

**CALIFORNIA BOARD OF OCCUPATIONAL THERAPY**

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State of California  
Department of Consumer Affairs  
Arnold Schwarzenegger, Governor



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**CALIFORNIA BOARD OF OCCUPATIONAL THERAPY  
BOARD MEETING MINUTES  
November 4, 2005  
San Francisco, California**

**Board Members Present**

Luella Grangaard, President  
Mary Evert  
Hugh Smith  
Christine Wietlisbach

**Board Members Absent**

Margaret Cunningham

**Staff Present**

Heather Martin, Executive Officer  
Norine Marks, Legal Counsel  
April Freeman, Associate Governmental Program Analyst  
Jeff Hanson, Staff Services Analyst  
Marsha Gove, Office Technician

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

President Luella Grangaard called the meeting to order at 9:50 a.m. Secretary Mary Evert called the roll. A quorum of the Board was present.

**B. President's Remarks**

Ms. Grangaard introduced herself, Board members, Heather Martin, the new Executive Officer, Norine Marks, Legal Counsel, and staff. She asked guests hold their comments for the public comment session at the end of the meeting.

Ms. Grangaard announced that the Sunset Review Report was submitted to the Joint Committee on Boards, Commissions, and Consumer Protection on September 1, 2005. An article concerning Sunset Review was submitted to the Occupational Therapy Association of California (OTAC) for their newsletter. The Board was present at the OTAC conference on October 28-30, 2005, and made a presentation at the town hall meeting. The American Occupational Therapy Association (AOTA) is currently taking comments on the ACOTE standards via their website. Ms. Grangaard distributed copies of the changes that have been made thus far.

Ms. Grangaard would like the Practice Committee to meet in the near future to develop standards for the expert reviewer program.

Ms. Grangaard announced that this meeting would be Hugh Smith's last meeting and presented him with a plaque from the Board. Mr. Smith was an original public member and has provided wonderful representation and great insight on behalf of the consumers. Mr. Smith stated that he will cherish his experience because of the people he has met and the things he has accomplished.

### **C. Approval of the August 26, 2005 Board Meeting Minutes**

The Board reviewed the August 26, 2005 Board meeting minutes and made the following correction under Item H - Report from the Advanced Practice Regulatory Committee: specify that the representative from the Board of Pharmacy recommended that the Board seek an amendment to the statute which would allow occupational therapists to have prescriptions filled for *uses with iontophoresis and phonophoresis*.

- ◆ **Mary Evert moved to approve the August 26, 2005 Board Meeting Minutes as corrected.**
- ◆ **Hugh Smith seconded the motion.**
- ◆ **The motion carried unanimously.**

The Board reviewed the October 13, 2005 Board meeting minutes and made no corrections.

- ◆ **Christine Wietlisbach moved to approve the October 13, 2005 Board Meeting Minutes.**
- ◆ **Hugh Smith seconded the motion.**
- ◆ **The motion carried unanimously.**

### **D. Acceptance of the August 25, 2005 Sunset Review Committee Meeting Minutes.**

The Board reviewed the August 25, 2005 Sunset Review Committee meeting minutes and made no corrections.

- ◆ **Mary Evert moved to accept the August 25, 2005 Sunset Review Committee meeting minutes.**
- ◆ **Christine Wietlisbach seconded the motion.**
- ◆ **The motion carried unanimously.**

### **E. Executive Officer's Report**

#### **1. Legislation Update**

April Freeman reported that Senate Bill 1111 was signed in October. This bill repeals Business & Professions Code section 2570.8.

The Board will be asking the Joint Committee on Boards, Commissions & Consumer Protection to carry the other two proposals (Retired Status and Persons Exempt from Requirements) approved by the Board on March 15, 2005 in the Sunrise Bill. These legislative proposals have not moved forward yet.

## **2. Budget Report**

Executive Officer Heather Martin explained that the increase of approximately \$56,000 in the 2005/06 budget over the 2004/05 budget is a standard 2-3% increase that the Department of Consumer Affairs factors into all boards' budgets for department pro rata, employee compensation, increases in Attorney General's costs, etc. She stated a budget change proposal that was submitted for \$25,000 for one-time move costs.

Ms. Evert asked if there is money available for out-of-state travel for the National Board for Certification in Occupational Therapy, Inc. (NBCOT) conference. Ms. Martin explained that March was the deadline for requesting out-of-state travel funds and that no special consideration was given due to the change in Executive Officers. She further explained that another board would have to give up a trip, which is unlikely. Ms. Evert asked if a person went without board reimbursement, could they "represent" the board. Ms. Martin will research this issue and make sure that a request is made in March 2006 to get approval for future AOTA and NBCOT conferences.

## **3. OTAC 29<sup>th</sup> Annual Conference**

Ms. Martin stated that three Board members and three staff members attended the 29<sup>th</sup> Annual OTAC Conference. She was sworn in as the Board's Executive Officer on Friday, October 28<sup>th</sup> and began her employment. She stated she enjoyed the experience and learned a lot.

