

CALIFORNIA BOARD OF OCCUPATIONAL THERAPY

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State of California
Department of Consumer Affairs
Gray Davis, Governor



CALIFORNIA BOARD OF OCCUPATIONAL THERAPY
BOARD MEETING MINUTES
January 17-18, 2002
Oakland, California

A. Call to Order, Roll Call, Establishment of a Quorum

Gretchen Kjose, Executive Officer, called the Board meeting to order at 1:00 p.m. and called the roll.

Board Members Present

Luella Grangaard, President
Hugh Smith, Vice President
Christine Wietlisbach, Secretary
Cynthia Burt
Margaret Cunningham
Roberta Murphy

Board Member Absent With Excused Absence

Suzanne Sampson

Staff Present

Gretchen Kjose, Executive Officer
Laura Freedman Eidson, Legal Counsel
Jeff Hanson, Licensing Coordinator
Paula Pimentel, Office Technician

B. Presidents Remarks

Board President Luella Grangaard welcomed the audience and thanked everyone for attending. She indicated that items on today's agenda might be taken out of order and stated that the public comment session would be held at the end of the meeting.

C. Public Comment Session

There were no public comments during the public comment session.

**D. Approval of the November 7, 2001 Board Meeting Minutes
Approval of the December 10, 2001 Board Meeting Minutes**

The Board reviewed the November 7, 2001 meeting minutes.

- ◆ **Roberta Murphy moved to approve the November 7, 2001 Board meeting minutes.**
- ◆ **Hugh Smith seconded the motion.**
- ◆ **The motion carried unanimously.**

The Board reviewed the December 10, 2001 meeting minutes.

- ◆ **Roberta Murphy moved to approve the December 10, 2001 Board meeting minutes.**
- ◆ **Hugh Smith seconded the motion.**
- ◆ **The motion carried unanimously.**

E. Executive Officer's Report

Gretchen Kjose reported that, as of November 30, 2001, approximately 18% of the budget had been spent. She indicated that every effort has been made to curtail spending until licensing activities begin, so that the Board will be able to make the first loan installment payment to the General Fund in June 2002.

Ms. Kjose advised that, in December, a letter was sent in facility directors regarding licensing requirements and to clarify that, until regulations have been adopted regarding specific scope of practice issues, occupational therapists and occupational therapy assistants should continue to practice in accordance with current professional standards of practice.

Ms. Kjose announced that the Board would be moving to its new location at 444 North 3rd Street, Sacramento, in late February. She stated that there are two other Department of Consumer Affairs offices at the complex and that the Board would be sharing computer lines, telephone and alarm systems with these offices.

Ms. Kjose informed the Board that the licensing and enforcement data processing systems had been completed but that the cashiering component required further programming and testing before it would be functional. She explained that the Board entered into a new contract with the consultant to complete the project by the end of February.

Ms. Kjose advised that a draft of the licensing application had been completed and would be sent to legal counsel for review and approval within the next week. She reported that the Board's procedural regulations are in the last stage of approval and should be adopted by February 28, 2002.

Ms. Kjose stated that the State's hiring freeze, imposed last October, had impacted the Board's ability to fill the last three of its six approved positions. She reported that a freeze exemption request is under review by the Department of Finance. If approved, the Board will be able to fill the positions, hopefully before licensing applications begin to arrive.

F. Review and Approval of Proposed Legislation Regarding Disciplinary Proceedings

Ms. Kjose advised that the enabling statutes give the Board authority only to deny a license if an applicant has been convicted of a crime substantially related to the duties of the license. She stated that the Board needs authority to discipline a license or certificate for violations of law such as unprofessional conduct, gross negligence, incompetence, etc, and indicated that she and Legal Counsel, Laura Freedman-Eidson had prepared draft language for the Board's consideration. She indicated that the Senate Business and Professions Committee has agreed to carry the legislation should the Board vote to adopt the proposed disciplinary provisions.

- ◆ **Cynthia Burt moved to approve the proposed language regarding disciplinary proceedings and to delegate authority to the Executive Officer to make any technical, non-substantive changes recommended by the Senate Business and Professions Committee.**
- ◆ **Roberta Murphy seconded the motion.**
- ◆ **The motion carried unanimously.**

G. Discussion of Other Legislative Needs Including:

- 1. Definition of Hand Therapy**
- 2. Diversion Program**

Definition of Hand Therapy: This issue was discussed under Agenda Item H.

Diversion Program: Ms. Kjose explained that many Board's within the Department of Consumer Affairs have diversion programs for impaired practitioners. She indicated that addiction to alcohol or drugs is considered to be a disease under the Americans with Disabilities Act and that diversion is one way of protecting the public by allowing impaired practitioners to seek recovery without the threat of losing their license permanently. The Board discussed the costs associated with such a program as well as the benefits and agreed that it would look into developing a diversion program by first investigating the options available. Ms. Freedman Eidson advised that should the Board ultimately decide to have a diversion program, it would need legislative authority to do so.

H. Report from Regulatory Committee on:

- 1. Scope of Practice Regarding Feeding or Swallowing Assessment, Evaluation or Intervention**
- 2. Scope of Practice Regarding Hand Therapy**

Feeding or Swallowing Assessment, Evaluation or Intervention: Cynthia Burt reported that the Board is charged with developing regulations that identify the competencies required of those wishing to practice in the area of feeding or swallowing assessment, evaluation and intervention. She stated that the Board's task force, chaired by Margaret Cunningham, has been collecting information on competency guidelines developed by various facilities throughout the state and has received information from the Speech Pathology and Audiology Board (SPAB) on their competency requirements. She said that the task force is attempting to define the difference between entry level skills and advanced practice and to develop a method for ensuring competency.

