

## AGENDA ITEM 4

### **PUBLIC COMMENT SESSION FOR ITEMS NOT ON THE AGENDA.**

*Please note: The Board may not discuss or take action on any matter raised during this public comment section, except to decide whether to place the matter on the agenda of a future meeting [Government Code Sections 11125 and 11125.7(a)]*

To The California Board of Occupational Therapy:

I am a pediatric occupational therapist in San Francisco (California OT License # 2476). I have been in private practice for 18 years, though I was also employed by California Pacific Medical Center for the first 7 of those years.

Throughout my OT career, my business has been structured as a Sole Proprietorship. This year, I researched converting it into a C-Corp or an S-Corp for tax purposes. I learned that there are two primary types of corporations – professional and traditional corporations. To form a professional corporation, a business owner must receive a Certificate of Registration from the licensing board of that state. I also learned that OTAC does not currently provide Certificates of Registration.

While it is possible to form a traditional corporation as an occupational therapist, it is not legal to collect fees for services as a traditional corporation because a traditional corporation cannot practice occupational therapy.

Thus, under the current guidelines, private practitioners and consulting OTs are in a catch 22. We cannot form professional corporations because we cannot obtain Certificates of Registration as required by the Moscone-Knox Professional Corporations Act, and we cannot form traditional corporations and continue to do the work that we do.

This did not seem a big issue until the federal tax laws changed. It has become significant now that we, as Californians, have a limited ability to itemize our deductions. Altering the business structure to take advantage of the corporate tax laws would allow OTs not so much to benefit from the new system, as to counter the losses that California is experiencing.

I am writing in the hopes that OTAC will begin to provide Certificates of Registration to licensed OTs so that we too can form professional corporations. This would make the business side of our work much more streamlined. All other professionals, both in allied health and in the general professions (e.g., barbers) receive these from their licensing board. I realize that it would take an act of the legislature to change the OT bylaws. My understanding is that CBOT could issue these letters in the absence to a change in the laws.

I would be happy to speak to this concern at the next board meeting needed. I would like the question of Certificates of Registration to be included as a Public Comment at the Board Meeting on 2/8-2/9, unless it could be taken care of administratively without this. I believe it is a relatively small issue to fix, but an essential one to those of us practicing in the field.

Thank you for your consideration. I look forward to hearing about the next steps.

Respectfully,

Lindy Joffe, OTR/L  
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## **AGENDA ITEM 5**

### **REVIEW AND APPROVE OCTOBER 18-19, 2018, BOARD MEETING MINUTES.**

The meeting minutes are attached for review.



**BOARD MEETING MINUTES  
SACRAMENTO – HYATT REGENCY**

**Wednesday, October 18, 2017**

**Thursday, October 19, 2017**

Board Member(s) Present

Denise Miller – President  
Richard Bookwalter – Vice President  
Sharon Pavlovich – Secretary  
Teresa Davies  
Jeff Ferro  
Laura Hayth

Board Staff Present

Heather Martin, Executive Officer  
Jeff Hanson, Enforcement Coordinator  
Jody Quesada, Analyst  
Norine Marks, Legal Counsel

**Wednesday, October 18, 2017**

**9:15 am - Board Meeting**

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

The meeting was called to order at 9:40 a.m., roll was called, Beata Morcos was absent. A quorum was established.

2. President's Remarks – Informational only; no Board Action to be taken.

President Denise Miller introduced Board staff that were in attendance and thanked them for their hard work and dedication.

President Miller offered any public member in attendance the opportunity to introduce themselves at will.

Chuck Wilmarth, Heather Kitching and Lora Woo introduced themselves.

3. Administrative Hearings

9:30 am COX, Susan - Petition for Reinstatement

10:00 am JOHNSON, Kristine - Petition for Reinstatement

Upon submission of the above petitions, the Board went into closed session.

4. CLOSED SESSION

➤ The Board convened in Closed Session pursuant to Government Code Section 11126(c)(3) to deliberate and vote on the above petitions and other disciplinary matters.

OPEN SESSION RECONVENED AT 2:12 p.m.

5. Board Member Remarks – Informational only; no Board Action to be taken.

Jeff Ferro announced his appointment to the Cannabis Advisory Board.

The remaining Board members did not report anything.

President Miller offered any member of the public audience the opportunity to introduce themselves at will.

Sabrena McCarley, Ivan Altamura, Jose Alvarado, and Pat Nagaishi, chose to do so.

