



BOARD OF OCCUPATIONAL THERAPY

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**CALIFORNIA BOARD OF OCCUPATIONAL THERAPY
TELECONFERENCE BOARD MEETING MINUTES**

Thursday, December 3, 2009

Board Members Present

Mary Evert, President
Nancy Michel
Bobbi Jean Tanberg
Christine Wietlisbach

Board Staff Present

Heather Martin, Executive Officer
Norine Marks, Legal Counsel
Jeff Hanson, Analyst

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

At 9:15 a.m. President Evert called the meeting to order. Secretary Tanberg was the sole attendee at the teleconference site and called the roll. A quorum of the Board was established.

The Board immediately entered into closed session to discuss items Q and R, excusing the public for approximately 45 minutes.

B. President's remarks.

President Evert thanked Christine Wietlisbach for coordinating various tasks with the Executive Officer while on vacation in Europe.

C. Board member updates/activities.

Christine Wietlisbach's term with the Board expires on December 31, 2009. A plaque thanking and acknowledging Ms. Wietlisbach's nine years of service on the Board was presented at the end of the meeting.

Bobbi Jean Tanberg reported a public meeting has been scheduled at 5:00 p.m. on January 7, 2010, at Rancho Los Amigos National Rehabilitation Center in Downey, California, to discuss occupational therapy assistants working in leadership, management, and supervisory positions.

D. Approval of the October 26, 2009, Board meeting minutes.

- ❖ Christine Wietlisbach moved to approve the October 26, 2009, Board Meeting Minutes with edits.
- ❖ Nancy Michel seconded the motion.

Roll call vote

Mary Evert: Aye
Nancy Michel: Aye
Bobbi Jean Tanberg: Abstain
Christine Wietlisbach: Aye

❖ Motion passed.

The Board acknowledged Mr. Spencer Walker, Senior Advisor to the Director, Department of Consumer Affairs, and out of consideration of his schedule, took agenda item N (2), Uniform Standards, out of order.

E. Update on pending regulations.

1. Title 16, Division 39, CCR Section 4100 - Definitions
2. Title 16, Division 39, CCR Section 4120 - Renewal of a license
3. Title 16, Division 39, CCR Section 4175 – Minimum Standards for Infection Control
4. Title 16, Division 39, CCR Section 4180 - Definitions

Ms. Martin referenced the Regulation Update Report contained in the meeting packet and briefed the Board on the status of pending regulations. The Board members had no questions.

F. Discussion and adoption of modified text amending Title 16, Division 39, California Code of Regulations, Section 4100, Definitions.

Status: Noticed on May 1, 2009. Two modifications to the proposed language have been noticed, the public comment periods have ended.

The proposed regulations will establish definitions for “Incompetence”, “Negligence” and “Gross Negligence” and define and identify acts and offenses that are substantially related to the practice of occupational therapy.

Ms. Tanberg noted that reference to “Certificate” could be deleted since legislation referencing occupational therapy assistants as being “Licensed” would be going into effect on January 1, 2010. It was determined the Board would pursue a section 100 filing once the regulations are adopted.

- ❖ Nancy Michel moved to adopt the proposed regulations and submit the rule making file to the Office of Administrative Law.
- ❖ Bobbi Jean Tanberg seconded the motion.
- ❖ Nancy Michel supplemented her initial motion to delegate authority to the Executive Officer and Legal Counsel to make minor non-substantive changes as might be needed in the final rulemaking process.
- ❖ Christine Wietlisbach seconded the motion.

Roll call vote

Mary Evert: Aye
Nancy Michel: Aye
Bobbi Jean Tanberg: Aye

Christine Wietlisbach: Aye

❖ Motion passed unanimously.

G. Discussion and consideration of amending Title 16, Division 39, California Code of Regulations, Section 4123, Limited Permit, and adding Section 4125, Representation.

Status of Proposed Regulation: Initial draft, has not been noticed to the public. Staff presented the proposed text to the Board to review prior to formal noticing for public comment.

The proposed regulation will require individuals seeking a Limited Permit to submit evidence that their examination results will be directed to the Board from the National Board for Certification in Occupational Therapy.

The proposed regulations will clarify and delineate professional abbreviations and titles that can be used by practitioners who maintain, and do not maintain, national certification with the National Board for Certification in Occupational Therapy (NBCOT).

A couple minor edits regarding numbering and a grammatical issue were identified.

- ❖ Bobbi Jean Tanberg moved to approve the proposed language, with edits, for noticing and setting for a hearing.
- ❖ Christine Wietlisbach seconded the motion.

