



BOARD OF OCCUPATIONAL THERAPY

2005 Evergreen Street, Suite 2050, Sacramento, CA 95815

T: (916) 263-2294 F: (916) 263-2701

E-mail: cbot@dca.ca.gov Web: www.bot.ca.gov

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

Thursday, March 11, 2010

Board Members Present

Mary Evert, President

Nancy Michel

Bobbi Jean Tanberg

Julia Tsai

Board Staff Present

Heather Martin, Executive Officer

Norine Marks, Legal Counsel

Jeff Hanson, Analyst

A. Board member swear-in, call to order, roll call, establishment of a quorum.

Julia Tsai was sworn in as the Board's newest member. At 9:43 President Evert called the meeting to order. Secretary Tanberg called the roll. A quorum of the Board was established.

B. President's remarks.

Ms. Evert opened by thanking the administration at California State University, Dominguez Hills, for allowing the Board to use their facilities for this meeting.

Ms. Evert reported that due to state budget reductions she is considering asking Board members to forego the \$100 per day stipend members receive when attending meetings. Ms. Evert indicated that some future business items may need to be put on hold to allow staff to focus its resources on enforcement activities to protect the public, the Board's paramount priority.

Ms. Evert announces that her World Federation of Occupational Therapy delegate term would be expiring on April 1, 2010.

Ms. Evert requested Board staff to add an agenda item for "Election of Officers" to the July meeting since a vacancy for Vice-President exists as Christine Wietlisbach's term with the Board expired on December 31, 2009.

C. Board member updates/activities.

Bobbi Jean Tanberg reported she facilitated two Ad Hoc committee meetings for Occupational Therapy Assistants functioning in management and leadership roles on January 7, 2010 and February 26, 2010. The committee's report is contained in agenda H.

Nancy Michel indicated that the Enforcement Committee has not met, but anticipated a meeting would be scheduled within the next two or three months.

Ms. Evert reported she would temporarily take the lead on the Practice Committee due to the vacancy created by Ms. Wietlisbach's term expiring.

Julia Tsai introduced herself and provided her background. Ms. Tsai is a Workers Compensation defense attorney in the Los Angeles area. Ms. Tsai indicated she looks forward to learning more about the variety of services occupational therapists provide to the public.

D. Approval of the December 3, 2009, Board meeting minutes.

- ❖ Nancy Michel moved to accept the December 3, 2010, Board Meeting Minutes with minor punctuation and grammatical edits.
- ❖ Bobbi Jean Tanberg seconded the motion.
- ❖ The motion passed unanimously

E. Director's Report – *Representative from Department of Consumer Affairs*

- 1. Enforcement Reform: Consumer Protection Enforcement Initiative (CPEI)**
- 2. SB 1441 - Uniform Standards (SB 1441) Regarding Substance Abusing Healing Arts licensees**
- 3. Other Items of Interest**

Kimberly Kirchmeyer, Deputy Director of Board Relations, Department of Consumer Affairs (DCA), briefed Board Members on the CPEI which is designed to overhaul and improve the processing times of complaints and the disciplinary process. It is a systematic approach to improve enforcement processing by seeking administrative improvements, additional staffing and IT resources, and legislative changes to bolster the Board's authority. Once fully implemented, it is anticipated average enforcement processing times for the Department will be reduced from an average of 36 months to 12-18 months.

Ms. Kirchmeyer asked the Board to seek regulatory changes to implement the Uniform Standards Regarding Substance Abusing Healing Art Licensees that were recently developed by DCA's Substance Abuse Coordination Committee. The committee was chaired by Director Brian Stiger and composed of the Executive Officers of all healing arts Boards.

Ms. Kirchmeyer reported on DCA's efforts to support SB 139 to assist the Office of Statewide Health Planning and Development in developing a healthcare workforce clearing house that would collect comprehensive data and demographics on California's healthcare workforce.

