



**TELECONFERENCE SUNSET REVIEW AD HOC
COMMITTEE MEETING MINUTES**

Thursday, September 15, 2016

Committee Members Present

Laura Hayth, OT, Chair
Beata Morcos
Denise Miller, OT
Teresa Davies

Board Staff Present

Heather Martin, Executive Officer
Jeff Hanson

1. Call to order, roll call.

Laura Hayth called the meeting to order at 4:33 p.m. and a quorum was established; contact was made between all teleconference locations.

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

There was no public comment.

3. Consideration and review of previous policy issues identified in 2012 Sunset Report that have not been addressed and possible recommendation to Board regarding prioritization and response on the status of those previous issues in the Board's 2016 Sunset Report.

Laura Hayth explained the meeting materials and went through the 2012 Sunset Report issues.

Issue #1

Ms. Hayth read Issue #1 – “Webcasting meetings” and the staff’s recommendation, “The Board should inform the Committee of the reason that they have been unsuccessful in webcasting meetings. The Committee recommends that the Board utilize webcasting at future meetings in order to allow the public the best access to meeting content, activities of the Board and trends in the profession.”

Ms. Hayth referenced that in the current Strategic Plan on page 10, section 3.2 and 3.3 it addresses this issue. The Committee asked that Board staff identify how many meetings have been webcast.

Issue #2

Teresa Davies referred to Issue #2 – “What is contributing to low customer satisfaction ratings?” and read the Committee staff’s recommendation: “Due to the high percentage of dissatisfaction with the Board’s assistance, the Committee requests that the Board provide

additional training to its staff regarding customer relations and complaint resolution techniques.” Ms. Davies recommended that as part of the 2016 Strategic Plan there should be an increase to the budget so that there can be an increase in staff to increase the enforcement processing time and to increase timely response to complaints, which will increase consumer protection. She stated that she believes that recommendation along with the staff recommendation and asked for the other committee members’ comments.

The question was asked by Laura Hayth if there were any further comments on the complaint resolution. Beata Morcos commented that it seems like a lot of the people that really complain are not the ones who have taken the survey before and it’s uncertain how training for the staff will really help.

Heather Martin stated that she could possibly ask for some assistance from the Public Affairs Office to solicit more feedback on the customer satisfaction questionnaire. Ms. Martin reminded the Committee members after the strategic planning session last summer the questionnaire was sent out to 900 people with only 60 responses. Ms. Morcos responded that it should be taken into consideration on how many people skip the question and don’t fill out the form, but complain anyway.

Ms. Davies asked if in the purview of the 2012 Sunset Report were there similar responses that were in-line with the original response rate or does it show progress or a decrease in responses. Ms. Martin stated that for the next Committee meeting she will provide the four fiscal year responses to the customer satisfaction survey as well as providing some of the comments provided by the individuals who decided to leave one. She referenced that in 2013/14 there were only nine responses.

Issue #3

Ms. Hayth moved to Issue #3 – “Publishing Citations” and read the staff’s recommendation: “The Committee recommends that the Board provide citation information on the licensee’s record in WLL and/or post the citation information on the Board’s Disciplinary Action section of its website.”

Ms. Martin advised the Committee members that this issue was something that the Board voted on a couple of years ago and it was dependent on the implementation to BreEZe; now citations are being added on a flow basis which is consistent with the citation policy. It was decided this was no longer an issue.

Issue #4

Ms. Hayth moved to Issue #4 – “Continuous Query” and read the staff’s recommendation: “The Committee recommends that the Board create a plan for purchasing the continuous query service which may include sponsoring legislation to address how the cost should be covered.”

Ms. Martin provided some background and history on the merge of the National Practitioner Databank (NPDB) and the Healthcare Integrity and Protection Databank (HIPDB) into one federal databank, which staff reports all the discipline to them. Previously for out-of-state applicants or individuals who were licensed as another healthcare provider, staff would do a query on them and the Board would absorb the costs, which became cost prohibitive, but at the same time the Board would do hundreds of these queries and of the Board’s own licensees there were only one or two hits, it didn’t seem practical to continue this process due to the cost, the amount of time, and resources, so the staff stopped doing this two to three

years ago. Ms. Martin indicated she was not sure if this prioritization needed to be re-implemented from a public perspective or not. She stated if the Committee needs more information to decide, the Committee can direct what information would be helpful to decide and it can be provided at the next meeting. Ms. Hayth stated that anything that Ms. Martin could come up with would be helpful to them to understand the whole background of the issue so they could come up with a decision and prioritize correctly. Ms. Hayth directed Ms. Martin to bring some information to the next meeting.

Issue #5

Ms. Hayth moved to Issue #5 and read to the Committee - "Should the Board require a jurisprudence and/or ethics course requirement for licensees?" and the staff's recommendation: "The Committee recommends that the Board outline a plan to include a jurisprudence and/or ethics course as a required continuing education course for its licensees."