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

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Ivan Altamura on behalf of the Occupational Therapy Association of California (OTAC) and the American Occupational Therapy Association (AOTA) stated that both associations have been considering proposing changes to the OT Practice Act and that OTAC and AOTA would love to work with the Board on this topic and would appreciate the Board's support.

Jose Alvarado of SEIU-UHW stated that he was in attendance to reach out to healthcare boards regarding AB 387 Minimum wage: health professionals: interns.

7. Review and approval of the August 17-18, 2017, Board meeting minutes.

- Richard Bookwalter moved to accept the minutes as presented and allow the Executive Officer to make any technical, non-substantive changes.
- Laura Hayth seconded the motion.

Public Comment

There was no public comment.

**Roll Call Vote**

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

8. President's Report on the Sunset Review process and review of Assembly Bill 1706 (Committee on Business and Professions), extending Board's Sunset date and Senate Bill 547 (Hill), implementing Sunset legislative proposal(s).

President Denise Miller reported AB 1706 and SB 547 have been filed with the Secretary of State and chaptered into law.

Ms. Miller thanked Board staff, Board members and all individuals who participated in the Sunset Review process and/or attended the hearing. Ms. Miller stated that due to the worthwhile work of all involved, the Board's regulatory authority has been extended to the year 2022.

### Public Comment

Heather Kitching, OTAC President stated on behalf of OTAC that she was honored to be involved and happy the Board is in existence.

Chuck Wilmarth, Director, Health Policy and State Affairs, AOTA, reported California has a robust Sunset Review process and congratulated the Board.

Vice President Richard Bookwalter thanked Heather Kitching and Lora Woo for their show of support and participation at the Sunset hearing.

9. Update and possible action on pending Rulemaking files, California Code of Regulations (CCR), Title 16, Division 39:
- Section 4149.5, Petition for Reinstatement or Modification of Penalty
  - Sections 4161, 4162, 4163, Continuing Competence
  - Section 4176, Notice to Consumers

Executive Officer Heather Martin stated that the Continuing Competency and Notice to Consumers regulations went in to effect on October 1, 2017.

Vice President Richard Bookwalter asked what the Board could do in terms of outreach for these two regulations?

Ms. Martin stated the Board could use social media to provide notification of regulatory changes.

### Public Comment

There was no public comment.

10. Update on bills of interest to the Board:
- a. Assembly Bill (AB) 387 (Thurmond), Minimum wage: health professionals: interns.
  - b. AB 703 (Flora), Professions and vocations: licenses: fee waivers
  - c. AB 710 (Wood) Department of Consumer Affairs: boards: meetings.
  - d. AB 827 (Rubio), Department of Consumer Affairs: task force: foreign-trained professionals.
  - e. AB 835 (Dababneh), Consumer Affairs: licenses: prohibited acts.
  - f. AB 1005 (Calderon), Professions and vocations: fines: relief.
  - g. AB 1087 (Irwin), Teacher credentialing: services credential with a specialization in occupational and physical therapy services.
  - h. AB 1510 (Dababneh), Athletic Trainers.
  - i. Senate Bill (SB) 762 (Hernandez), Healing arts licensee: license activation fee: waiver.

Executive Officer Heather Martin reported that legislation that might be of interest to the Board was contained in the meeting materials.

Ms. Martin sought comment and direction from the Board regarding any of the legislative items.

Vice President Richard Bookwalter informed Jose Alvarado, representative of SEIU-UHW, that adding the wage requirement laid out in AB 387 would make finding fieldwork placement for OT students even more difficult for a profession that is already struggling to place students.

Mr. Alvarado stated that businesses with 25 employees or less would be exempted.

Mr. Bookwalter urged Mr. Alvarado and SEIU-UHW to look at the policies set forth in rehabilitation settings such as community based organizations, private clinics and mental health organizations.

Secretary Sharon Pavlovich expressed her concern that if AB 387 were to become a requirement she felt it could be catastrophic for the OT profession due to the current hardships with fieldwork placement.

Ms. Davies stated that she felt this bill had unintended consequences for the OT profession and perhaps there could be some language that is tailored to the OT profession.

President Miller asked that OTs and OTAs be exempted from the bill.

Jose Alvarado, said SEIU-UHW did not intend this bill to negatively affect the OT profession. Mr. Alvarado stated that AB 387 is a complex bill and that SEIU-UHW would be glad to work with the Board moving forward.

Jeff Ferro stated that the Board is determined to find a solution to the fieldwork problem and partner with everybody to do so.

#### Public Comment

Heather Kitching, OTAC President said that she respects the spirit of the bill but added that the OT profession has its own accrediting body and asked that the OT profession be excluded from AB 387.

