

CALIFORNIA BOARD OF OCCUPATIONAL THERAPY

BACKGROUND INFORMATION AND OVERVIEW OF THE CURRENT PROGRAM

DECEMBER 2, 2021

Section 1 –

Background and Description of the Board and Regulated Profession

The occupational therapy profession was established in 1917 and is one of the oldest allied health professions in the United States.

Senate Bill 1046 (Murray, Chapter 697, Statutes of 2000) created the California Board of Occupational Therapy, effective January 1, 2001. The Board is responsible for the licensure and regulation of Occupational Therapists (OTs) and Occupational Therapy Assistants (OTAs) in California. The Board's mission is to regulate occupational therapy by serving and protecting California's consumers of occupational therapy services through effective regulation, licensure, and enforcement.

California passed a title control/trademark law for occupational therapy in 1977, establishing Business and Professions Code (BPC), Section 2570, prohibiting individuals from using the professional titles recognized for Occupational Therapists (OT, OTR) and Occupational Therapy Assistants (OTA, COTA) without appropriate professional training/education. The law was updated in 1993 to further clarify the minimum education and examination requirements for practicing occupational therapists and occupational therapy assistants. The law had no registration process with the state or enforcement structure, nor did it prevent an unqualified individual from practicing occupational therapy if the individual did not refer to themselves as an occupational therapist or occupational therapy assistant.

Occupational therapy licensees provide important health, habilitation, and rehabilitation services to people of all ages who, because of illness, injury, or developmental or psychological impairment, need specialized interventions to regain, develop, or build the skills necessary for independent performance of everyday activities (known as 'occupations').

"Occupational therapy" means the therapeutic use of purposeful and meaningful goal-directed activities with individuals, groups, populations, or organizations, to support participation, performance, and function in roles and situations in home, school, workplace, community, and other settings. Occupational therapy services are provided for habilitation, rehabilitation, and the promotion of health and wellness for clients with disability- and non-disability-related needs or to those who have, or are at risk of developing, health conditions that limit activity or cause participation restrictions. Occupational therapy services encompass occupational therapy assessment, treatment, education, and consultation, either in person or via telehealth.

Occupational therapy addresses the physical, cognitive, psychosocial, sensory-perception and other aspects of performance in a variety of contexts and environments to support engagement in occupations that affect physical and mental health, well-being, and quality of life. 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.

Through engagement in everyday activities, occupational therapy promotes mental health by supporting occupational performance in people with, or at risk of experiencing, a range of physical and mental health disorders. Occupational therapy techniques that are used for treatment involve teaching activities of daily living, designing or fabricating orthotic devices, and applying or training in the use of assistive technology or orthotic and prosthetic devices. 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 or group to achieve maximum independence.

Common occupational therapy interventions include helping children with disabilities to participate fully in school and develop social skills, helping people recovering from injury to regain function through retraining and/or adaptations, and providing supports for older adults experiencing physical and cognitive changes.

Occupational therapy services may include comprehensive evaluations of a client's home, school, or work environments, recommendations for adaptive equipment and training in its use, training in how to modify a task or activity to facilitate participation, and guidance and education for family members and caregivers. Entry-level practice requires a Master's degree for occupational therapists and an Associate's degree for occupational therapy assistants (who must be supervised by an OT).

Over the years, there have been amendments to the Board's laws and regulations that have enhanced the Board's ability to protect the consumer, such as development of the Board's Disciplinary Guidelines and adding Citation and Fine authority. To further bolster the regulation of the profession, the Board established supervision requirements, advanced practice education and practice requirements, minimum standards for infection control, and continuing education/competency requirements.

Business and Professions Code (BPC) Section 2570.25 mandates that "protection of the public shall be the highest priority for the California Board of Occupational Therapy in exercising its licensing, regulatory, and disciplinary functions."

To accomplish its mission, the Board:

- Ensures only eligible and qualified individuals are issued a license
- Investigates complaints and criminal convictions; and
- Responds to emerging changes and trends in the profession through legislative or regulatory amendments.

The Board's statutes require individuals, with a few exceptions, engaging in the practice of occupational therapy to possess a license.

1. Describe the make-up and functions of each of the board's committees.

An organizational chart showing the Board's committees is in Section 13, Attachment B and the current listing of the committee members of the Board's committees is in Section 13, Attachment B.1. The description of the committees roles and responsibilities is in Chapter 6 of the Board's Board Member Guidelines and Procedures Manual.

The Board has no committee(s) specified in statute. However, the Board established four standing committees which serve as an essential component to help the Board address specific policy and/or administrative issues. The issues could be referred by the Board to a committee to delve into a policy issue/concern, to address issues referred by the public or licensees to the Board, or on recommendation by Board staff.

The Board's Board Member Guidelines and Procedures Manual identifies the number of members on each committee, requires the committee chairperson be a board member, and provides the committees' purposes. The committees' roles and responsibilities are included in Section 13, Attachment A.

The committees, whose meetings are subject to the Open Meetings Act, include the following:

- Administrative Committee
- Education and Outreach Committee
- Legislative and Regulatory Affairs Committee
- Practice Committee

Internal organization of each committee is at its discretion, except as specified in the Board's Administrative Manual, and must be approved by the Board. The Committee chairperson, the assigned Board member, will oversee the meetings and work with the Executive Officer to develop an agenda and the meeting materials. The Board member will be responsible for providing the Committee report at the Board meeting.

Committee member terms are two years with a maximum service of two full, consecutive terms. Meetings will be held two or three times per year or as needed to conduct business. All committee meetings will be held subject to the requirements of the Bagley-Keene Open Meeting Act.

Non-Board Member committee members shall be entitled to reimbursement of travel expenses but shall not receive per diem or any compensation for their time.

Due to travel restrictions and the need to minimize all expenditures, including costs related to travel reimbursement, committee meetings have typically been conducted via teleconference and the committee's recommendations are brought to the Board at the next scheduled meeting.

The use of WebEx has replaced the use of conference calls at designated physical meeting locations, which has improved access and increase attendance by the public.

The information on meeting attendance of all Board Members since the last sunset is included in the Section 13, Attachment E.

| Table 1b. Board Member Roster | | | | | |
|--------------------------------------|----------------------------------|-------------------|--------------------|----------------------|-------------------------------------|
| Member Name (Include Vacancies) | Date First Appointed | Date Re-appointed | Date Term Expires | Appointing Authority | Appointee Type - Public or Licensee |
| Bookwalter, Richard | 3/05/2014 | 05/04/2021 | 12/31/2024 | Governor | Licensee |
| Davies, Teresa | 1/13/2016 | 01/18/2017 | Resigned 5/22/2018 | Senate Rules | Public |
| Do, Lynna | 7/25/2020 | 05/19/2021 | 12/31/2024 | Senate Rules | Public |
| Ferro, Jeffrey | 1/13/2014 | 12/11/2017 | 12/31/2020 | Assembly Speaker | Public |
| Hayth, Laura | 5/05/2015 | | 12/31/2018 | Governor | Licensee |
| Miller, Denise | 5/15/2013 | 01/22/2021 | 12/31/2023 | Governor | Licensee |
| Morcos, Beata | 05/19/2015 | 01/04/2019 | 12/31/2022 | Governor | Public |
| Pavlovich, Sharon | 08/16/2013 | 01/21/2021 | 12/31/2023 | Governor | Licensee |
| Vacancy | Vacant effective January 1, 2019 | | | | Licensee |

2. In the past four years, was the board unable to hold any meetings due to lack of quorum? If so, please describe. Why? When? How did it impact operations?

A lack of quorum has not occurred so there has been no adverse impact to Board operations related to appointments.

3. Describe any major changes to the board since the last Sunset Review, including, but not limited to:

- Internal changes (i.e., reorganization, relocation, change in leadership, strategic planning)

In April 2020, the Board moved to its current location at 1610 Arden Way, Suite 121, Sacramento, California 95815.

The Board developed and adopted a new 2020-2024 Strategic Plan, which is included in Section 13, Attachment F. As part of that process, an environmental scan and analysis of the environment in which the Board operates was conducted. The environmental scan sought stakeholder input on the Board's performance in the areas of Enforcement, Applicant Qualifications, Laws and Regulations, Outreach and Communication, and Organizational Effectiveness. This process included sending a survey to more than 900 stakeholders, including people on the Board's interested parties list, other state occupational therapy

boards, the California and national associations that represent the profession, and program directors of all California occupational therapy education programs.

- All legislation affecting the Board since the last sunset review.

2016

AB 2859 (Low, Chapter 473, Statutes of 2016) – Professions and Vocations: Retired Category: Licenses

This bill provides statutory authority for all programs that do not currently have the statutory authority to establish a retired license within the Department to create, by regulation, a system for a retired category of licensure for persons who are not actively engaged in the practice of their profession or vocation. A retired license type must meet specified regulatory requirements, including: 1) a retired license shall be issued to a person with either an active license or an inactive license that was not placed on inactive status for disciplinary reasons; 2) the holder of a retired license shall not engage in any activity for which a license is required, unless the program, by regulation, specifies the criteria for a retired licensee to practice his or her profession or vocation; 3) the holder of a retired license shall not be required to renew that license; 4) the program shall establish an appropriate application fee for a retired license to cover the reasonable regulatory cost of issuing a retired license; and 5) in order for the holder of a retired license to restore his or her license to an active status, the holder of that license must meet the requirements set forth in Business and Professions Code section 464(b)(5).

This bill requires all programs to investigate, upon receipt of a complaint, the actions of any licensee, including those that have a retired, inactive, canceled, revoked, or suspended license.

SB 1348 (Cannella, Chapter 174, Statutes of 2016) – Licensure Applications: Military Experience

This bill requires programs within the Department that authorize veterans to apply military experience and training towards licensure requirements to post information on the program's website regarding the ability of veteran applicants to apply their military experience and training towards licensure requirements.

AB 2744 (Gordon, Chapter 360, Statutes of 2016) – Healing Arts: Referrals

This bill establishes that payment for advertising, where a licensee sells services through a third-party advertiser (e.g., Groupon), does not constitute a referral of patients when the third-party advertiser does not recommend, endorse, or otherwise select a licensee itself. Additionally, this bill entitles the purchaser of services to a full refund in the event the licensee determines, after consultation with the purchaser, that the service is not appropriate, or if the purchaser elects not to receive the service for any reason and requests a refund. Finally, licensees are required to disclose in the advertisement that a consultation is required and that the purchaser will receive a refund if not eligible to receive the service.

2017

AB 208 (Eggman, Chapter 778, Statutes of 2017) – Deferred entry of judgment: pretrial diversion

This bill changes the existing deferred entry of judgment program for controlled substance cases involving nonviolent defendants into a pretrial drug diversion program. Under the revised pretrial drug diversion program, a defendant would plead not guilty and receive 12 to 18 months to complete a court approved rehabilitation program, after which the criminal charge(s) would be dismissed. This bill limits eligibility in the program to defendants who have not had any felony convictions within five preceding years. If a defendant does not meet the terms of the program, the court would terminate the program and reinstate the criminal proceedings.

AB 508 (Santiago, Chapter 195, Statutes of 2017) – Health care practitioners: student loans

This bill repeals existing law authorizing healing arts programs under the Department to cite and fine licensees, deny renewal of an existing license or deny initial licenses to applicants for defaulting on certain healthcare related student loans.

AB 1706 (Committee on Business and Professions, Chapter 454, Statutes of 2017)

This bill extends the sunset date of the Board of Occupational Therapy to January 1, 2022 and makes various technical changes requested by the Board.

SB 547 (Hill, Chapter 429, Statutes of 2017)

This bill makes numerous noncontroversial, substantive changes to the Board of Accountancy, Board of Barbering and Cosmetology, Board of Chiropractic Examiners, Board of Registered Nursing, Cemetery and Funeral Bureau, Board of Occupational Therapy, Board of Pharmacy, Board of Podiatric Medicine, Board of Psychology, Bureau of Security and Investigative Services, Bureau of Real Estate Appraisers, Bureau of Automotive Repair, and Veterinary Medical Board. This bill specifies that the fee collected by the Board of Occupational Therapy for fingerprinting cannot exceed the amount charged by the agency providing the criminal history record check.

This bill also authorizes the Board of Occupational Therapy to collect a fee to query the National Practitioner Data Bank. The fee cannot exceed the amount charged per query.

SB 796 (Hill, Chapter 600, Statutes of 2017) – Uniform Standards: Naturopathic Doctors Act: Respiratory Care Practice Act

Among other provisions, this bill requires the Substance Abuse Coordination Committee housed within the Department to review the criteria currently used for uniform standard number four related to drug testing for substance-abusing licensees by January 1, 2019.

2018

AB 2221 (Bloom, Chapter 490, Statutes of 2018)

This bill makes technical and substantive changes to the Occupational Therapy Practice Act, including but not limited to: revising and updating definitions, including expanding the definition of “occupational therapy”; authorizing an aide to provide support services to an occupational therapy assistant; increasing the ratio of occupational therapists that may supervise occupational therapy assistants from two to three; and modifying title protection provisions relating to doctoral degrees and registrations.

AB 2138 (Chiu, Chapter 995, Statutes of 2018) – Licensing Boards: Denial of Application: Revocation or Suspension of Licensure: Criminal Conviction

This bill restricts the discretion of programs within the Department in using prior criminal history as grounds for licensing determinations, and establishes new criteria relating to the denial, suspension, and revocation of licensure. Beginning July 1, 2020, this bill will repeal the current authority to deny a license on the basis of acts involving dishonesty, fraud, or deceit that did not result in a conviction. Other revisions include the adoption of a seven-year limitation on convictions eligible for licensure denial, subject to specified exemptions, and a ban on requiring applicants to self-disclose prior convictions unless the application is made for a listed license type. Finally, this bill requires Department programs, as specified, to track data relating to licensure denials, to publish that data on its website, and submit an annual report to the Legislature, among other provisions.

SB 695 (Lara, Chapter 838, Statutes of 2018) – Professions and vocations: applications and renewals: individual tax identification number

Among other provisions, this bill prohibits licensing programs, including those within the Department, from requiring license applicants to disclose their citizenship or immigration status.

SB 1480 (Hill, Chapter 571, Statutes of 2018) – Professions and Vocations

This bill reduces the required meetings per year from three to two for Department programs and makes a change to the Department’s Consumer Protection Enforcement Initiative (CPEI), to require the addition of “allegations of serious harm to a minor” to complaint prioritization guidelines.

AB 1659 (Low, Chapter 249, Statutes of 2018) – Healing arts boards: inactive licenses

This bill prohibits a licensee with an inactive license from representing that he or she has an active license. This bill also authorizes healing arts programs to establish lower renewal fees for inactive licenses. Finally, this bill reorganizes existing provisions of law without substantive change.

AB 2193 (Maienschein, Chapter 755, Statutes of 2018) Maternal mental health

This bill requires, by July 1, 2019, a licensed health care provider to ensure a mother is offered screening or is appropriately screened for maternal mental health conditions, with some exceptions. Additionally, this bill requires both a health plan and insurer to develop maternal mental health programs to address mental health and behavioral issues.