Ms. Hayth stated that she personally does not want this for the licensees. Denise Miller indicated that she agreed with Ms. Hayth, but questioned if the course is satisfied in other ways through their curriculum and if that's the case, then the ethics course could be used as part of the disciplinary process instead of something they need to do to get their license. Ms. Miller stated there are other groups like NBCOT or AOTA that address ethics and ask the licensee if they have read the AOTA's code of ethics. She suggested that perhaps they should answer a question on their application about ethics. Ms. Martin asked for clarification if Ms. Miller was referring to the time of application or renewal of their license. Ms. Miller suggested it could just be on the application. Ms. Martin provided an example of when the licensee signs the renewal they certify completion of the PDUs for renewal, then there could be another attestation that the licensee certifies they have read the OT Board's ethical standards of practice. Ms. Hayth indicated she liked the idea. Ms. Martin stated that for the next Committee meeting she will prepare a draft response to this Issue for them to vet to see if it is something they want to see in the sunset report and if it is something that they want to present to the full Board as a response to this on-going issue. The Committee agreed with this recommendation.

Issue #6

Ms. Hayth moved to Issue #6 and read to the Committee - "Why does the Board have such a high percentage of stipulated settlements" and the staff's recommendation: "The Committee believes that a licensing board should critically examine its practices to ensure that it is acting in the public's interest when they enter into a stipulated settlement. The Committee recommends that the Board provide an explanation for their high percentage of stipulated settlements. Additionally, the Board should indicate if any of the cases that were resolved via stipulated settlements settled for lower standards than the Board's disciplinary guidelines require."

Ms. Martin explained to the Committee that the majority of cases are stipulated and routinely the Board staff will not stipulate to a lower standard than what would be received at hearing. Ms. Martin provided an example of when a stipulated settlement might be changed such as in the case of a licensee owing \$8,000 in costs and it is settled they only have to pay \$4,000. The deputy attorney general has been instructed to show in the settlement the total amount of costs (\$8,000), but that the Board settled on a lower amount (\$4,000). Further, Ms. Martin stated that in a stipulated settlement, language has been included that the licensee cannot petition for early termination or modification as a cost saving measure. Ms. Martin suggested that staff prepare a proposed response to this issue along with a table and bring it back to the Committee.

Issue #7

Ms. Hayth moved to Issue #7 and read to the Committee – “Budgetary constraints” and the staff’s recommendation: “The Committee recommends that the Board detail what enforcement related over expenditures has led to the redirection of funds. In addition, the Committee is aware that the DCA allows travel for certain Board activities. As such, the Committee recommends that the Board consult with DCA to clarify what type of travel is permitted.”

Ms. Martin explained that travel restrictions are still pretty limited therefore this does not require much of a response. She explained that due to BreZE the Board has underspent the enforcement items in most fiscal years, except for one year. She stated that if there was a year of overspending for enforcement then it demonstrates that the Board is doing its job of consumer protection, which is its mandate.

Ms. Martin suggested that this Issue be tabled until she has more information regarding what the expenditures have been for the last four years to determine if it is something that has to be addressed or not.

Beata Morcos asked a question about the cost to have Ms. Martin and the Board’s president represent the Board at the national convention. Ms. Martin indicated that it is prohibited and offered to send out the Governor’s Executive Order, which specifically prohibits attending conferences, even ones that were previously attended. Ms. Martin explained there are maybe five or six items only that allow for travel, such as enforcement, mandatory training, auditing, probation interviews, etc. Ms. Martin stated that there is almost a prohibition on travel. Ms. Morcos asked if this was for all the Boards, Ms. Martin stated it is statewide, that it was the Governor’s Executive Order followed by a Budget Letter that came out from the Department of Finance and recently a reminder email was sent out. Ms. Martin stated that she can share this information with the Committee.

Issue #8

Ms. Hayth moved to Issue #8 – “License portability for military personnel and their spouses” and read the staff’s recommendation: “The Board should make every attempt to comply with BPC §115.5 in order to expedite licensure for military spouses. The Board should also consider waiving the fees for reinstating the license of an active duty military licensee. Consistent with the ACOTE and NBCOT policy for OTAs, the Board should also examine the possibility of accepting military training and experience towards licensure for OTs.”

Ms. Martin explained that several new laws have been enacted since the last sunset report. She stated that staff can prepare a draft response to this issue indicating the Board is in compliance with this code by either expediting licensure for the spouse or waiving the renewal fee for someone who is on active duty when they return. Ms. Martin believes this will probably be a non-issue, but will put together a response by the next meeting.

Issue #9

Ms. Hayth moved to Issue #9 – “Defining Occupational Therapy” and read the staff’s recommendation: “The Board should draft language and submit it to the Committee in order that the Committee can understand specifically how the Board desires to expand the definition.” Ms. Hayth stated that at the Ad Hoc Committee they will be discussing this item on the scope of practice.

Issue #10

Ms. Hayth moved to Issue #10 – “Are the minimum education requirements equal to the advanced practice requirements?” and read the staff’s recommendation: “The Committee requests that the Board provide them with additional information, e.g. data from the Accreditation Council for Occupational Therapy Education (ACOTE) about the advanced practice requirements and the minimum education standards.”