Ivan Altamura stated that OTAC opposed this bill and that it conflicts with ACOTE standards.

#### 11. Discussion on updating the Board's Administrative Manual.

Executive Officer Heather Martin stated that the manual had not been updated since 2015. Ms. Martin asked Board members if they would like to review, discuss, or update the manual at the next meeting or delegate the task to the Administrative Committee.

The Board asked Ms. Martin to schedule a meeting with the Administrative Committee before the next meeting to work on updates and report back at the next meeting.

Public Comment

There was no public comment.

12. Update and possible action on the Board's *Strategic Plan* Action Plan.

President Denise Miller inquired about the number of expert consultants under contract.

Executive Officer Heather Martin stated that she would report back at the next meeting.

Public Comment

There was no public comment.

13. Recess for the day.

The meeting adjourned at 3:27 p.m.

**Thursday, October 19, 2017**

**9:30 am - Board Meeting**

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

The meeting was called to order at 9:44 am, roll was called, Beata Morcos was absent. A quorum was established.

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

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President Denise Miller offered members of the public the opportunity to introduce themselves at will.

Lora Woo, Pat Nagaishi, Chuck Wilmarth, Ada Boone Hoerl, Ivan Altamura, Matt Lege, Jonathan Burke and Don Merrill chose to introduce themselves.

Vice President Richard Bookwalter stated that because this was the last meeting of 2017 and he wanted to take the opportunity to thank the Board for the great professional experience. Mr. Bookwalter said he was waiting to hear whether he would be reappointed to serve on the Board of Occupational Therapy.

Jeff Ferro echoed Mr. Bookwalter's sentiment and expressed his hope to be reappointed to the Board of Occupational Therapy. He also announced his recent appointment to the Cannabis Advisory Board

There were no further public comments.

16. Presentation by Donald Merrill, Area Administrator, Division of Apprenticeship Standards (DAS), Department of Industrial Relations, an overview of apprenticeships and how they could work for OTA students completing the fieldwork requirement.



Mr. Merrill gave an overview of apprenticeships and offered his extensive professional experience and assistance if the Board chose to move in this direction.

President Denise Miller asked what a pilot program would look like?

Mr. Merrill stated that a program sponsor would have to be identified, a staff member would be assigned by DAS to work with the bill's sponsor, and funding would have to be obtained. Mr. Merrill stated that the Board has the advantage of the OT profession already having educational standards in place.

Jeff Ferro asked if the Board could fit into the current apprenticeship model?

Mr. Merrill stated that the Board's model would most likely be a hybrid because industry standards make every model different.

Secretary Sharon Pavlovich asked what the primary source of funding would be?

Mr. Merrill stated that there is currently \$25 million in state grants available. Mr. Merrill said that an apprenticeship requires 2000 hours of education and training but pre-requisites could be included.

#### Public Comment

Ada Boone Hoerl, Program Director of the Occupational Therapy Assistant (OTA) program at Sacramento City College, stated that an apprenticeship program would call for an increase in funding to cover the costs of running such a program.

Mr. Merrill said that program costs would be paid from the Local Educational Agency (LEA).

Chuck Wilmarth, Director, Health Policy and State Affairs, AOTA, asked Mr. Merrill how much the DAS relied on The Occupational Information Network (O\*NET) profiles?

Mr. Merrill stated O\*NET profiles were reviewed and considered but they are not the only documentation that is relied upon.

Mr. Wilmarth commented that it seems apparent to him that some type of temporary license would need to be recognized by the Board for an apprentice to bill a consumer.

Matt Lege, Research Analyst for SEIU-UHW stated that he applauded and encouraged the Board for the dialogue surrounding this situation. Mr. Lege said that occupational therapy is a fantastic candidate for the apprenticeship program and he offered to help in any way he could.

President Miller asked Mr. Merrill if there would be value in SEIU-UHW participating if the Board established an Ad Hoc committee to vet fieldwork alternatives.

Mr. Merrill said that the participation of SEIU-UHW would be helpful and important if the Board chose to work toward an apprenticeship program because input would need to be solicited as a statutory requirement. Mr. Merrill confirmed that if the Board chose to

explore the apprenticeship avenue that the Division of Apprenticeship Standards would expend the resources necessary to support their efforts.

Mr. Lege said that SEIU-UHW would love to work with the Board to try and accomplish the goals of AB 387 in a positive way for the middle class.

Further questions and concerns were raised regarding the pass or fail requirements of fieldwork, how the funding would be dispersed among all parties and the how the Board would handle fieldwork gained out of state.