2019

AB 5 (Gonzalez, Chapter 296, Statutes of 2019) – Worker status: employees and independent contractors.

This bill places into statute the three-part legal test formulated in *Dynamex v. Superior Court* (2018) 4 Cal.5th 903 (‘Dynamex’) to determine whether a worker who performs services for a hirer is an employee or an independent contractor in cases related to existing Work Orders enforced through the Department of Industrial Relations and the Employment Development Department. This bill changes the definition of ‘employee’ under the Labor Code to include the elements of the Dynamex standard and expands the application of Dynamex to all provisions of the Labor and Unemployment Insurance Codes unless otherwise specified. This bill contains numerous exemptions for professions and contract types that are instead

governed by preexisting employment law standards, including more than a dozen professions licensed or overseen by boards/bureaus within the Department. Further, providers of 'professional services' are exempt if they meet further specified workplace and work type standards. A catch-all exemption is also included for third-party service contracts and for services rendered through a referral agency.

AB 1076 (Ting, Chapter 578, Statutes of 2019) – Criminal records: automatic relief.

This bill requires the Department of Justice, upon an annual Budget Act appropriation, to review its criminal justice databases on a monthly basis to identify persons who are eligible for automatic criminal record relief with respect to certain arrests and convictions occurring on or after January 1, 2021. The bill requires the Department of Justice to automatically grant relief to an eligible person without requiring the person to file a petition for relief. Such relief includes a notation in the person's criminal record that relief was granted, and the person is released from the penalties and disabilities resulting from the arrest or conviction.

SB 601 (Morrell, Chapter 854, Statutes of 2019) – State agencies: licenses: fee waiver.

This bill allows state licensing entities, including the Department's boards/bureaus, to reduce or waive licensing fees for people or businesses displaced or affected by a proclaimed or declared emergency in the previous year. Licensing fees include those for certificates, registration, or other documents required to engage in business, and applies to fees for renewal or replacement of a physical license for display.

SB 639 (Mitchell, Chapter 856, Statutes of 2019) Medical services: credit or loan.

This bill prohibits a healing arts licensee from charging treatment or costs to an open-ended credit or loan that is extended by a third party and that is arranged for, or established in, that licensee's office more than 30 days before the date on which the treatment is rendered or costs are incurred. The bill additionally prohibits a licensee from arranging for or establishing an open-ended credit or loan that contains a deferred interest provision, except as specified. The bill also revises the currently required patient notice for readability and to incorporate changes made by this bill.

2020

AB 2113 (Low, Chapter 186, Statutes of 2020) – Refugees, asylees, and special immigrant visa holders: professional licensing: initial licensure process.

This bill requires boards and bureaus within the Department to expedite the initial licensure process for an applicant who supplies satisfactory evidence that they are a refugee, have been granted asylum, or have a special immigrant visa, as specified. This bill also allows boards and bureaus to assist these applicants during the initial licensure process. This bill further specifies that persons applying for expedited licensure will still be required to meet all applicable statutory and regulatory licensure requirements. Lastly, this bill authorizes boards and bureaus to adopt regulations deemed necessary to administer these provisions.

SB 878 (Jones, Chapter 131, Statutes of 2020) – Department of Consumer Affairs: license: application: processing timeframes.

Beginning July 1, 2021, this bill requires each board and bureau within the Department that issues licenses to prominently display on their websites each quarter either the current average timeframe for processing initial and renewal license applications, or the combined current average timeframe for processing both initial and renewal license applications. This

bill also requires each board and bureau to quarterly post on their websites either the current average processing timeframe for each license type administered by the program, or the combined current average timeframe for processing all license types administered by the program.

SB 1474 (Business, Professions and Economic Development Committee, Chapter 312, Statutes of 2020) – Business and professions.

Among various other provisions, this bill subjects licensees to discipline for including in a consumer service contract or proposed contract a provision that limits the consumer's ability to file a complaint with the applicable board or bureau, or to participate in a board or bureau investigation of the licensee. This bill further specifies that any waiver of the bill's ban on certain contract provisions is void and unenforceable.

AB 2520 (Chiu, Chapter 101, Statutes of 2020) – Access to medical records.

This bill requires specified health care providers to complete forms, without charging patients for the completion of these forms, when the forms are needed to determine eligibility for specified public benefit programs. It also expands eligibility for receiving a free copy of patient medical records.

- All regulation changes approved by the board the last sunset review. Include the status of each regulatory change approved by the board.

| Section(s) | Rulemaking File Subject | Status | Publication Date | Close of public comment period | Effective date of language |
|--|---|---|-------------------------|--|-----------------------------------|
| 4100 4101 4146 4148 4149 4149.1 | Definitions, Delegations of certain functions, and Fitness for licensure, Unprofessional conduct, and Sexual contact (CPEI regulations) | Adopted September 2011 | 07/22/2011 | 09/05/2011 | 09/28/2012 |
| 4172 | Standards of Practice for Telehealth | Modified text adopted January 2016 | 09/25/2015 | 11/09/2015 | 4/1/2017 |
| 4130 | Fees | Adopted August 2016 | 03/25/2016 | 05/09/2016 07/22/2016 08/18/2016 | 7/1/2017 |
| 4161 4162 4163 | Continuing Competence | Adopted August 2016 | 06/24/2016 | 08/08/2016 | 10/1/2017 |
| 4176 | Notice to Consumer | Adopted October 2016 | 07/01/2016 | 08/15/2016 | 10/1/2017 |
| 4149.5 | Criteria to consider when refusing to consider a petition | <i>Withdrawn</i> | 08/26/2016 | 10/10/2016 | n/a |

| Section(s) | Rulemaking File Subject | Status | Publication Date | Close of public comment period | Effective date of language |
|---|---|--|------------------|--------------------------------|----------------------------|
| 4101 4141 4146 4146.1 4146.2 4146.3 4146.5 4146.7 4146.8 4147 4147.7 4148 4148.5 4149 4149.1 4149.6 4149.7. | Delegation of Certain Functions, Assessment of Administrative Fines, Definitions, Substantial Relationship Criteria, Effective Dates of Decisions, Rehabilitation Criteria for Applicants, Rehabilitation Criteria for Licensees, Disciplinary Guidelines, Probation Monitoring Costs, Mental or Physical Examination of Fitness for Licensure, Other Actions Constituting Unprofessional Conduct, Revocation for Sexual Contact, Petitions for Modification of Penalty, and Petitions for Reinstatement. | <p><i>Pending.</i></p> <p><i>No yet noticed due to size of rulemaking file.</i></p> <p><i>(200+ pages)</i></p> | | | |

4. Describe any major studies conducted by the board (See Section 13, Attachment C).

The California Community Colleges Centers of Excellence for Labor Market Research, in collaboration with the Board, conducted a California Occupational Therapy Assistant Workforce Needs Assessment in 2019. This is the only state-level survey specifically focused on the California Occupational Therapy Assistant (OTA) workforce. The survey generated information on the supply of OTAs in California, information that is critical for planning for well-prepared and well-educated OTAs in sufficient numbers to meet the healthcare needs of the state. More than 550 OTAs, representing 16% of all active licensees, completed the survey. Their responses provide insight into the demographic composition of OTAs in California, their education, licensure, job characteristics such as work tasks, scheduling, and compensation, and the future of the OTA profession, including retirement and potential policy changes.

5. List the status of all national associations to which the board belongs.

The Board is a member of the Council on Licensure, Enforcement and Regulation (CLEAR) – CLEAR is an association of individuals, agencies and organizations that comprise the international community of professional and occupational regulation, providing a forum for improving the quality and understanding of regulation to enhance public protection.

- Does the board’s membership include voting privileges?

The Board’s CLEAR membership is part of a DCA’s organizational membership and comes with voting privileges represented by a single organization vote.

- List committees, workshops, working groups, task forces, etc., on which board participates.

The Board’s past President and the Board’s Executive Officer participated in the Council of State Governments’ National Center for Interstate Compacts *Occupational Therapy Compact Advisory Group* (Advisory Group). The Advisory Group, a national workgroup of Board Members, regulators, attorneys and academics, developed recommendations for an OT Licensure Compact (Compact) to facilitate the interstate practice of occupational therapists and occupational therapy assistants.

- How many meetings did board representative(s) attend? When and where?

Two Board representatives, the Board’s past President and Executive Officer, attended the initial in-person meeting in October 2019, in Washington, DC followed by intermittent on-line meetings to review and discuss Compact language. Once the compact was drafted and shared with state licensing boards and associations, there were intermittent conference calls to provide updates on progress on state legislative efforts to implement the Compact.

- If the board is using a national exam, how is the board involved in its development, scoring, analysis, and administration?

The Board uses the same national examinations used by all other state occupational therapy licensing boards and agencies. The vendor that administers and scores the examinations is the National Board for Certification in Occupational Therapy (NBCOT); NBCOT also reports the scores to the candidates, state regulatory agencies, and prospective employers, if a candidate requests this service.

Business and Professions Code section 139, requires the Board to, among other things, evaluate the licensure examination to ensure minimum psychometric standards are met and compare a California occupational analysis of the profession to the national occupational analysis to assess the validity of the national examination content for California practice.

The Board has not been involved in the development, scoring, analysis, and administration of the examination. However, California-licensed occupational therapists routinely serve, as part of a pool of more than 50 licensed professionals and faculty members from across the nation, as subject matter experts (SMEs). The SMEs are responsible for exam question development, review, validation, and revision.

Section 2 –

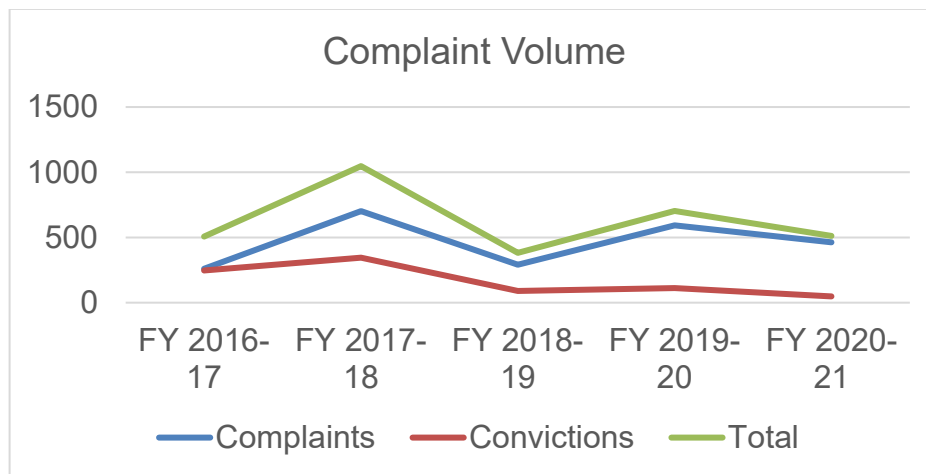
Performance Measures and Customer Satisfaction Surveys

6. Provide each quarterly and annual performance measure report for the board as published on the DCA website.

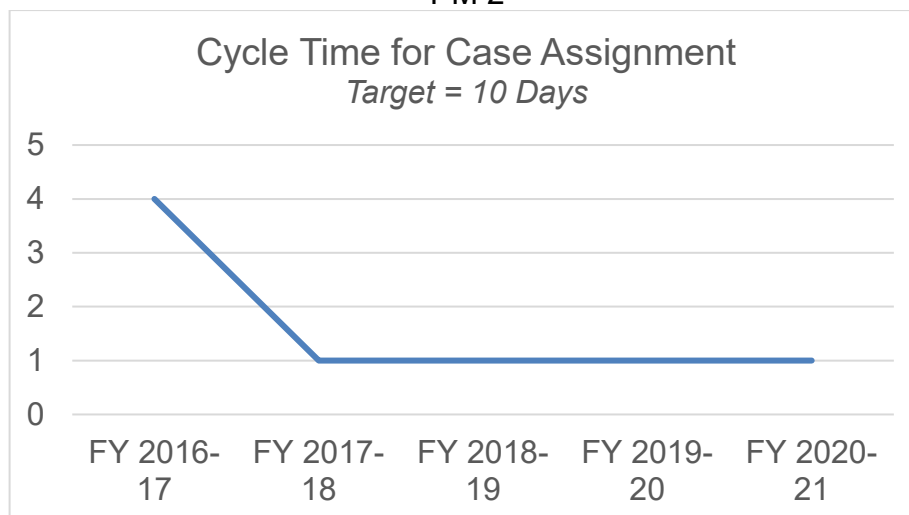
The annual enforcement performances for FY 2016-17 through 2020-21 are shown below.

The quarterly performance measures are provided in Section 13, as Attachment G.