Ms. Martin suggested that this issue be tabled for the next Committee meeting, since this is such a large issue. She stated that the schools have the flexibility to implement the ACOTE guidelines in their curriculum the way they want and it’s done differently in California programs. Because of this, she believes that the Committee should have more information on this item.

4. Consideration and possible recommendation to Board relating to the identification and development of new issues to be identified in the Board’s 2016 Sunset Report.

Ms. Martin referred the Committee to items number 2 and 3 on the bottom of page 6 of the questions. Item number 2 states: “New issues that are identified by the board in this report” and Item number 3 states: “New issues not previously discussed in this report.” Ms. Martin indicated that number 2 is something that has already been brought up in the report and the Board wants to reiterate it in the policy section, versus item number 3 which could be something brand new. Further it could be as a result of something in the strategic plan that there’s no data that supports it in the report and no narrative, but in order to implement the strategic plan the Board wants to raise an issue under this question.

Ms. Morcos referenced the outreach and to make it the focus because it was discussed during the strategic plan. Ms. Hayth stated that several items were discussed about outreach in the strategic plan and a part of it was responding to emails. Ms. Morcos wasn’t clear if everything from the strategic plan needed to be discussed in the sunset report, if there was some type of connection between the two reports. Ms. Hayth questioned Ms. Martin if it would be possible to include the 2016 Strategic Plan as a whole into the current sunset report. Ms. Martin responded that it could be done; however, the Committee needs to specifically identify what the issues are and what the Committee wants to consider to support them and what information they need so that a recommendation can be made to the Board that the Committee wants certain policy issues to be in the sunset report. Ms. Morcos asked if this would be possible for the next meeting and Ms. Hayth thought it was a good idea to go over the strategic plan to come up with the highest priorities and recommendations for policy issues.

Ms. Miller asked whether or not staff has any suggestions if there are other reports available that might have value in them to help them formulate new issues. Ms. Miller asked if it would be possible for staff to go back through meeting minutes to develop a list of discussions that came up from other Board members and provide it to the Committee. Ms. Martin asked if she was asking to have staff go back and review the meeting minutes to pull out something that someone mentioned, but then there was discussion and didn’t get any traction, but because of that it was only mentioned in the minutes. Ms. Miller stated that could be one option, but that it sounds very labor intensive. Ms. Martin suggested an example on the new issues under the not previously discussed in this report and referenced that telehealth has been new since the last sunset report. Discussion pursued on this issue, it was decided that Ms. Martin will have staff go through the 2014, 2015, and /2016 meeting minutes to highlight topics and provide the list to Ms. Martin to review and prepare an extract of the topics for the Committee so the Committee can indicate if they want more information. The Committee agreed with this recommendation.

5. **Consideration and possible recommendation to Board relating to suggested legislative amendments to Business & Professions Code Section 2570.2(k), “Practice of occupational therapy” that were submitted to the scope of practice ad hoc committee August 8, 2016.**

Ms. Martin asked to have this item tabled since it is going to be an involved discussion. Ms. Hayth asked the Committee members if this could be brought up at the next meeting, it was agreed by the Committee.

Ms. Martin was asked to summarize what items she will be providing to the Committee:

On Issue #2 of the previous report, the Committee will be provided with the 2012/2013 and the other three fiscal years, the customer satisfaction survey and any comments.

Issue #4 – Ms. Martin will bring back information on the NPBD and HIPDB on the process and what was done in the past.

Regarding the ethical standards Ms. Martin will put together the Committee’s suggestion regarding the attestation and provide a draft response as to why this addresses practice issues.

Issue #6 – for stipulations provide the data in the table that will cover the next four fiscal years and also draft a response why a stipulation is a good practice from a budgetary and consumer protection standpoint because it implements the monitoring sooner.

Issue #7 – provide the DCA reminder e-mail regarding the travel restrictions.

Issue #8 – regarding the military Ms. Martin will identify the B&P code sections that have all been enacted since the last report and the language for those and draft a response regarding the Board’s compliance for the Committee’s review.

Ms. Martin will bring back a list to the next meeting of topics from the last two fiscal years that came up and review the 2012 Sunset Report and bring back the listing of what the previous report suggested as new issues.

Discussion followed regarding the future Committee meeting. Ms. Martin suggested that on the three issues where she was going to provide information as well as a draft response, she will put those on the October 20, 2016 meeting and get the other information for the October 6, 2016 meeting since it is more information gathering for discussion and direction. The Committee agreed with her suggestion. After further discussion, the Committee members agreed to go through the 2016 Strategic Plan to identify anything that was high priority to them and to bring it to the next meeting.

Ms. Martin asked to confirm with the Committee members that the next agenda will be exactly the same as this Committee meeting with the exception of the new date and with the 4:00 p.m. start time. The Committee affirmed her question.

6. **Adjournment.**

The meeting was adjourned at 5:39 p.m.