AGENDA ITEM 4

REVIEW AND VOTE ON APPROVAL OF THE MAY 19-20, 2016, BOARD MEETING MINUTES.

The Board meeting minutes are attached for review.

STATE OF CALIFORNIA
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DEPARTMENT OF CONSUMER AFFAIRS

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BOARD MEETING MINUTES

Thursday, May 19, 2016 and Friday, May 20, 2016

Board Member(s) Present
Denise Miller – President
Richard Bookwalter - Vice President
Sharon Pavlovich - Secretary
Teresa Davies
Jeff Ferro
Laura Hayth
Beata Morcos

Board Staff Present
Heather Martin, Executive Officer
Jody Quesada, Staff Services Analyst
Jeff Hanson, Enforcement Coordinator
Ileana Butu, Legal Counsel

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Thursday, May 19, 2016
10:00 am - Board Meeting
(Presentation to University of Loma Linda students (9-10 am)

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

   The meeting was called to order at 10:12 a.m., roll was called, and a quorum was established.

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

   There was no public comment.

3. Review and vote on approval of the February 18-19, 2016, Board meeting minutes.

   - Laura Hayth moved to accept the minutes with the following edits.
     - Page 3, paragraph 2, line 3 should read: "identify future legislative and regulatory amendments."
     - Page 5, paragraph 2, line 6 had a misspelled word to correct.
   - Sharon Pavlovich 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

ADMINISTRATIVE HEARING
HARRIS, DONALD - Petition for Early Termination of Probation

CLOSED SESSION

Closed session began at 11:55 a.m. and adjourned at 12:20 p.m.
The Board meeting returned to open session at 12:23 p.m and adjourned for lunch.

The Board meeting reconvened at 1:45 p.m. Board member Beata Morcos did not participate in the meeting for the rest of the day due to illness.

4. Discussion and possible action on bills of interest to the Board:

a. Assembly Bill (AB) 1715 (Holden), Behavioral Analysis: licensing.

- Jeff Ferro moved to direct Board staff to contact the author's office regarding excluded practitioners listed and clarify that occupational therapy assistants are a part of the exclusion.
- Richard Bookwalter 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

b. AB 1868 (Wagner), Regulations: legislative notice.

Executive Officer Heather Martin gave an informational overview and stated that she would watch the bill.

Public Comment
There was no public comment.

c. AB 2007 (McCarty), Youth Athletics; youth sports organizations: concussion or other head injuries.

- Richard Bookwalter moved to direct Board staff to watch this bill and report back to the Board.
- Jeff Ferro 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

d. AB 2199 (Campos), Sexual offenses against minors: person in a position of authority.

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Executive Officer Heather Martin gave an informational overview and stated that she would watch the bill.

Public Comment
There was no public comment.

e. AB 2507 (Gordon), Telehealth: access.

- Jeff Ferro moved to direct Board staff to watch this bill and report back to the Board.
- Sharon Pavlovich 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

f. AB 2701 (Jones) Department of Consumer Affairs: boards: training requirements.

Executive Officer Heather Martin gave an informational overview and stated that she would watch the bill.

g. Senate Bill (SB) 479 (Bates), Healing arts: behavioral analysis: licensing.

- Jeff Ferro moved to direct Board staff to contact the author's office regarding excluded practitioners and clarify that occupational therapy assistants are a part of the exclusion to the licensure requirement.
- Sharon Pavlovich 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

h. SB 1155 (Morrell), Professions and vocations: licenses: military service.

- Jeff Ferro moved to direct Board staff to watch this bill and report back to the Board.
- Sharon Pavlovich seconded the motion.

Public Comment
There was no public comment.

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Roll Call Vote

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

i. SB 1195 (Hill) Professions and vocations: board actions: competitive impact.

Executive Officer Heather Martin reported that this bill was currently in suspense.

j. SB 1217 (Stone), Healing arts: reporting requirements: professional liability resulting in death or personal injury.