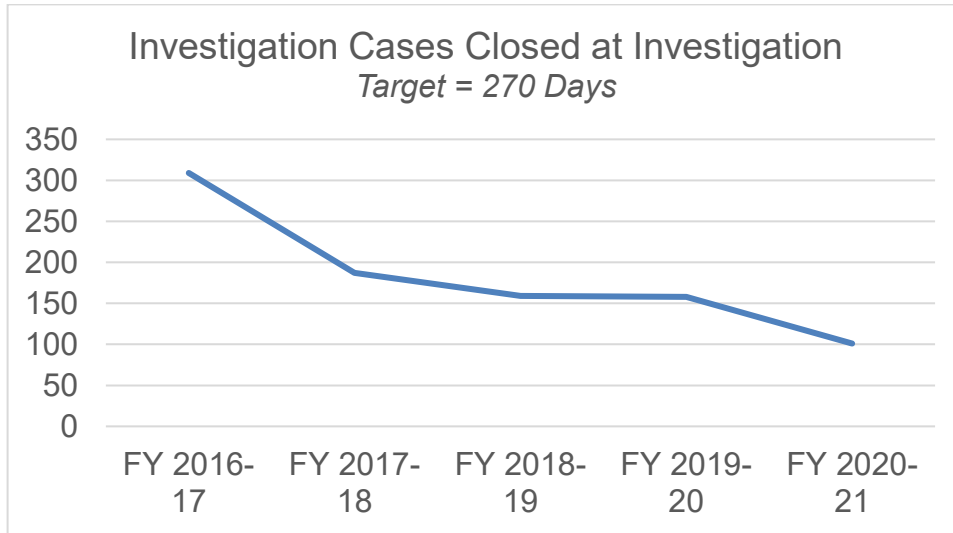
PM 1



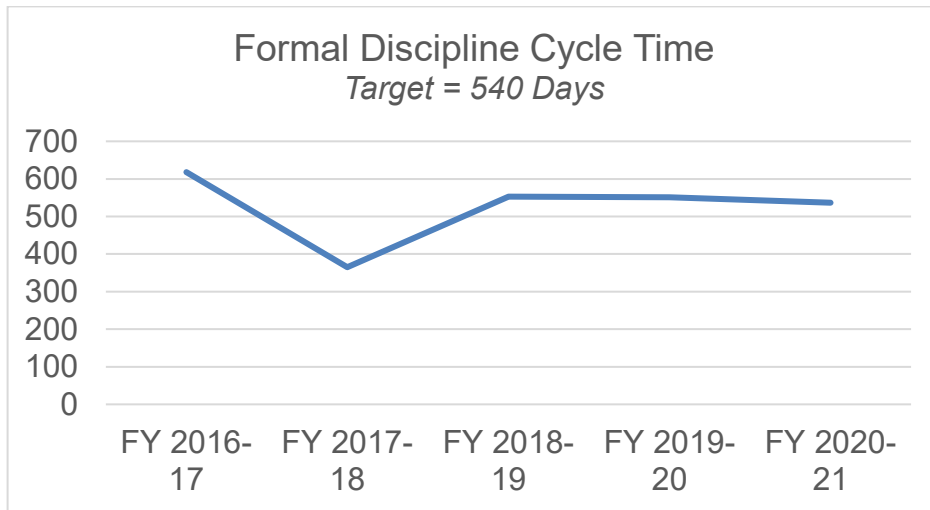
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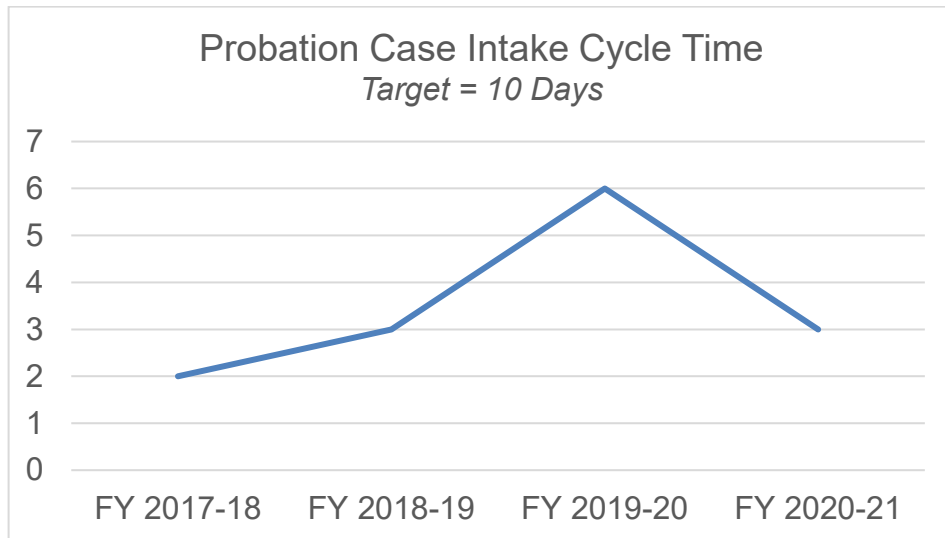
PM 3



PM 4



PM 7



7. Provide results for each question in the board’s customer satisfaction survey broken down by fiscal year. Discuss the results of the customer satisfaction surveys.

The Survey Monkey subscription was not renewed which ‘broke’ the survey link on the Board’s website. According to DCA the Survey Monkey link was removed sometime between February 29, 2020 and March 19, 2020. Due the subscription expiration, the prior survey responses could not be retrieved.

The Board has since renewed its Survey Monkey subscription and requested the information be added to the Board’s website. To supplement that, the Board will email a link to the survey to those licensees that the Board has an email address on file and post the link on social media.

Fiscal Issues

- 8. Is the board's fund continuously appropriated? If yes, please cite the statute outlining this continuous appropriation.**

The Board's fund is appropriated, subject to approval by the Legislature. Business and Profession Code Section 2570.22 states:

All fees collected by the board shall be paid into the State Treasury and shall be credited to the Occupational Therapy Fund which is hereby created. The money in the fund shall be available, upon appropriation by the Legislature, for expenditure by the board to defray its expenses and to otherwise administer this chapter.

9. Describe the board’s current reserve level, spending, and if a statutory reserve level exists.

Historically the Board’s expenditures have been less than the annual budget, providing for funds to be reverted to the fund each year. This intentional ‘underspending’ was a conscious decision to ensure funds were reverted to the Board’s fund. This was necessary given the fact that each year, the revenue collected has been less than the Board’s expenditures.

| Table 2. Fund Condition | | | | | | | | | |
|---|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|
| (list dollars in thousands) | | | | | | | | | |
| | FY 2015/16 | FY 2016/17 | FY 2017/18 | FY 2018/19 | FY 2019/20 | FY 2020/21 | FY 2021/22 | FY 2022/23 | FY 2023/24 |
| Beginning Balance | 2,982 | 3,029 | 2,588 | 2,319 | 2,097 | 1,850 | 1,550 | 1,035 | 392 |
| Revenues and Transfers | 1,305 | 1,416 | 1,800 | 2,255 | 2,294 | 2,481 | 3,099 | 3,070 | 3,065 |
| Total Resources | \$4,287 | \$4,445 | \$4,388 | \$4,574 | \$4,391 | 4,331 | \$4,649 | \$4,105 | \$3,458 |
| Budget Authority | 1,437 | 2,337 | 2,299 | 2,348 | 2,497 | 3,008 | 3,317 | 3,417 | 3,519 |
| Expenditures | 1,283 | 1,796 | 2,185 | 2,151 | 2,314 | 2,599 | 3,317 | 3,417 | 3,519 |
| Direct Draws to the Fund * | 2 | 61 | 85 | 220 | 227 | 161 | 197 | 197 | 197 |
| Loans to General Fund | - | - | - | - | - | - | - | - | - |
| Accrued Interest, Loans to General Fund | - | - | - | - | - | - | - | - | - |
| Loans Repaid From General Fund | - | - | - | - | - | - | - | - | - |
| Fund Balance | \$3,002 | \$2,588 | \$2,118 | \$2,203 | \$1,850 | \$1,571 | \$1,135 | \$491 | (\$258) |
| Months in Reserve | 19.4 | 13.7 | 10.7 | 10.9 | 8.0 | 5.2 | 3.4 | 1.3 | -1.0 |

* Direct Draws are Supplemental Pension and Statewide Pro-rata

10. Describe if/when a deficit is projected to occur and if/when a fee increase(s) or reduction is anticipated. Describe the fee changes anticipated by the board.

Table 2 displays the fund condition, which indicates that a fee increase is necessary.

11. Describe the history of general fund loans. When were the loans made? When have payments been made to the board? Has interest been paid? What is the remaining balance?

In 2003-04 a loan was made to the general fund in the amount of \$640,000. This amount was repaid in full in FY 2012/13. The Board was also paid \$89,000 in interest in FY 2012/13 as a result of this loan.

In 2009/10 a loan was made to the general fund in the amount of \$2,000,000. This amount was repaid in FY 2013/14 in full. The Board was paid \$82,000 in interest in FY 2013/14 as a result of this loan.

There have been no loans to the general fund since the loan provided in FY 2009-10.

12. Describe the amounts and percentages of expenditures by program component. Use *Table 3. Expenditures by Program Component* to provide a breakdown of the expenditures by the board in each program area.

Expenditures for each program component (except for pro rata) are shown below.

| Table 3. Expenditures by Program Component (list dollars in thousands) | | | | | | | | |
|---|--------------------|--------------|--------------------|--------------|--------------------|----------------|--------------------|----------------|
| | FY 2017/18 | | FY 2018/19 | | FY 2019/20 | | FY 2020/21 | |
| | Personnel Services | OE&E | Personnel Services | OE&E | Personnel Services | OE&E | Personnel Services | OE&E |
| Enforcement | 548 | 296 | 588 | 308 | 624 | 338 | 625 | 319 |
| Examination | - | - | - | - | - | - | - | - |
| Licensing | 287 | 82 | 309 | 46 | 328 | 70 | 419 | 82 |
| Administration * | 311 | 59 | 327 | 33 | 339 | 50 | 313 | 41 |
| DCA Pro Rata | - | 539 | - | 539 | - | 565 | - | 821 |
| TOTALS | \$1,146 | \$976 | \$1,224 | \$926 | \$1,291 | \$1,023 | \$1,357 | \$1,263 |

*Administration includes costs for executive staff, board, administrative support, and fiscal services.

13. Describe the amount the board has contributed to the BreZE program. What are the anticipated BreZE costs the Board has received from DCA?

| Figure 1. BreZE Expenditures (dollars listed in thousands) | | | | | | | | | |
|---|---------|-------------------|---------|-------------------|---------|-------------------|--------|-------------------|--------|
| FY 2016-17 | | FY 2017-18 | | FY 2018-19 | | FY 2019-20 | | FY 2020-21 | |
| Budget | Actual | Budget | Actual | Budget | Actual | Budget | Actual | Budget | Actual |
| 133,382 | 128,718 | 132,000 | 119,286 | 111,000 | 109,576 | 86,000 | 87,541 | 93,000 | 85,280 |

At this time the Board is considered in 'maintenance mode' with the BreZE project and ongoing budget of \$85k in FY 2021-22 and \$63k in FY 2022-23 and on-going. However, these costs could fluctuate depending on actual needs of the Board to make modifications to meet licensee and Board needs for improvement.

14. Describe license renewal cycles and history of fee changes in the last 10 years. Give the fee authority (Business and Professions Code and California Code of Regulations citation) for each fee charged by the board.

At the Board's (2001) inception the Annual Renewal fee for both OTs and OTAs was \$150 per year. Due to such a strong fund reserve, in 2007, the renewal fee was not changed, however, the annual renewal was changed to a biennial renewal based on birth month and birth year. Regardless of month or year of license issuance, initial licenses are pro-rated so that they expire in the licensee's birth month/birthyear. This ensured all licensees were put into an equitable two-year cycle and the Board collect revenue.)

| Figure 2. History of Fee Changes | | | | | |
|---|------------------------|-------------------------|-------------------------|-----------------|----------------|
| Fee | Fees Prior to 7/1/2017 | Fees Effective 7/1/2017 | Fees Effective 1/1/2021 | Statutory Limit | CCR |
| Biennial Renewal OT | 220 | 220 | 270 | \$150 per year | CCR 4130(e) |
| Biennial Renewal OTA | 180 | 180 | 210 | \$150 per year | CCR 4130(f) |
| OT Restore License to Active Status | 220 | 220 | 270 | 270 | CCR 4128(f)(1) |
| OTA Restore License to Active Status | 180 | 180 | 210 | 210 | CCR 4128(f)(1) |
| OT Inactive Renewal | 270 | 270 | 270 | 270 | CCR 4127(h) |
| OTA Inactive Renewal | 210 | 210 | 210 | 210 | CCR 4127(h) |
| Delinquent Renewal-OT | 135 | 135 | 135 | 135 | CCR 4130(g) |
| Delinquent Renewal-OTA | 105 | 105 | 105 | 105 | CCR 4130(g) |
| OT Duplicate License Fee | 15 | 25 | 25 | 25 | CCR 4130(j) |
| OTA Duplicate License Fee | 15 | 25 | 25 | 25 | CCR 4130(j) |
| FTB Cite & Fine Collection | various | various | various | various | CCR 4141(a) |
| OT Initial License-varies (pro-rated based on renewal fee) | various | various | various | various | CCR 4130(b) |
| OTA Initial License-varies (pro-rated based on renewal fee) | various | various | various | various | CCR 4130(c) |
| OT Limited Permit | 75 | 100 | 100 | 100 | CCR |

| | | | | | |
|---------------------|----|-----|-----|-----|----------------|
| | | | | | 4130(d) |
| OTA Limited Permit | 75 | 100 | 100 | 100 | CCR 4130(d) |
| OT Retired Status | 25 | 25 | 25 | 25 | CCR 4130(i) |
| OTA Retired Status | 25 | 25 | 25 | 25 | CCR 4130(i) |
| OT Application fee | 50 | 50 | 50 | 50 | CCR 4130(a) |
| OTA Application fee | 50 | 50 | 50 | 50 | CCR 4130(a) |

| Fee | Current Fee | FY 2017/18 | FY 2018/19 | FY 2019/20 | FY 2020/21 |
|--------------------------------------|-------------|------------|------------|------------|------------|
| Biennial Renewal OT | 270 | 1,224 | 1,395 | 1,440 | 1,762 |
| Biennial Renewal OTA | 210 | 231 | 263 | 281 | 336 |
| OT Restore License to Active Status | 270 | - | - | 1 | 1 |
| OTA Restore License to Active Status | 210 | - | - | - | - |
| OT Inactive Renewal | 270 | 29 | 49 | 44 | 46 |
| OTA Inactive Renewal | 210 | 5 | 10 | 7 | 10 |
| Delinquent Renewal-OT | 135 | 22 | 25 | 30 | 33 |
| Delinquent Renewal-OTA | 105 | 4 | 5 | 7 | 7 |
| Citation & Fine | various | 43 | 33 | 48 | 20 |
| OT Duplicate License Fee | 25 | 5 | 4 | 3 | 4 |
| OTA Duplicate License Fee | 25 | 1 | 1 | 1 | 1 |
| FTB Cite & Fine Collection | various | - | 1 | 2 | - |
| OT Initial License-varies | various | 219 | 206 | 201 | 225 |
| OTA Initial License-varies | various | 63 | 61 | 56 | 54 |
| OT Limited Permit | 100 | 4 | 4 | 3 | 6 |
| OTA Limited Permit | 100 | 1 | 1 | 1 | 1 |
| OT Retired Status | 25 | 3 | 4 | 3 | 3 |
| OTA Retired Status | 25 | 1 | 1 | 1 | 1 |
| OT Application fee | 50 | 72 | 72 | 65 | 69 |
| OTA Application fee | 50 | 26 | 27 | 23 | 19 |
| Suspended Revenue | various | 5 | (1) | 1 | 1 |

15. Describe Budget Change Proposals (BCPs) submitted by the board in the past four fiscal years.

| Table 5. Budget Change Proposals (BCPs) | | | | | | | | |
|--|-------------|---|-----------------------|-----------------------|--------------|-------------|--------------|-------------|
| BCP ID # | Fiscal Year | Purpose of BCP | Personnel Services | | | | OE&E | |
| | | | # Staff Requested | # Staff Approved | \$ Requested | \$ Approved | \$ Requested | \$ Approved |
| 1111-034 2020 | 2020-21 | Facilities Funding Augmentation | | | | | \$94,000 | \$94,000 |
| 1111-037 2020 | 2020-21 | BreEZe System Maintenance and Credit Card Funding | | | | | \$125,000 | \$125,000 |
| 1111-038 2020 | 2020-21 | Licensing Staff Increase | 2.5 Office Technician | 2.5 Office Technician | \$193,000 | \$154,000 | \$89,000 | \$74,000 |
| 1111-075 2018 | 2018-19 | BreEZe System Maintenance | | | | | \$142,000 | \$142,000 |
| 1111-029 2017 | 2017-18 | BreEZe System and Credit Card Funding | | | | | \$128,000 | \$128,000 |

The Board received 2.5 OT positions in FY 2020-21. However, due to the pandemic, the positions were approved on a phased-in approach. Funding for 1.5 positions were approved effective July 1, 2020, and ongoing; funding for the remaining 1.0 position was approved effective January 1, 2021, and ongoing.

