

## Section 11 – Board Action and Response to Prior Sunset Issues

Issues Identified in 2016 Sunset Report and Update

### **ISSUE #1: Will the CBOT's proposed fee structure support the health of its long-term fund condition?**

Committee Staff Recommendation: *The CBOT should discuss its fund projections and fee audits with the Committee and explain whether the new fee structure will generate sufficient revenues to cover its costs. Further, the CBOT should inform the Committee of whether a statutory change is needed to charge a lesser fee for the inactive license.*

Due to downward trending projections in the Board's fund condition statement, in addition to identifying expenditure reductions, the Board is also considering whether to raise fees. As of the last Sunset Review, the Board charged a lower fee for renewing a license on inactive status. However, when implementing the renewal fee increases in 2017 statutory requirements specified the renewal fee for healing arts licenses on active and inactive status must be the same, so the active and inactive renewal fees were aligned. Subsequent amendments have changed this requirement and would allow the Board to charge a lower fee for renewing a license on inactive status. In order to do this, a lower fee would need to be specified in regulation.

### **ISSUE #2: Does the CBOT use its administrative committee to address any ongoing issues?**

Committee Staff Recommendation: *The CBOT should discuss how it uses its administrative committee to explore ongoing issues and whether it uses any other methods to improve board processes and promote the flow of information to and from the board members.*

The CBOT uses its administrative committee to provide direction to the executive officer regarding ongoing administrative issues or to make recommendations to the Board.

Information regarding the various issues are shared with Board Members at meetings in the President's Remarks, Board Member Remarks, or Executive Officer's Report, all of which are provided during a publicly noticed meeting.

### **ISSUE #3: Should the CBOT take additional steps to require licensees to attestation in its application or utilize an educational tool, whether continuing competence courses or an online assessment, to assist with its practice issues?**

Committee Staff Recommendation: *The Committees may wish to require the CBOT to, at a minimum, amend its application to require an applicant to certify that the applicant has read and understands the laws and regulations. The CBOT should also explain whether requiring a continuing competence course in ethics or developing a non-pass/fail online assessment is feasible (in addition to or instead of an attestation).*

The Board has not modified the attestation in the Initial Application for Licensure to incorporate a statement that the applicant acknowledges reading the Board's laws and regulations at this time. The Board will discuss this matter in future meetings, along with consideration of requiring an ethics course as a requirement for license renewal.

**ISSUE #4: Are there duplicative requirements for out-of-state and military applicants that can be streamlined?**

Committee Staff Recommendation: *The CBOT should advise the Committees about the specific differences between the state requirements, the NBCOT requirements, and the known requirements of other states and whether there are any duplicative requirements that can be cut out.*

The Board acknowledges there are several duplicative requirements for out-of-state licensed and military applicants, including submission of the qualifying degree transcript, verification from the NBCOT that the applicant has passed the national examination, and letters of good standing from states where the applicant holds or held a license to verify if discipline had been imposed on their license. The processing times for these institutions to provide documentation varies widely. It has been a long-standing practice for Board staff to obtain primary source verification of applicant documentation and not delegate this task to other institutions and entities.

**ISSUE #5: Should the CBOT approve post-professional education courses?**

Committee Staff Recommendation: *The CBOT should discuss the approximate number of post-graduate training programs seeking approval, the subject areas, the approval criteria, and whether this will create disparate education standards between states. The CBOT should also complete the "Fee Bill Worksheet" required by the Committees.*

The Board' did not follow up on this matter after the last Sunset Report as this revenue source was not needed at the time. However, due to the current fund condition the Board is going to consider this along with evaluating other potential revenue streams to bolster the Board's fund condition.

Post-professional education only pertains to the Board's three areas identified as advanced practice (hand therapy, physical agent modalities, and swallowing evaluation, assessment, and intervention). Currently these educational providers pay no fee to have their course(s) evaluated and approved by the Board. Since this task takes staff time and requires a subject matter expert's review, the Board wanted to explore the possibility of charging a fee for approval of the course and require a subsequent renewal because these providers have failed to notify the Board of course content updates and any changes in instructors.

Since May of 2004 the Board has approved 85 providers for advanced practice coursework. Often, providers change the course after approval (content covered, number of hours, instructors, etc.) without notifying the Board. When this happens, the course must be reviewed again when submitted with an advanced practice application.

**ISSUE #6: Should the CBOT resume checking the National Practitioner Data Bank for adverse actions against applicants and licensees?**

Committee Staff Recommendation: *The CBOT should resume checking the NPDB and include the \$2 fee in the “Fee Bill Worksheet” required by the Committees.*

The Board followed the Committee Recommendation and ultimately obtained authority to charge applicants the NPDB query fee in statute. The Board began conducting NPDB queries on all applicants in January 2019. Due to receiving only two reports, one of which had been generated by the CBOT, and the time involved by staff inputting an applicant’s personal information into the system, the Board decided to stop charging the query fee and conducting the NPDB queries in April 2020.

While no longer submitting query for all applicants, the Board still conducts NPDB queries on applicants when circumstances are warranted (e.g. incorrect and inconsistent information in an application).

**ISSUE #7: What has the CBOT discovered about current workforce trends since implementing its workforce survey?**

Committee Staff Recommendation: *The CBOT should discuss how it utilizes the demographic information and provide an update on any trends so far.*

The Board has been unable to retrieve any demographic data in its renewal and initial license survey, so we are unable to report on this matter.

