



BOARD MEETING MINUTES

August 24-25, 2023

Board Members Present:

Denise Miller Board – President
Beata Morcos – Vice President
Lynna Do – Secretary
Richard Bookwalter – Board Member
Sharon Pavlovich – Board Member
Hector Cabrera – Board Member
Christine Wietlisbach – Board Member

Board Staff Present:

Heather Martin – Executive Officer
Helen Geoffroy – Attorney
Jody Quesada – SSM I
Rebecca Harris – SSM I
Rachael Hutchison - Analyst
Maureen Paquette – Office Assistant

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

The meeting was called to order at 10:19 a.m., Secretary Lynna Do called roll and a quorum was established.

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

President Denise Miller announced the unexpected passing of longtime colleague, Lands Banks, the Manager of Administrative and Facilities at the American Occupational Therapy Association (AOTA) on July 9, 2023. Many members of the Board and practitioners within the State of California had a relationship with Lands and he will be missed greatly by his colleagues. Ms. Miller expressed her sincere condolences to his family.

3. Board Member Remarks -Information only; no Board Action to be taken.

Board Member Richard Bookwalter congratulated Chi-Kwan Shea on being elected to the National Board for Certification in Occupational Therapy (NBCOT) Board of Directors.

President Denise Miller welcomed Yvonne Dorantes, Assistant Deputy Director, Board and Bureau Relations, the Department of Consumer Affairs (DCA) and thanked her for her attendance. Ms. Miller also thanked Samuel Merritt University for hosting the Board meeting.

4. Public Comment for Items Not on the Agenda.

Chi-Kwan Shea, a Professor at Samuel Merritt University, chose to introduce herself.

Carlin Daley Reaume, the Advocacy Chair for the Occupational Therapy Association of California (OTAC), Assistant Clinical Professor at the University of the Pacific, and private practice owner, chose to introduce herself.

Domenique Embrey, Assistant Professor at Samuel Merritt University, and Consultant at the California School for the Deaf, chose to introduce herself.

Yvette Mere-Cook, Associate Faculty and Chair at Samuel Merritt University, chose to introduce herself.

President Miller reported that there were two written comments by members of the public received by the Board. One of the comments would be addressed during agenda item #20, since it was related to the Board's fee increases and the other would be addressed during agenda item #11, because it was related to pelvic health.

5. Review and vote on approval of the May 18-19, 2023, Board meeting minutes.

This agenda item was discussed on August 25, 2023.

Board Member Richard Bookwalter noted non-substantive changes to the May 18-19, 2023, Board meeting minutes and he provided suggested edits.

- Christine Wietlisbach moved to approve the May 18-19, 2023, Board meeting minutes.
- Beata Morcos seconded the motion.
- Christine Wietlisbach amended her motion to include directing Board staff to make the suggested edits.
- Beata Morcos seconded the amended motion.

There were no additional Board member remarks.
There were no additional public comments.

Board Member Votes

Richard Bookwalter	Yes
Hector Cabrera	Yes
Sharon Pavlovich	Absent
Christine Wietlisbach	Yes
Lynna Do	Yes
Beata Morcos	Yes
Denise Miller	Yes

The motion carried.

6. Executive Officer update on Public Law 117-333, Portability of Professional Licenses of Servicemembers and their Spouses.

Executive Officer Heather Martin noted that in the Board meeting materials there was an excerpt from a Public Law 117–333, regarding the portability of professional licenses of servicemembers and their spouses. Under new federal law, effective January 1, 2023, servicemembers and their spouses can provide a copy of their orders and they will not have to get a license to practice in California as long as they

have an active license in another jurisdiction. DCA will develop a registry. The purpose of the registry is not to limit a licensee's practice; however, it is to keep track of the licensee in the event a complaint is filed against them. An update on the registry will be provided at the November board meeting.

Secretary Lynna Do stated that the new federal law might steer the Board toward joining the Licensure Compact.