Staffing Issues

16. Describe any board staffing issues/challenges, i.e., vacancy rates, efforts to reclassify positions, staff turnover, recruitment and retention efforts, succession planning.

The Board currently has 6.5 vacant positions of its 17.7 authorized positions. In July 2021, the Board's Probation Monitor retired and two staff members accepted promotions at other state agencies. A Retired Annuitant who was hired to help with the Sunset Report and HR packages resigned due to health issues.

On November 1, 2021, a part-time Office Assistant retired. And the Board's Enforcement Manager is planning to retire February 1, 2022. A new Probation Monitor and Retired Annuitant (enforcement) were hired in November 2021 and other position recruitment efforts will become a priority in 2022.

To improve effectiveness and efficiency the Board is planning on hiring another Retired Annuitant in December 2021 to assist with re-classifying several positions and recruitment efforts to fill vacancies.

Succession planning efforts began in late 2020 but completion of a plan has been hindered due to the COVID-19 pandemic, vacancies, and other priorities.

17. Describe the board's staff development efforts.

Management encourages staff to sign up and take training provided by DCA's SOLID unit and the new on-line Learning Management System, which provides videos and self-paced courses.

Management supports upward mobility, skills enhancement, knowledge increase and cross-training. Occasionally management has directed staff to take specific courses to improve performance or prepare the employee for new assignments.

To support staff during teleworking, staff were instructed to take *Introduction to MS Teams, Managing Time and Workload, Best Practices for Working from Home*.

To support the use of WebEx for Board and Committee meetings, several staff completed *How to Set-up and Host a WebEx event* and *How to Moderate an Event in WebEx*.

Management also shares email responses to difficult or sensitive questions posed by licensee's with staff as well as any changes or modification to procedures and business processes. Staff are encouraged to ask questions and also provide suggestions on process improvements.

Section 4 – Licensing Program

- 18. What are the board’s performance targets/expectations for its licensing program? Is the board meeting those expectations? If not, what is the board doing to improve performance?**

CCR section 4112 requires that the Board provide written notice to an applicant whether their application is complete or deficient within 30 days of the Board’s receipt of the application. Internal statistics for the last three fiscal years reflect that the Board is meeting the established expectation. It takes the Board about 22-28 days to provide an applicant written notice whether the application is complete (and approved) or whether additional documentation is required.

- 19. Describe any increase or decrease in the board’s average time to process applications, administer exams and/or issue licenses. Have pending applications grown at a rate that exceeds completed applications? If so, what has been done by the board to address them? What are the performance barriers and what improvement plans are in place? What has the board done and what is the board going to do to address any performance issues, i.e., process efficiencies, regulations, BCP, legislation?**

The Board is meeting its regulatory goal in processing applications and notifying applicants within 30 days of the status of their application, so pending applications have not grown at a rate that is not manageable. On occasion, when the Board has been in jeopardy of exceeding the 30-day notification period, it has been able to redirect staff resources. These occasions usually occur for very short durations and happen around graduation periods. The Board will continue to monitor the processing times and take appropriate steps to seek additional staff through the BCP process and/or consider legislative or regulatory change if it is not able to meet the standards established in CCR section 4112.

Table 6. Licensee Population

| | | FY 2016-17 | FY 2017-18 | FY 2018-19 | FY 2019-20 | FY 2020-21 |
|-----------------------------------|----------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|
| Occupational Therapist | Active | 12,540 | 13,368 | 14,105 | 14,653 | 15,135 |
| | Inactive | 913 | 678 | 432 | 377 | 327 |
| | Retired | 76 | 187 | 353 | 470 | 580 |
| | Delinquent * | 1,906 | 2,239 | 2,545 | 2,716 | 2,946 |
| | Out-of-State | 2,273 | 2,625 | 3,041 | 3,523 | 3,557 |
| | Out-of-Country | Data not available | Data not available | Data not available | Data not available | Data not available |
| Occupational Therapy Assistant | Active | 2,838 | 3,172 | 3,437 | 3,641 | 3,727 |
| | Inactive | 152 | 134 | 96 | 88 | 80 |
| | Retired | 14 | 36 | 62 | 85 | 118 |
| | Delinquent * | 470 | 559 | 675 | 771 | 911 |
| | Out-of-State | 553 | 655 | 757 | 827 | 827 |
| | Out-of-Country | Data not available | Data not available | Data not available | Data not available | Data not available |

* Delinquent license renewals processed are not accounted for in the active and inactive totals.

Table 7a. Licensing Data for Occupational Therapists

| | Application Type | Received | Approved | Issued | Pending Applications | Cycle Times | |
|---------|------------------|----------|----------|--------|----------------------|---------------|-----------------|
| | | | | | Total (Close of FY) | Complete Apps | Incomplete Apps |
| FY | License | 1,330 | 1,192 | 1,177 | 55 | 34 | 66 |
| 2016-17 | Renewal | | 6,131 | | | | |
| FY | License | 1,443 | 1,337 | 1,308 | 89 | 29 | 68 |
| 2017-18 | Renewal | | 6,213 | | | | |
| FY | License | 1,377 | 1,301 | 1,377 | 65 | 27 | 71 |
| 2018-19 | Renewal | | 6,552 | | | | |
| FY | License | 1,105 | 1,191 | 1,160 | 94 | 31 | 76 |
| 2019-20 | Renewal | | 6,859 | | | | |
| FY | License | 1,550 | 1,256 | 1,203 | 148 | 26 | 75 |
| 2020-21 | Renewal | | 7,034 | | | | |

7a. Licensing Data for Occupational Therapist Assistants

| | Application Type | Received | Approved | Issued | Pending Applications | Cycle Times | |
|------------|------------------|----------|----------|--------|----------------------|---------------|-----------------|
| | | | | | Total (Close of FY) | Complete Apps | Incomplete Apps |
| FY 2016-17 | License | 500 | 430 | 403 | 40 | 40 | 69 |
| | Renewal | | 1,321 | | | | |
| FY 2017-18 | License | 520 | 477 | 471 | 32 | 30 | 75 |
| | Renewal | | 1,351 | | | | |
| FY 2018-19 | License | 503 | 455 | 489 | 31 | 27 | 76 |
| | Renewal | | 1,582 | | | | |
| FY 2019-20 | License | 412 | 419 | 403 | 38 | 31 | 78 |
| | Renewal | | 1,568 | | | | |
| FY 2020-21 | License | 427 | 381 | 366 | 34 | 26 | 84 |
| | Renewal | | 1,711 | | | | |

Table 7b. Total Licensing Data

| | FY 2016-17 | FY 2017-18 | FY 2018-19 | FY 2019-20 | FY 2020-21 |
|---|--------------------|---------------|---------------|---------------|---------------|
| Initial Licensing Data for OTs and OTAs: | | | | | |
| OT Licenses Issued | | | | | |
| Initial OT License/Initial Applications Received | 1,330 | 1,443 | 1,377 | 1,105 | 1,488 |
| Initial OT License/Initial Applications Approved | 1,192 | 1,337 | 1,301 | 1,191 | 1,256 |
| Initial OT License/Initial Applications Closed | 1,177 | 1,308 | 1,377 | 1,160 | 1,203 |
| OTA Licenses Issued | | | | | |
| Initial OTA License/Initial Applications Received | 500 | 520 | 503 | 412 | 427 |
| Initial OTA License/Initial Applications Approved | 430 | 477 | 455 | 419 | 381 |
| Initial OTA License/Initial Applications Closed | 403 | 471 | 489 | 403 | 366 |
| Initial License Application Pending Data | | | | | |
| Pending OT Applications (total at close of FY) | 55 | 89 | 65 | 94 | 148 |
| Pending OT Applications (outside of board control) * | Data not available | | | | |
| Pending OT Applications (within the board control) * | Data not available | | | | |

| | | | | | |
|--|--------------------|----|----|----|----|
| Pending OTA Applications (total at close of FY) | 40 | 32 | 31 | 38 | 34 |
| Pending OTA Applications (outside of board control) * | Data not available | | | | |
| Pending OTA Applications (within the board control) * | Data not available | | | | |

| Initial License/Initial Cycle Time Data (WEIGHTED AVERAGE) for OT and OTA: | | | | | |
|---|---------------------------|------------|------------|------------|------------|
| | FY 2016-17 | FY 2017-18 | FY 2018-19 | FY 2019-20 | FY 2020-21 |
| Average Days to OT Application Approval (All – Complete/Incomplete) | 47 | 48.5 | 49 | 53.5 | 50 |
| Average Days to OT Application Approval (incomplete applications) * | 66 | 68 | 27 | 31 | 74 |
| Average Days to OT Application Approval (complete applications) * | 28 | 29 | 71 | 76 | 26 |
| Average Days to OTA Application Approval (All – Complete/Incomplete) | 50.5 | 52.5 | 51.5 | 54.5 | 55.5 |
| Average Days to OTA Application Approval (incomplete applications) * | 27 | 30 | 27 | 31 | 84 |
| Average Days to OTA Application Approval (complete applications) * | 74 | 75 | 76 | 78 | 27 |
| License Renewal Data: | | | | | |
| License Renewed | See Table 7a above | | | | |

20. How many licenses has the board denied over the past four years based on criminal history that is determined to be substantially related to the qualifications, functions, or duties of the profession, pursuant to BPC § 480? Please provide a breakdown of each instance of denial and the acts the board determined were substantially related.

| Figure 3. APPLICATIONS DENIED BASED ON CRIMINAL HISTORY | | | | | | | | |
|---|---------------|--|---------------|--------|---------------|--------|---------------|-------------------------------|
| | FY 2017-18 | | FY 2018-19 | | FY 2019-20 | | FY 2020-21 | |
| | # | Act(s) | # | Act(s) | # | Act(s) | # | Act(s) |
| Applications Denied | 0 | | 2 | | 0 | | 0 | |
| SOIs Filed | 2 | <i>App 1 – A(3x), B, C, and D App2 - E</i> | 0 | | 1 | F | 0 | |
| SOIs Withdrawn | 0 | | 0 | | 0 | | 1 | Result of SOI from FY 2019-20 |
| SOIs Dismissed | 0 | | 0 | | 0 | | 0 | |
| SOIs Declined | 0 | | 0 | | 0 | | 0 | |

Legend for ACTS listed above (basis for application denial)

- A – Driving Under the Influence
- B – Driving on a Suspended License
- C – Inflicting Corporal Injury on a Spouse
- D – Battery
- E – Detention Facility Officer Engaging in Unlawful Sex
- F – Sexual Battery by Restraint

21. How does the board verify information provided by the applicant?

- a. What process does the board use to check prior criminal history information, prior disciplinary actions, or other unlawful acts of the applicant? Has the board denied any licenses over the last four years based on the applicant's failure to disclose information on the application, including failure to self-disclose criminal history? If so, how many times and for what types of crimes (please be specific)?

When an applicant submits their application for licensure, he or she is required to disclose whether any health-related professional licensing or disciplinary body in any state, territory, or foreign jurisdiction has ever denied, limited, placed on probation, restricted, suspended, cancelled, or revoked any professional license, certificate, or registration, or imposed a fine, reprimand, or taken any other disciplinary action against any license or certificate they hold or have ever held. If the applicant discloses another license on their application, he or she is required to submit a license verification from the issuing authority. The license verification is used as a primary source to determine if the applicant had a license or certificate that had been disciplined by another state or province. (This process also allows the Board to determine if the applicant has been truthful in the application process.)

As part of the licensure process, each applicant is required to submit their fingerprints for processing through the California Department of Justice and the Federal Bureau of Investigation for processing at both the State and Federal levels. (This process also allows the Board to determine if the applicant has been truthful in the application process.)

- b. Does the board fingerprint all applicants?

As part of the licensure process, all applicants are required to submit their fingerprints for processing through the California Department of Justice and the Federal Bureau of Investigation. Applicants can submit their fingerprints electronically if they access one of several hundred Live Scan locations in California. Applicants located out of state must complete and submit fingerprint cards directly to the Board; the Board then forwards the cards to the DOJ for manual processing. Whether fingerprints are submitted via Live Scan or fingerprint cards, no applicant is approved for licensure until the background checks from both the Department of Justice and Federal Bureau of Investigation are received by the Board.

- c. Have all current licensees been fingerprinted? If not, explain.

All current licensees have been fingerprinted before their initial license applications were approved in order to verify whether an applicant has been convicted of crimes in the past, and to provide the Board with subsequent arrest information. Thus, the fingerprint image is "maintained" by the Department of Justice. With the fingerprints maintained by DOJ, the Board also receives subsequent arrest and subsequent conviction reports. This allows the Board to open a 'case' and monitor the arrest through the process; staff can then determine if the conviction is substantially related to the qualifications, functions or duties of an occupational therapy practitioner.

A substantially related conviction then becomes the basis for the Board to take disciplinary

action against the licensee. (This process also allows the Board to determine if the licensee was truthful in completing the renewal application.)

- d. Is there a national databank relating to disciplinary actions? Does the board check the national databank prior to issuing a license? Renewing a license?

The National Practitioner Data Bank (NPDB) collects information and maintains reports on:

- Federal and state licensure and certification actions
- Health care-related criminal convictions and civil judgments
- Medicare and Medicaid exclusions
- Medical malpractice payments
- Adverse clinical privileges actions
- Adverse professional society membership actions
- Other adjudicated actions or decisions

The intent of the databank is to improve the quality of health care by requiring state licensing boards, hospitals, health care employers, other health care entities, and professional societies to report those licensees who engage in illegal or unprofessional behavior; and to restrict the ability of incompetent health care practitioners from moving from state-to-state without disclosure or discovery of previous discipline, medical malpractice payment or other adverse action. Adverse actions can involve action taken against licensure, clinical privileges, and professional society membership.

Reporters to the NPDB include, but are not limited to:

- State healthcare licensing boards
- Health and Human Services' Office of the Inspector General
- State entity licensing and certification authorities
- Medical malpractice payers
- Hospitals
- Professional societies with formal peer review
- Other health care entities with formal peer review (e.g., HMOs, managed care organizations, etc.)
- Drug Enforcement Agency

The Board reports all disciplinary actions taken against applicants and licensees to the NPDB as required by federal law.

- e. Does the board require primary source documentation?

The Board requires primary source documentation (e.g., educational transcripts issued by the university or college, verification of passage of the examination issued by the vendor, license verifications issued by another state agency, certified court documents relating to convictions.) to ensure the accuracy of the document submitted. Primary source documentation also assists the Board in determining if the applicant has been truthful in the application process, when the documentation submitted is compared to the information the applicant has provided on the application form.

22. Describe the board's legal requirement and process for out-of-state and out-of-country applicants to obtain licensure.

The Board does not have reciprocity with any other state licensing boards. Any person from another state seeking licensure in California as an Occupational Therapist (OT) or Occupational Therapy Assistant (OTA) will need to demonstrate compliance with all licensing requirements, including demonstrating minimum entry-level competence. This is demonstrated by completion of specific educational and supervised fieldwork requirements set forth in BPC section 2570.6 and successful completion of the entry-level examinations administered by NBCOT.

