

AGENDA ITEM 4

PUBLIC COMMENT

September 1, 2016

To: Northern California O.T. Board

2005 Evergreen Suite 2250

Sacramento, Ca. 95815

16 SEP -6 PM 2:00

From: Betty Thoemke, OTL

128 Brittain Lane

Santa Rosa, Ca. (540)

RE: the rule that In order to be licensed, you must do it on the odd or even year you were born in, and you must do it on your birthday.

Dear Board members, and board president, Denise Miller,

I feel this is a very important concern, as it affects many occupational therapists, and at a time when it is difficult to fill every OT position, this rule makes it even harder.

I renewed my license on March 15, 2015 because I was requested to fill a school position. However, she decided on another person. At that time, I thought my registration would be good for 2 years because I had completed my 24 ceu's and paid my dues. However they registered me for only one year because my birthday fell on an even year.

So now I have an inactive license. If I renewed my license now, it would only be effective until my birthday. If I renewed on my birthday (2017), it would only be good for one year.

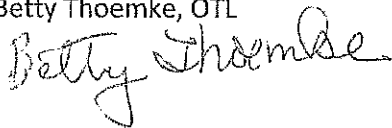
This is a rule that does not help our profession, in no way improves our services, makes it harder to get qualified OT's, and is basically unfair.

I would very much appreciate it if you would put this on the agenda for your next meeting, discuss it, and figure out how it could be changed.

I would very much like to have an active license, but that would mean another 24 ceu's, and I have already completed 24 one year ago on my birthday.

Thanking you in advance, and hoping to hear what you decided, I am looking forward to your answer.

Betty Thoemke, OTL



AGENDA ITEM 5

REVIEW AND VOTE ON APPROVAL OF THE AUGUST 18-19, 2016, BOARD MEETING MINUTES.

The Board meeting minutes are attached for review.



BOARD MEETING MINUTES

Thursday, August 18, 2016 and Friday, August 19, 2016

Board Member(s) Present

Denise Miller – President
Richard Bookwalter - Vice President
Sharon Pavlovich - Secretary
Teresa Davies
Jeff Ferro
Laura Hayth
Beata Morcos

Board Staff Present

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

Thursday, August 18, 2016 10:00 am - Board Meeting

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

The meeting was called to order at 10:15 a.m., roll was called, and a quorum was established.

2. President's and Board Members' Remarks – Informational only; no Board action to be taken.

Board President Denise Miller thanked Samuel Merritt University for hosting the Board meeting. Ms. Miller also thanked the Ad Hoc committee, Board members and Board staff for their continued hard work.

Board Vice President Richard Bookwalter attended the Rehabilitation Engineering and Assistive Technology Society of North America (RESNA) conference. Mr. Bookwalter attended the industry conference on Wheelchairs and Assistive Technology. Mr. Bookwalter offered bills for interested parties to review regarding the federal funding for assistive technology products. The bills are HR 3229 and SB 2196 along with HB 1516 and SB 24.5.

Secretary Sharon Pavlovich reported that the students are back to school at Loma Linda University and that all full-time faculty will be attending the American Occupational Therapy Association (AOTA) conference.

The remaining Board members had no comment.

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

Members of the public audience introduced themselves at will.

4. Review and vote on approval of the May 19-20, 2016, Board meeting minutes.

Vice President Richard Bookwalter asked that the final paragraph of Agenda Item 7, page 7 be updated to read:

“Vice President Richard Bookwalter said that it would be difficult to impose the time limits and make time based decisions given the absence of a precedent or state standard.”

- ❖ Jeff Ferro moved to accept the minutes with the modification made by Richard Bookwalter.
- ❖ Beata Morcos seconded the motion.

Public Comment

There was no public comment.

Roll Call Vote

Denise Miller	Aye
Richard Bookwalter	Aye
Sharon Pavlovich	Aye
Teresa Davies	Aye
Jeff Ferro	Aye
Laura Hayth	Aye
Beata Morcos	Aye

5. Review and vote on approval of the June 23, 2016, teleconference Board meeting minutes.

Vice President Richard Bookwalter asked that a spelling error be corrected on Agenda Item 3, page 4, paragraph 2.

- ❖ Richard Bookwalter moved to accept the minutes with the spelling correction.
- ❖ Teresa Davies seconded the motion.

Public Comment

There was no public comment.

Roll Call Vote

Denise Miller	Aye
Richard Bookwalter	Aye
Sharon Pavlovich	Aye
Teresa Davies	Aye
Jeff Ferro	Aye
Laura Hayth	Aye
Beata Morcos	Aye

6. Discussion and possible action on Ad Hoc committee’s report and recommendation(s) regarding the definition of “occupational therapy” as set forth in Business and Professions Code Section 2570.2.

Jeff Ferro reported that the Ad Hoc Committee met in December 2015 and unanimously agreed to not open the Practice Act or seek legislative changes at the time. After reporting back to the Board the committee was tasked with providing a conclusion statement developing points as to why the broadness of existing language regarding the scope of

practice would suffice and to discuss if the Board did decide to open the Practice Act; which sections would be under consideration.

Mr. Ferro stated that two additional meetings were held and the committee learned that regulatory changes would not be possible; legislative changes would be required to change the Practice Act. Mr. Ferro reported that the committee unanimously agreed on a more broad statement recommendation and received two comprehensive proposals to bring back to the Board for review and subsequent vote.

Mr. Ferro recommended that the Board accept the recommendations of the Ad Hoc Committee and thanked the committee members for their participation.