President Miller agreed with Ms. Do's comment. Further, Ms. Miller noted that it is within the Board's authority, as a rulemaking body, to explore the Licensure Compact further.

Ms. Do added that the Board should join the Licensure Compact to ensure that the consumers are protected.

Vice President Beata Morcos reiterated that servicemembers and their spouses could still work in California and not be part of the Licensure Compact as long as they have a license in another state that is in good standing.

DCA Attorney Helen Geoffroy summarized that Public Law 117-333 allows those servicemembers or their spouses who are licensed in any state to practice occupational therapy in any state where they are given orders. Although, California does have an expedited military application process for occupational therapy licenses, not all states do.

Board Member Christine Wietlisbach questioned whether Public Law 117-333 would permit a person practicing in California, under a license issued by another state, to provide services which, under California state law, requires Board approval. For example, this could include the use of physical agent modalities (PAMs).

Ms. Geoffroy replied that using PAMs or was very specific and she was unable to provide an answer that day.

Public Comments

Jack Kleine, Assistant Professor at Samuel Merritt University, chose to introduce their self.

Domenique Embrey noted that Elaina DaLomba, PhD, OTR/L, Assistant Professor at Samuel Merritt University, has done research on the portability of professional licenses of servicemembers and their spouses. A statistic that stood out from Dr. De Lomba's research was that less than 5% of military spouses have careers that require a license.

President Miller responded by asking Ms. Embrey to have Dr. DaLomba reach out to the Board about her research.

Board Member Bookwalter noted that he had colleagues in occupational therapy that worked for Veteran's Affairs (VA) that did not have to get a California license because they were working within the VA system.

Ms. Embrey noted that Samuel Merritt University has placed students at Travis Air Force Base (AFB) for fieldwork opportunities, and they were adamant that they do not want students who had spouses working on the base. There is a hierarchy at the base, which makes it uncomfortable.

The Board decided to watch Public Law 117-333 as it related to the Occupational Therapy Licensure Compact.

There were no additional Board member remarks.

There were no additional public comments.

7. Executive Officer update on functionality changes to BreEZe (on-line licensing and enforcement system).

Executive Officer Martin gave an overview of the changes to the BreEZe system, one notable change was the addition of the Department of Health Care Access and Information (HCAI) Workforce Survey, which was used for all of the healthcare Boards.

President Miller asked for clarification about what information the HCAI Workforce Survey revealed about the Board's licensees and requested further discussion at the November meeting including the cost of the BreEZe updates.

Vice President Morcos expressed enthusiasm for the changes implemented and expressed that she hoped the changes were beneficial to Board staff.

Ms. Martin responded that some of the changes to BreEZe had indeed made some processes more efficient.

There were no additional Board member remarks.

There were no additional public comments.

8. Consideration and possible action to initiate a rulemaking package to amend California Code of Regulations (CCR), Title 16, Division 39, Section 4110, Applications, Section 4111, Place of Filing, Section 4112, Review of Application, and Section 4114, Abandonment of Application.

Executive Officer explained that the sections referenced were previously seen by most of the Board and were brought back the Board so the language could be approved on record and Board staff could be directed to notice the language.

President Miller added that the amendments should meet several requirements including the Board has the authority, the language is clear and consistent, and the language is not duplicative to statute.

Board Member Bookwalter commented that he appreciated seeing the amendments together in one place. He wondered why the Application for Licensure did not have a non-binary option.

Ms. Pavlovich suggested that BreEZe have an open text box as opposed to a check box so that applicants can fill in their gender identities.

Secretary Lynna Do explained that the Application for Licensure should ask the applicant how they identify at the present time and what gender they identified as at birth. This would allow the Board to track licensees through gender changes to protect the consumer in the event of a violation.

Public Comment

Jack Kleine thanked the Board for the discussion. Jack acknowledged that determining what the gender field should include would be a hefty conversation. Jack suggested using the following options: male, female, non-binary, or choose not to disclose.

President Miller commented that changing the gender identification portion on the application was a high priority, however, from a regulatory standpoint, she struggled with not moving the regulatory package forward.