- Jeff Ferro moved to release Board staff from reporting to the Board on this bill.
- Denise Miller 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

- Jeff Ferro moved to have Executive Officer Heather Martin prepare a table for bills that the Board is watching but have no changes, subsequently only reporting on bills with changes or updates during her Board meeting report.
- Richard Bookwalter 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

5. Consideration and possible action related to proposed regulatory language to amend Title 16, CCR Section 4130, Fees.

This agenda item was addressed out of order during Day 1 proceedings in order to accommodate public comment.

Executive Officer Heather Martin reported that the public comment period for this proposed regulatory language closed on May 9, 2016. Ms. Martin scheduled and attended hearings at

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five locations throughout California in order to offer interested parties an opportunity to weigh in on the proposed language.

Ms. Martin reviewed the fund conditions and charts supplied in the meeting materials.

Teresa Davies asked Ms. Martin if during her outreach meetings she provided context to the public regarding the fees being changed; outlining that the last change was actually a fee reduction and that the proposed increase is incremental when you take in to consideration that previously the fees were $150 every year. Ms. Martin confirmed that she did report this information during her outreach.

Vice President Richard Bookwalter stated that he was surprised and disappointed at the letter sent by the Occupational Therapy Association of California (OTAC), requesting a review of the Board's budget and other information which led to this proposed increase. Mr. Bookwalter stated that this information has been in the meeting materials and was offered at all five of the hearings held by Executive Officer Heather Martin and OTAC did not attend any of them.

Jeff Ferro stated that increasing the minimum education level to become an occupational therapist from the Master's level to the Doctorate level will keep more people out of the profession than a small fee increase. Mr. Ferro stated that the reality of this situation is that this fee increase is what will strengthen the Board and the profession.

Board President Denise Miller expressed that her original concerns in raising fees were due in part to the public relations issues that would ensue. Ms. Miller stated that after reading the data prepared and made available at the five hearing locations, she no longer had concerns and it was clear that the Board should proceed with raising the fees.

Board Secretary Sharon Pavlovich thanked Ms. Martin for all her time and effort. The remaining Board members concurred.

Public Comment and Board responses to comments received during regulatory hearings.

April 19, 2016

Comment #1 – Occupational Therapy Assistants should pay the same amount as Occupational Therapists
The Board rejected this comment. The Board stated they appreciated the point of view but recognized the wage disparity between OTs and OTAs.
Comment #2 – No separate limited permit fee, just a large one-time fee.
The Board rejected this comment.
Comment #3 – Increasing the delinquent renewal fee.
The Board rejected this comment. The Board appreciated the input but felt the proposed delinquent fee is sufficient as the it is intended to be disincentive to renew late, but isn't a reliable source of revenue.
Comment #4 – Implementing probation monitoring fees.
The Board rejected this comment because it would require a legislative proposal. The Board asked Executive Officer, Heather Martin to bring back what other Boards do.
Comment #5 – Support for raising the fees.
The Board accepted this comment.

April 20, 2016

No comments were received.

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April 26, 2016

No comments were received.

April 29, 2016

Comment #1 – Support for raising the fees.
The Board accepted this comment.

May 14, 2016

No comments were received.

Board responses to Written Public Comments received during Public Comment period.

March 26, 2016

Comment #1 – Recommend an increase of $25-30 for the next three renewal periods.
The Board rejected this comment.

Public Comment

Judi Palladino, spoke on behalf of OTAC and stated she understood the Board's concern regarding the lack of participation in the hearings. Nonetheless she was asked to deliver the written concern submitted by OTAC and their wish for consideration of an incremental fee increase.

Jeff Ferro stated that if future research reflects that the Board will still not be fiscally solvent, there may be a second fee increase. Mr. Ferro reported that the current proposal was a compromise from a higher proposal.

Executive Officer Heather Martin stated that she sent an email response to OTAC representatives outlining the budget details that support the need for a fee increase.