Public Comments

Donna Breger Stanton, OT, Fieldwork Coordinator, Samuel Merritt University

- Supported the final recommendation of the committee, as it included mental health.
- Concerned that the hand therapy language is too broad
- Believed that the definition of psycho social needs to be looked at more carefully, she feels that psycho social is an important part of what an OT does.

Ruth Ramsey, OT, Program Director, Dominican University of California

- Supported the inclusion of mental health in the committee's recommendation
- Suggested that the Social Work code be monitored so that OTs are not excluded from part of the core practice.

Sabrina McCarley, OT, Advocacy and Government Affairs Chair, Occupational Therapy Association of California (OTAC)

- Supported the inclusion of mental health in the committee conclusion statement
- Concerned that mental health is not included in the Practice Act which is what insurers reference and could potentially lead to reimbursement issues

President Miller clarified that the Ad Hoc committee was never tasked with changing the Practice Act. Ms. Miller stated that when the Board does decide to open the Practice Act it will be done with a focused, thorough and methodical approach of which practitioners and associations alike will be invited to participate.

President Miller everyone for their comments and thanked the Ad Hoc committee for doing a great job.

Legal Counsel Ileana Butu clarified that the Board does not have control of the Practice Act and if the Board ever wanted to open the Practice Act and alter anything, it would have to go through legislature, both houses and multiple committees.

Heather Kitching, OT, OTAC President thanked President Miller for her clarification as to the expectation of the Ad Hoc committee and that the committee did exactly what they were asked to do. Ms. Kitching stated that the view of OTAC is that the protection of the consumer includes adequate provision of reimbursement for mental health services and it is their view that protection of the consumer overlaps with the clear definition in the scope of practice.

- ❖ Jeff Ferro moved to accept the Ad Hoc committee's conclusion statement and accept potential legislative changes provided to the committee for the consideration of the Sunset Review committee.

- ❖ Laura Hayth seconded the motion.

Public Comment

There was no additional public comment.

Roll Call Vote

Denise Miller	Aye
Richard Bookwalter	Aye
Sharon Pavlovich	Aye
Teresa Davies	Aye
Jeff Ferro	Aye
Laura Hayth	Aye
Beata Morcos	Aye

7. Discussion of policy issues to be included in the Sunset Review Report.

Executive Officer Heather Martin gave a Sunset Review handout overview and stated that there would be upcoming Sunset committee meetings that the public was welcome to attend. Ms. Martin stated that Laura Hayth is the committee chairperson and Beata Morcos and Denise Miller are members of committee. Ms. Martin said that she was looking to the Board to decide what issues they would like included in the Sunset Review.

- ❖ Laura Hayth moved to add Teresa Davies to the Sunset Review committee.
- ❖ Beata Morcos seconded the motion.

Public Comment

There was no public comment.

Roll Call Vote

Denise Miller	Aye
Richard Bookwalter	Aye
Sharon Pavlovich	Aye
Teresa Davies	Aye
Jeff Ferro	Aye
Laura Hayth	Aye
Beata Morcos	Aye

- ❖ Teresa Davies moved to direct the Sunset Review committee to review outstanding issues and identify any additional issues for consideration.
- ❖ Denise Miller seconded the motion.

Public Comment

OTAC submitted a letter to have the Sunset Committee review.

Roll Call Vote

Denise Miller	Aye
Richard Bookwalter	Aye
Sharon Pavlovich	Aye
Teresa Davies	Aye
Jeff Ferro	Aye
Laura Hayth	Aye
Beata Morcos	Aye

8. Update and take action, if necessary, on pending Rulemaking files, California Code of Regulations, Title 16, Division 39:
- Section 4110, Application for Licensure;
 - Section 4172, Standards of Practice for Telehealth

Executive Officer Heather Martin gave an overview of the provided Regulations Update report that included those rulemaking files that were ‘in-process’ and those that were not yet started.

Public Comment

There was no public comment.

9. Consideration and possible adoption of proposed regulatory language to add Title 16, Division 39, CCR Section 4176, Notice to Consumer.

Executive Officer Heather Martin reviewed the included handouts which were the Notice, Proposed Text, the Initial Statement of Reasons, and one written public comment.

Vice President Richard Bookwalter stated that he was under the impression the Board agreed to remove the license number from being required in 4176 (b) and (c)(1).

Legal Counsel Ileana Butu confirmed that the license number is not legally required.

- ❖ Richard Bookwalter moved to strike “and number” from proposed edits to California Code of Regulations CCR 4176 (b) and (c)(1) and notice as required.
- ❖ Laura Hayth seconded the motion.

Public Comment

Sabrina McCarley agreed with the motion as she felt it was an administrative burden to the employer.

Roll Call Vote

Denise Miller	Aye
Richard Bookwalter	Aye
Sharon Pavlovich	Aye
Teresa Davies	Aye
Jeff Ferro	Aye
Laura Hayth	Aye
Beata Morcos	Aye

10. Consideration and possible adoption of proposed regulatory language to amend Title 16, Division 39, CCR Section 4161, Continuing Competency, Section 4162, Completion and Reporting Requirements, and Section 4163, Exemption from Continuing Competency Requirements.

Executive Officer Heather Martin reviewed the included handouts which were the Notice, Proposed Text, the Initial Statement of Reasons, and two written public comments.

Public Comment

Ms. Breger Stanton voiced her support of increasing the amount of continuing competence credit that an OT can earn supervising as well as offering credits for supervising Level One students as a way to incentivize more licensees to supervise a students' fieldwork. Ms. Breger-Stanton stated that it is becoming increasingly difficult to find OTs willing to supervise students.