Jack remarked that from a personal standpoint, it was difficult to fill out a form that only has two options for gender. Jack expressed that they did not wish to hold up the regulatory language but would like to see the application change.

Ms. Miller invited Jack to collaborate with the Board when considering changes to the gender options on the Application for Licensure.

Secretary Do commented that conversations like the one just had with Jack, keep the Board accountable. Ms. Do noted her determination to make CBOT more inclusive and thanked Jack for their comments.

Board Member Pavlovich acknowledged that she was not familiar with BreEZe capabilities but wanted to make sure that the change is made in the near future.

Board Member Richard Bookwalter noted that there are over forty Boards and Bureaus under DCA and most of them use BreEZe. Mr. Bookwalter added that if all the Boards and Bureaus asked that BreEZe be updated to make this change, they would be more inclined to do it.

President Miller asked Ms. Martin if she could ask DCA for updates on this topic and make it an action item at DCA leadership meetings; Ms. Martin agreed to do so.

Attorney Helen Geoffroy explained the regulatory unit worked with the Office of Administrative Law (OAL) to ensure that each of the regulatory packages was well documented and specified. OAL provided language in order to adopt a regulatory package and allow some flexibility to make sure it was correct before it went to OAL. The generic text was edited specifically for this Board to allow for the Board to make separate decisions on each motion.

President Miller confirmed that each package would have two motions. One motion was for the regulatory language and the second motion would be for direction to the Executive Officer.

There were no additional Board member remarks.

There were no additional public comments.

- Richard Bookwalter moved to approve the proposed regulatory text amending Sections 4110, 4111, 4112 and 4114 as presented and directed staff to submit the text and other required documents to the Director of the Department of Consumer Affairs (DCA) and the Business, Consumer Services, and Housing Agency for review, take all steps necessary to initiate the rulemaking process, and set the matter for hearing, if requested.
- Beata Morcos seconded the motion.

Board Member Vote

Richard Bookwalter	Yes
Hector Cabrera	Yes
Sharon Pavlovich	Yes
Christine Wietlisbach	Yes
Lynna Do	Yes
Beata Morcos	Yes
Denise Miller	Yes

The motion carried.

There were no additional Board member remarks.

There were no additional public comments.

- Hector Cabrera moved to delegate to the Executive Officer the ability to make edits to the text that are consistent with the law and substantially similar to the text of the policy approved by the Board at the meeting.
- Richard Bookwalter seconded the motion.

Board Member Vote

Richard Bookwalter	Yes
Hector Cabrera	Yes
Sharon Pavlovich	Yes
Christine Wietlisbach	Yes
Lynna Do	Yes
Beata Morcos	Yes
Denise Miller	Yes

The motion carried.

- 9. Consideration and possible action to initiate a rulemaking package to amend CCR, Title 16, Division 39, Section 4102, Filing of Addresses, Section 4151, Hand Therapy, Section 4152, Physical Agent Modalities, Section 4153, Swallowing Assessment Evaluation, or Intervention, Section 4154, Education and Training, Section 4161, Continuing Competency, and Section 4162, Completion and Reporting Requirements.**

CCR, Title 16, Division 39, Section 4102, Filing of Addresses.

President Miller commented that the Board has worked on a lot of language concerning the address of record and that violations concerning address changes is one of the main offenses by licensees for the Board.

Executive Officer Martin noted that the presented regulatory language concerning Filing of Addresses was modeled after other Boards.

Vice President Beata Morcos pointed out that the proposed language did not require an applicant or a licensee to obtain an email address, it only required that a person report an existing email address to the Board.

Attorney Helen Geoffroy explained that although email addresses are free, it is not for the government to impose upon a licensee to obtain one. The proposed language allowed flexibility; if the licensee has an email, they are required to report it, but it is not mandated to have one.

Secretary Do suggested that the Board replace the word “require.”

Ms. Geoffroy agreed that it would be helpful to change the language from “require” to “may” file a current email address.