Jeff Ferro acknowledged that there are many unknowns at this stage and that the structure of an apprenticeship would need to be figured out. Mr. Ferro conveyed that to accomplish this an Ad hoc committee would need to include a variety of interested parties and stakeholders.

17. Discussion on possibly establishing pilot apprenticeship program for occupational therapy assistant students completing fieldwork as a part of an academic program at a community college.

Teresa Davies asked for clarification of whether the task of an Ad hoc committee would be to explore apprenticeship as a fieldwork alternative along with other alternatives or explore how to establish the apprenticeship? Ms. Davies questioned whether the Board had the authority to move forward and whether the Board can afford to absorb resources and costs of the exploration effort.

Executive Officer Heather Martin stated the staff costs associated with the exploration effort would be absorbable.

Jeff Ferro stated that he believed the Board should be proactive and get ahead of the fieldwork crisis.

Secretary Sharon Pavlovich said that the fieldwork crisis needed assessment and the Board should invite the stakeholders and continue to be innovative.

President Denise Miller sought a consensus on whether exploratory work by an Ad hoc committee would be beneficial.

- Teresa Davies moved to establish an Ad hoc committee that would explore the feasibility of alternative approaches to increasing the availability of fieldwork sites for OTs and OTAs.
- Sharon Pavlovich seconded the motion.

#### Public Comment

Ivan Altamura commented that the Little Hoover Commission report stated that the legislature would have to adjust practice acts to allow apprenticeships in some occupations.

**Roll Call Vote**

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

President Denise Miller asked the following people to participate on the Ad hoc committee and all accepted.

Sharon Pavlovich – Chair  
Teresa Davies  
Jeff Ferro  
Ada Boone Hoerl  
Matt Lege

President Denise Miller asked the Executive Officer to reach out to Community College OTA Program Directors at Santa Ana College (Michele Parolise) and Grossmont College (Joyce Fries) to see if they are willing to participate on the Ad hoc committee.

President Miller summarized the Ad hoc committee may conclude and recommend that an apprenticeship program is not feasible. Ms. Miller stated that she is in support of establishing the committee to promote dialog and explore the possibility. President Miller indicated she saw this as a practical opportunity to potentially address shortages in fieldwork sites and the workforce where no other state or national entity seems to be able to gain traction.

18. Discussion on the Accreditation Council for Occupational Therapy Education's proposed amendments (Draft II Revisions – September 2017) to the educational programs' accreditation standards.

Executive Officer Heather Martin informed the Board that they could weigh in individually or as a group.

Discussion ensued regarding a grey shaded area on page 34, stating "The word 'demonstrate' does not require that a student actually perform the task to verify knowledge and understanding, the program may select the type of learning activities and assessments that will indicate compliance with the standard". Discussion surrounded the contradictory nature of the statement and how it may diminish protection for consumers during the preparation of students for entry level practice.

The Board members agreed that they wished to participate in the ACOTE call for comment outlining their concern with the use of the word "demonstrate".

- Richard Bookwalter moved to submit a comment to ACOTE outlining the Board's concern about the use of the word "demonstrate" and how that level of training protects the consumer.
- Teresa Davies seconded the motion.

**Roll Call Vote**

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

**Public Comment**

Ada Boone Hoerl, Program Director of the OTA program at Sacramento City College referenced section C.1.9 and stated her concern with the idea of documenting a maximum of 40 hours for Level 1 fieldwork. Ms. Boone Hoerl said this is a very low number for Level 1 fieldwork and a potential consumer protection issue. Ms. Boone Hoerl stated that she would be submitting a comment of her own regarding this language.

Richard Bookwalter made an additional motion regarding section C.1.9 and Teresa Davies seconded that motion. After further discussion, Mr. Bookwalter and Ms. Davies rescinded the motion and Mr. Bookwalter amended his motion as follows:

- Richard Bookwalter moved to submit an additional comment to ACOTE regarding Standard Number C.1.9 to question how imposing a maximum of 40 hours of Level I fieldwork experience protects the consumer.
- Jeff Ferro seconded the motion.

**Public Comment**

No additional public comment.

**Roll Call Vote**

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

19. Licensing and enforcement data and reports for the quarter ending September 30, 2017.

Executive Officer Heather Martin gave a verbal update of the reports. Ms. Martin pointed to licensing data that was developed in response to prior Board concerns regarding anomalies on the reports at the last Board meeting.

Ms. Martin reported that the enforcement data shows a lot of traction for the last six months and a reduction in enforcement cases. Ms. Martin reported the Board has 25 pending cases at the Attorney General's Office which will translate to a very busy year in the discipline arena.