Board Legal Counsel Ileana Butu reported that the proposed delinquent fee and active renewal fees are acceptable; however, there is a specific provision in the Business and Professions code that pertains to all Healing Arts boards requiring the inactive fee must be equivalent to the active fee. Ms. Butu recommended the Board implement this change.

Ms. Martin suggested a teleconference meeting be scheduled for July so that she could bring proposals including this new information regarding the inactive fee increase and how it pertains to the fee increase proposals as well as updates to the legislation the Board directed staff to watch. The Board members agreed with Ms. Martin's teleconference proposal.

Board responses to written public comments received from OTAC and AOTA.

The Board rejected both comments and directed Ms. Martin to respond to OTAC and AOTA, advising that the data supporting the need for a fee increase was made available at regulatory hearings outreach scheduled throughout the state and in Board meeting materials made public on the Boards' website and advise OTAC that their comments were received after the public comment period closed. The Board asked that Ms. Martin also mentioned the growing OT/OTA licensing population which in turn leads to a growing need for increased enforcement efforts and funds.

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- Jeff Ferro moved to accept the comments that the Board unanimously agreed to accept and to reject the comments that the Board unanimously agreed to reject.
- Sharon Pavlovich seconded the motion.

Public Comment
There was no additional public comment.

Roll Call Vote

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

- Richard Bookwalter moved to have a teleconference meeting in July to review the fund condition, corresponding financial information and two financial scenarios for consideration that will include the increase of the inactive fee to match the active fee.
- 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

6. Update and take action, if necessary, on pending Rulemaking files, California Code of Regulations, Title 16, Division 39:
   - Section 4110, Application;
   - Section 4151, Hand Therapy, and Section 4152, Physical Agent Modalities;
   - Section 4170, Ethical Standards of Practice.

   Executive Officer Heather Martin gave an informational overview of the pending regulations and where they are at in the 'process' as outlined in the meeting materials.

7. Discussion and possible action on establishing policy to limit the amount of time past discipline is disclosed as public information available on the individual's licensing record.

   Agenda Item 7 was addressed following agenda item 8.

   Legal Counsel Ileana Butu reviewed the 2010 memorandum from Director, Brian Stiger regarding "Web Site Posting of Accusations and Disciplinary Actions".

   Ms. Butu suggested either posting Accusations and Disciplinary Actions indefinitely or imposing a time limit. Ms. Butu stated that the Board should be ready to discuss consumer protection as the platform or reason.

   Vice President Richard Bookwalter said that it would be difficult to impose the time limits and make time based decisions.

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Teresa Davies said that unless there is a clear reason to deviate from the memorandum, the Board should leave it alone.

- Richard Bookwalter moved to not make any changes that would be contrary to the May 21, 2010, memo regarding indefinite "Web Site Posting of Accusations and Disciplinary Actions".
- Teresa Davies 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

8. Update from Board's legal counsel regarding gender identification on application for licensure.

Legal Counsel Ileana Butu researched the gender identification issue and reported to the Board that Board staff can amend the licensure application. Ms. Butu recommended the Board make a Section 100 change to make gender reporting optional.

Board staff initiated discussion as to whether or not changing the application in the new BreEZe system would be technically possible.

- Richard Bookwalter moved to direct Board staff to bring information to the next meeting regarding Section 100 changes, Versa Online (VO) and Versa Regulation (VR) requirements for electronic applications and paper applications.
- Teresa Davies 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

9. Meeting adjournment for the day.

The meeting adjourned at 5:10 p.m.

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Friday, May 20, 2016
9:00 am - Board Meeting

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

   The meeting was called to order at 9:06 a.m., roll was called, all Board members were present. A quorum was established

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

   There were no public comments.

3. Review of 2016-2019 Strategic Plan and discussion and possible action on draft Action Plan to implement the Strategic Plan.

   Executive Officer Heather Martin outlined the Strategic Plan and possible Action Plan. Ms. Martin stated Board staff's involvement and expressed a need for Board member input regarding Action Plan timeframes and proposed due dates.