- ❖ Richard Bookwalter moved adopt the proposed language as written.
- ❖ Laura Hayth seconded the motion.

Public Comment

There was no additional public comment.

Roll Call Vote

Denise Miller	Aye
Richard Bookwalter	Aye
Sharon Pavlovich	NAY
Teresa Davies	Aye
Jeff Ferro	Aye
Laura Hayth	Aye
Beata Morcos	Aye

- ❖ Jeff Ferro moved to direct staff to draft FAQs to address and clarify the proposed Attestation form as it pertains to the use of the term Fieldwork Supervisor as opposed to the term Fieldwork Educator, Preceptor or Fieldwork Educator, etc.
- ❖ Teresa Davies seconded the motion.

Public Comment

There was no additional public comment.

Roll Call Vote

Denise Miller	Aye
Richard Bookwalter	Aye
Sharon Pavlovich	Aye
Teresa Davies	Aye
Jeff Ferro	Aye
Laura Hayth	Aye
Beata Morcos	Aye

11. Consideration and possible adoption of proposed regulatory language to amend Title 16, Division 39, CCR Section 4130, Fees.

Executive Officer Heather Martin reviewed the included handouts which were the Modified Text, Document Added to the Rulemaking File, along with the Notice, Proposed Text, the Initial Statement of Reasons, and five written public comments.

Public Comment

Heather Kitching, OTAC President, stated that she was looking forward to a positive and collaborative relationship between the association and the licensing Board regarding the management and rollout of communication and helping the licensing population understand the rationale.

President Denise Miller clarified that the Board is not currently in a deficit or financial trouble and the intent is to head off future fiscal deficits.

- ❖ Jeff Ferro moved to adopt the proposed language and authorize the Executive Officer to make any technical, non-substantive changes.
- ❖ Laura Hayth seconded the motion.

Public Comment

There was no additional public comment.

Roll Call Vote

Denise Miller	Aye
Richard Bookwalter	Aye
Sharon Pavlovich	Aye
Teresa Davies	Aye
Jeff Ferro	Aye
Laura Hayth	Aye
Beata Morcos	Aye

12. Discussion and consideration of outreach plan to educate and inform licensees about proposed fee increases.

Board members suggested posting information on proposed fee increases on various social media venues as well as developing an FAQ or Question/Answer fact sheet.

- ❖ Richard Bookwalter moved to direct the Executive Officer to develop a Question/Answer sheet to educate licensees regarding the fee increase.
- ❖ Beata Morcos seconded the motion.

Public Comment

There was no public comment.

Roll Call Vote

Denise Miller	Aye
Richard Bookwalter	Aye
Sharon Pavlovich	Aye
Teresa Davies	Aye
Jeff Ferro	Aye
Laura Hayth	Aye
Beata Morcos	Aye

13. Consideration and possible action of requiring probationers to pay probation monitoring costs and proposed regulatory language to add Title 16, CCR Section 4147.2, Probation Monitoring Costs.

Executive Officer Heather Martin gave an overview of the disciplinary process that brings a license to the point of probation monitoring as well as the provided table that displayed the probation monitoring cost projection estimates.

Vice President Richard Bookwalter asked that “the monetary” be removed from CCR Section 4147.2 (a).

- ❖ Richard Bookwalter moved to approve the language with edits for future noticing.
- ❖ Laura Hayth seconded the motion.

Public Comment

There was no public comment.

Roll Call Vote

Denise Miller	Aye
Richard Bookwalter	Aye
Sharon Pavlovich	Aye
Teresa Davies	Aye
Jeff Ferro	Aye
Laura Hayth	Aye
Beata Morcos	Aye

14. Staff report on status of Action Plan to implement 2016 Strategic Plan.

Public Comment

There was no public comment

Executive Officer Heather Martin reported no movement on the Action Plan to implement the 2016 Strategic Plan and she would bring any updates to the October meeting.

15. Selection of 2017 Board meeting dates

The 2017 dates are:

March 9-10, 2016	June 15-16, 2016
August 17-18, 2016	October 18-19, 2016

The Board directed Ms. Martin to choose the meeting locations.

16. Disciplinary process overview by Legal Counsel

Legal Counsel, Ileana Butu verbally reviewed the included handouts regarding the Disciplinary Process.

Public Comment

There was no public comment

CLOSED SESSION

17. The Board will convene in Closed Session pursuant to Government Code Section 11126(c)(3) to deliberate and vote on disciplinary matters.

Closed session began at 4:54 p.m.
The Board meeting returned to open session at 5:19 p.m.

18. Recess

The Board meeting adjourned at 5:20 p.m.

Friday, August 19, 2016
9:00 am - Board Meeting

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

The meeting was called to order at 9:05 a.m., roll was called, Denise Miller and Sharon Pavlovich were absent. A quorum was established.

20. Public Comment session for items not on the agenda.
Please note: The Board may not discuss or take action on any matter raised during this public comment section, except to decide whether to place the matter on the agenda of a future meeting
[Government Code Sections 11125 and 11125.7(a)]

There was no public comment.

21. Discussion and possible action on proposed national policy regarding licensure portability (ease of inter-state movement by practitioners).

President Denise Miller and Vice President Richard Bookwalter attended the American Occupational Therapy Association, Inc. Representative Assembly meeting.

Mr. Bookwalter reviewed the included draft minutes of the Spring RA Meeting.

The draft minutes reflected that the motion for supporting expedited licensure was defeated.