Occupational Therapists trained outside of the United States are required to complete the educational and supervised fieldwork requirements set forth in BPC section 2570.6 and successfully complete the entry-level certification examination administered by NBCOT. (There are no foreign occupational therapy assistant programs recognized; only graduates of United States occupational therapy assistant programs are eligible to take the NBCOT examination.) Pursuant to BPC section 30, applicants shall provide either an individual taxpayer identification number or a social security number before a license can be issued.

An individual applying for a license as an occupational therapist or as an occupational therapy assistant shall submit a completed application and demonstrate to the Board that he or she meets all of the requirements set forth in BPC Section 2570.6:

(a) That the applicant is in good standing and has not committed acts or crimes constituting grounds for denial of a license under Section 480.

(b)(1) That the applicant has successfully completed the academic requirements of an educational program for occupational therapists or occupational therapy assistants that is approved by the board and accredited by the American Occupational Therapy Association's Accreditation Council for Occupational Therapy Education (ACOTE), or accredited or approved by the American Occupational Therapy Association's (AOTA) predecessor organization, or approved by AOTA's Career Mobility Program.

(d) That the applicant has successfully completed a period of supervised fieldwork experience approved by the board and arranged by a recognized educational institution where he or she met the academic requirements of subdivision (b) or (c) or arranged by a nationally recognized professional association.

(e) That the applicant has passed an examination as provided in Section 2570.7.

(f) That the applicant, at the time of application, is a person over 18 years of age, is not addicted to alcohol or any controlled substance, and has not committed acts or crimes constituting grounds for denial of licensure under Section 480.

BPC Section 2570.4 allows an OT or OTA who holds a current, active, and non-restricted license issued by another state with requirements at least as stringent as California to work in California for 60-days from the date an application for licensure is received by the Board; the OT or OTA must work in association with a California-licensed OT.

Any applicant who holds or has ever held a license, registration, or certificate in any health-related profession, including occupational therapy, in any state, province, or

country, must disclose these licenses, registrations or certificates and request a license verification from each of those jurisdictions.

Other than those items listed above, the application process is the same for new graduates, or applicants from out-of-state or country.

23. Describe the board's process, if any, for considering military education, training, and experience for purposes of licensing or credentialing requirements, including college credit equivalency.

Existing law, BPC section 2570.6, establishes that an applicant for licensure must successfully complete an occupational therapy academic program that has been accredited by the Accreditation Council on Occupational Therapy Education (ACOTE).

Existing law, BPC section 2570.7, also establishes an applicant for state licensure must pass the examination administered by NBCOT. In order for NBCOT to allow a candidate to sit for the certification examination the candidate must provide evidence (a transcript) they successfully completed an OT or OTA educational program that is accredited by ACOTE; graduates of a foreign educational program must submit evidence to NBCOT that the program they completed contained substantially equivalent courses to the education curriculum required of program accredited by ACOTE.

As previously reported, there is a pathway for OTAs to qualify by having completed military education and training. This is because military OTA programs have been accredited by ACOTE and meet NBCOT's eligibility requirements for the COTA examination.

A review of the qualification requirements for occupational therapists serving in the armed services, indicates that completion of an accredited occupational therapy degree program and passage of the NBCOT examination is required.

- a. Does the board identify or track applicants who are veterans? If not, when does the board expect to be compliant with BPC § 114.5?
- b. How many applicants offered military education, training or experience towards meeting licensing or credentialing requirements, and how many applicants had such education, training or experience accepted by the board?
- c. What regulatory changes has the board made to bring it into conformance with BPC § 35?
- d. How many licensees has the board waived fees or requirements for pursuant to BPC § 114.3, and what has the impact been on board revenues?
- e. How many applications has the board expedited pursuant to BPC § 115.5?

24. Does the board send No Longer Interested notifications to DOJ on a regular and ongoing basis? Is this done electronically? Is there a backlog? If so, describe the extent and efforts to address the backlog.

The Board submits No Longer Interested (NLI) notifications to DOJ when a license is cancelled, surrendered, revoked, or reported deceased. The NLI notification is also submitted to DOJ when an application for licensure is abandoned. All NLI notifications are faxed to DOJ and a copy of the form is retained.

Since some applicants submit their fingerprints to DOJ but never submit an application for licensure to the Board, there is an internal policy that requires Board staff to submit the NLI if an application is not received from the applicant within 60 days of receipt of the DOJ or FBI information, whichever occurs latest. There is not a back log of NLI notifications to be sent to DOJ.

Examinations

25. Describe the examinations required for licensure. Is a national examination used? Is a California specific examination required? Are examinations offered in a language other than English?

Pursuant to BPC Section 2570.7, each applicant for licensure shall successfully complete the entry level certification examination for occupational therapists or occupational therapy assistants. The national examinations determine whether a candidate for licensure is able to demonstrate entry-level competence as an occupational therapist or occupational therapy assistant. The passage of the national examinations administered by NBCOT is a minimum licensure requirement for the United States and Puerto Rico.

Currently, a California specific examination is not required. A review of the national examinations will assess the validity of the examination content for California practice and determine if competencies unique to California need to be assessed via a California specific examination.

The national examinations are not offered in other languages.

26. What are pass rates for first time vs. retakes in the past 4 fiscal years? (Refer to Table 8: Examination Data) Are pass rates collected for examinations offered in a language other than English?

The National examinations data is not available by fiscal year; NBCOT has provided pass rates by calendar year only.

Table 8. Examination Data

| License Type | | Occupational Therapist |
|----------------------|--------------------------------------|--|
| Exam Title | | <i>OCCUPATIONAL THERAPIST REGISTERED - OTR</i> |
| FY 2016-17 | # of 1 st Time Candidates | 6,787 |
| | Pass % | 80.23% |
| FY 2017-18 | # of 1 st Time Candidates | 7,321 |
| | Pass % | 81.87% |
| FY 2018-19 | # of 1 st Time Candidates | 7,959 |
| | Pass % | 82.35% |
| FY 2019-20 | # of 1 st time Candidates | 7,259 |
| | Pass % | 82.74% |
| FY 2020-21 | # of 1 st time Candidates | 8,469 |
| | Pass % | 84.38% |
| Date of Last OA | | 2017 |
| Name of OA Developer | | NBCOT |
| Date of next OA | | 2022 |
| License Type | | Occupational Therapy Assistant |
| Exam Title | | <i>CERTIFIED OCCUPATIONAL THERAPY ASSISTANT – COTA</i> |
| FY 2016-17 | # of 1 st Time Candidates | 4,732 |
| | Pass % | 76.14% |
| FY 2017-18 | # of 1 st Time Candidates | 4,980 |
| | Pass % | 75.64% |
| FY 2018-19 | # of 1 st Time Candidates | 4,775 |
| | Pass % | 76.46% |
| FY 2019-20 | # of 1 st time Candidates | 3,786 |
| | Pass % | 75.46% |
| FY 2020-21 | # of 1 st time Candidates | 4,140 |
| Pass % | | 79.69% |

| Table 8. Examination Data | |
|----------------------------------|--------------|
| Date of Last OA | 2017 |
| Name of OA Developer | NBCOT |
| Date of Next OA | 2022 |

27. Is the Board using computer-based testing? If so, for which tests? Describe how it works. Where is it available? How often are tests administered?

The NBCOT uses computer-based testing to administer the examinations required to demonstrate competence as an occupational therapist or an occupational therapy assistant. The examinations are administered at Prometric Test Centers worldwide, through a network of more than 10,000 testing centers in more than 160 countries. Most PTC test centers are open six days a week and many centers offer evening hours for candidate convenience.

Candidates are encouraged to review the Certification Examination Handbook, which is available on NBCOT's website, prior to applying for the exam. The handbook has been developed to provide exam candidates with the information they need to complete an examination application and successfully pass the required examination.

All candidates are required to answer the character questions on the exam application and for those who respond affirmatively, comply with related documentation requirements. Candidates requesting special testing accommodations must indicate this request on the application and comply with associated documentation requirements. Reporting services are available to all candidates as part of the exam application process including: 1) Confirmation of Examination Registration and Eligibility to Examine Notice; and 2) Official Score Transfer.

After the candidate has submitted an exam application and fee to NBCOT, they must also submit an Official Final Transcript or an Academic Credential Verification Form (ACVF). The ACVF may be submitted if the official transcript is not final with the understanding that the final transcript must be submitted when available from the college or university's Registrars' Office.

Once an exam application has been approved by NBCOT, the candidate is provided with an Authorization to Test (ATT) letter. The ATT letter authorizes the candidate to take the examination and is active for 90 days. Upon receipt of an ATT letter, a candidate can then proceed with contacting Prometric Test Centers to schedule a date, time and location to test.

The official score report is provided directly to the Board via an on-line secure portal, once the candidate makes the request to NBCOT.

28. Are there existing statutes that hinder the efficient and effective processing of applications and/or examinations? If so, please describe.

There are no statutory barriers or inefficiencies that hinder the processing of applications. The application process required in California is fairly consistent across the United States, including completing educational programs accredited by ACOTE and passage of the examinations administered by NBCOT.

School approvals

29. Describe legal requirements regarding school approval. Who approves your schools? What role does BPPE have in approving schools? How does the board work with BPPE in the school approval process?

The ACOTE approves all occupational therapy educational programs; the Board does not work directly with BPPE.

30. How many schools are approved by the board? How often are approved schools reviewed? Can the board remove its approval of a school?

Not applicable; the Board does not approve, review, remove schools.

31. What are the board's legal requirements regarding approval of international schools?

Not applicable; the Board does not approve schools or educational programs.

Continuing Education/Competency Requirements

32. Describe the board's continuing education/competency requirements, if any. Describe any changes made by the board since the last review.

- a. How does the board verify CE or other competency requirements? Has the Board worked with the Department to receive primary source verification of CE completion through the Department's cloud?

On the renewal application, licensees are required to self-certify, under penalty of perjury, that they have completed 24 PDUs as a condition of renewing their license with active status. Certificates of completion are not required to be submitted at the time of renewal.

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 BreZE 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 the licensee 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, the licensee will be given an option to access their BreZE account to upload copies of the certificates or to mail hard copies.

- b. Does the board conduct CE audits of licensees? Describe the board’s policy on CE audits.

The Board randomly audits renewing licensees to determine compliance with the PDU requirement. The Board has established a goal of conducting audits on 10-15% of its active renewals.

- c. How many CE audits were conducted in the past four fiscal years? How many fails? What is the percentage of CE failure?

Please see Figure X, Continuing Competence Audit Data.

| Figure 4. Continuing Education/Competence Audit Data | | | | |
|---|---------------|---------------|---------------|---------------|
| | FY 2017-18 | FY 2018-19 | FY 2019-20 | FY 2020-21 |
| Number of audits conducted | 619 | 743 | 1253 | 225 |
| Number of audits passed | 458 | 569 | 1021 | 140 |
| Number of audits with <i>no response</i> from licensee | 38 | 74 | 101 | 14 |
| Number of audits failed | 77 | 79 | 63 | n/a |
| Percentage of audits failed | 12.43 | 10.63 | 5 | n/a |

| Table 8a. Continuing Education | | | |
|---------------------------------------|----------------------|--|---------------------------------|
| License Type | Frequency of Renewal | Number of CE Hours Required Each Cycle | Percentage of Licensees Audited |
| Occupational Therapist | Biennially | 24 | 10-15% |
| Occupational Therapy Assistant | Biennially | 24 | 10-15% |

- d. What are consequences for failing a CE audit?

A citation and fine is issued to licensees who fail to respond to the Board’s letters auditing a renewal or who fail to demonstrate completion of the 24 PDUs required for renewal. The citation includes an Order of Abatement that requires the licensee to complete the deficiency that exists, be it as few as one hour or the full 24 hours.

Licensees that fail to comply with the Order of Abatement are referred to the Office of the Attorney General (AGO) formal disciplinary action against their license.

e. What is the board's course approval policy?

The Board does not approve continuing education courses or the companies that provide courses. However, CCR section 4161(b) states that activities acceptable to the Board include, but are not limited to, programs or activities sponsored by the American Occupational Therapy Association or the Occupational Therapy Association of California.

The Board also accepts coursework or programs that contributes directly to professional knowledge, skill, and ability and is objectively measurable in terms of the hours involved. Licensees can meet the continuing competence requirement in a variety of ways other than paying a provider and completing courses.

For example, licensees can supervise a student completing the fieldwork required by their educational program; participate in structured special interest or study groups; mentor a practitioner or structured mentoring with an individual skilled in a particular area; publish an article in a peer-reviewed or non-peer reviewed publication; publish a chapter in an occupational therapy or related professional textbook; attend a Board meeting or Board outreach activity.

f. Who approves CE providers? Who approves CE courses? If the board approves them, what is the board application review process?

The Board does not approve CE providers or courses.

g. How many applications for CE providers and CE courses were received? How many were approved?

Not applicable; no data to report.

h. Does the board audit CE providers? If so, describe the board's policy and process.

The Board does not audit continuing education providers.

i. Describe the board's effort, if any, to review its CE policy for purpose of moving toward performance-based assessments of the licensee's continuing competence.

Due to the lack of evidence-based research available, the Board is not planning to move forward with performance-based assessments of licensees at this time.

Section 5 – Enforcement Program

33. What are the board's performance targets/expectations for its enforcement program? Is the board meeting those expectations?

The Board's Enforcement Unit performance targets are as follows:

Cycle Time for Case Assignment Target is 10-days.

The Board is meeting this expectation. The Board's average processing time for this metric is one (1) day across most fiscal years.

The Cases Closed at Investigation Target Time is 270-days. This captures the time from assignment to analyst and/or sworn investigator to close of investigation.

The Board has met the target time except for FY 2016-17, when the average closing time was 33-days over the Board's target.

In subsequent years the Board reported investigation closing times as follows:

- FY 2017-18 178 days
- FY 2018-19 153 days
- FY 2019-20 158 day.
- FY 2020-21 112 days

The Formal Discipline Cycle Time Target is 540 days. This captures the time from receipt of complaint to investigation to imposition of discipline.

Meeting the target has varied over the years, depending upon case complexity-and/or any challenges in obtaining documents during the investigation.

- FY 2016-17 603 days
- FY 2017-18 319 days
- FY 2018-19 521 days
- FY 2019-20 528 days
- FY 2020-21 724 days

The Probation Intake Target Time is 10 days. This captures the average time from the date the licensee is placed on probation to the date the probation monitor contacts the probationer. The Board consistently meets this goal.

The Probation Violation(s) Target Time is 10 days. This captures the time from the date a violation is reported or discovered, to the date the monitor commences appropriate action. The Board consistently meets this goal.

34. Explain trends in enforcement data and the board’s efforts to address any increase in volume, timeframes, ratio of closure to pending cases, or other challenges. What are the performance barriers? What improvement plans are in place? What has the board done and what is the board going to do to address these issues, i.e., process efficiencies, regulations, BCP, legislation?