F. Executive Officer's report.

1. Revenue and expenditure information.

Ms. Martin reported that in order to comply with a Governor's Executive Order S-01-10, a plan was submitted to DCA and approved by State and Consumer Services Agency (SCSA), setting forth how the Board would save 15% of its Operating Expenses and Equipment budget during Fiscal Year (FY) 2009/10. After much negotiation, SCSA approved the Board's plan to save \$69,000 rather than the full 15%, which would have meant saving nearly \$121,000. Ms. Martin informed the Board that the Executive Order would also require an additional 5% salary savings during FY 2010/11. One of the

strategies to achieve this goal will include reducing the number of Board meetings from 5-7 meetings per year to holding only three meetings per year in calendar year 2010. Ms. Martin indicated that revenue projections were on track and expenditures were coming in slightly lower than estimated and more information would be available in the July packet.

2. Enforcement Improvement Plan.

Ms. Martin referenced the Board's 2010 Enforcement Improvement Plan (EIP) and provided several highlights, including:

- Address the complaint backlog using the Complaint Prioritization Guidelines adopted in December 2009
- Send all enforcement analysts to DCA's new Enforcement Academy
- Increase drug screening frequency of current substance abusing probationers to be consistent with Substance Abuse Coordination Committee's drug screen standards
- Requested enforcement staff augmentation for FY 2010/11
- Reporting all (past and current) decisions to the National Practitioner Data Bank
- Adding links to legal documents on website for all current probationers.

The Board members had no questions.

3. Report on Strategic Plan Action Plan and assignments.

Ms. Martin reported that due to limited resources and shifting priorities, that little attention had been afforded the Board's Strategic Plan. Ms. Martin pointed out that the Board's EIP suggested that those goals and objectives outlined in the Strategic Plan that did not support CPEI be modified or delayed. Ms. Martin asked if two Board members would be willing to review the Strategic Plan and the IEP and make a recommendation at the next Board meeting. Ms. Michel and Ms. Tsai agreed to review both documents and report back at the next board meeting.

4. Report on background checks for licensees.

Ms. Martin reported that there were about 108 licensees who would need to be fingerprinted as part of their renewal process during the next 27 months. All individuals would be sent a letter advising them of this fact; those failing to do so would be sent a reminder again, approximately 60 days prior to their license expiration. Those failing to submit proof of fingerprinting would be unable to renew their license. The Board members had no questions.

5. Report on pending legislation.

Ms. Martin reported that Senate Bill 999, which would prohibit another healing arts board's licensee from serving as a public member on the Board, was still being heard in policy committees.

6. Personnel updates.

Ms. Martin reported that two additional Enforcement staff had been hired and two staff had been promoted; unfortunately, three of the four are limited appointments,

meaning that they were hired for a specific duration. Ms. Martin indicated that, if a workload need still existed next fiscal year, Ms. Martin would attempt to bring these folks on permanently through the budget process. The Board members had no questions.

7. Bagley-Keene Open Meeting Act Amendment Update.

Ms. Martin referenced a memo from Doreathea Johnson, Deputy Director Legal Affairs regarding a change to the Bagley-Keene Open Meeting Act. The Board members had no questions.

8. Other informational items.

Ms. Martin referenced a memo from DCA Director Brian Stiger encouraging Boards to amend their citation and fine regulations to increase the maximum fine amounts in order to maximize the use of this existing enforcement tool. Ms. Martin indicated that she would bring proposed language to amend the citation and fine regulations to the July Board meeting. The Board members had no questions.

G. Power Point Presentation by Tammy Richmond, MS, OTR/L, Occupational Therapy Opportunities in Telemedicine.

Ms. Richman provided a power point presentation and answered questions regarding telemedicine. Ms. Richman asked the Board to consider pursuing legislation or regulations to develop standards relating to the delivery of occupational therapy services by telecommunication.

H. Report from ad hoc committee regarding occupational therapy assistants in a variety of roles (e.g., supervisory, management, leadership, etc.) and the OTAs role in emerging and non-traditional practice areas.