Public Comment

Carlin Daley Reaume stated that she understood the proposed language to be saying that if a licensee had an email address, they had to report it. Carlin agreed that changing “require” to “may” could help licensees understand the regulatory language better.

President Miller thanked Ms. Daley Reaume for her comment.

Board Member Bookwalter expressed that he disagreed with using the word “may.”

President Miller suggested that the Board table the email discussion and return to it at a later time.

There were no additional Board member remarks.

There were no additional public comments.

CCR, Title 16, Division 39, Section 4151, Hand Therapy.

President Miller asked if the members of the Board that practice hand therapy if the Board had the right appropriate number of hours in the proposed language.

Board Member Richard Bookwalter expressed that he was still in favor of the language.

Public Comment

Carlin Daley Reaume, spoke on behalf of OTAC, and thanked the Board members for their work on the proposed hand therapy language and noted that OTAC was in support of the proposed language as well.

There were no additional Board member remarks.

There were no additional public comments.

CCR, Title 16, Division 39, Section 4152 Physical Agent Modalities.

Vice President Beata Morcos noted that in her opinion the language for using PAMs has become clearer.

Board Member Pavlovich suggested that the proposed language for PAMs expand to include curriculum course work.

President Miller praised Ms. Pavlovich for bringing up course work. She added that many of the curriculums are adding PAMs courses.

Ms. Martin explained that the education and training for PAMs Board approval must go beyond the Accreditation Council for Occupational Therapy Education (ACOTE) standards. The trainee must have a supervision agreement with their supervisor. Schools have added the courses in their curriculums to meet ACOTE standards but have not considered the requirements to achieve Board approval.

Ms. Martin clarified that the hours from the courses achieved from the school curriculums cannot be used toward the required 240 supervised training hours required for Board approval.

Board Member Bookwalter reminded the Board of previous discussions concerning how the ACOTE standards did not align with the Board's standards. He would like to see the standards align someday.

Ms. Pavlovich stated OTAC took the position that if advanced practice is being taught in schools, Board approval should not be necessary.

Board Member Wietlisbach said that in the past, ACOTE standards for advanced practice did not exist and not all schools offered education in these practice areas. She believed that the Board should consider changing the way they view ACOTE standards as ACOTE continues to increase them.

Public Comment

Carlin Daley Reaume asked if there was an elective course that was beyond ACOTE standards, could it be possible for those hours to be counted toward advanced practice approval?

Ms. Martin confirmed that there could be a scenario where the hours counted toward education requirements for Board approval, however, not for the supervised training hours. The supervised training hours require a supervision agreement among other criteria.

There were no additional Board member remarks.
There were no additional public comments.

CCR, Title 16, Division 39, Physical Agent Modalities, Section 4153.

There were no Board member remarks.
There were no public comments.

CCR, Title 16, Division 39, Section 4154, Education and Training.

Executive Officer Heather Martin announced that the Board requires submission of an Application to Provide Advanced Practice Education.

Ms. Wietlisbach explained to the members of the public that if a course was not pre-approved, it was an arduous process for the licensee to gather the necessary information for the Board to approve the hours. The Board hires a reviewer who evaluates the application and recommends approval of the course, award partial credit for the course, or deny it.

President Miller asked the audience to encourage their colleagues to go through this application process to get their courses pre-approved. She explained that taking courses that are not pre-approved could cost a licensee time and money.

There were no additional Board member remarks.
There were no additional public comments.

CCR, Title 16, Division 39, Section 4161, Continuing Competency and Section 4162, Completion and Reporting Requirements.

Secretary Do explained that out of the required 24 PDUs for renewal, a licensee must take at least 2 units related to ethics and at least one culturally related unit.

Public Comment

Domenique Embrey asked for confirmation that continuing competency courses for license renewal do not need Board approval and Ms. Miller confirmed.

There were no additional Board member remarks.
There were no additional public comments.