- ❖ Jeff Ferro moved to instruct Board staff to watch the movement of this recommendation and keep the Board abreast of the progress.
- ❖ Laura Hayth seconded the motion.

Executive Officer Heather Martin expressed her concern to the Board regarding license portability and the fact that some states do not require fingerprinting and that the Board should always require fingerprinting as a condition of licensure, no matter how this recommendation finalizes.

Public Comment

There was no public comment.

Roll Call Vote

Richard Bookwalter	Aye
Teresa Davies	Aye
Jeff Ferro	Aye
Laura Hayth	Aye
Beata Morcos	Aye

22. Presentation of enforcement data and reports for the quarter ending June 30, 2016.

Board staff member, Jeff Hanson reviewed the included handouts regarding all enforcement action that took place for the quarter.

Public Comment

There was no public comment.

23. Executive Officer's Report.

a. Operational Report

Executive Officer Heather Martin reported that two vacancies have been filled and a Retired Annuitant was hired. Ms. Martin stated that there are recruitment efforts beginning for five additional positions in Enforcement and one and one-half positions in Licensing.

b. Budget Update

Ms. Martin reported that the 2015-16 final revenue and expenditure information was not yet made available to her.

c. BreEZe Update

Ms. Martin gave a verbal on the data regarding the number of transactions submitted on-line using BreEZe.

Vice President Bookwalter asked how much of the Board's budget was spent on BreEZe last fiscal year. Ms. Martin replied over \$300,000.

d. Future Agenda Items

Ms. Martin stated that Chuck Wilmarth of the American Occupational Therapy Association will be attending the October 27, 2016, Board Meeting and Shaun Conway of the National Board for Certification in Occupational Therapy will be attending the December 8, 2016, Board meeting.

e. Other Informational Items – No Board discussion or action

Ms. Martin reviewed her provided list of future agenda items.

24. Suggested agenda items for a future meeting.

Jeff Ferro inquired about updating and making the CBOT website more user-friendly.

27. Adjournment.

The Board meeting adjourned at 9:54 a.m.

AGENDA ITEM 6

DISCUSSION AND POSSIBLE ACTION ON SUNSET REVIEW AD HOC COMMITTEE'S REPORT AND RECOMMENDATION(S) REGARDING:

- Acceptance of September 15, 2016, Sunset Review ad hoc committee meeting minutes.
- Acceptance of October 6, 2016, Sunset Review ad hoc committee meeting minutes.
- New issues identified in the Board's 2016 Sunset Report; and
- Legislative proposals to include in the Board's 2016 Sunset Report.



**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. Marcos 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 particle 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 BreEZe 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 very differently in California, 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.



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

Thursday, October 6, 2016

Committee Members Present

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

Board Staff Present

Heather Martin, Executive Officer
Jeff Hanson, Board Staff
Heather Olivares, Legislative Analyst, DCA

Public Attendee

Tonya Nguyen

1. Call to order, roll call.

Laura Hayth called the meeting to order at 4:05 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.

The members were provided with updated survey data in response to a request made at the last Committee meeting. Denise Miller asked about future surveys and the possibility of clarifying the questions that are asked on the survey. She questioned if it would be worthwhile in the survey to have some qualifiers to the questions on how the individual responds, in order to obtain a more fair value of how the staff helps. Ms. Martin explained that the information they are reviewing is raw data and that under question 7, where it states discuss the results, that portion has not been completed and will be provided at the next meeting. Ms. Martin provided an example when a licensee might be upset, such as being late on their renewal; she stated it's unlikely the licensee is going to indicate they got great service when they don't want to pay the \$75.00 late fee in the first place and it is not waived by staff. Further, depending on how long they were practicing on the expired license, they could be issued a citation, which makes them even more unhappy with the Board. Ms. Martin provided some examples of when licensees might contact the Board, with questions such as: when they can't on-line renew, or can't remember their password to log into BreZE to renew, or when their credit card is declined and they don't know why.

Ms. Miller stated that from her experience there is definitely an impression that the Occupational Therapy Association of California has found the Board much more accessible than in past years and made comments about this to many practitioners. Ms. Miller indicated she believes that there has been progress made by the staff and the Board, but the numbers

in the survey are not showing what practitioners have been saying for the past six months. Ms. Martin stated that she has seen that staff is more accessible and the only time the phones are not answered is perhaps once a month when staff is attending a staff meeting or if a caller calls before 8:00 a.m. or after 5:00 p.m., which are the Board's core hours.

Ms. Martin indicated she does like the suggestion of a qualifier and that she will contact DCA staff who is knowledgeable on Survey Monkey to find out what kind of qualifying question can be inserted after a question so that there is a better set of data for the next report in four years. Ms. Martin indicated that the core is so small that when there is a negative the percentage is extremely high. Ms. Miller stated that perhaps at the next OTAC conference that staff could provide the survey to try and obtain more responses, since there is some downtime at the conference. Ms. Hayth thought this was a good idea. Further, Ms. Miller indicated that since they are presenting at the conference they could direct the participants to take the survey. Ms. Martin suggested that Friday evening and Saturday afternoon at the OTAC meeting the Board has a booth where she can bring a laptop with the survey loaded and ask people to take the survey. The Committee liked this idea.

Ms. Hayth referred to question number 5 regarding the ethics application and renewals and stated that Ms. Martin would prepare a response. Ms. Martin addressed this issue by stating that at the next meeting on October 13, 2016, she will provide a draft response regarding Issue #4, which is the NPDB continuous query; #5 which is the ethical standards attestation; #7 regarding the travel; and #8 regarding the military so the Committee can provide feedback.