   Legal Counsel Ileana Butu reviewed technical, non-substantive changes that she suggested should be made to the 2016-2019 Strategic Plan.

   President Denise Miller and Vice President Richard Bookwalter thanked Ms. Martin and Board staff for the work on the proposed Action Plan and asked Ms. Martin to extend their appreciation to the Solid Team for all the hard work and effort they put forth in the Strategic Planning sessions. Ms. Miller and Mr. Bookwalter commented that it was the best Strategic Planning session they have ever attended.

   - Richard Bookwalter moved to approve the proposed Action Plan.
   - Beata Morcos 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

4. Discussion and possible action on development of proposed national policy regarding license portability (ease for inter-state movement by practitioners).

   Executive Officer Heather Martin briefed the Board on the included materials.

   Vice President Richard Bookwalter commented that there was a lot of work to be done regarding license portability and that this is more of an informational item at this point.

   President Denise Miller commented that the Board does not have information that came out of the National Board for Certification in Occupational Therapy (NBCOT) May 2016,

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conference/meeting regarding this issue and asked Ms. Martin to include it in the agenda for the August meeting.

Public Comment
There was no public comment.

5. Enforcement data and reports for the quarter ending March 31, 2016.

Agenda Item 5 was addressed on Day 1.

Jeff Hanson reviewed the standard enforcement statistical report provided and stated that closing complaints is a priority for enforcement staff.

Executive Officer Heather Martin reported that we currently have 492 open complaints and the numbers continue to increase. Ms. Martin stated that a lack of resources was directly related to the large number of cases.

Public Comment
There was no public comment.

6. Executive Officer's Report.

Agenda Item 6 was addressed on Day 1.

a. Operational Report

Ms. Martin reported that the Board recently filled a vacancy in the Licensing department and she hoped to fill the Enforcement vacancy by June 1st. Ms. Martin stated that there would be phases of hiring to include three staff services analyst (SSAs) positions, two associate governmental program analysts (AGPAs) in enforcement, one and one-half office technicians (OTs) in licensing as well as reclassification of one analyst position to a manager position.

b. Budget Update

Ms. Martin reported that the Board collected $1.1M in revenue and spent $967k, or approximately 67% of the $1.4M budget.

c. BreEZe Update

Ms. Martin reported that the Board has successfully transitioned to BreEZe and as more people become familiar with the system, more applicants and licensees are submitting transactions on-line.

d. Future Agenda Items

1. Ad hoc committee's recommendation regarding possible amendments to the definition of "occupational therapy" as set forth in Business and Professions Code Section 2670.2.
2. Ad hoc committee's recommendation regarding occupational therapists performing the physically invasive components of a swallowing evaluation.
3. Discussion and possible action on license portability (ease for inter-state movement by practitioners).
4. Development/review of Sunset Review report.

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5. Practice Committee's recommendation on records retention requirement for an occupational therapy business that closes or is sold or if the practitioner is no longer in private practice.
6. Review/update of Board Member Administrative Manual.
7. Review/update of Board Member Disciplinary Resource Manual.
8. Review/update of Board's Disciplinary Guidelines

e. Other Informational Items – No Board discussion or action

Ms. Martin stated that Draft Sunset Report questions from 2015 were included as an attachment so the Board members would have an idea of what questions would be asked. Ms. Martin also provided that Board Member Orientation training dates for 2016 and advised that all sessions will be held in Sacramento.

Public Comment
There was no public comment.

7. Suggested agenda items for a future meeting.

Executive Officer Heather Martin summarized the items listed under Agenda Item 6(d) "Future Agenda Items" of her report and stated that she would maintain the list of future agenda items in her report on-going.

Public Comment
There was no public comment.

8. The Board will convene in Closed Session pursuant to Government Code Section 11126(c)(3) to deliberate and vote on disciplinary matters.

Closed session began at 9:37 a.m. and adjourned at 10:04 a.m.
The Board meeting returned to open session at 10:05 a.m.

9. **ADJOURNMENT**

The Board meeting adjourned at 10:05 a.m.

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