APPROVAL OF THE AMENDED FEBRUARY 6, 2014, BOARD MEETING MINUTES.

The amended meeting minutes are attached for review.

STATE OF CALIFORNIA
dca
DEPARTMENT OF CONSUMER AFFAIRS

BUSINESS, CONSUMER SERVICES, AND HOUSING AGENCY • GOVERNOR EDMUND G. BROWN JR.
CALIFORNIA BOARD OF OCCUPATIONAL THERAPY
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CALIFORNIA BOARD OF OCCUPATIONAL THERAPY
BOARD MEETING MINUTES

Thursday, February 6, 2014

Board Member(s) Present
Linda Florey, Secretary
Nancy Michel
Denise Miller, President
Sharon Pavlovich

Board Staff Present
Heather Martin, Executive Officer
Norine Marks, Legal Counsel
Kyle Muteff, Legal Counsel
Jeff Hanson, Program Analyst
Jody Quesada, Office Technician

9:00 a.m. – Board Meeting

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

   President, Denise Miller called the meeting to order at 9:38 am. Secretary Linda Florey called roll, Vice President, Kathay Lovell and Jeff Ferro were absent; a quorum was established.

2. **President's remarks (D. Miller)**

   President, Denise Miller announced the appointment of new board member, Jeff Ferro. Ms. Miller acknowledged that the Executive Officer's review was completed and that the Board members are very fortunate and happy that Heather Martin will continue in the capacity of Executive Officer.

3. **Board member updates/activities.**

   Nancy Michel congratulated the newly appointed President, Denise Miller, and expressed her happiness to pass on the presidency.

   Denise Miller reported the untimely passing of Laura Stewart and Terry Olivas-De La O. President Miller extended her thoughts and prayers to their families.

   Secretary, Linda Florey commented on the work that she and Denise Miller are doing on the subject of dealing with the medical records connected to facilities that have gone out of business. Ms. Florey stated that this topic will be on the agenda of the next Board meeting.

4. **Approval of the November 7, 2013, Board meeting minutes.**

   Legal Counsel, Kyle Muteff suggested that page 1, item 2, final paragraph, be changed to "...a quorum was maintained."

Mr. Muteff also suggested that page 7, section 15, final paragraph be changed to "...to discuss the evaluation of the Executive Officer."

Discussion ensued whether there was a Closed Session at the end of the meeting to discuss other disciplinary matters; no one present was certain. Board staff indicated they would verify the matter once they returned to the office and reviewed the tapes.

- Nancy Michel moved to approve the November 7, 2013, Board meeting minutes as amended
- Linda Florey seconded the motion.

No Public Comment

The motion was adopted.

5. **Approval of the December 3, 2013, Board meeting minutes.**

- Linda Florey moved to approve the December 3, 2013, Board meeting minutes as presented.
- Sharon Pavlovich seconded the motion.

No Public Comment

The motion was adopted.

6. **Executive Officer's Report and Possible Board Action. (H. Martin)**
Operational Report
Budget Update
BreEZe Update
Other Informational Items

Executive Officer, Heather Martin reviewed her included reports and commented that this is the first time the California Board of Occupational Therapy (CBOT) has had to ask for a budget augmentation. CBOT asked for an $81, 000 augmentation to cover Attorney General (AG) and Office of Administrative Hearings (OAH) costs. Ms. Martin commented that if the augmentation is approved, CBOT would have six months of funds in reserve and in the event the augmentation is not approved all work on enforcement cases will cease until the beginning of the new fiscal year, July 1, 2014.

Ms. Martin reported that CBOT was moving down the hall from there current location.

Ms. Martin stated that CBOT is in release 2 of the BreEZe implementation and that release 2 will have more functionality than in release 1. Ms. Martin reminded the Board members that each Board and Bureau was responsible to pay for a portion of BreEZe and the amount is based on the number of licensees belonging to each Board or Bureau.

Ms. Martin reported that the implementation of listing of administrative citations and fines on the website will have to be put on hold until BreEZe is up and running; she stated that the current process of public disclosure still stands.

No Public Comment

7. **Discussion and consideration of the process and procedure of Board staff when deciding to issue administrative citations.**

Jeff Hanson reviewed the included handouts and explained the citation process.