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

Ms. Hayth indicated that the last item for agenda number 3 leads into the next agenda item number 4, which has to do with the identification and development of new issues to be identified in the Board's 2016 Sunset Report. Ms. Hayth reminded the Committee that during the last time they met they were sent the strategic plan and it was agreed that they would come up with, in the order of most importance, the top three items from the strategic plan and share it with each other at this meeting. Ms. Miller stated that Ms. Martin did send the strategic plan to the Committee members.

Ms. Hayth stated that her top three most important items from the strategic plan is goal 3.3, developing multimedia via webinars and printed materials and housing them on the Board's website so that people can go there and see important topics. She also believes that goal 3.4 on reporting requirements is important and that it should be a priority to require that every licensee report their email address to the Board. She pointed to goal 2.1 to pursue an increase in budgetary authority to secure necessary staffing to improve enforcement efforts. Ms. Miller asked about item 2.1 and what it means to the Committee and if they're looking for more staff. Ms. Miller asked if a priority could be established for budgetary authority to secure necessary staffing to meet the priorities of the Board so that the staff ratios match whatever the priorities are for the Board. Ms. Martin explained that the Board started the budget change proposal process to increase the budget authority in March of 2015 and was approved for six new enforcement staff and one new licensing staff member this year. Ms. Martin referenced Ms. Miller's suggestion regarding staffing and suggested that perhaps at one of the 2017 Board meetings there be discussion on staffing increases where staff is not specific to a program area, but instead more toward operational work for the Board in general.

Ms. Miller indicated that she recalls from the strategic planning process that a lot of effort went in to outreach and that she agrees with Ms. Hayth. Ms. Morcos stated that the items most important to her from the strategic plan are 3.4, which agrees with Ms. Hayth; item 3.5

because she believes a lot of the questions will be answered if this is implemented. Ms. Mocros' third goal is either 3.3 or 1.4 to improve outreach.

Teresa Davies stated she agreed with Ms. Hayth and stated that she also sees 1.3 to create and implement a cross-reference table that clarifies the relationship between Professional Development Units, Continuing Education Units, and Continuing Education hours in order to better assist licensees in determining whether or not their continuing education courses meet state requirements is important. She also referred to goal 1.2 as being important to pursue regulatory amendment that would require Occupational Therapists seeking advanced practice approval to complete only Board approved courses. Her third important goal was 2.3 or 3.3.

Ms. Miller indicated that the three top issues for her from the strategic plan are 1.2, 3.2 which is the development of multimedia to be placed on the Board's website and 4.2 research regulatory issues affecting the full range of Occupational Therapy practice settings to address diverse Occupational Therapy service delivery models.

Ms. Martin advised the Committee that as a follow-up to the last meeting the staff was asked to review the 2014/2015/2016 meeting minutes to identify anything that hasn't been taken action on and bring back a list. She indicated there are only two items: 1) from the June 2015 meeting when the Board considered increasing the PDUs for supervising students in the future for the Board to look at interdisciplinary practice and PDUs for supervising other healthcare students, two of the seven Board members were in agreement of this recommendation; 2) from the October 2015 Board meeting there was a public comment made that continuing education should be made for new grads on their first renewal. This concluded Ms. Martin's report and referred this back to the Committee.

Ms. Hayth asked what the reasoning was behind having new grads do continuing education on their first renewal, and she believes they should. Jeff Hanson stated that he recalls the rationale behind this recommendation was that theoretically someone who has initially graduated could be potentially renewing their license in six months, which is the minimum amount of time a license would be issued. Ms. Martin provided clarification by stating that based on the month of issuance of the license and their birth month; they could get a waiver on their first renewal, which is 30 months after they received their license, so they don't have to do the PDUs. In theory, the licensee is in year five of practice before they have to do the PDUs. Ms. Hayth questioned why the Board approved this. Mr. Hanson asked the question as to where would the line be drawn for first time renewals, he suggested that perhaps it should be stated that if a license is issued for more than 24 months the licensee would have to complete PDUs. Discussion followed on this matter and it was decided by the Committee that they will recommend to the full Board that this be included as one of the new policy issues in the Sunset Report. Motion was approved to make a recommendation to the full Board to include this issue in the Sunset Report.

5. Consideration and possible recommendation to the 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. Hayth read the staff recommendation to the Committee for Issue #9, "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. Miller indicated since the Committee members were on a conference call she asked Ms. Hayth to read the suggested language for this item. Ms. Hayth stated the following:

(k) "Practice of occupational therapy" means the therapeutic use of purposeful, valuable, and necessary and meaningful goal-directed activities (occupations) which engage the individual's body and mind in meaningful, organized, and self-directed actions that maximize independence, and/or self-reliance, minimize or prevent ~~prevent or minimize~~ disability, and maintain health. Occupational therapy services encompass occupational therapy assessment, treatment, education of, and consultation with, individuals who have been referred for occupational therapy services subsequent to diagnosis of disease, ~~or disorder~~, or impairment (or who are receiving occupational therapy services as part of an Individualized Education Plan (IEP) pursuant to the federal Individuals with Disabilities Education Act (IDEA)). Occupational therapy assessment identifies performance abilities and limitations that are necessary for self-maintenance, learning, work, and other similar meaningful activities. Occupational therapy treatment is focused on developing, improving, or restoring functional daily living skills, compensatory skills to enable performance in occupation, and prevent or minimize disability and/or impairments in daily life functioning. ~~compensating for and preventing dysfunction, or minimizing disability.~~ Occupational therapy techniques that are used for treatment involve teaching activities of daily living (excluding speech-language skills); designing or fabricating selective temporary orthotic devices, and applying or training in the use of assistive technology or orthotic and prosthetic devices (excluding gait training). Occupational therapy consultation provides expert advice to enhance function and quality of life. Consultation or treatment may involve modification of tasks or environments to allow an individual to achieve maximum independence. Therapeutic ~~s~~services are provided individually or in groups, or through special populations or social groups. ~~, in groups, or through social groups.~~

Ms. Martin provided clarification that at the last Scope of Practice Ad Hoc Committee meeting, two members individually, not the Committee, provided suggested legislative proposals.

