Public Comment

There was no public comment.

Roll Call Vote

Denise Miller	Aye
Richard Bookwalter	Aye
Laura Hayth	Aye
Nancy Michel	Aye
Beata Morcos	Aye

18. Consideration and possible action of adopting proposed regulatory language to amend Title 16, CCR Section 4110, Application.

Ms. Martin gave an overview of the handouts regarding changes to the Board’s application and informed the Board that if they approved the proposed language now and directed Board staff to notice it, there would be additional mandatory changes to the application that will make the application legally compliant and would require additional Board approval and re-noticing of the language.

- ❖ Laura Hayth moved to adopt the proposed regulatory action to amend 4110 (a) and (b) as presented.
- ❖ Nancy Michel seconded the motion.

Public Comment

There was no public comment.

Roll Call Vote

Denise Miller	Aye
Richard Bookwalter	Aye
Laura Hayth	Aye
Nancy Michel	Aye
Beata Morcos	Aye

- ❖ Richard Bookwalter moved to delegate authority to the Executive Officer to work with legal counsel to revise the application, notice the language for 15 days and adopt the language absent any negative comment.
- ❖ Laura Hayth seconded the motion.

Public Comment

There was no public comment.

Roll Call Vote

Denise Miller	Aye
Richard Bookwalter	Aye
Laura Hayth	Aye
Nancy Michel	Aye
Beata Morcos	Aye

19. Consideration and possible action on legislative proposal amending the definition of “practice of occupational therapy” as set forth in BPC Section 2570.2.

Ms. Martin stated that she was asked at a previous meeting to bring this legislative proposal back to the Board for review. She provided a little background on the previously Board-approved legislative proposal to amend the definition of occupational therapy and add a variety of roles that licensees may assume in their profession.

Mr. Bookwalter expressed his concern regarding the removal of “referred” or “referral”.

President Denise Miller stated that the Board needed to remain mindful of this piece of legislation and the legislative timeline. Ms. Miller also encouraged the Board to be “bold and brave” in legislative pursuits.

Public Comment

Sabrena McCarley, Chair of Advocacy and Government Affairs for OTAC, stated that OTAC feels strongly that this language needs to be modified and that the Board has OTAC support. Ms. McCarley commented that the October OTAC conference would be an ideal time to get together and discuss.

President Miller stated that the Board has too much momentum going forward and too much at stake and thus, the Board would be better off collaborating with OTAC.

President Miller directed Executive Officer Heather Martin, to notice a Board meeting for October 24, 2015, to discuss the legislative proposal to seek input from OTAC and the profession.

20. Consideration and possible action on legislative proposal amending BPC section 2570.18 to establish standards on how licensees should represent themselves when they possess a doctoral degree.

Ms. Martin, briefed the Board on the proposed amendment provided in the meeting materials.

The Board directed Ms. Martin to make the following changes to BPC Section 2570.18:

- Remove “On or after January 1, 2003” from sub section (a), line 1.
- Replace “received” with “earned” in sub section (c), line 1.
- Replace “DPT” with “OTD” in sub section (c) (1), line 2.
- Add “ScD” to sub section (c) (1), line 2.

Vice President Richard Bookwalter, spoke in favor of the proposed amendment.

Public Comment

There was no public comment.

- ❖ Richard Bookwalter moved to approve the proposed language with amendments.
- ❖ Nancy Michel seconded the motion.

Roll Call Vote

Denise Miller	Aye
Richard Bookwalter	Aye
Laura Hayth	Aye
Nancy Michel	Aye
Beata Morcos	Aye

21. Consideration and possible action regarding delivery method of meeting materials.

President Miller directed the Board members to individually contact Heather with their preference for the November Board meeting.

22. Enforcement data and reports for the quarter ending June 30, 2015.

Board staff member Jeff Hanson reviewed the supplied enforcement reports. Additionally, Mr. Hanson outlined the definition of California Penal Code 23 (PC23) process to the Board members.

The Board members directed Mr. Hanson to thank the enforcement staff for their continued hard work and effort.

23. Executive Officer's Report.

A. Operational Report

Ms. Martin reported that Board staff has two vacancies and plans to hold interviews for these positions in the near future.

B. Budget Update

Ms. Martin supplied the Board members with a month 13 report which shows annual expenditures and revenue collected for all things submitted after the fiscal year ended. Ms. Martin reported that she was able to revert 10% of the Board's budget.

C. BreEZe Update

Ms. Martin reported that the eight week User Acceptance Testing (UAT) will begin September 23, 2015; two staff will be dedicated full time and a third staff member will contribute as needed. Ms. Martin stated that she increased the hours of part-time, permanent intermittent staff member and asked that the loaned call center employee increase her hours as well.

Ms. Martin stated that there will be mandatory overtime when BreEZe goes 'live' in January to address the task of manually inputting all applications that are pending at that time; there should be slightly more than 300 pending applications then.

President Miller asked if the Board can request to have interns from schools come in to assist Board staff. Ms. Martin said she would check in to it.

D. Other Informational Items – No Board action

Ms. Martin reported that the Department had not yet made the Performance Measures available.

Ms. Martin presented a copy of language that the Board members recently approved regarding amending title 16 California Code of Regulations section 4172 (Telehealth), she informed them that the language will be noticed and be heard by the Board at their November meeting.

Ms. Martin reviewed the included handouts, including a policy paper by the International Journal of Telerehabilitation and telehealth language from several other states, including Alaska, Colorado, Illinois and Kentucky and Oregon. Ms. Martin requested that if the Board members reviewed the other states' language and wished to add or change anything, they should contact her by November 1, 2015, and she would make a note of it and bring that information to the November Board meeting.

Ms. Martin reviewed the handouts she provided regarding Assembly Bill (AB) 161, Athletic Trainers, at the request of the Board members. Ms. Martin was asked to bring back the latest information on the athletic trainer bill to the November meeting.

Public Comment

Sabrena McCarley, Chair of Advocacy and Government Affairs for OTAC, stated that OTAC is also watching the Athletic Trainers bill.

24. Selection of 2016 Board meeting dates.

President Miller directed all Board members to bring their availability calendars to the November meeting to discuss future meeting dates.

25. Proposed agenda Items for a future meeting.

- A. Election of Officers.
- B. Establish criteria to implement Business and Professions Code (BPC) Section 2570.32, regarding the Board's refusal to hear petitions for reinstatement.
- C. Establish records retention requirement for an occupational therapy business that closes or is sold or if the practitioner is no longer in private practice.
- D. Overview of administrative citation issuance process.
- E. Update on research OT educational programs providing superficial/mechanical modalities and deep thermal/electrotherapeutic modalities content in OT curriculum.
- F. Other future agenda items.

The Board members asked that the following items be added to the November meeting:

- Selection of meeting dates
- Status update on AB 161
- Final draft of the Board's application
- Revised Strategic Plan
- Performance Measures

President, Denise Miller, asked CPIL attendee Matt, to share his personal story with the Board.

Matt stated that he owed a huge debt of gratitude to the occupational therapy profession. He shared that he suffered a traumatic brain injury during his first year of law school and his lengthy recovery included occupational therapy treatment along with other therapies. Matt went on to say that he is a living testament to the positive work that occupational therapists do.

The Board thanked him for sharing his story.

26. Adjournment.

The meeting adjourned at 12:01 p.m.