Investigations

The Board has seen an increase in its investigations from a low of 397 in FY 2016-17 to a spike of 1,009 in FY 2020-21. Investigations can be attributed to internal controls the Board implemented for potential unlicensed practice violations stemming from delinquent renewals and address change violations.

Processing Time for AG Discipline Cases, Receipt of Complaint to Imposing Discipline

In FY 2016-17 the Board had three (3) cases that went over 1,200 days. One case involved unprofessional conduct charges by a licensee that was residing and practicing in Oregon and Washington. From the point the Board was advised of the incident until discipline was rendered by the two states the matter took two years. In the second case, adjudication of a criminal conviction took 405 days with administrative adjudication taking 616 days. In the third case, a sworn investigation took 365 days with administrative adjudication taking 536 days.

In FY 2020-21 the Board had three (3) cases that took over three (3) years from receipt of the complaint until discipline was rendered. One case took a total of 1,305 days which predominantly consisted of a sworn investigation that took 668 days. The other two cases taking 2,106 and 2,155 days respectively pertained to violations involving advanced practice services in hand therapy and physical agent modalities which required extensive records gathering and multiple reviews by an expert to render a decision on whether the practitioners deviated from standard practice.

| Table 9a. Enforcement Statistics | | | | | |
|---|---------------|---------------|---------------|---------------|---------------|
| | FY 2016-17 | FY 2017-18 | FY 2018-19 | FY 2019-20 | FY 2020-21 |
| COMPLAINTS | | | | | |
| <i>Intake</i> | | | | | |
| Received | 241 | 502 | 499 | 597 | 895 |
| Closed without Investigation | 0 | 0 | 1 | 0 | 0 |
| Referred to INV | 241 | 502 | 498 | 596 | 894 |
| Pending (close of FY) | 0 | 1 | 1 | 1 | 1 |
| <i>Source of Complaint</i> | | | | | |
| Public | 35 | 37 | 29 | 42 | 44 |
| Licensee/Professional Groups | 25 | 16 | 32 | 32 | 24 |
| Governmental Agencies | 5 | 3 | 4 | 4 | 15 |
| Internal | 176 | 445 | 433 | 515 | 810 |
| Other | 0 | 1 | 1 | 4 | 2 |

| | FY 2016-17 | FY 2017-18 | FY 2018-19 | FY 2019-20 | FY 2020-21 |
|--|---------------|---------------|---------------|---------------|---------------|
| <i>Conviction / Arrest</i> | | | | | |
| CONV Received | 156 | 163 | 186 | 110 | 114 |
| CONV Closed Without Investigation | 0 | 0 | 0 | 0 | 0 |
| CONV Referred to INV | 156 | 163 | 186 | 110 | 114 |
| CONV Pending (close of FY) | 0 | 0 | 0 | 0 | 0 |
| Average Time to Refer for Investigation (from receipt to referral for investigation) | 4 | 1 | 1 | 1 | 1 |
| Average Time to Closure (from receipt to closure at intake) | 4 | 1 | 1 | 1 | 1 |
| Average Time at Intake (from receipt of complaint and conviction to closure for referral for investigation) | 4 | 1 | 1 | 1 | 1 |
| INVESTIGATIONS | | | | | |
| <i>Desk Investigations</i> | | | | | |
| Opened | 397 | 665 | 685 | 707 | 1,008 |
| Closed | 661 | 602 | 598 | 698 | 1,009 |
| Average days to close (from assignment to investigation closure) | 303 | 179 | 162 | 158 | 112 |
| Pending Desk Investigations (close of FY) | 243 | 288 | 245 | 345 | 319 |
| <i>Non-Sworn Investigation</i> | | | | | |
| Opened | n/a | n/a | n/a | n/a | n/a |
| Closed | n/a | n/a | n/a | n/a | n/a |
| Average days to close (from assignment to investigation closure) | n/a | n/a | n/a | n/a | n/a |
| Pending Non-Sworn Investigations (close of FY) | n/a | n/a | n/a | n/a | n/a |
| <i>Sworn Investigation</i> | | | | | |
| Opened | 2 | 15 | 13 | 8 | 17 |
| Closed | 3 | 9 | 9 | 12 | 18 |
| Average days to close Sworn Investigations (from assignment to investigation closure) | 333 | 322 | 359 | 291 | 275 |
| Pending (close of FY) | 2 | 8 | 14 | 7 | 6 |
| | | | | | |

| | FY 2016-17 | FY 2017-18 | FY 2018-19 | FY 2019-20 | FY 2020-21 |
|---|--------------------|---------------|---------------|---------------|---------------|
| All investigations¹ | 399 | 680 | 698 | 715 | 1025 |
| Opened | | | | | |
| Closed | | | | | |
| Average days for all investigations (from start investigation to investigation closure or referral for prosecution) | 303 | 179 | 162 | 158 | 112 |
| Average days for investigation closures (from start investigation to investigation closure) | Data not available | | | | |
| Average days for investigation when referring for prosecution (from start investigation to referral prosecution) | 259 | 102 | 211 | 134 | 365 |
| Average days from receipt of complaint to investigation closure | 303 | 179 | 162 | 158 | 112 |
| Pending Investigations (close of FY) | 245 | 296 | 259 | 32 | 325 |
| CITATION AND FINE | | | | | |
| Citations Issued | 93 | 182 | 172 | 263 | 226 |
| Average Days to Complete (from complaint receipt to citation issued) | 334 | 246 | 198 | 201 | 167 |
| Amount of Fines Assessed | \$42,585 | \$60,495 | \$43,930 | \$63,035 | \$43,406 |
| Amount of Fines Reduced, Withdrawn, Dismissed | \$10,700 | \$3,850 | \$5,580 | \$5,140 | \$2,315 |
| Amount Collected | \$26,662 | \$43,145 | \$37,590 | \$48,450 | \$19,346 |
| CRIMINAL ACTION | | | | | |
| Referred for Criminal Prosecution | 0 | 1 | 1 | 0 | 0 |
| ACCUSATIONS | | | | | |
| Accusations Filed | 6 | 23 | 25 | 9 | 16 |
| Accusations Declined | 0 | 0 | 0 | 0 | 0 |
| Accusations Withdrawn | 0 | 5 | 3 | 0 | 3 |
| Accusations Dismissed | 0 | 0 | 0 | 0 | 0 |
| Average Days from Referral to Accusations Filed (from AG referral to Accusation filed) | 102 | 114 | 164 | 161 | 127 |

| | FY 2016-17 | FY 2017-18 | FY 2018-19 | FY 2019-20 | FY 2020-21 |
|--|---------------|---------------|---------------|---------------|---------------|
| INTERIM ACTION | | | | | |
| ISO & TRO Issued | 0 | 0 | 0 | 0 | 0 |
| PC 23 Orders Issued | 0 | 0 | 3 | 0 | 1 |
| Other Suspension/Restriction Orders Issued | 0 | 0 | 3 | 7 | 1 |
| Petition to Compel Examination Ordered | 0 | 0 | 1 | 1 | 0 |
| Cease & Desist or Warning Letters | 32 | 33 | 23 | 16 | 12 |
| DISCIPLINE | | | | | |
| AG Cases Initiated | 19 | 47 | 25 | 25 | 17 |
| AG Cases Pending (close of FY) | 14 | 36 | 19 | 22 | 18 |
| AG Cases Pending Pre- Accusation (close of FY) | 11 | 12 | 7 | 10 | 6 |
| AG Cases Pending Post- Accusation (close of FY) | 1 | 13 | 11 | 7 | 11 |
| DISCIPLINARY OUTCOMES | | | | | |
| License Revoked | 4 | 4 | 7 | 7 | 4 |
| License Surrendered | 2 | 6 | 7 | 2 | 4 |
| Suspension only | 0 | 0 | 0 | 0 | 0 |
| Probation with Suspension | 0 | 0 | 0 | 1 | 0 |
| Probation only | 6 | 4 | 10 | 4 | 4 |
| Public Reprimand or Public Reproval | n/a | n/a | n/a | n/a | n/a |
| Probationary License Issued | 2 | 1 | 0 | 0 | 0 |
| Other | 1 | 1 | 1 | 0 | 0 |
| DISCIPLINARY ACTIONS | | | | | |
| Proposed Decision | 5 | 0 | 2 | 4 | 2 |
| Default Decision | 5 | 5 | 8 | 7 | 4 |
| Stipulations | 7 | 10 | 18 | 6 | 10 |
| Average Days to Complete After Accusation (from date filed to closure of the case) | 450 | 207 | 348 | 474 | 425 |
| Average Days from Closure of Investigation to Imposing Formal Discipline | 291 | 106 | 197 | 296 | 217 |
| Average Days to Impose Discipline (from complaint receipt to final outcome) | 603 | 319 | 521 | 528 | 724 |
| PROBATION | | | | | |
| New Probationers | 8 | 5 | 10 | 6 | 5 |
| Probations Completed | 5 | 5 | 3 | 2 | 5 |

| | FY 2016-17 | FY 2017-18 | FY 2018-19 | FY 2019-20 | FY 2020-21 |
|--|---------------|---------------|---------------|---------------|---------------|
| Probationers at close of FY | 21 | 21 | 24 | 23 | 19 |
| Probationers Tolloed | 0 | 0 | 0 | 0 | 0 |
| Petitions to Revoke Probation/ Accusation and Petition to Revoke Probation Filed | 2 | 5 | 2 | 2 | 1 |
| SUBSEQUENT DISCIPLINE | | | | | |
| Probations Revoked | 1 | 1 | 1 | 0 | 1 |
| License Surrendered | 0 | 3 | 2 | 1 | 2 |
| Additional Probation Only | 0 | 0 | 0 | 1 | 1 |
| Suspension Only Added | 0 | 0 | 0 | 0 | 0 |
| Other Conditions Added Only | 0 | 0 | 0 | 0 | 0 |
| Other Probation Outcome | 0 | 0 | 0 | 0 | 0 |
| SUBSTANCE ABUSING LICENSEES | | | | | |
| Probationers Subject to Drug Testing | 12 | 10 | 10 | 10 | 13 |
| Drug Tests Ordered | 449 | 413 | 455 | 678 | 370 |
| Positive Drug Tests | 4 | 11 | 9 | 10 | 12 |
| PETITIONS | | | | | |
| Petition for Termination or Modification Granted | 1 | 0 | 0 | 1 | 1 |
| Petition for Termination or Modification Denied | 0 | 1 | 3 | 1 | 0 |
| Petition for Reinstatement Granted | 1 | 0 | 0 | 3 | 0 |
| Petition for Reinstatement Denied | 0 | 2 | 1 | 0 | 0 |

| Table 10. Enforcement Case Aging | | | | | | |
|---|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------------------|
| | FY 2016-17 | FY 2017-18 | FY 2018-19 | FY 2019-20 | FY 2020-21 | Total Cases Closed |
| <i>AGO Cases Closed Within:</i> | | | | | | |
| <1 Year | 5 | 11 | 14 | 8 | 5 | 43 |
| 1 - 2 Years | 6 | 3 | 12 | 8 | 3 | 32 |
| 2 - 3 Years | 3 | 2 | 5 | 4 | 4 | 18 |
| 3+ Years | 3 | 0 | 4 | 1 | 3 | 11 |
| Total AGO Cases Closed | 17 | 16 | 35 | 21 | 15 | 104 |
| <i>DOI Cases Closed Within:</i> | | | | | | |
| 0 - 1 Year | 1 | 8 | 6 | 8 | 14 | 37 |
| 1 - 2 Years | 2 | 0 | 3 | 4 | 3 | 12 |
| 2 - 3 Years | 0 | 0 | 0 | 0 | 1 | 1 |
| 3 - 4 Years | 0 | 1 | 0 | 0 | 0 | 1 |
| 4+ Years | 0 | 0 | 0 | 0 | 0 | 0 |
| Total DOI Cases Closed | 3 | 9 | 9 | 12 | 18 | 51 |
| <i>Desk Investigation Cases Closed Within:</i> | | | | | | |
| 90 Days | 208 | 321 | 353 | 409 | 773 | 2,064 |
| 91 - 180 Days | 54 | 141 | 92 | 115 | 68 | 470 |
| 181 days to 1 Year | 79 | 47 | 98 | 93 | 54 | 371 |
| 1 - 2 Years | 307 | 54 | 31 | 63 | 100 | 555 |
| 2 - 3 Years | 11 | 29 | 5 | 3 | 12 | 60 |
| 3+ Years | 2 | 10 | 19 | 15 | 2 | 48 |
| Total Desk Investigation Cases Closed | 661 | 602 | 598 | 698 | 1,009 | 3,568s |

35. What do overall statistics show as to increases or decreases in disciplinary action since last review?

Not counting FY 2018-19, the Board has consistently had 16 to 18 disciplinary outcomes and applications denied so the trend is stable. In FY 2018-19 disciplinary outcomes and applications denied spiked to a total of 29 cases. We are unable to identify any specific event or business process change that resulted in the spike process in FY 2018-19.

36. How are cases prioritized? What is the board's compliant prioritization policy? Is it different from DCA's *Complaint Prioritization Guidelines for Health Care Agencies* (August 31, 2009)? If so, explain why.

The Department's *Complaint Prioritization Guidelines* was provided to the Board for consideration at their December 3, 2009, meeting. While the Board agreed with the majority of the priority levels assigned to the list of complaint categories, several of the complaint categories were elevated in priority level and two were lowered.

The Board's *Complaint Prioritization Guidelines* are included Section 13 as Attachment H.

37. Are there mandatory reporting requirements? For example, requiring local officials or organizations, or other professionals to report violations, or for civil courts to report to the board actions taken against a licensee. Are there problems with the board receiving the required reports? If so, what could be done to correct the problems?

a. What is the dollar threshold for settlement reports received by the board?

BPC Section 801.1(a) requires every state or local governmental agency that self-insures a person who holds a license, certificate, or similar authority, shall report any settlement or arbitration award over three thousand dollars (\$3,000) of a claim or action for damages for death or personal injury caused by that person's negligence, error, or omission in practice, or rendering of unauthorized professional services.

BPC Section 802 requires that every settlement, judgment, or arbitration award over three thousand dollars (\$3,000) of a claim or action for damages for death or personal injury caused by negligence, error or omission in practice, or by the unauthorized rendering of professional services, by a person who holds a license, be reported to the Board.

BPC Section 803.5(a) requires the clerk of the court to notify the Board of any filings against a licensee charging a felony. BPC Section 803.5(b) also requires the clerk of the court to notify the Board, within 48 hours after the conviction, by transmitting a certified copy of the record of conviction to the Board.

The Board also relies on subsequent arrest and subsequent conviction notification from the Department of Justice.

b. What is the average dollar amount of settlements reported to the board?

The Board received no reports under BPC Sections 801 or 802 during the reporting period.

38. Describe settlements the board, and Office of the Attorney General on behalf of the board, enter into with licensees.