- Beata Morcos moved to approve the proposed regulatory text amending Sections 4102, 4151, 4152, 4153, 4154, 4161, and 4162 as presented and directed staff to submit the text and other required documents to the Director of DCA and the Business, Consumer Services, and Housing Agency for review, take all steps necessary to initiate the rulemaking process, and set the matter for a hearing, if requested.
- Hector Cabrera seconded the motion.

Board Member Vote

Richard Bookwalter	Yes
Hector Cabrera	Yes
Sharon Pavlovich	Yes
Christine Wietlisbach	Yes
Lynna Do	Yes
Beata Morcos	Yes
Denise Miller	Yes

The motion carried.

There were no additional Board member remarks.
There were no additional public comments.

- Richard Bookwalter moved to delegate to the Executive Officer the ability to make edits to the text that are consistent with the law and substantially similar to the text of the policy approved by the Board at the meeting.
- Beata Morcos seconded the motion.

Board Member Vote

Richard Bookwalter	Yes
Hector Cabrera	Yes
Sharon Pavlovich	Yes
Christine Wietlisbach	Yes
Lynna Do	Yes
Beata Morcos	Yes
Denise Miller	Yes

The motion carried.

- 10. Consideration and possible action to initiate a rulemaking package to amend CCR, Title 16, Division 39, Section 4101, Delegation of Certain Functions, Section 4141, Assessment of Administrative Fines, Section 4146, Definitions, Section 4146.5, Effective Dates of Decisions, Section 4147, Disciplinary Guidelines, Section 4147.5, Uniform Standards Related to Substance Abuse, and Section 4149.1, Revocation for Sexual Contact; and add Section 4146.1, Substantial Relationship Criteria, Section 4146.7, Rehabilitation Criteria for Applicants, Section 4146.8, Rehabilitation Criteria for Licensees, Section 4147.7, Probation Monitoring Costs, Section 4149.6, Petitions for Modification of Penalty or Termination of Probation, and Section 4149.7, Petitions for Reinstatement of License.**

CCR, Title 16, Division 39, Section 4101, Delegation of Certain Functions:

Board Member Bookwalter questioned whether it was prescriptive to make a licensee sit for the licensure exam again for probation cases.

Attorney Geoffroy explained that the conditions outlined in the proposed language for probation are to be considered, they are not automatic. It is the Board's discretion to decide the terms on an individual basis based on the fact pattern.

There were no additional Board member remarks.

There were no additional public comments.

- Richard Bookwalter moved to approve the proposed regulatory text to amend sections 4101, 4141, 4146, 4146.5, 4147, 4147.5, and Section 4149.1, and to add sections 4146.1, 4646.7, 4146.8, 4147.7, 4149.6, and 4149.7 as presented and directed staff to submit the text and other required documents to the Director of DCA and the Business Consumer Services, and Housing Agency for review, take all steps necessary to imitate the rulemaking process, and set the matter for a hearing, if requested.
- Beata Morcos seconded the motion.

Board Member Vote

Richard Bookwalter	Yes
Hector Cabrera	Yes
Sharon Pavlovich	Absent
Christine Wietlisbach	Yes
Lynna Do	Yes
Beata Morcos	Yes
Denise Miller	Yes

The motion carried.

There were no additional Board member remarks.

There were no additional public comments.

- Richard Bookwalter moved to delegate to the Executive Officer the ability to make edits that are consistent with the law and substantially similar to the text of the policy approved by Board at the meeting.
- Beata Morcos seconded the motion.

Board Member Vote

Richard Bookwalter	Yes
Hector Cabrera	Yes
Sharon Pavlovich	Absent
Christine Wietlisbach	Yes
Lynna Do	Yes
Beata Morcos	Yes
Denise Miller	Yes

The motion carried.

11. Discussion on whether occupational therapists Working in Pelvic Health Can Perform Internal Examinations and Provide Various Other Treatments.

President Miller summarized the public comment received via email regarding pelvic health examinations. The author noted that they had extensive post graduate training for pelvic health examinations and treatments and welcomed ongoing communication with the Board as the topic is navigated.

