

## **AGENDA ITEM 3**

### **DISCUSSION AND CONSIDERATION OF PROPOSAL TO AMEND THE DEFINITION OF OCCUPATIONAL THERAPY AS SET FORTH IN BUSINESS AND PROFESSIONS CODE SECTION 2570.2; RECOMMENDATION TO FULL BOARD**

The following are attached for review:

- Board Meeting Minutes from February 18, 2016
- Copy of Business and professions Code Section 2570.2(k)
- OTAC letter dated June 30, 2016

**BOARD MEETING MINUTES AGENDA ITEM #10  
REPORT ON AD-HOC COMMITTEE (SCOPE OF PRACTICE) MEETING  
FEBRUARY 18, 2016 BOARD MEETING**

10. Discussion and possible action on Ad Hoc Committee's report and recommendation(s) on amending the definition of "occupational therapy" as set forth in Business and Professions Code (BPC) Section 2570.2.

Executive Officer Heather Martin reported that the Ad Hoc committee was tasked with looking at the definition of occupational therapy and making a recommendation to the Board whether or not to proceed with seeking a legislative amendment to BPC Section 2570.2.

Ad Hoc committee member Jeff Ferro stated that a concern was raised at the November Board meeting regarding practitioners losing the ability to treat certain types of patients (e.g., hands and behavioral health) and how the tasks mentioned fall within OT care but are being delegated to other health care providers.

Mr. Ferro said that it was the recommendation of the Ad Hoc committee not to pursue any legislative changes at this time but that the committee should continue its efforts to identify future legislative and regulatory amendments.

Public Comment

There was no public comment.

- ❖ Beata Morcos moved to accept the Ad Hoc committee's recommendations not to pursue legislative changes at this time, but to continue working to identify specific legislative amendments and explore additional opportunities for regulatory amendments on the definition of occupational therapy.
- ❖ Laura Hayth seconded the motion.

Roll Call Vote

Denise Miller	Aye
Richard Bookwalter	Aye
Sharon Pavlovich	Aye
Teresa Davies	Aye
Jeff Ferro	Aye
Laura Hayth	Aye
Beata Morcos	Aye

President Miller asked the Ad Hoc committee to meet again and develop a conclusionary statement utilizing the committee's recommendations and address the strengths of the language in the Board's Practice Act. Ms. Miller also asked that the Ad Hoc committee members consider their availability to serve on the Practice committee.

Public Comment

There was no public comment.

- ❖ Teresa Davies moved to have the Ad Hoc committee reconvene and develop a conclusion statement and solicit the committee members' participation in the Practice committee.
- ❖ Laura Hayth seconded the motion.

Public Comment

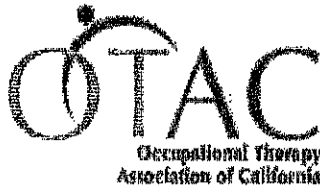
There was no public comment.

Roll Call Vote

Denise Miller	Aye
Richard Bookwalter	Aye
Sharon Pavlovich	Aye
Teresa Davies	Aye
Jeff Ferro	Aye
Laura Hayth	Aye
Beata Morcos	Aye

**Business and Professions Code section 2570.2**

(k) "Practice of occupational therapy" means the therapeutic use of purposeful and meaningful goal-directed activities (occupations) which engage the individual's body and mind in meaningful, organized, and self-directed actions that maximize independence, prevent or minimize disability, and maintain health. Occupational therapy services encompass occupational therapy assessment, treatment, education of, and consultation with, individuals who have been referred for occupational therapy services subsequent to diagnosis of disease or disorder (or who are receiving occupational therapy services as part of an Individualized Education Plan (IEP) pursuant to the federal Individuals with Disabilities Education Act (IDEA)). Occupational therapy assessment identifies performance abilities and limitations that are necessary for self-maintenance, learning, work, and other similar meaningful activities. Occupational therapy treatment is focused on developing, improving, or restoring functional daily living skills, compensating for and preventing dysfunction, or minimizing disability. Occupational therapy techniques that are used for treatment involve teaching activities of daily living (excluding speech-language skills); designing or fabricating selective temporary orthotic devices, and applying or training in the use of assistive technology or orthotic and prosthetic devices (excluding gait training). Occupational therapy consultation provides expert advice to enhance function and quality of life. Consultation or treatment may involve modification of tasks or environments to allow an individual to achieve maximum independence. Services are provided individually, in groups, or through social groups.