She commented that there are various practice settings and the guidelines must be flexible enough to accommodate the differences in those settings. She asked legal counsel whether the Board could delegate

its authority to determine competency to outside sources. Ms. Freedman-Eidson said that there could be some flexibility such as having the Board identify a specific training program, the completion of which would attest to the individual's competency, as well as having an expert in the field certify to the Board that the individual demonstrated advanced practice competency.

Ms. Burt also mentioned the practice of endoscopy and stressed that it is important to work with the SPAB to make sure occupational therapy guidelines for practice in this area are consistent with theirs. She advised that the task force would have a draft of proposed guidelines available for the April meeting.

Hand Therapy: Ms. Burt reported that there is a hand therapy task force, chaired by Christine Wietlisbach, that has reviewed hand therapy definitions, guidelines used by other states to ensure competency in this area, and the use of physical agent modalities (PAMS) in hand therapy. She reported that there appears to be a vast difference between entry level degree programs in teaching hand therapy and because of this, it should be considered an advanced level skill.

Ms. Burt pointed out that the Occupational Therapy Practice Act (Act) defines hand therapy differently than the Hand Therapy Certification Commission (HTCC) and the American Association of Hand Therapists, and limits the use of PAMS to hand therapy. She stated that since the Act requires anyone wishing to practice hand therapy on or after January 1, 2005 to be certified by the HTCC, there is conflict between what practitioners would be allowed to do even though they demonstrated a greater level of competency in becoming certified. She also stated that, historically, the use of PAMS has not been restricted to hand therapy. Therefore, the task force recommended that the Board pursue legislation to remove the definition of hand therapy and the requirement that hand therapists be certified by the HTCC from the Act, and introduce legislation identifying hand therapy as an advanced practice skill with the requirement that regulations be developed to specify the competencies to be demonstrated by those wishing to practice in this area. Ms. Burt also said the task force recommended that the Board seek legislation to clearly define PAMS as an advanced practice skill with competency requirements specified by regulation.

She cautioned that, even if the Board accepts these recommendations and seeks legislation, the legislation would not take effect until January 1, 2003. Until the law is changed, occupational therapists wishing to provide hand therapy services after January 1, 2005, must notify the Board on or after January 1, 2003, that they are seeking certification and must practice under the supervision of either an occupational therapist or physical therapist certified in hand therapy.

Ms. Grangaard asked Board Vice President Hugh Smith to chair the meeting so that she could make a motion.

- ◆ **Luella Grangaard moved that the Board propose legislation to amend the Occupational Therapy Practice Act to remove the definition of hand therapy and the requirement for certification by the Hand Therapy Certification Commission, and add language that identifies hand therapy and the use of physical agent modalities as advanced practice skills, requiring demonstration of competencies specified by the Board through regulation.**
- ◆ **Roberta Murphy seconded the motion.**
- ◆ **The motion carried unanimously.**

I. Report from Regulatory Committee on:
1. Ethical Standards of Practice
2. Continuing Education Requirements

Ethical Standards of Practice: Roberta Murphy gave an overview of the American Society of Occupational Therapy's (AOTA) 2000 Ethical Standards of Practice and recommended that the Board consider adopting AOTA's Code of Ethics, modifying them slightly to delete any reference to AOTA. Hugh Smith suggested that the Board contact AOTA and ask whether they would object to the Board's use of their standards.

- ◆ **Roberta Murphy moved that the Board use the AOTA 2000 Code of Ethics, with their permission, as a model for developing a Code of Ethics for California practitioners.**
- ◆ **Hugh Smith seconded the motion.**
- ◆ **The motion carried unanimously.**

Continuing Education Requirements: Ms. Murphy reported that the Committee reviewed materials from other jurisdictions with continuing competency requirements and began a discussion on how to address this issue for California practitioners. She stated that it is the Committee's recommendation that the Board have a continuing competency program and advised that the Regulatory Committee would begin an in-depth evaluation of other programs throughout the state and report their finding at the next Board meeting.

- ◆ **Roberta Murphy moved that the Board have a continuing competency requirement for California practitioners.**
- ◆ **Hugh Smith seconded the motion.**
- ◆ **The motion carried unanimously.**

Ms. Murphy advised that the Regulatory Committee would begin the process of developing draft regulations for the Board's consideration at the next meeting.

J. Report on Proposed Regulations to Adopt Title 16, Division 39, California Code of Regulations Sections 4140, Issuance of Citations; 4141, Assessment of Administrative Fines; 4142, Appeal of Citations; and 4143, Compliance with Citations

Ms. Kjose updated the Board on the status of this regulation by stating that the public hearing would be held at 1:00 p.m. on February 13, 2002, at 400 R Street, 5th Floor Conference Room, Sacramento, California.

The Board adjourned for the day at 3:45 p.m.

The Board reconvened at 9:00 a.m. on January 18, 2002.

K. Strategic Planning

The Board conducted its first Strategic Planning session during which it developed its vision and mission statements, identified key strategic issues and discussed general goals and objectives. The Board directed

staff to prepare a draft of the plan and submit it to each Board member prior to the April meeting so that it can be discussed, finalized and presented to the Department of Consumer Affairs by July 1, 2002.

M. Tentative Schedule of Future Meetings

The Board discussed the schedule it set at its November 2001 meeting and adjusted it as follows:

April 18-19, 2002 - Palm Desert, CA

June 21, 2002 - Sacramento, CA

September 26-27, 2002 - Los Angeles, CA

December 13, 2002 - Sacramento, CA

N. Adjournment

The meeting adjourned at 11:50 a.m. on January 18, 2002.