Public Comment

Carlin Daley Reaume, spoke on behalf of OTAC as an advocacy chair and also as a private practice owner, specializing in pelvic health. She recently attended a conference with occupational therapists and occupational therapy assistants from all over the country. There was an inspiring presentation done by the American Occupational Therapy Association (AOTA) President, Alyson Stover. Ms. Stover identified pelvic health as one of the five top priorities of the professional association.

President Miller suggested that based on the trend, the Practice Committee should start foundational work on regulatory language for pelvic health therapy.

Executive Officer Martin noted that the Board must decide if additional training for pelvic health treatment should be required to ensure competency and minimize consumer risk.

Board Member Christine Wietlisbach stated that although pelvic health therapy requires a specific skill set, that was historically true of many other practice areas that do not require Board approval.

Ms. Miller responded that in order to protect the consumer and the practitioner, language concerning pelvic health therapy was needed.

A robust conversation ensued regarding pelvic health therapy.

Ms. Daley Reaume commented that pelvic therapy is offered as an option to clients and is done with both verbal and written consent. Many states have said nothing about pelvic health therapy and in the states that do address it, they say that it is within the scope of an occupational therapists.

Board Member Bookwalter stated that he is aware that nurses insert suppositories. He would like to know what that language looks like that that approves this type of insertion.

Attorney Geoffroy suggested that Board staff do some research regarding occupational therapists and pelvic health examinations.

Ms. Daley Reaume noted that there is a condition called vaginismus, an involuntary tensing of the vagina, that results in painful intercourse. An intervention for this is the use of a dilator which would be something other than a finger that an occupational therapist would use for penetration during pelvic health therapy.

President Miller asked the Board if they wanted to make a statement on pelvic therapy.

Mr. Bookwalter stated that he did not think the Board should make a statement and he was of the belief that if the Board sent the topic to the Practice Committee, ultimately it would end up at the Board again, thus it should not be sent to the Practice Committee.

Ms. Miller responded that if the topic went to the Practice Committee, the committee could have experts weigh in on pelvic health therapy.

Ms. Wietlisbach noted that if the topic went back to Practice Committee, the Board would likely not get any new information.

Mr. Bookwalter suggested the Board issue a statement that pelvic health was within the scope of an occupational therapist and to date, there have been no known violations within the practice area.

Ms. Wietlisbach liked Mr. Bookwalter's statement but suggested to not mention there had been no violations.

Carlin Daley Reaume said that she would like to see a statement within the proposed language that included, “within our scope” and “well suited” or “qualified” to address pelvic floor dysfunction based on the existing practice framework. The Board could also add, “with relevant training.”

Ms. Wietlisbach noted that she wanted the statement to include a reminder that a practitioner should not do something that they are not trained to do.

Attorney Geoffroy explained that the Board tends to speak in the form of laws and regulations, however, there might be some information that could be placed on the website.

Ms. Wietlisbach suggested that the Board direct staff to put information under frequently asked questions on the website.

Ms. Geoffroy replied that posting information regarding pelvic health therapy on the Board’s website could be an option and offered to work with Board staff to determine the best course of action.

The Board decided to bring the pelvic therapy discussion back to the next meeting.

There were no additional Board member remarks.

There were no additional public comments.

12. Executive Officer update on scheduling of Committee meetings.

Executive Officer Heather Martin announced that on September 12, 2023, there would be an Ad hoc committee meeting to discuss the criteria for non-licensees to participate on Board committees. There would also be a Disaster Preparedness and Response Committee meeting, an Administrative Committee meeting, and the first Practice Committee meeting at the end of September or early October depending on availability.

13. Board President to provide update on Committee appointments. Discussion and possible action by Board on licensees interested in serving on a Committee.

President Miller stated that she did not have an update regarding committee appointments, unless a committee resulted from the discussion in agenda item #14.