Roll call vote

Mary Evert: Aye
Nancy Michel: Aye
Bobbi Jean Tanberg: Aye
Christine Wietlisbach: Aye

❖ Motion passed unanimously.

H. Discussion and consideration of amending Title 16, Division 39, California Code of Regulations, Section 4161, Continuing Competency.

Status of Proposed Regulation: Initial draft has not been noticed to the public. Staff presented the proposed text to the Board to review prior to formal noticing for public comment

The proposed amendments will clarify that 24 professional development units are required within a biennial renewal period. Current language requiring completion of 12 professional development units per year is obsolete since all practitioners have been transitioned to biennial license renewals.

The proposed amendments will clarify that coursework taken at an educational institution subsequent to licensure can be applied toward the continuing competency requirement. Current language is not consistent with the intent and spirit of the

professional development requirement in that it could be interpreted as prohibiting a practitioner from applying coursework taken toward a higher occupational therapy degree program, such as an OTD program, from applying toward the continuing competency requirement.

An edit to proposed subsection (g)(2), was identified striking reference to “an occupational therapist” to be replaced with “occupational therapy”

- ❖ Christine Wietlisbach moved to approve the proposed language, with the above noted edit, for noticing.
- ❖ Nancy Michel seconded the motion.

Roll call vote

Mary Evert:	Aye
Nancy Michel:	Aye
Bobbi Jean Tanberg:	Aye
Christine Wietlisbach:	Aye

- ❖ Motion passed unanimously.

I. Discussion and consideration of amending Title 16, Division 39, California Code of Regulations, Section 4170, Ethical Standards of Practice.

Status of Proposed Regulation: Initial draft has not been noticed to the public. Staff presented the proposed text to the Board to review prior to formal noticing for public comment.

The proposed amendment will require occupational therapy practitioners to notify clients that they are licensed and regulated by the Board of Occupational Therapy. Such notice can be provided verbally, on a business card, or other written format. The proposed regulation is being established in accordance with Business and Professions Code Sections 138 and 680.

Discussion ensued regarding technical edits that could be worked out with the Executive Officer and Legal Counsel.

- ❖ Bobbi Jean Tanberg moved to approve the proposed regulations in concept and directed staff to bring back revisions to the next meeting.
- ❖ Nancy Michel seconded the motion.

Roll call vote

Mary Evert:	Aye
Nancy Michel:	Aye
Bobbi Jean Tanberg:	Aye
Christine Wietlisbach:	Aye

- ❖ Motion passed unanimously.

J. Discussion and consideration of amending Business and Professions Code Section 2570.19 during 2010 Legislative Session.

The proposed statutory amendment would prohibit other licensed health professionals from serving as a public member on the Board.

- ❖ Christine Wietlisbach moved to seek legislation to prohibit a licensed health professional from serving as a public member on the Board.
- ❖ Nancy Michel seconded the motion.

Roll call vote

Mary Evert:	Aye
Nancy Michel:	Aye
Bobbi Jean Tanberg:	Aye
Christine Wietlisbach:	Aye

- ❖ Motion passed unanimously.

K. Consideration and adoption of Complaint Prioritization Guidelines.

Ms. Martin presented Complaint Prioritization Guidelines (hereafter “Guidelines”) that were modeled after Guidelines provided by DCA. The Guidelines have been drafted to assist enforcement staff in prioritizing its complaint case load.

After much discussion, one of the complaint categories changed from “Use of any drug or alcohol resulting in death or serious bodily injury to another,” to “Use of any drug or alcohol resulting in impaired practice, death or serious bodily injury.”

- ❖ Christine Wietlisbach moved to approve the proposed guidelines as presented, with edits as noted above.
- ❖ Nancy Michel seconded the motion.

Roll call vote

Mary Evert:	Aye
Nancy Michel:	Aye
Bobbi Jean Tanberg:	Aye
Christine Wietlisbach:	Aye

- ❖ Motion passed unanimously.

L. Discussion of specialized OT skills acquired post entry-level (e.g., wound care, lymphedema treatment, etc.) and the Board’s role in monitoring these areas.

President Evert expressed concern that some practitioners might be providing services that they do not possess the knowledge and skill to provide. Ms. Evert wants input regarding the extent the Board should play in monitoring the various specialized roles that occupational therapists fill.

Board Members decided to refer this matter to the Practice Committee for further research and to provide the Board with a recommendation.

M. Discussion of Strategic Plan assignments and 2010 priorities.

- ❖ Bobbi Jean Tanberg moved to approve the proposed Strategic Plan and assignments and 2010 priorities as presented.
- ❖ Nancy Michel seconded the motion.