Ms. Miller asked if the Scope of Practice Ad Hoc Committee had come to a conclusion on the legislative proposal. Ms. Martin indicated that the Scope of Practice Committee met several times; however, because of the full Board's action at the February Board meeting, by accepting the recommendation to not amend the scope of practice and in the interest of time and since the Sunset Committee was going to review this item, that Scope of Practice Committee recommended to the Board that the Sunset Committee review the legislative proposals.

Ms. Morcos asked the professional members for their opinion on the suggested changes, since they are in the industry and this is what will represent the practice of occupational therapy; she stated it is difficult for her to have an opinion. Ms. Hayth indicated that she would have to give it a lot more thought since her and Ms. Miller are the only two OTs on the Committee, which requires more time.

Ms. Miller asked the Committee if they want to accept or reject the proposed language it can be done at this meeting. Ms. Martin stated if they want to reject the language and not amend the scope of practice, then the only item staff would need to follow-up on Issue 9 from the 2012 Sunset Report would be to give a solid recommendation why the staff does not need to address the issue. Ms. Miller stated that she recommends accepting the Scope of Practice Committee's recommendation to not open the scope of practice issue. It was agreed by the Committee members.

Ms. Martin clarified to the Committee that they can recommend anything they want to the Board, whether it has to do with these recommendations or if they want to provide something different.

However, she stated since there is a placeholder bill out there to extend the Board's sunset this is probably the most favorable opportunity to get other legislative changes through the legislative process.

Discussion continued on this issue between the Committee members and a motion was made to reject these suggested changes to the definition of the practice of occupational therapy. Ms. Morcos suggested this item be included on the October 20th agenda. The Committee approved a motion to put former legislative proposals on the October 20th meeting agenda for review and possible inclusion in the sunset report.

6. Adjournment.

The meeting was adjourned at 5:42 p.m.

GOVERNMENT CODE - GOV

TITLE 2. GOVERNMENT OF THE STATE OF CALIFORNIA [8000 - 22980]

(Title 2 enacted by Stats. 1943, Ch. 134.)

DIVISION 1. GENERAL [8000 - 8899.24]

(Division 1 enacted by Stats. 1943, Ch. 134.)

CHAPTER 7. California Emergency Services Act [8550 - 8668]

(Chapter 7 added by Stats. 1970, Ch. 1454.)

ARTICLE 17. Privileges and Immunities [8655 - 8660]

(Article 17 added by Stats. 1970, Ch. 1454.)

8659.

(a) Any physician or surgeon (whether licensed in this state or any other state), hospital, pharmacist, respiratory care practitioner, nurse, occupational therapist, or dentist who renders services during any state of war emergency, a state of emergency, or a local emergency at the express or implied request of any responsible state or local official or agency shall have no liability for any injury sustained by any person by reason of those services, regardless of how or under what circumstances or by what cause those injuries are sustained; provided, however, that the immunity herein granted shall not apply in the event of a willful act or omission.

(b) Any veterinarian or registered veterinary technician who renders services during any state of war emergency, a state of emergency, or a local emergency at the express or implied request of any responsible state or local official or agency shall have no liability for any injury sustained by any animal by reason of those services, regardless of how or under what circumstances or by what cause those injuries are sustained; provided, however, that the immunity herein granted shall not apply in the event of a willful act or omission.

(Amended by Stats. 2010, Ch. 538, Sec. 21. Effective January 1, 2011.)

Add a new BPC Section (no number)

This proposal would grant occupational therapists immunity from civil damages for services provided during a state of war, state of emergency, or during a disaster, except in a case of a willful act or omission or when the practitioner is grossly negligent.

Amend Business and Professions Code Section 146

146. (a) Notwithstanding any other provision of law, a violation of any code section listed in subdivision (c) is an infraction subject to the procedures described in Sections 19.6 and 19.7 of the Penal Code when either of the following applies:

(1) A complaint or a written notice to appear in court pursuant to Chapter 5c (commencing with Section 853.5) of Title 3 of Part 2 of the Penal Code is filed in court charging the offense as an infraction unless the defendant, at the time he or she is arraigned, after being advised of his or her rights, elects to have the case proceed as a misdemeanor.

(2) The court, with the consent of the defendant and the prosecution, determines that the offense is an infraction in which event the case shall proceed as if the defendant has been arraigned on an infraction complaint.

(b) Subdivision (a) does not apply to a violation of the code sections listed in subdivision (c) if the defendant has had his or her license, registration, or certificate previously revoked or suspended.