## **4. Personnel Updates**

Ms. Martin announced that William Brown was hired to fill the Office Assistant vacancy. He is responsible for reception duties and licensing.

## **5. Other Informational Items**

The Board is currently researching different options for relocating the office. A larger office is necessary to house staff, properly store licensing and enforcement files and provide for a meeting/conference area.

The Board is establishing an expert review program and would like to begin receiving applications in January after the Practice Committee meets and sets the standards.

By mid-January, staff will have made several updates to the website.

The Sunset Review hearing is scheduled for December 6, 2005 at 9:30 a.m. Staff will make travel arrangements for any members who wish to attend.

The Department of Consumer Affairs is moving its office location, which will affect the Board during the month of December.

**F. Discussion of continuing competency audit procedures/requirements and review of revised license renewal form.**

Jeff Hanson explained that the new license renewal form will have an area for licensees to list the professional development units they have earned pursuant to the new continuing competency requirements. A sample form was provided for the Board to review, however, Mr. Hanson advised members that the form is currently undergoing many more revisions.

Ms. Evert thought the form was great but needed more space. Mr. Hanson explained that the form is designed to go through an automated processes and standards have been set concerning format that may not be able to be changed.

Ms. Grangaard indicated that she and Mr. Hanson spoke to NBCOT regarding their audit procedure and what percentage of certificate holders they audit. NBCOT has approximately 45,000 people submit professional development units and they audit approximately 700.

As of October 1, 2005, the Board has 7,448 active occupational therapists. An audit of 10% would translate to 754 continuing competency audits per year for just occupational therapists. He indicated that current staff resources might not be able to handle that number. Mr. Hanson contacted several other DCA boards. Some boards conduct a 10% audit, however, others varied between 2-5% depending on staff resources. A 5% audit of occupational therapists would translate to 31 audits per month.

Ms. Grangaard asked who conducts the audits at other Boards. Mr. Hanson explained that staff members usually perform the audits.

Ms. Marks did not think that regulations would have to set who performs the audit. She agreed that staff members should perform the audit and thought that maybe members could be involved in the beginning to review the process. Ms. Martin will have staff prepare an audit procedure for the January meeting.

**G. Discussion of the use of "HTC" as a credential**

During Sunset Review process, the Board became aware of out-of-state occupational therapists that gain advanced practice approval in hand therapy for the sole purpose of using the initials "HTC" behind their names.

The Board received correspondence from the American Occupational Therapy Association (AOTA), the Hand Therapy Certification Commission (HTCC), and the American Society of Hand Therapists (ASHT) regarding their concerns with OTs representing their advanced practice approvals as a credential.

Christine Wietlisbach discussed the HTC credential and the importance of consumers being able to differentiate between the HTC and CHT initials. She does not feel confident that consumer can tell the difference and does not want the Board to continue to allow licensees to use the HTC initials. She would like an alternative for licensees to advertise their advanced practice approval.

Ms. Marks researched the use of acronyms and prepared a legal opinion that is still being finalized. She indicated that general provisions of the Business and Professions Code prohibit licensees from engaging in misleading advertising and would subject licensees to disciplinary action for false or misleading use of the acronyms. The original intent of the acronyms was to identify that a licensee has been approved by the Board to practice in an advanced practice area(s); not intended as representation of expertise or as holding a 'credential.' If the Board wants to prohibit the use of the acronyms, the regulations will need to be amended.

Ms. Wietlisbach does not believe that the majority of occupational therapists are trying to mislead the public. Many licensees have asked the Board if they could use the acronyms and were told they could.

The Board discussed alternatives to printing the acronyms on the pocket license. The Board agreed that they do not want licensees using the "HTC" initials, however, they still feel it's important that licensees be able to show that they have been approved to practice in areas of advanced practice.

Ms. Martin will have staff research the printing options and contact DCA prior to making a decision. Depending on the options, staff will prepare draft regulatory language for review at the January meeting.

Ms. Evert recommended issuing a notice to advise licensees against using the acronym and to notify them that the Board is planning on amending the regulation. Ms. Grangaard stated that the Board should also advise licensees that misleading advertising could subject them to disciplinary action. She requested that a statement be prepared and sent to advanced practice holders. Ms. Wietlisbach felt that having a statement on the Board's website was sufficient. Ms. Martin suggested sending the advanced practice holders a specific letter, but post a general statement on the website.

The following comments were given by the public:

Mary Kasch of the Hand Therapy Certification Commission believes that the use of the word "certified" is very confusing. A "CHT" is very close to "HTC." She doesn't think that anyone is making a distinction between the two. The Board chose poorly in using

the word "certification" in developing the regulations. She felt the board's intent was to show competency, and to use the word "certified" muddies the water. There is no test and no standards for advanced practice approval. She believes the Board is at risk if an advanced practice holder endangers someone. She stated physicians are confused and public does not know the difference.