Bobbi Jean Tanberg reported the ad hoc committee's recommendation is to implement amendments to the California Code of Regulations to establish a definition for "Clinical Supervision" which will incorporate the American Occupational Therapy Association's (AOTA) Standards of Practice for Occupational Therapy, and require a written supervision plan when an assistant functions in an administrative role relating to therapy services.

Ms. Tanberg introduced the committee's proposed regulatory changes which were provided in the Board Meeting Agenda packet. Norine Marks, legal counsel, suggested that the language may need tweaking to focus more on practitioners as opposed to a business entity or organization.

- ❖ Bobbi Jean Tanberg moved for the Board to accept the report and requested the Executive Officer and Legal Counsel to develop language to propose regulatory changes.
- ❖ Nancy Michel seconded the motion.
- ❖ The motion passed unanimously

The Board adjourned for a lunch break at 12:25 p.m. and returned at 12:50 p.m. for open session.

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

This agenda item was moved to the end of the meeting. Due to time and travel constraints it was decided to defer taking action on this matter until the next meeting.

J. Consideration and adoption of proposed regulatory language amend Sections 4150-Definitions; 4151-Hand Therapy; 4152.1-Use of Topical Medications; 4153-Swallowing Assessment, Evaluation or Intervention; 4154-Post Professional Education and Training; and 4155-Application for Approval in Advanced Practice Areas.

Discussion ensued with Shawn Phipps, President of the Occupational Therapy Association of California, regarding the purpose and intent of the word “business” in section 4154(b)(3). The purpose and intent of the proposed language is to identify relationships that could interfere with effective supervision of a practitioner gaining experience toward the advanced practice requirement. As a result of the discussion a decision was rendered to modify the text to clarify the word “business” is not meant to be interpreted as employment.

- ❖ Nancy Michel moved to approve the proposed regulations with a modification to clarify that “business” is not meant to be interpreted as employment in proposed Section 4154(b)(3) and notice the modification for a fifteen (15) day comment period.
- ❖ Bobbi Jean Tanberg seconded the motion.
- ❖ The motion passed unanimously

K. Regulations Update

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 referred Board Members to the Regulation Update Report contained in the Board Meeting packet. Board Members had no questions.

L. Legislation Update.

1. Report on 2010 legislation proposals and status of legislative concepts
2. Review Assembly Bill 416 and Senate Bills 999 and 111 and discussion of Board’s position(s).
3. Any other bills of interest to the Board.

Ms Martin reported the agenda contains a typographical error, the reference to Senate Bill (SB) 111 was incorrect and should have been referenced as SB 1111. Ms. Martin indicated that SB 1111 was DCA-sponsored bill to provide additional authority to the Boards to support the CPEI.

M. Enforcement data and reports.

Ms. Martin referred Board Members to the enforcement data reports contained in the Board Meeting packet. Board Members had no questions.

N. Discussion and consideration of future agenda items:

Regulatory Best Practices - July 27, 2010 – Sacramento Convention Center, Sacramento
Tentative meeting date: July 28, 2010 – Department of Consumer Affairs, Sacramento

- Report from Enforcement Committee regarding amending the Board's Disciplinary Guidelines and Uniform Standards.
- Report from ad hoc committee regarding occupational therapy assistants in various roles
- Report from ad hoc committee regarding occupational therapy assistants in emerging and non-traditional practice areas.
- Consideration and adoption of proposed regulatory language amending Section 4123, Limited Permit, and adding section 4125, Representation.
- Consider proposed language to amend CCR Section 4161, Continuing Competency.
- Consider proposed language to add new section to require a Notification to Consumers.
- Election of Officers

Tentative meeting date: November 4, 2010 – University of St. Augustine, San Marcos

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

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

There were no public comments pertaining to items not on the agenda.

P. 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 at approximately 2:40 p.m. to deliberate on five (5) disciplinary cases.

Q. Return to Open Session.

The Board returned to open session at approximately 3:19 p.m.

R. Adjournment.

At approximately 3:20 p.m. the Board Meeting adjourned.