- a. What is the number of cases, pre-accusation, that the board settled for the past four years, compared to the number that resulted in a hearing?

The Board does not settle cases prior to the filing of an accusation.

- b. What is the number of cases, post-accusation, that the board settled for the past four years, compared to the number that resulted in a hearing?

Data for the number of stipulations and proposed decisions (resulting from hearings) is contained in Table 9a.

39. Does the board operate with a statute of limitations? If so, please describe and provide citation. If so, how many cases have been lost due to statute of limitations? If not, what is the board's policy on statute of limitations?

The Board has no statute of limitations for administrative violations. Board staff typically works with DCA's Division of Investigation (DOI) in matters and/or the Office of the Attorney General (AGO) to determine the viability of successfully prosecuting the case. Also, if the case is transmitted to the AGO, the Deputy Attorney General assigned to the case will advise staff if they have concerns with successfully prosecuting the case; this includes a review of a variety of issues, including but not limited to, the age of the violations, mitigation, etc.

40. Describe the board's efforts to address unlicensed activity and the underground economy.

The Board continues to make unlicensed practice a priority. The vast majority of cases pertain to licensees that renew delinquent. In the event a practitioner practices on an expired license, the Board issues citations and fines if the violation was for a period less than a year. If a practitioner practices on an expired license for a year or more, an Accusation is filed against the practitioner. Typically, these Accusation cases are resolved by a Stipulated Settlement and Disciplinary Order placing the practitioner on probation for a period of three years with standard terms, including an order for cost recovery. To date, the Board has not seen a practitioner that was placed on probation for practicing on an expired license recommit a similar offense.

Since the last Sunset Report the Board has instituted internal controls pertaining to potential instances of unlicensed practice. For example, a report is run monthly identifying licensees that have renewed delinquent. Investigations are opened and the licensee is contacted to determine if they practiced on an expired license.

The Board will continue to make efforts to educate and inform employers, the profession, and others with the capability of verifying the status of licenses online at search.dca.ca.gov.

41. Discuss the extent to which the board has used its cite and fine authority. Discuss any changes from last review and describe the last time regulations were updated and any changes that were made. Has the board increased its maximum fines to the \$5,000 statutory limit?

Intent of Cite and Fine Authority

Business and Professions Code (BPC) Section 125.9 authorizes the Board to establish, by regulation, a system for the issuance to a licensee of a citation which may contain an order of abatement or an order to pay an administrative fine. The Board established CCR Section 4140(a), which authorizes the Board to issue citations and fines to licensees.

Further, BPC Section 148 authorizes the Board to establish, by regulation, a system for the issuance of an administrative citation to an unlicensed person who is acting in the capacity of a licensee under the jurisdiction of the Board. The Board established CCR Section 4140(b), which authorizes the Board to issue citations and fines and/or orders of abatement to unlicensed persons. This authority is exercised on a case-by-case basis when violations are not necessarily egregious enough to warrant discipline and a lesser form of action is appropriate.

Pursuant to CCR Section 4141(a) fines range from \$50 to \$5,000. The following factors are considered:

1. Gravity of the violation.
2. History of previous violations involving the same or similar conduct.
3. Length of time that has passed since the date of the violation.
4. Consequences of the violation, including potential for harm to consumer, the good or bad faith exhibited by the cited individual.
5. Evidence that the violation was willful.
6. The extent to which the individual cooperated with the board's investigation.
7. The extent to which the individual has remediated any knowledge and/or skills deficiencies; or
8. Any other mitigating or aggravating factors.

Changes Since Last Sunset Review

There have been no regulatory amendments to the Citation and Fine authority since the last Sunset Review.

Increase of Citation Fine to \$5,000

The Board increased its maximum fines to the \$5,000 statutory limit, effective August 19, 2011. Class "A" citations may be issued under specific circumstances that are more serious in nature and/or resulted in or had significant potential for consumer harm. Violations include, but are not limited to failing to provide direct in-sight supervision of an aide when the aide performed a client related task that resulted in harm to a consumer, failing to provide adequate supervision to an occupational therapy assistant that resulted in harm to the patient, fraudulent billing, as well as other violations.

42. How is cite and fine used? What types of violations are the basis for citation and fine?

A citation and fine, is similar to a ticket and an alternative means by which the Board can address violations that do not warrant formal discipline against the license.

CCR Section 4140 gives the Executive Officer the authority to issue citations with or without fines and abatement orders for violations of the Occupational Therapy Practice Act, violations of the California Code of Regulations adopted by the Board, or other statutes or regulations for which the Board has authority to issue a citation. Section 4141 sets fine amounts of \$50 up to \$2,500 for the least egregious violations.

However, Section 4141(a) sets forth larger fine limits for the more substantial violations. For instance, violations that present a threat to health and safety of another person, unlicensed practice for more than one year or involve multiple violations of the Practice Act, or involve a violation or violations of fraudulent billing, a citation may include a fine up to \$5,000.

A large number of citations and fines are issued for minor address change reporting violations or continuing education audit violations. Fines assessed for such violations typically range from \$50 to \$250, depending upon factors as specified in CCR Section 4141. Factors considered when determining a fine amount are the nature and severity of the violation, evidence that the violation was willful, and extent to which the licensee has cooperated with the Board.

43. How many informal citation review conferences and Administrative Procedure Act appeals of a citation or fine have been requested in the last four fiscal years?

Citations Appeals Data in Figure 1 below lists, by license type, the number of citations issued and the number of informal and formal appeals that were requested.

| Figure 1. Citations Appeals Data | | | | |
|---|-----------------------|-----------------------|-----------------------|-----------------------|
| | FY 2017-18 | FY 2018-19 | FY 2019-20 | FY 2020-21 |
| Number of Citations Issued to OTs | 141 | 323 | 225 | 176 |
| Informal Citation Review Conference Requested by OTs | 23 | 19 | 19 | 24 |
| Administrative Hearing Requested by OTs | 4 | 3 | 2 | 2 |
| Number of Citations Issued to OTAs | 49 | 46 | 43 | 62 |
| Informal Citation Review Conference Requested by OTAs | 1 | 5 | 3 | 4 |
| Administrative Hearing Requested by OTAs | 0 | 0 | 0 | 0 |

44. What are the five most common violations for which citations are issued?

The five most common violations for which citations are issued, include:

- Failing to complete continuing education required for renewal
- Practicing on an expired license
- Failure to cooperate in a Board investigation
- Failing to provide an address change
- Failure to disclose a conviction on an application.

With passage of AB 2138, effective July 1, 2020, applicants for licensure are no longer required to report convictions to the Board. Therefore, *Failure to Disclose* is no longer a violation effective FY 2020-21.

45. What is average fine pre- and post- appeal?

The Board doesn't have average fine data available. However, listed below shows the total fines assessed by fiscal year followed by the total fines post-appeal.

| Figure 2. Citation Fine Details – OTs | | | | |
|---|-----------------------|-----------------------|-----------------------|-----------------------|
| | FY 2017-18 | FY 2018-19 | FY 2019-20 | FY 2020-21 |
| Number of Citations Issued to OTs | 141 | 323 | 225 | 176 |
| Total Fines Assessed to OTs <i>Pre-appeal</i> | \$47,470 | \$38,735 | \$53,740 | \$32,520 |
| Total Fines Assessed <i>Post-appeal</i> | \$34,660 | \$27,200 | \$46,346 | \$29,275 |

| Figure 3. Citation Fine Details - OTAs | | | | |
|--|-----------------------|-----------------------|-----------------------|-----------------------|
| | FY 2017-18 | FY 2018-19 | FY 2019-20 | FY 2020-21 |
| Number of Citations Issued to OTAs | 49 | 46 | 43 | 62 |
| Total Fines Assessed to OTAs <i>Pre-appeal</i> | \$13,320 | \$15,920 | \$8,945 | \$10,201 |
| Total Fines Assessed <i>Post-appeal</i> | \$12,270 | \$12,770 | \$8,660 | \$9,861 |

46. Describe the board's use of Franchise Tax Board intercepts to collect outstanding fines.

The Board utilizes the Franchise Tax Board's (FTB) Intercept Program to attempt collection of any outstanding fines. Under this program, income tax refund or lottery winnings can be seized and sent to the Board as payment of monies owed.

If a fine is not contested and full payment is not made within 30 days of the issuance of a fine, or if the respondent fails to contact the Board to make payment arrangements, the Board will send a demand letter. The Board will send a second notice about 35 days after the first demand letter was sent.

If no response is received after the second letter is sent, a third and final notice will be sent, via regular and certified mail, notifying the individual that the unpaid item will be sent to the FTB and that any tax refunds or lottery winnings will be intercepted and sent to the Board. The FTB will continue to intercept tax refunds and lottery winnings until payment in full has been made. In addition to the FTB action, California Code of Regulation (CCR) Section 4140 (d) states that the full amount of an assessed, non-contested fine shall be added to the fee for renewal of the license and the license won't be renewed without payment of the both the renewal fee and the fine.

Cost Recovery and Restitution

47. Describe the board's efforts to obtain cost recovery. Discuss any changes from the last review.

| Table 11. Cost Recovery | | | | |
|--------------------------------|-----------------------|-----------------------|-----------------------|-----------------------|
| | FY 2017-18 | FY 2018-19 | FY 2019-20 | FY 2020-21 |
| Total Enforcement Expenditures | \$844k | \$896k | \$962k | \$944k |
| Potential Cases for Recovery * | 4 | 10 | 6 | 5 |
| Cases Recovery Ordered | 4 | 10 | 6 | 5 |
| Cost Recovery Ordered | 10 | 19 | 35 | 26 |
| Amount Collected | 9 | 9 | 19 | 11 |

Consistent with prior years, cost recovery ordered fluctuates with the number of cases finalized; cost recovery collected is spread out over the probation period.

48. How many and how much is ordered by the board for revocations, surrenders and probationers? How much do you believe is uncollectable? Explain.

The Board requests recovery of its costs for all cases against licensees relating to revocations, surrenders, and probation; the Board cannot request its costs in investigating or enforcing cases against applicants.

However, not all licensees are ordered to reimburse the Board *all* of its costs. An administrative law judge may only order a *portion* of the Board's costs or to facilitate a stipulated agreement, cost recovery in an amount less than the total costs may be agreed to. Amounts for potential cases, cases ordered, and the ranges of cost recovery that has been ordered and received are reflected by fiscal year in Table 11, Cost Recovery.

49. Are there cases for which the board does not seek cost recovery? Why?

The Board does not seek cost recovery in cases denying an application for licensure. BPC Section 125.3(a) authorizes the Board to seek recovery of its costs in the investigation and prosecution in cases against licensees, not applicants

50. Describe the board’s use of Franchise Tax Board intercepts to collect cost recovery.

The Board uses the Franchise Tax Board's Intercept Program to attempt collection of any outstanding cost recovery orders. Under this program, tax returns or lottery winnings can be seized and sent to the Board as payment of monies owed. Respondents who failed to pay the ordered cost recovery are sent Demand Letters when an account is 30 days delinquent. If payment in full is not made within 30 days or if the respondent fails to contact the Board to make payment arrangements, the Board will send a second notice at 60 days delinquent. If no response is received from the first or second letters, a third and final notice will be sent, regular and certified mail, notifying the individual that his/her file will be sent to FTB and that any tax refunds or lottery winnings will be intercepted and sent to the Board. The FTB will continue to intercept tax refunds and lottery winnings until payment in full has been made. In addition to the FTB action, CCR Section 4140 (d) states that the full amount of an assessed, non-contested fine shall be added to the fee for renewal of the license and the license won't be renewed without payment of the both the fine and the renewal fee.

51. Describe the board’s efforts to obtain restitution for individual consumers, any formal or informal board restitution policy, and the types of restitution that the board attempts to collect, i.e., monetary, services, etc. Describe the situation in which the board may seek restitution from the licensee to a harmed consumer.

The Board requests cost recovery in all cases in which it is authorized to seek cost recovery. The Board’s Enforcement Unit requests and ensures that each Accusation prepared by the Office of the Attorney General incorporates a request for cost recovery with reference to the applicable statute, Business and Professions Code Section 125.3. Upon receipt of a Proposed Decision, the Board reviews it to ensure it contains a finding by the administrative law judge regarding the reasonableness of the costs of investigation and prosecution of the case. If the Board ever received a Proposed Decision that failed to provide such a finding, it is likely to be remanded back to the administrative law judge to incorporate a finding regarding the Board’s costs.

Cases that have been resolved by a Stipulated Settlement have included an order for full or partial costs, depending on the nature and severity of the violation, the respondent’s prior disciplinary record, mitigating evidence, the extent to which the respondent has cooperated with the Board and recognized and demonstrated a willingness to correct and/or take steps to prevent reoccurrence of their wrongdoing.

Efforts have not changed since the last sunset review as the Board continues to request restitution in those cases that warrant restitution for those harmed by a licensee’s actions.

| Table 12. Restitution | | (dollars listed in thousands) | | | |
|------------------------------|-----------------------|-------------------------------|-----------------------|-----------------------|-----------------------|
| | FY 2016-17 | FY 2017-18 | FY 2018-19 | FY 2019-20 | FY 2020-21 |
| Amount Ordered | 0 | 0 | 0 | 150 | 0 |
| Amount Collected | 0 | 0 | 0 | 3 | 10 |

Section 6 –

Public Information Policies

- 52. How does the board use the internet to keep the public informed of board activities? Does the board post board-meeting materials online? When are they posted? How long do they remain on the board’s website? When are draft meeting minutes posted online? When does the board post final meeting minutes? How long do meeting minutes remain available online?**

The Board uses its website to keep the public informed of Board activities. The Board posts Notices and Agendas for Board and Committee meetings on its site at least 10 days prior to the scheduled day of the meeting. The Board also posts meeting materials on its site but has experienced challenges in making the materials ADA compliant during the period August 2018 – January 2020. The Board has every meeting agenda and/or minutes listed on its website since August 2001. The Board does not post draft meeting minutes on its website. The Board posts approved meeting minutes on its website as soon as practical after they have been approved by the Board.

In addition to the Board’s website the Board uses Email Listserv and social media platforms, including Facebook, Twitter, and Instagram, to keep stakeholders informed of Board activities.

- 53. Does the board webcast its meetings? What is the board’s plan to webcast future board and committee meetings? How long do webcast meetings remain available online?**

Prior to the pandemic, meetings were webcast subject to the availability of DCA’s Public Affairs Unit. During the pandemic to present day, all meetings have utilized the WebEx platform. The Board will continue to use the WebEx platform until in person meetings are approved. The Board has maintained all recordings of meetings on its website and does not have immediate plans on developing a retention policy for these recordings.

- 54. Does the board establish an annual meeting calendar, and post it on the board’s website?**

The Board establishes an annual meeting calendar that is posted on the Board’s website and can be located by clicking on the Board Activity icon on Board’s homepage. Future and past Board meetings are listed by current year along with “Past Meetings” being listed by calendar year.