No Public Comment

8. **Discussion and consideration of the process and procedure of the Executive Officer when deciding to initiate licensee discipline.**

Heather Martin reviewed the provided handouts and explained the discipline process.

No Public Comment

9. **Report on Pending Regulations: Title 16, Division 39, CCR Section 4128, Retired Status; CCR Section 4130, Fees; Section 4170, Ethical Standards of Practice; Section 4172, Standards of Practice for Telehealth; and Section 4101, Delegation of Certain Functions, Section 4146.5, Effective Date of Decisions, Section 4147, Disciplinary Guidelines, and Section 4147.5 Uniform Standards Related to Substance Abuse.**

Heather Martin briefed the Board members on the supplied regulation update report. Ms. Martin stated due to internal time constraints the Ethical Standards of Practice file was withdrawn and recently re-noticed.

Ms. Martin stated that the Retired Status and Fees along with Standards of Practice for Telehealth are both going into effect on April 1, 2014.

No Public Comment

10. **Consideration and adoption of proposed regulatory language to amend Title 16, CCR Section 4110, Application, Section 4112, Review of Application, Section 4120, Renewal of License or Certificate – Forms, Section 4121, Renewal of Expired License or Certificate, Application, Fees; Effective Date of Renewal, Section 4123, Limited Permit, and Section 4127, Inactive License.**

Heather Martin reviewed supplied attachments and commented that there was no public comment received during the noticing period.

Legal Counsel, Kyle Muteff reiterated his concern with the lack of consistency between the proposed regulatory language, the statute and the Department of Consumer Affairs (DCA) memo.

- Nancy Michel moved to adopt the modified text as presented.
- Linda Florey seconded the motion.

Public Comment

Guy McCormack, PhD, OTR/L, Professor at Samuel Merritt University, President of the Occupational Therapy (OT) Association and an attendee on behalf of the Occupational Therapy Association of California (OTAC), questioned whether active military personnel practicing occupational therapy in the military would receive continuing education credit.

Heather Martin clarified that occupational therapists (OTs) practicing in the military can request military active status, which enables them to engage in OT practice for the military and in turn utilize continuing education and optional instruction they completed as part of the course requirements for military service toward their continuing education requirements for California licensure.

Discussion ensued amongst legal counsel and the Board members regarding the clarity of the language.

Ms. Martin agreed that this language would not be clear to the licensees and recommended the Board not adopt the language as presented and instruct the executive officer to work with legal counsel to clarify and bring new language back to the next meeting.

- Nancy Michel and Linda Florey withdrew their motion and second respectively.
- Nancy Michel moved to have the language revisited by the executive officer and legal counsel and brought back to the next meeting.
- Sharon Pavlovich seconded the motion.

The motion was adopted.

11. Consideration and adoption of proposed regulatory language to amend Title 16, CCR Section 4151, Hand Therapy and Section 4152, Physical Agent Modalities.

Heather Martin briefed Board members on the proposed language and the public comments received during the noticing period.

Ms. Martin commented that although AOTA is not opposed to the proposed amendments They did offer alternative suggestions to ease the burden on advanced practice applicants.

Public Comment

Dr. Guy McCormack stated that OTAC is in agreement with the letter submitted by AOTA and that OTAC believes certified hand therapists have the education and skills to be qualified to use physical agent modalities (PAMs). Dr. McCormack stated that entry level Master's students meet and exceed the Accreditation Council for Occupational Therapy Education (ACOTE) standards for PAMs.

- Linda Florey moved to adopt as noticed.
- Nancy Michel seconded the motion.

Public Comment

Dr. Guy McCormack reiterated that AOTA and OTAC are in favor of Certified Hand Therapists (CHTs) being allowed to use physical agent modalities PAMs without taking additional post-professional education courses but they are in opposition of the number of courses and credits that practitioners are required to take to become qualified to use PAMs.

The motion was adopted.

12. Consideration and adoption of proposed regulatory language to amend Title 16, CCR Section 4161, Continuing Competency.

Heather Martin reviewed the included attachments and stated there were no public comments received during the noticing period.