Kim Morgan, OT, was told by the Board that she could use the "HTC" initials. She has spent \$2,000 in marketing her own business and has six employees. She has never tried to portray herself as a "CHT." She's just trying to make a living and run her business in a small town. She needs something to advertise herself and her skills. She added that for insurance reimbursement, certification is important.

Linda DeMeo, OT, was told she could use the acronym. She thinks it's being used because people who have been practicing hand therapy for a long time, but have chosen not to become "CHTs". She wants to continue to provide services, but doesn't believe consumers even know what a hand therapist or an OT is for that matter.

Ms. Evert believes that if the Board is going to have some type of advanced practice certification, then licensees must be allowed to use it in marketing. Ms. Grangaard recommended deleting the word certification from the regulations and explained it was not the Board's intent to recognize this as a specialty area.

Ms. Grangaard directed staff to research developing regulations to prohibit use of the initials, remove "certification" from the advanced practice regulatory language, development a statement for the website and for staff to use to respond to telephone calls, and respond to the letters submitted by AOTA, ASHT and HTCC.

#### **H. Report from the Advanced Practice Regulatory Committee**

Ms. Wietlisbach stated that the Committee reviewed the draft regulatory language for application of topical medications. She recommended that the Board accept the language with the amendments that specify the medication would be applied through the use of iontophoresis or phonophoresis.

Steven Hartzell from the Physical Therapy Board thinks the changes are good.

- ◆ **Mary Evert moved to accept the language as amended by the Committee including the following additional amendments: (1) insert "for use with iontophoresis and phonophoresis" in subsections (a) and (b); and, (2) remove the word "certification" from subsection (a).**
- ◆ **Christine Wietlisbach seconded the motion.**
- ◆ **The motion carried unanimously.**

Mr. Hartzell asked if occupational therapy assistants (OTA) could apply topical medications. Ms. Wietlisbach clarified that an OTA can apply topical medication under the appropriate supervision of an occupational therapist. Ms. Wietlisbach directed staff

to work with legal counsel to ensure that OTAs can administer topical medication under the appropriate supervision of an OT.

The Board discussed the ramification of submitting this language as an emergency regulation.

- ◆ **Christine Wietlisbach moved to submit this language as an emergency regulation.**
- ◆ **The motion was not seconded.**
- ◆ **The motion failed.**
  
- ◆ **Christine Wietlisbach moved to notice the language as amended and set for hearing.**
- ◆ **Hugh Smith seconded the motion.**
- ◆ **The motion carried unanimously.**

Ms. Wietlisbach reported that the Committee discussed the intent of the term "post-professional" and the meaning of "beyond ACOTE standards." It is not clear whether ACOTE standards refer to course content, number of hours, or both. She reported that the Committee was at an impasse and moved to bring the issue to the Board to discuss options and set policy. It is very important that the Advanced Practice Certification Review Committee know what can and cannot be counted towards contact education and on-the-job training when reviewing advanced practice applications.

- ◆ **Luella Grangaard moved to set a policy that advanced practice applicants must demonstrate that coursework meets the portfolio requirements regardless of the nature of the course.**
- ◆ **Mary Evert seconded the motion for purpose of discussion.**
- ◆ **The motion was rescinded.**

Ms. Grangaard directed staff to have portfolios reviewed interpreting the meaning of "beyond ACOTE standards" as course content only and develop a statement to this effect.

Mr. Hartzell clarified that the intent of the regulation was for occupational therapists to have appropriate training regardless of where it was obtained.

Ms. Marks clarified that members wanted portfolios to be reviewed using the meaning of "post-professional" as beyond ACOTE "course content" standards. The Board clarified that courses will only be accepted in their entirety.

Ms. Evert suggested that the Board research amending definition of post-professional in the future. Staff was directed to research changing section 4150(b) of the California Code of Regulations to reflect the correct definition of post-profession.

**I. Discussion of agenda items for the next Board meeting**

The following topics were brought forward for discussion at future Board meetings:

1. NBCOT Practice Analysis
2. Support for OTAC's effort to change occupational therapy assistants' status from certified to licensed
3. Issues affecting geriatrics
4. Regulations on topical medications and advanced practice
5. Discussion of HTC initials
6. Letters to AOTA/ASHA/HTCC
7. Report on Sunset Review
8. Continuing competency audit procedures
9. Revised renewal form
10. Research definition of "post-professional"
11. Due date for next occupational therapy analysis

**J. Schedule of future meetings**

The following dates and locations were selected for the 2006 meetings.

January 26, 2006 - Los Angeles  
March 30, 2006 - Sacramento  
June 22, 2006 - Bay Area  
September 21, 2006 - San Diego  
November 2, 2006 - Sacramento

**K. Public comment session**

No public comments.

**L. Closed session pursuant to Government Code section 11126(c)(3) to deliberate on disciplinary decisions**

The Board convened in closed session to deliberate on disciplinary decisions.

**M. Adjournment**

The meeting adjourned at 12:20 p.m.