**ISSUE #8: Is the CBOT concerned about ongoing costs for BreEZe?**

Committee Staff Recommendation: *The CBOT should discuss whether it has considered utilizing staff dedicated to BreEZe and whether it could be helpful and reduce the number of staff needed and need for fee increases.*

The Board hired a staff services analyst whose primary duty is to serve as the Board’s single point of contact with the Breeze Team in developing new service requests and testing system modifications. Other licensing, administration, and enforcement staff are no longer required to split their regularly assigned duties to assist with Breeze systems modifications.

After the design and development costs of BreEZe and the January 2016 implementation, the on-going costs for maintenance have dropped considerably. More information on past BreEZe expenditures and future projected costs can be found in Section 2, Question 13, Figure 1.

**ISSUE #9: Is there a way to disaggregate enforcement data to make it more useful?**

Committee Staff Recommendation: *The CBOT should discuss whether it is currently possible to disaggregate enforcement data and, if not, whether the CBOT can work with the DCA to develop methods to do so.*

The BreEZe system has the capability to disaggregate some enforcement data via new reports and tools. Since the last Sunset Report DCA has enhanced existing reports and developed new reports to provide Boards assistance. If there is not a report for specific data that the Board needs, there is the Quality Business Interactive Reporting Tool (QQBIRT) which allows staff to identify additional data. For more specific and/or sophisticated needs, Board staff can 'submit a ticket' to request DCA staff to customize a report for the Board.

**ISSUE #10: *Should the CBOT use other technologies the DCA might have to improve submission compliance and processing times for primary source documentation?***

**Committee Staff Recommendation: *The CBOT should discuss whether it has considered using the DCA's cloud or other technology tools for primary source document submissions.***

Due to access limitations the Board did not move forward with using cloud- based access. However, the Board has requested a request a change in BreEZe that would allow the license to upload copies of their continuing education certificates at the time of renewal. This could be a convenient repository of documentation for licensees that could also be used by Board staff in the event the licensee's renewal is audited in the future.

If the licensee chooses to not upload their certificates at the time of renewal but are later audited, an additional change requested to BreEZe will allow the licensee the option to access their BreEZe account to upload copies of the certificates, in addition to receiving hard copies via regular postal mail.

**ISSUE #11: *Should the CBOT utilize additional survey types to improve its survey response rates?***

**Committee Staff Recommendation: *The CBOT should advise the Committees on any contemplated solutions to the low consumer satisfaction survey response rates.***

The Board was not able to send out a consumer satisfaction survey or other surveys prior to this Sunset Report. Therefore, no improvements nor continued dissatisfaction has been identified.

**ISSUE #12: *What impediments, other than timing and planning, impact the CBOT's ability to webcast its meetings?***

**Committee Staff Recommendation: *The CBOT should advise the Committees on specific instances in the past four years when the DCA did not have enough resources to assist with webcasting when requested, why the CBOT was not able to select early meeting dates in the past four years, and any other impediments the CBOT faces when trying to webcast its meetings.***

The Board establishes its next calendar year meeting schedule at its Fall or Winter Board Meeting. Once those dates have been determined staff contacts the DCA Public Affairs Unit to secure webcasting for its scheduled meetings but DCA's webcasting resources are not always available due to obligations with other Boards.

Since the pandemic, all Board and Committee Meetings have been conducted virtually over the internet on the WebEx platform making meetings more accessible to the public.

**ISSUE #13: *Should the Practice Act be amended to change the CBOT's ratio of public members to professional members?***

Committee Staff Recommendation: *The CBOT should discuss the pros and cons of rebalancing the ratio of board members and discuss any other potential areas that might need to be addressed, such as recruitment and appointments.*

The composition of Board Members, including public and licensee members, is specified in statute and the ratio has not been addressed as the expertise of licensees along with public members provides a fair and balanced way to ensure consumer protection.

**ISSUE #14: *Are there technical changes that can be made to the Practice Act that may improve CBOT operations?***

Committee Staff Recommendation: *The CBOT should continue to work with the Committees on the submitted proposals.*

One potential amendment could be to amend BPC 2570.3(j)(2) since it was recently amended to allow an occupational therapist to supervise *three* occupational therapy assistants. However, that doesn't align with the occupational therapist/occupational therapy assistant ratio specified.

2570.3(j)(2) An occupational therapist shall not supervise more occupational therapy assistants, at any one time, than can be appropriately supervised in the opinion of the board. *Three* occupational therapy assistants shall be the maximum number of occupational therapy assistants supervised by an occupational therapist at any one time, but the board may permit the supervision of a greater number by an occupational therapist if, in the opinion of the board, there would be adequate supervision and the public's health and safety would be served. In no case shall the total number of occupational therapy assistants exceed ~~twice~~ three times the number of occupational therapists regularly employed by a facility at any one time.

**ISSUE #15: *Should the State continue to license and regulate OTs and OTAs? If so, should the Legislature continue to delegate this authority to the CBOT and its current membership?***

Committee Staff Recommendation: *The CBOT should continue to regulate OTs and OTAs in order to protect the interests of the public for another four years and should update the Committees on its progress at that time.*

The Board thanks the Committee for the opportunity to respond to its questions and offers assurances that regulating the practice of occupational therapy is undertaken with great care, regard, and responsibility.