Public Comment

Dr. Guy McCormack stated that OTAC members are concerned that continuing education requirements between the National Board for Certification in Occupational Therapy (NBCOT) and the California Board of Occupational Therapy (CBOT) are not fully aligned and are difficult for students and practitioners to sort out. Dr. McCormack suggested that offering a table that covered CBOTs and NBCOTs requirements would be helpful.

- Linda Florey moved to adopt the language as noticed.
- Nancy Michel seconded the motion.

The motion was adopted.

13. Consideration and adoption of proposed regulatory language to amend Title 16, CCR Section 4170, Ethical Standards of Practice.

Heather Martin reviewed included attachments and the included public comment submitted by OTAC outlining their concern about the extensive detail related to reporting, competency and appropriate patient care services.

Ms. Martin asked the Board members to develop a subcommittee to bolster regarding patient harm. President, Denise Miller and Sharon Pavlovich volunteered for the subcommittee.

Legal Counsel, Norine Marks offered that the Board of Psychology has a two year timeframe in place.

Public Comment

Dr. Guy McCormack stated OTAC members are concerned about the proposed regulation's informed consent, whistleblowing requirement, and the length of time required before establishing a personal relationship with a client.

President Miller addressed Dr. McCormack's final concern by reiterating that the actual work on this language was done comparably to other boards and bureaus. Ms. Miller stated that the newly established subcommittee will take all Dr. McCormack's good points into consideration.

- Linda Florey moved to direct the sub committee to work on the regulation.
- Nancy Michel seconded the motion.

No public comment

The motion was adopted.

14. Enforcement data and reports for the period October 1 – December 30, 2013.

Jeff Hanson reviewed the attached enforcement reports and stated that the Board's two oldest complaints have been completed since the printing of the report.

No Public Comment

15. Proposed Agenda Items for May 22, 2014, meeting.

1. What to do with patient records after a business has closed.
2. Proposed language for CCR Section 4170
3. Military language regarding renewal waiver and expedited application for spouse.

16. Public Comment Session for items not on agenda.

Dr. Guy McCormack stated that CBOT's font on the biennial renewal form is too small and the printed expiration date on pocket licenses is also too small.

The Board entered into CLOSED SESSION at 12:23 pm, pursuant to Government Code Section 11126(c)(3), to discuss disciplinary matters.

The Board meeting adjourned at 12:42 pm.

APPROVAL OF THE JUNE 24, 2014, BOARD MEETING MINUTES.

The meeting minutes are attached for review.

BUSINESS, CONSUMER SERVICES, AND HOUSING AGENCY • GOVERNOR EDMUND G. BROWN JR.

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CALIFORNIA BOARD OF OCCUPATIONAL THERAPY
TELECONFERENCE MEETING MINUTES

Tuesday, June 24, 2014

Board Member(s) Present
Richard Bookwalter
Jeff Ferro
Linda Florey
Kathay Lovell
Denise Miller
Sharon Pavlovich

Board Staff Present
Heather Martin, Executive Officer
Kyle Muteff, Legal Counsel
Jeff Hanson, Program Analyst
Jody Quesada, Office Technician

9:00 am - Board Meeting

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

   The meeting was called to order at 9:17 am, Linda Florey and Nancy Michel were absent, a quorum established.

2. President's remarks.

   Board President, Denise Miller introduced the Honorable David L. Benjamin as the Administrative Law Judge to preside over the hearings. Judge David L. Benjamin opened the record at 9:22 am.

Administrative Hearings

NOVEGROD, S. - Petition for Modification of Probation Terms
STACKHOUSE, W. - Petition for Reinstatement

CLOSED SESSION, upon conclusion of each administrative hearing

The Board met in closed session pursuant to Government Code Section 11126(c)(3) to discuss the above petitions.

RESUME OPEN SESSION

The Board resumed open session at 2:34 pm, roll was called, Nancy Michel was absent, a quorum was maintained.

3. Board member updates/activities.

   Sharon Pavlovich reported that she returned from the Harvard Macy Institute where she was a presenter and is looking forward to upcoming professional conferences.

   Linda Florey reported that longtime supporter of occupational therapy and Founder of North Coast Medical, Frank Biehl passed away May 17, 2014.

   Denise Miller reported that she attended a college reunion at St. Catharine University.