Public Comment

There was no public comment.

20. Executive Officer's Report.

a. Operational Report.

Ms. Martin reported that due to implementation of the FI\$Cal system, revenue and expenditure information will not be available until the February Board meeting. Ms. Martin said the Board's current office is running out of space and she is looking at leasing a larger space.

Teresa Davies questioned who would pay the cost of the move and whether there would be a larger available space at the current location when other Boards decide to move.

Ms. Martin stated that the Board would absorb the cost of the move and that there is not a Board larger than CBOT that is planning on leaving from the current location.

Jeff Ferro asked about the cost per square foot.

Ms. Martin reported that the cost per square foot is the same, without the worry of the pending rate increase and the proposed new location is offering a tenant improvement incentive of \$55 dollars per square foot.

b. Communications Update.

Ms. Martin reported an increase in "likes" and followers for both Twitter and Facebook and that exploration of establishing a CBOT Linked In account is still ongoing with the public affairs office.

Ms. Martin stated that the Board had a booth at the OTAC conference and she and the Board's Enforcement Manager, Jeff Hanson, would utilize this outreach opportunity to staff some of the Board committees and, if possible, provide a Survey Monkey to question whether probationers should pay the probation costs or the profession should share in the costs of monitoring probationers.

c. BreEZe Update.

Ms. Martin stated the Board has a new printer that will print licenses on a hard, plastic card like a credit card plate instead of a paper license. Also, licensees renewing on inactive status will no longer receive a license when they renew.

d. Future Agenda Items.

Ms. Martin stated that she would like to include the Schools Survey and consideration of a new Board logo discussion on the 'Future Agenda Items' list.

President Miller requested that if the Board is going to discuss the differentiation or limitation on professional development unit earning that virtual reality means also be included.

Ms. Martin agreed.

e. Other Informational Items – No Board discussion or action

Ms. Martin reported that as previously requested she included handouts of Board Committee information, a copy of the Board's response letter sent to St. Catherine University, an Application for Initial License Checklist that is designed to assist students and applicants with submitting a complete application, and flowcharts depicting the complaint process, advanced practice and license application processes.

Public Comment

There was no public comment.

President Denise Miller opted to move Agenda Items 22 and 23 to be held prior to item 21 so the public audience did not have to come back or wait due to Agenda Item 21 – Closed Session.

There were no objections.

21. CLOSED SESSION

At 1:45 pm the Board went into Closed Session pursuant to Government Code Section 11126(c)(3) to discuss a disciplinary matter.

At 2:00 pm the Board went into Closed Session pursuant to Government Code Section 11126(a)(1) to conduct the annual evaluation of the Executive Officer.

*This item was moved to the last item of the day for the convenience of the public audience.*

22. Suggested agenda items for a future meeting.

President Miller stated the next meeting would include a report from the Ad Hoc committee regarding the feasibility of alternative approaches to increasing the availability of fieldwork sites for OTs and OTAs.

Vice President Richard Bookwalter commented that the 'Future Agenda Items' was very lengthy.

The Board agreed to prioritize and work from the Executive Officer's list.

Public Comment

There was no public comment.

23. Election of Officers.

- Jeff Ferro moved to nominate the current slate of officers.

President Denise Miller stated that she appreciated Mr. Ferro's nomination and that she would like to thank the Governor and the Board for the opportunity and honor to serve on and lead the Board of Occupational Therapy. Ms. Miller said that her service on the Board was one of the most satisfying aspects of her career. Ms. Miller indicated she felt it was a good time for other Board members to have the honor of serving in officer positions.

Ms. Miller nominated Richard Bookwalter for President.  
Laura Hayth nominated Sharon Pavlovich for Vice President.  
Sharon Pavlovich nominated Laura Hayth for Secretary.

President Miller asked if there were any other nominations; there were none.

- Jeff Ferro moved to adopt the Board's recommendation of Richard Bookwalter for President, Sharon Pavlovich for Vice President and Laura Hayth for Secretary.
- Teresa Davies seconded the motion.

Public Comment

No public comment.

Roll Call Vote

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

President Denise Miller asked the public if there were any further comments.

There was no additional public comment.

The Board returned to item #21 to conclude its work for the day.

At 2:57 pm the Board reconvened in Open Session.

At 2:58 pm President Miller adjourned the meeting.

## **AGENDA ITEM 19**

### **DISCUSSION AND CONSIDERATION OF NEW BOARD LOGO.**

Logos have been attached for your review.