(c) The following sections require registration, licensure, certification, or other authorization in order to engage in certain businesses or professions regulated by this code:

- (1) Sections 2052 and 2054.
- (2) Section 2630.
- (3) Section 2903.
- (4) Section 3660.
- (5) Sections 3760 and 3761.
- (6) Section 4080.
- (7) Section 4825.
- (8) Section 4935.
- (9) Section 4980.
- (10) Section 4996.
- (11) Section 5536.
- (12) Section 6704.
- (13) Section 6980.10.
- (14) Section 7317.
- (15) Section 7502 or 7592.
- (16) Section 7520.
- (17) Section 7617 or 7641.
- (18) Subdivision (a) of Section 7872.
- (19) Section 8016.
- (20) Section 8505.
- (21) Section 8725.
- (22) Section 9681.
- (23) Section 9840.
- (24) Subdivision (c) of Section 9891.24.
- (25) Section 19049.
- (26) Section 2570.3.

(d) Notwithstanding any other provision of law, a violation of any of the sections listed in subdivision (c), which is an infraction, is punishable by a fine of not less than two hundred fifty dollars (\$250) and not more than one thousand dollars (\$1,000). No portion of the minimum fine may be suspended by the court unless as a condition of that suspension the defendant is required to submit proof of a current valid license, registration, or certificate for the profession or vocation which was the basis for his or her conviction.

Amend Business & Professions Code Section 2570.3

(l) The board may approve a provider of post-professional education courses, that on or after January 1, 2018, submits an application to the Board and pays the fee set forth in section 2570.16. Each approved provider shall expire on June 30, 2020, and biennially thereafter.

(m) On or after January 1, 2018, the board may approve a post-professional education course, when the provider submits a post-professional education course application to the Board and pays the fee set forth in section 2570.16.

Amend Business and Professions Code Section 2570.16.

Initial license and renewal fees shall be established by the board in an amount that does not exceed a ceiling of one hundred fifty dollars (\$150) per year. The board shall establish the following additional fees:

- (a) An application fee not to exceed fifty dollars (\$50).
- (b) A late renewal fee as provided for in Section 2570.10.
- (c) A limited permit fee.
- (d) A fee to collect fingerprints for criminal history record checks.
- (e) A fee to query the National Practitioner Data Bank and the Healthcare Integrity

Protection Data Bank.

(f) An initial application fee for providers of post-professional education courses shall be a non-refundable fee of three hundred dollars (\$300).

(g) A biennial renewal fee for an approved post-professional education course provider shall be established in regulation, but no more than five hundred-fifty dollars (\$550) per renewal cycle.

(h) A one-time, non-refundable fee for review of each post-professional educational course shall be established in regulation, but no more than ninety dollars (\$90) per course.

Proposed Amendment to Business & Professions Code Section 2570.18.

~~(a) On and after January 1, 2003, a~~ A person shall not represent to the public by title, education, or background, by description of services, methods, or procedures, or otherwise, that the person is authorized to practice occupational therapy in this state, unless authorized to practice occupational therapy under this chapter.

(b) Unless licensed to practice as an occupational therapist under this chapter, a person may not use the professional abbreviations "O.T.," "O.T.R.," or "O.T.R./L.," or "Occupational Therapist," or "Occupational Therapist Registered," or any other words, letters, or symbols with the intent to represent that the person practices or is authorized to practice occupational therapy.

(c) A licensed occupational therapist who has received a doctoral degree in occupational therapy (OTD) or, after adoption of the regulations described in subdivision (d), a doctoral degree in a related area of practice or study may do the following:

(1) In a written communication, use the initials DPT, DPH, PhD, or EdD, as applicable, following the licensee's name.

(2) In a written communication, use the title "Doctor" or the abbreviation "Dr." preceding the licensee's name, if the licensee's name is immediately followed by an unabbreviated specification of the applicable doctoral degree held by the licensee.

(3) In a spoken communication while engaged in the practice of occupational therapy, use the title "doctor" preceding the person's name, if the speaker specifies that he or she is an occupational therapist.

(d) A doctoral degree described in subdivision (c) shall be granted by an institution accredited by the Western Association of Schools and Colleges, the Accreditation Council on Occupational Therapy Education, or by an accrediting agency recognized by the National Commission on Accrediting or the United States Department of Education that the board determines is equivalent to the Western Association of Schools and Colleges.

(d) The board shall define, by regulation, the doctoral degrees that are in a related area of practice or study for purposes of subdivision (c).

~~(e)~~(e) Unless certified to assist in the practice of occupational therapy as an occupational therapy assistant under this chapter, a person may not use the professional abbreviations "O.T.A.," "C.O.T.A.," "C.O.T.A./C." or "Occupational Therapy Assistant," or "Certified Occupational Therapy Assistant," or any other words, letters, or symbols, with the intent to represent that the person assists in, or is authorized to assist in, the practice of occupational therapy as an occupational therapy assistant.

~~(d)~~ (f) The unauthorized practice or representation as an occupational therapist or as an occupational therapy assistant constitutes an unfair business practice under Section 17200 and false and misleading advertising under Section 17500.

Proposed Amendment to Business & Professions Code Section 2570.27.

2570.27. (a) The board may discipline a licensee by any or a combination of the following methods:

(1) Placing the license on probation with terms and conditions.

(a) An administrative disciplinary decision imposing terms of probation may include, among other things, a requirement that the licensee-probationer pay the monetary costs associated with monitoring the probation.

(b) The board shall not renew or reinstate the license of any licensee who has failed to pay all of the costs ordered under this section once a licensee has served his or her term of probation.

(2) Suspending the license and the right to practice occupational therapy for a period not to exceed one year.

(3) Revoking the license.

(4) Suspending or staying the disciplinary order, or portions of it, with or without conditions.

(5) Taking other action as the board, in its discretion, deems proper.