4. Approval of the amended November 7, 2013, Board meeting minutes.

   - Kathay Lovell moved to approve the amended minutes
   - Linda Florey seconded the motion.

   No Public Comment

   Roll Call Vote

Richard Bookwalter	Abstain
Jeff Ferro	Abstain
Linda Florey	Aye
Kathay Lovell	Aye
Denise Miller	Aye
Sharon Pavlovich	Aye

   The motion was adopted.

5. Approval of the February 6, 2014, Board meeting minutes.

   - Kathay Lovell moved to approve the minutes with the correction of adding her to the list of 'Board Members Present'
   - Linda Florey seconded the motion.

   No Public Comment

   Roll Call Vote

Richard Bookwalter	Abstain
Jeff Ferro	Abstain
Linda Florey	Aye
Kathay Lovell	Aye
Denise Miller	Aye
Sharon Pavlovich	Aye

   The motion was adopted.

6. Approval of the May 15, 2014, Board meeting minutes.

   - Linda Florey moved to approve the minutes.
   - Richard Bookwalter seconded the motion.

   No Public Comment

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Roll Call Vote

Richard Bookwalter	Aye
Jeff Ferro	Aye
Linda Florey	Aye
Kathay Lovell	Aye
Denise Miller	Aye
Sharon Pavlovich	Aye

The motion was adopted.

7. Report on Pending Regulations: Title 16, Division 39, CCR Section 4101, Delegation of Certain Functions, Section 4146.5, Effective Dates of Decisions, Section 4147, Disciplinary Guidelines, and Section 4147.5. Uniform Standards Related to Substance Abuse; Section 4110, Application, 4112, Review of Application, 4120, Renewal of License or Certificate, 4121, Renewal of Expired License, 4123, Limited Permit, and 4127, Inactive License (prev. Section 4122); Section 4151, Hand Therapy, and Section 4152, Physical Agent Modalities; Section 4161, Continuing Competency; and 4170, Ethical Standards of Practice.

   Heather Martin reviewed the pending rulemaking files report handout. Ms. Martin also reviewed the pending regulatory amendments that are upcoming but not yet started.

8. Discussion and possible action regarding proposed legislation, including:

   a) Assembly Bill (AB)186, Professions and vacations: military spouses: temporary licenses.

   ❖ Jeff Ferro moved to support the bill if amended to include the addition of Business and Professions Code 2570.4 (d)(1) and the implementation date was to become January 1, 2017. HM review wording please
   ❖ Linda Florey seconded the motion.

   No Public Comment

   Roll Call Vote

Richard Bookwalter	Aye
Jeff Ferro	Aye
Linda Florey	Aye
Kathay Lovell	Aye
Denise Miller	Aye
Sharon Pavlovich	Aye

   The motion was adopted.

   b) AB 809 (Logue), Telehealth.

   ❖ Linda Florey moved to support the bill as presented.
   ❖ Sharon Pavlovich seconded the motion.

   No Public Comment

DRAFT

Roll Call Vote

Richard Bookwalter	Aye
Jeff Ferro	Aye
Linda Florey	Aye
Kathay Lovell	Aye
Denise Miller	Nay
Sharon Pavlovich	Aye

The motion was adopted.

c) AB 1758 (Patterson), Healing arts: initial license fees: proration.

- Richard Bookwalter moved to oppose the bill unless amended to remove the reference to Business and Professions Code 2570.16.
- Linda Florey seconded the motion.

No Public Comment

Roll Call Vote

Richard Bookwalter	Aye
Jeff Ferro	Aye
Linda Florey	Aye
Kathay Lovell	Aye
Denise Miller	Aye
Sharon Pavlovich	Aye

The motion was adopted.

d) AB 1890 (Chau), Athletic Trainers.

The Board members decided to continue watching the progression of this bill.

e) AB 2058 (Wilk), Open Meetings.

Executive Officer, Heather Martin explained to the Board members that this bill would not affect the Board because the Board already notices any meetings with more than two members present.

f) AB 2102 (Ting), Licensees: data collection.

- Denise Miller moved to support the bill if amended to include the California Board of Occupational Therapy.
- Richard Bookwalter seconded the motion.