June 30, 2016

Ad Hoc Committee  
California Board of Occupational Therapy  
2005 Evergreen Street, Suite 2250  
Sacramento, CA 95815

**RE: Recommended Updates to Occupational Therapy Practice Act**

Dear Ad Hoc Committee,

I am writing on behalf of the Occupational Therapy Association of California (OTAC) to express our recommended amendments to the Occupational Therapy Practice Act, which will clarify the provision of mental health services by occupational therapy practitioners.

OTAC is a not-for-profit professional society representing more than 16,000 occupational therapists (OTs) and occupational therapy assistants (OTAs) throughout California. OTs and OTAs work with people of all ages experiencing physical and behavioral health conditions or disabilities to develop, improve, or restore functional daily living skills, such as caring for oneself, managing a home, achieving independence in the community, driving, or returning to work.

In previous discussions with California Board of Occupational Therapy (CBOT), OTAC has asked the Ad Hoc Committee and the board to consider regulations that are consistent with either of the following two concepts concerning an OT's role in providing mental health services:

**Concept One:**

*Occupational therapy emphasizes the provision of support and services that enable a person to carry out their everyday life activities so that they can be productive, independent, engaged and safe within their environment. Through engagement in everyday activities, occupational therapy practitioners promote mental health and support functioning in people with or at risk of experiencing a range of mental health disorders, including psychiatric, behavioral and substance abuse.*

**Concept Two:**

*Through engagement in everyday activities, occupational therapy practitioners promote mental health and support functioning in people with or at risk of experiencing a range of mental health disorders, including psychiatric, behavioral, and substance abuse.*

Because the previously scheduled Ad Hoc Committee meeting was canceled, these suggestions were not brought up for discussion. However, in subsequent conversations with the Board, we determined that CBOT likely does not have the regulatory authority to make the recommended changes, because existing statute limits the Board's authority to amend regulations affecting scope of practice. Therefore, OTAC is formally recommending that California Business and Professions Code Section 2570.20 be amended to address the authority of the Board via the Legislature's Sunset Review of CBOT in 2017. This amendment

would contain language very similar to provisions governing the authority of the Physical Therapy Board of California (B&P Code Sec. 2615), which states, "The board shall adopt those regulations as may be necessary to effectuate this chapter. In adopting regulations, the board shall comply with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code."

Accordingly, OTAC's suggested amendments to B&P Code Sec, 2570.20 granting authority to CBOT would read as follows:

(a) The board shall administer, coordinate, and enforce the provisions of this chapter, and evaluate the qualifications, ~~and approve the examinations~~ for licensure under this chapter.

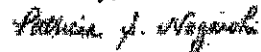
(b) The board shall adopt rules in accordance with the Administrative Procedure Act ~~relating necessary to professional conduct to carry effectuate~~ the purpose of this chapter, ~~including, but not limited to, rules relating to professional licensure and to the establishment of ethical standards of practice~~ for persons holding a license to practice occupational therapy or to assist in the practice of occupational therapy in this state.

(c) Proceedings under this chapter shall be conducted in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

As you know, OTs are among the range of qualified providers who provide therapy services to individuals with mental illnesses to help them carry out necessary tasks. OTAC believes the statutory changes outlined above will ensure OTs are able to practice to the full extent of their education and training, which is especially critical as the state works to increase access to mental health care for those in need.

If you have any questions, please contact Ivan Altamura with Capitol Advocacy at (916) 444-0400 or ialtamura@capitoladvocacy.com.

Sincerely,



Patricia S. Nagaishi, PhD, OTR/L  
OTAC President

cc: Members, California Board of Occupational Therapy