(b) The board may issue an initial license on probation, with specific terms and conditions, to any applicant who has violated any provision of this chapter or the regulations adopted pursuant to it, but who has met all other requirements for licensure.

Proposed Amendment to Business & Professions Code Section 2570.28

2570.28. The board may deny or discipline a licensee for any of the following:

(a) Unprofessional conduct, including, but not limited to, the following:

(1) Incompetence or gross negligence in carrying out usual occupational therapy functions.

(2) Repeated similar negligent acts in carrying out usual occupational therapy functions.

(3) A conviction of practicing medicine without a license in violation of Chapter 5 (commencing with Section 2000), in which event a certified copy of the record of conviction shall be conclusive evidence thereof.

(4) The use of advertising relating to occupational therapy which violates Section 17500.

(5) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action against a licensee by another state or territory of the United States, by any other government agency, or by another California health care professional licensing board. A certified copy of the decision, order, or judgment shall be conclusive evidence thereof.

(b) Procuring a license by fraud, misrepresentation, or mistake.

(c) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision or term of this chapter or any regulation adopted pursuant to this chapter.

(d) Making or giving any false statement or information in connection with the application for issuance or renewal of a license.

(e) Conviction of a crime or of any offense substantially related to the qualifications, functions, or duties of a licensee, in which event the record of the conviction shall be conclusive evidence thereof.

(f) Impersonating an applicant or acting as proxy for an applicant in any examination required under this chapter for the issuance of a license.

(g) Impersonating a licensed practitioner, or permitting or allowing another unlicensed person to use a license.

(h) Committing any fraudulent, dishonest, or corrupt act that is substantially related to the qualifications, functions, or duties of a licensee.

(i) Committing any act punishable as a sexually related crime, if that act is substantially related to the qualifications, functions, or duties of a licensee, in which event a certified copy of the record of conviction shall be conclusive evidence thereof.

(j) Using excessive force upon or mistreating or abusing any patient. For the purposes of this subdivision, "excessive force" means force clearly in excess of that which would normally be applied in similar clinical circumstances.

(k) Falsifying or making grossly incorrect, grossly inconsistent, or unintelligible entries in a patient or hospital record or any other record.

(l) Changing the prescription of a physician and surgeon or falsifying verbal or written orders for treatment or a diagnostic regime received, whether or not that action resulted in actual patient harm.

(m) Failing to maintain confidentiality of patient medical information, except as disclosure is otherwise permitted or required by law.

(n) Delegating to an unlicensed employee or person a service that requires the knowledge, skills, abilities, or judgment of a licensee.

(o) Committing any act that would be grounds for denial of a license under Section 480.

(p) Except for good cause, the knowing failure to protect patients by failing to follow infection control guidelines of the board, thereby risking transmission of ~~blood-borne~~ infectious diseases from licensee to patient, from patient to patient, or from patient to licensee.

(1) In administering this subdivision, the board shall consider referencing the standards, regulations, and guidelines of the State Department of Health Services developed pursuant to Section 1250.11 of the Health and Safety Code and the standards, guidelines, and regulations

pursuant to the California Occupational Safety and Health Act of 1973 (Part 1 (commencing with Section 63001) of Division 5 of the Labor Code) for preventing the transmission of HIV, hepatitis B, and other blood-borne pathogens in health care settings. As necessary to encourage appropriate consistency in the implementation of this subdivision, the board shall consult with the Medical Board of California, the Board of Podiatric Medicine, the Dental Board of California, the Board of Registered Nursing, and the Board of Vocational Nursing and Psychiatric Technicians.

(2) The board shall seek to ensure that licensees are informed of their responsibility to minimize the risk of transmission of blood-borne infectious diseases from health care provider to patient, from patient to patient, and from patient to health care provider, and are informed of the most recent scientifically recognized safeguards for minimizing the risks of transmission.

Proposed new language:

- (a) Any employer of an occupational therapy practitioner shall report to the California Board of Occupational Therapy the suspension or termination for cause of any practitioner in their employ. The reporting required herein shall not act as a waiver of confidentiality of medical records. The information reported or disclosed shall be kept confidential except as provided in subdivision (c) of Section 800, and shall not be subject to discovery in civil cases.
- (b) For purposes of the section, "suspension or termination for cause" is defined to mean suspension or termination from employment for any of the following reasons:
 - (1) Use of controlled substances or alcohol to such an extent that it impairs the ability to safely practice occupational therapy.
 - (2) Unlawful sale of controlled substances or other prescription items.
 - (3) Patient neglect, physical harm to a patient, or sexual contact with a patient.
 - (4) Falsification of medical records.
 - (5) Gross incompetence or negligence.
 - (6) Theft from patients, other employees, or the employer.
- (c) The first failure of an employer to make a report required by this section, shall result in a letter educating the employer of their reporting responsibilities. The second failure to make a report by this section shall be punishable by an administrative fine not to exceed one thousand dollars (\$1,000). The third and any subsequent violations shall be punishable by an administrative fine not to exceed five thousand dollars (\$5,000) per violation.

Proposed new language:

Each member of the board, or any licensed occupational therapist appointed by the board, may inspect, or require reports from, a general or specialized hospital or any other facility providing occupational therapy treatment or services and the occupational therapy staff thereof, with respect to the occupational therapy treatment, services, or facilities provided therein, and may inspect occupational therapy patient records with respect to the care, treatment, services, or facilities. The authority to make inspections and to require reports as provided by this section shall not be delegated by a member of the board to any person other than a occupational therapist. The willful, unauthorized violation of professional confidence constitutes unprofessional conduct.