- 55. Is the board’s complaint disclosure policy consistent with DCA’s *Recommended Minimum Standards for Consumer Complaint Disclosure*? Does the board post accusations and disciplinary actions consistent with DCA’s *Web Site Posting of Accusations and Disciplinary Actions (May 21, 2010)*?**

The Department’s *Complaint Prioritization Guidelines* was provided to the Board for consideration at their December 3, 2009, meeting. While the Board agreed with the majority of the priority levels assigned to the list of complaint categories, several of the complaint categories were elevated in priority level and two were lowered.

56. What information does the board provide to the public regarding its licensees (i.e., education completed, awards, certificates, certification, specialty areas, disciplinary action, etc.)?

The Board provides the licensee's name, license type, license number, license status, information relative to whether they have been approved to provide advanced practice services, expiration date of the license, and the city, county, state and zip code of their address of record. The Board also publishes whether the licensee has been the subject of disciplinary action and/or an administrative citation.

57. What methods are used by the board to provide consumer outreach and education?

The Board's consumer outreach is done through the Board's website and via social media (Facebook, Twitter, and Instagram). In addition, the Board has a monthly subscription list for Board Disciplinary Actions that is utilized by employers, insurance companies, and other interested parties.

Prior to the pandemic, Board staff has also attended outreach events held at universities and participated in job fairs and events as a guest speaker.

Section 7 – Online Practice Issues

- 58. Discuss the prevalence of online practice and whether there are issues with unlicensed activity. How does the board regulate online practice? Does the board have any plans to regulate internet business practices or believe there is a need to do so?**

The Board is unaware of current, accurate methods of measuring the prevalence of online occupational therapy services otherwise known as services provided via ‘telehealth.’ At this point in time, the Board has not received a complaint or report of unlicensed practice pertaining to occupational therapy services provided via telehealth. The Board anticipates an increase in the provision of occupational therapy services via telehealth, due to reimbursement and regulatory changes at the state and federal levels, intended to increase access.

The Board currently regulates occupational therapy services provided via telehealth, under the authority provided in BPC section 2290.5. The Board adopted amendments to CCR section 4172, to define and clarify standards for providing occupational therapy services via telehealth, on April 1, 2014. The primary purpose of the regulation was to establish and provide guidelines for therapists to consider when deciding whether telehealth is an appropriate mode of delivery for services. While telehealth promotes access and greater convenience to consumers the Board felt it was necessary to establish and clarify not all services or interventions might be appropriate or safe to provide via telehealth in the interest of public safety.

The Board adopted regulatory amendments to CCR Section 4172(b) effective April 1, 2017, that were designed to amend and clarify that an occupational therapist does not need to obtain a patient’s/client’s consent for subsequent telehealth services once the patient/client initially consents to receive occupational therapy services via telehealth. The amendment was designed to eliminate confusion, misinterpretation and promote access and greater convenience for the consumer.

The Board adopted regulatory amendments to CCR Section 4176 effective October 1, 2017, requiring licensees advise their patients/clients that their license is regulated by the Board and require licensees to display their first and last name; license type; and highest level of earned academic degree related to the provision of occupational therapy services (with minimal exceptions) on their name badge in at least 18-point font, in their office in at least 24-point font, and on any website directly controlled or administered by the occupational therapist or occupational therapy assistant or his or her office personnel.

Section 8 – Workforce Development and Job Creation

59. What actions has the board taken in terms of workforce development?

The Board has partnered with the Centers of Excellence for Labor Market Research and the Health Workforce Initiative to report on the licensed Occupational Therapy Assistant workforce with a focus on employment and educational opportunities.

60. Describe any assessment the board has conducted on the impact of licensing delays.

The Board has not conducted a formal assessment regarding any delays in licensing applicants. However, the Board is aware of and sensitive to this issue and strives to license all qualified individuals as soon as possible and there have not been any delays.

61. Describe the board's efforts to work with schools to inform potential licensees of the licensing requirements and licensing process.

The Board has coordinated and conducted overview sessions to graduating students at various California occupational therapy educational programs. The purpose and design of the overview session is to orient students with the processes and requirements for licensure and describe and inform students of the Board's role and responsibility of protecting the public. The Board has had staff attend the annual conference of the Occupational Therapy Association of California (OTAC) to answer questions from licensees and potential licensees. However, these activities have been limited due to the travel restrictions imposed per the Governor's Executive Order B-06-11 and the COVID-19 pandemic.

62. Describe any barriers to licensure and/or employment the board believes exist.

There are no statutory barriers or inefficiencies that hinder the processing of applications for licensure. The application process required in California is consistent across the United States, including completing educational programs accredited by ACOTE and passage of the examinations administered by NBCOT.

63. Provide any workforce development data collected by the board.

The October 2021 Centers of Excellence Workforce Needs Assessment on Occupational Therapy Assistants in California reported that in 2019 there were 2,917 OTAs employed in the state of California. This is an increase of more than 1,000 OTAs in the last ten years. By the year 2024, California is forecasted to employ 3,643 OTAs, an increase of 726 workers. The greatest growth will be in the Los Angeles/Orange County region which is forecasted to have an 11.8% growth rate over the next five years but the fastest rate of growth is expected in the Central Valley/Mother Lode region with a 38.9% growth rate.

With implementation of the BreEze system in January 2016, the Board incorporated a workforce survey into the system. The survey is voluntary and available for applicants to complete upon initial licensure and licensees to complete at time of license renewal.

The requested demographic information includes the following:

- Employment Status (e.g. not employed, whether they work full or part time in California, work full time outside California, retired, or other)
- Location (zip code) of the primary place where they practice and how many hours they work.
- Location (zip code) of any secondary place of practice and how many hours they work.
- Number of years worked.
- Self-employed and if so, how many hours they work.
- Asks if they have completed another degree beyond the qualifying degree.
- When they plan to retire.
- Area(s) of current practice (e.g. developmental disabilities, physical disabilities, mental disabilities, home health, skilled nursing, gerontology, wellness, education, etc.)
- Ethnic background and foreign languages spoken

Section 9 – Current Issues

64. What is the status of the board’s implementation of the Uniform Standards for Substance Abusing Licensees?

In its 2012 report, the Board reported that it was the first Board to implement the Uniform Standards. The Board’s Disciplinary Guidelines were amended to add the 2010 Uniform Standards and took effect July 26, 2011. After that, the Board amended its regulations to incorporate by reference, the April 2011 version of the Uniform Standards. Also, consistent with BPC 315.2, the Board issues Cease Practice Orders (CPOs) to licensees on probation for substance abuse issues who test positive for a banned substance.

65. What is the status of the board’s implementation of the Consumer Protection Enforcement Initiative (CPEI) regulations?

The Board’s CPEI regulations were amended and went into effect September 28, 2012. Additionally, the Board established section CCR Section 4146.5, specifying effective dates for two types of Decisions. Effective October 1, 2014, a Default Decision and Order and Stipulated Settlement and Order shall become effective 10-days from the date of service of the decision on the parties. An effective date of the Decision 10 days after service ensures prompt consumer protection.

66. Describe how the board is participating in development of BreEZe and any other secondary IT issues affecting the board.

- a. Is the board utilizing BreEZe? What Release was the board included in? What is the status of the board’s change requests?

The Board transitioned to BreEZe during the Department’s second release which was in January 2016. There are currently three change requests (Board Maintenance and Operations or BMOs) pending that will add enhancements to the system in future releases. There have been 3,351 BMOs that have affected the Board completed to date (since Release 2 launched in 2016).

- b. If the board is not utilizing BreEZe, what is the board’s plan for future IT needs? What discussions has the board had with DCA about IT needs and options? What is the board’s understanding of Release Three boards? Is the board currently using a bridge or workaround system?

Not applicable.

Section 10 –

Board Actions and Responses to COVID-19

67. In response to COVID-19, has the board implemented teleworking policies for employees and staff?

In March 2020, the Board implemented teleworking policies for employees and staff and required staff to complete and sign the Department of Consumer Affairs' Telework Agreement. To support the COVID-19 efforts, the Board continues a rotating telework and in-person work environment.

a. How have those measures affected board operations? If so, how?

Staff Work and Attendance

Board staff didn't telework prior to March 2020 and struggled a bit with the transition, which contributed to a work slowdown. Additionally, some of the CBOT staff experienced physical and emotional health related to telework environments not being ergonomic. Moreover, the pandemic itself contributed to increased absences amongst staff.

Board Meetings

Board and Committee meetings, moved to a virtual platform, via WebEx or Teams. Although, the virtual platform allows for greater public participation, the Board experienced technical issues on occasion (connectivity issues, bandwidth, clarity of speakers, other technical issues) which resulted in Board and/or Committee members dropping out of a meeting and being unable to return. Although at times the Board member(s) were unable to return to the meeting, the Board has not experienced a meeting cancellation due to quorum issues.

68. In response to COVID-19, has the board utilized any existing state of emergency statutes?

Pursuant to the provisions of Governor Gavin Newsom's Executive Order N 29-20 issued March 17, 2020, and Executive Order N 08-21 issued June 11, 2021, physical meeting locations were not provided on the Notice and Agenda for Board and Committee meetings.

69. Pursuant to the Governor's Executive Orders N-40-20 and N-75-20, has the board worked on any waiver requests with the Department?

Order Waiving License Renewal Requirements

The CBOT utilized the Governor's Executive Order N-39-20 that addresses waiving any statutory or regulatory renewal requirement that individuals renewing a license pursuant to Division 2 of the Code take and pass an examination in order to renew a license and any requirement that an individual renewing a license complete or demonstrate compliance with, any continuing education requirements in order to renew a license.

Order Waiving License Reactivation or Restoration Requirements

The CBOT utilized the Governor's Executive Order N-39-20 that addresses waiving the requirements to reactivate or restore a license to active status. This waiver applies only to an individual's license that: (1) is in a retired, inactive, or canceled status, and (2) has been in such status no longer than five years.

Order Extending Occupational Therapy Applicant Eligibility

The CBOT utilized the Governor's Executive Order N-39-20 that addresses applicants that were notified of their licensure eligibility on and after December 1, 2020, that the time within which such individuals must submit their initial license fee increased from 60 days to 120 days.

Order Extending Eligibility Period and Expiration Dates for Limited Permits

The CBOT utilized the Governor's Executive Order N-39-20 that addresses individuals who complete the education and fieldwork requirements for certification as an OT or OTA between March 31, 2020, and June 1, 2020, that it extends the time that such individuals must apply to take the licensing examination from 4 months to 6 months. Additionally, it addresses individuals issued limited permits between March 31, 2020, and June 1, 2020, that those limited permits would be valid for 6 months from the date of issuance instead of three months.

Order Extending Expiration Dates for Limited Permits

The CBOT utilized the Governor's Executive Order N-39-20 that addresses individuals issued limited permits between December 1, 2020, and March 31, 2021, that those limited permits would be valid for 6 months from the date of issuance instead of three months.

b. Of the above requests, how many were approved?

Three of the above requests pertained solely to the Board and were approved.

c. How many are pending?

There are not any CBOT requests pending.

d. How many were denied?

There were not any CBOT requests denied.

e. What was the reason for the outcome of each request?

The three waiver requests were approved because the extensions eased the burden of occupational therapy applicants and made their transition into the workforce easier during a time when health care professionals were needed on the front lines of a healthcare crisis.

In response to COVID-19, has the board taken any other steps or implemented any other policies regarding licensees or consumers?

Due to COVID-19, the CBOT implemented the following:

- Virtual Board Meetings and Committee meetings.
- Probation orientation and quarterly meetings held by telephone.
- Continued updates to the CBOT website to inform stakeholders of updates related to COVID-19 and impacting the field of occupational therapy.
- Closure and re-opening of the public counter as instructed by the Department of Consumer Affairs.
- Implementation of sanitization of high traffic areas in the office three times per day.
- Implementation of required face masks and social distancing while in the office and recommended regular hand washing.
- Providing surgical grade face coverings at every office entrance, disinfectant wipes/spray placed strategically throughout the office. Disposable gloves and N-95 masks are available upon request.
- The implementation and encouraged use of the Teams application to promote and enhance employee communication.
- CBOT staff participation in online training courses and meetings.

70. Has the board recognized any necessary statutory revisions, updates or changes to address COVID-19 or any future State of Emergency Declarations?

The CBOT has identified a need for statutory revisions to address COVID-19 or any future State of Emergency Declarations.

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, the statute 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 attest 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 the 'Fee Bill Worksheet' after the last Sunset Report as the revenue source was not needed at the time. However, due to the current fund condition and the cost related to expert review, the Board is going to consider this along with evaluating other potential revenue streams to bolster the Board's fund condition.

Post-professional education 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 BreZE 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 (QBIRT) 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 change in BreZE that would allow licensees 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 BreZE will allow the licensee the option to access their BreZE 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.

The Board has since renewed its Survey Monkey subscription and requested the information be added to the Board's website. To supplement that, the Board will email a link to the survey to those licensees that the Board has an email address on file and post the link on social media.

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.

Section 12 – New Issues

This is the opportunity for the Board to inform the Committees of solutions to issues identified by the board and by the Committees. Provide a short discussion of each of the outstanding issues, and the board's recommendation for action that could be taken by the board, by DCA or by the Legislature to resolve these issues (i.e., policy direction, budget changes, legislative changes) for each of the following:

1. Issues that were raised under prior Sunset Review that have not been addressed.

Of the issues identified in Section 11, the Board considers the following to be priorities:

- Issue #1: A fee structure that will support the health of its long-term fund condition.
- Issue #3: A requirement of licensees that promotes competence. Possibilities could include an attestation at time of renewal, ethics course requirement, online assessment or other educational tool, or development and required passing of a jurisprudence examination prior to licensure.
- Issue #12: Solutions that support the CBOT's ability to webcast its meetings.

2. New issues that are identified by the board in this report.

- The Board's fund condition projection indicates that revenue collected annually is less than the Board's expenditures; operating costs are trending up and revenue is not keeping pace. The Board may need to seek legislation to increase fees.
- Align and make consistent BPC 2570.3(j)(2). A recent amendment allows an occupational therapist to supervise three occupational therapy assistants where previously it allowed only two. However, it appears the last sentence of the section was not updated to correspond with the change. The language is provided below:

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 the number of occupational therapists regularly employed by a facility at any one time. (Emphasis added.)

3. New issues not previously discussed in this report.

- The Board is troubled by the exponential increase in expenditures on court reporters. The Office of Administrative Hearings contracts with court reporters to provide transcription services during a hearing. Recent contract amendments, changing from hourly to flat all day or one-half day rates (without regard to hearing length), as well as rates varying by geographical area, are attributed to the rising costs.
- When the Board was established in 2000, it was suggested that there was no national minimum education standard relating to providing certain services. As a result, *advanced practice* areas were established in statute. This required occupational therapists to meet education and competency and Board approval to provide services in the areas of hand therapy, swallowing assessment, evaluation, or intervention or to use physical agent modalities.

Due to amendments to the national education standards, the Board will revisit this issue to determine the necessity of these requirements for occupational therapy students graduating after a TBD date.