No Public Comment

DRAFT

Roll Call Vote

Richard Bookwalter	Aye
Jeff Ferro	Aye
Linda Florey	Aye
Kathay Lovell	Aye
Denise Miller	Aye
Sharon Pavlovich	Aye

The motion was adopted.

g) AB 2165 (Patterson), Professions and vocations: licenses.

- Denise Miller moved to support the bill if amended, to strike "within 45 days" from section 101.8 (a), to add "within 45 days" at the end of the statement in section 101.8 (a)(1) and to add "within 15 days" to the end of the statement in section 101.8 (a)(2).
- Linda Florey seconded the motion.

No Public Comment

Roll Call Vote

Richard Bookwalter	Aye
Jeff Ferro	Aye
Linda Florey	Aye
Kathay Lovell	Aye
Denise Miller	Aye
Sharon Pavlovich	Aye

The motion was adopted.

h) AB 2396 (Bonta), Convictions: expungement: licenses.

The Board members decided to continue watching the progression of this bill.

i) AB 2484 (Gordon), Healing arts: telehealth.

- Jeff Ferro moved to support the bill if amended to include the language from AB 809, Section 1, 2290.5 (c).
- Sharon Pavlovich seconded the motion.

No Public Comment

Roll Call Vote

Richard Bookwalter	Aye
Jeff Ferro	Aye
Linda Florey	Aye
Kathay Lovell	Aye
Denise Miller	Aye
Sharon Pavlovich	Aye

The motion was adopted.

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j) Senate Bill (SB) 1215 (Hernandez), Healing arts licensees: referrals.

The Board members decided to continue watching the progression of this bill.

k) SB 1256 (Mitchell), Medical services: credit.

- Jeff Ferro moved to support the bill as presented.
- Denise Miller seconded the motion.

No Public Comment

Roll Call Vote

Richard Bookwalter	Aye
Jeff Ferro	Aye
Linda Florey	Aye
Kathay Lovell	No
Denise Miller	Aye
Sharon Pavlovich	Aye

The motion was adopted.

l) SB 1445 (Evans), Developmental Services: Regional Centers...Telehealth.

- Kathay Lovell moved to outline guidelines and parameters in the regional center setting.
- Kathay Lovell withdrew her motion.

President, Denise Miller proposed forming a committee to discuss and review this bill.

9. Discussion and consideration of the process and procedures of Board staff when issuing administrative citations.

Denise Miller proposed that this topic be moved to the August board meeting.

10. Enforcement data and reports for the period January 1 – March 31, 2014.

Board staff member, Jeff Hanson reviewed the included enforcement data handouts.

11. Executive Officer's Report.

a) Operational Report

Executive Officer, Heather Martin reported a surge in initial applications received and attributed this to recent graduations.

b) Budget Update

Ms. Martin reported that the Board requested and had been approved for an $81k deficiency request. The Board also requested augmentation of the licensing, enforcement staff, postage, rent, attorney general, administrative hearing and court reporter budgets in addition to establishing a budget for expert witness fees.

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Ms. Martin stated that the "retired status' application is available on-line and the $50 application fee will be charged to every applicant as of July 1, 2014.

c) BreEZe Update

Ms. Martin reported that the amount of time Board staff has and is expected to dedicate to BreEZe has been and continues to be a resource drain. Ms. Martin stated that she is optimistic that the final outcome will be successful due to the amount of time and thought put in this project.

d) Other Informational Items

Ms. Martin reviewed the provided handouts outlining the Performance Measures for the third quarter.

12. Discussion Regarding Proposed Agenda Items for August 21, 2014, meeting.

- Discussion and consideration of records retention requirement if a business is closed or sold or if the practitioner is no longer in private practice.
- Consideration and modification or adoption of proposed regulatory language to amend Title 16, CCR Section 4170, Ethical Standards of Practice.
- Discussion and consideration of the provision of services via telehealth to the clients of regional centers.
- Discussion of practice standards for occupational therapists delivering services via telehealth in regional centers and whether a committee should be formed in regards to this topic and what direction said committee should take.

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

No Public Comment

The Board convened in CLOSED SESSION at 5:34 pm, pursuant to Government Code Section 11126(c)(3) to deliberate on disciplinary matters.

14. Adjournment.

The Board meeting adjourned at 5:50 pm.

DRAFT