Roll call vote

Mary Evert:	Aye
Nancy Michel:	Aye
Bobbi Jean Tanberg:	Aye
Christine Wietlisbach:	Aye

- ❖ Motion passed unanimously.

N. Executive Officer’s report.

1. Revenue and expenditure information.

Ms. Martin briefed the members on revenue and expenditures for the first quarter of the fiscal year. Ms. Martin mentioned that since the budget was signed so late, quite a few bills were received that had not been paid, and would be paid now. Thus, the expenditure trend would look more accurate in January or February. Board members had no questions.

2. Substance Abuse Coordination Committee (SB 1441) – Draft Standards.

Mr. Spencer Walker, Senior Advisor to the Director, Department of Consumer Affairs, read a statement from Director Brian Stiger, urging the Boards to adopt the Uniform Standards and use them when dealing with substance abusing licensees.

Ms. Martin referred the Board to the Uniform Standards, adopted by the Substance Abuse Coordination Committee on November 16th, in the meeting materials as well as an article from the Los Angeles Times, regarding the adoption of the “stricter rules for drug abusers in the health industry.” Ms. Martin remarked that all health boards will work with their Legal Counsels to determine which of the standards could be implemented immediately and which would require legislative or regulatory changes.

- ❖ Bobbi Jean Tanberg moved to direct staff to work with Legal Counsel to identify which of the Uniform Standards could be implemented immediately, which standards would require regulatory amendments, and which standards would require legislative changes, and report back to the Board.
- ❖ Christine Wietlisbach seconded the motion.

Roll call vote

Mary Evert:	Aye
Nancy Michel:	Aye
Bobbi Jean Tanberg:	Aye
Christine Wietlisbach:	Aye

- ❖ Motion passed unanimously.

3. Report on background checks for licensees.

Ms. Martin reported that the comparison Board data and data maintained by DOJ regarding the background check had not yet been completed. However, using the numbers identified to date, Ms. Martin projected that around 100 licensees would need to be fingerprinted. Ms. Martin reported that she discussed the issue with several DCA Accounting staff and thus far, had been unsuccessful in identifying a way for the Board to pay for the licensees to be fingerprinted. Ms. Martin indicated that she would continue to work with Accounting staff to see if this issue could be resolved.

4. Report on pending legislation.

Ms. Martin referred the Board to the legislative proposal amending Section 2570.18, to specify the manner in which an occupational therapist or occupational therapy assistant who earned a doctoral degree can refer to oneself. Ms. Martin indicated that the proposed language was not included in the Agenda and, therefore, the Board could not take action. However, this language would be provided in the future so that the Board could vote on it.

5. Personnel updates.

Ms. Martin reported that there had been no changes to the current staffing level, however, she anticipated hiring several limited term staff to assist with the Board's Enforcement Program. The additional staff would assist with clearing up the backlog of complaints and help the Board reach its goals of reducing investigation and prosecution timeframes.

6. Other informational items.

Ms. Martin provided an article from the Las Vegas Review Journal entitled, "California Company wants to practice telemedicine in Nevada" as an informational item. The Board members had no questions.

O. Discussion and consideration of future agenda items:

1. Discussion of occupational therapy assistants in leadership roles.
2. Discussion of emerging non-traditional/developing OT practice arenas and the fieldwork guidelines issued by the Accreditation Council on Occupational Therapy Education (ACOTE) regarding these arenas.
3. 2010 Regulatory Hearings – Advanced Practices, Limited Permit and Representation, Continuing Competency, Ethical Standards, and Disciplinary Guidelines

P. Public comment session for items not on the agenda.

A representative with the Center for Public Interest Law (CPIL) asked if Accusations filed against practitioners are posted on the CBOT web site. The Board's Executive Officer clarified that a practitioner's license record would indicate if an Accusation had been filed. However, actual images of Accusations and final Decisions are not currently displayed on the web site. The Board anticipates PDF images of Accusations and Final Decisions will be available on the web site by the end of the year.

Q. The Board will convene in CLOSED SESSION pursuant to Government Code Section 11126(c)(3) to deliberate on Disciplinary Decisions.

The Board convened in closed session from 9:17 a.m. to 9:40 to vote on three disciplinary matters.

R. The Board will convene in CLOSED SESSION pursuant to Government Code Section 11126(a)(1) for the Evaluation of the Executive Officer.

The Board convened in closed session from 9:41 a.m. to 9:50 a.m. regarding this item.

S. Return to Open Session.

At 10:00 a.m. the Board returned to open session after acting on agenda items Q and R. Agenda items B through M were discussed in the order presented.

T. Adjournment.

At approximately 12:33 p.m., the meeting adjourned.