14. Administrative Committee recommendation to the Board on amending CCR Title 16, Division 39, Section 4181, Supervision Parameters, to specify the maximum number of students completing a clinical or non-clinical doctoral capstone experience, that can be supervised by an occupational therapist or occupational therapy assistant. a) Highlights from the August 18, 2023, meeting. b) Acceptance of March 22, 2023, Administrative Committee meeting minutes. c) Proposed regulatory language amending Section 4181.

This agenda item was discussed on August 25, 2023.

Executive Officer Heather Martin reminded the Board that at the May 2023, Board meeting there were two recommended edits to the supervision parameters and definitions in Sections 4180 and 4181. The Board approved language editing Section 4180, however, that did not include language limiting the number for Level I & II Fieldwork students, limited permit holders, and capstone students. The topic was sent to the Administrative Committee, which discussed clinical doctoral capstone experiences versus non-clinical doctoral capstone experiences when the committee met. At that meeting, Dr. Penny Stack, OTD, OTR/L, CLT, Doctoral Capstone Coordinator at Loma Linda University clarified that an OTA cannot supervise a doctoral capstone student. The Administrative Committee made that correction to the proposed language and distinguished between the different types of capstone experiences.

President Miller thanked Board Member Pavlovich for bringing her colleague, Dr. Penny Stack, to the committee meeting. She also thanked Heather Kitching, from California State Dominguez Hills for attending, and for bringing a student with her to the meeting. At the Administrative Committee meeting, the subject matter experts collaborated with the committee members to develop the proposed regulatory language.

Vice President Beata Morcos also thanked Board member Dr. Sharon Pavlovich, Dr. Penny Stack and Heather Kitching for attending and bringing their expertise to the meeting.

Public Comment

Domenique Embrey, Assistant Professor at Samuel Merritt University, explained that whether a capstone project is clinical or non-clinical is established before the student even enters the site.

Ms. Martin noted that for non-clinical capstone projects, the proposed language lists the different areas research: skills administration; program policy development; advocacy; and education.

Ms. Miller announced that the Board received a public comment after the Administrative Committee meeting. It was from Dr. Penny Stack of Loma Linda University, who explained that a site mentor for a capstone experience is not meant to be supervision in the traditional clinical practice and direct patient care.

Ms. Martin clarified that there are three roles relating to the capstone experience: mentor faculty; site mentor; and doctoral capstone coordinator. A person can hold two of those roles, but not all three.

Ms. Miller acknowledged that the Board also received a letter from OTAC. The authors asked the Board to reconsider the use of limits on mentorship and supervision of capstone students. They asked that the Board make an exception to the limits on occupational therapists supervising a capstone student project that was focused on the clinical practice skills and not education, advocacy, or theory development.

Ms. Martin responded by noting that the clinical capstone limit was a maximum of three students, however, that limit did not consider non-clinical capstone experiences. The new language would be in alignment with the ACOTE standards for non-clinical capstone experiences. There will be no supervision limits on non-clinical capstone experiences.

Ms. Miller asked the Board to look at the Administrative Committee meeting highlights in their materials. Specifically, item #9, the language was specific to CCR 4181, and the Board would need a motion to approve that language. It was impossible to discuss CCR 4181 without discussing 4180, therefore, the Administrative Committee will hold another meeting to discuss CCR 4180, and will bring language to the November 2023, Board meeting.

Board Member Richard Bookwalter spoke in favor of the language as presented for CCR 4181 with the addition of “occupational therapy assistants” in section 2. On E2, he suggested removing “patient” and replacing it with “direct care,” along with the other edits previously discussed.

Ms. Miller explained that the committee got very specific as to clinical versus non-clinical in order to provide the language for CCR 4181. She noted that Mr. Bookwalter’s concerns would be addressed at the next committee meeting.

Mr. Bookwalter said The Board already has a definition for “client centered care” in the regulations and if the Board used that term for CCR 4181, then it would be in alignment with the current regulations.

Mr. Bookwalter noted that the Board cannot use “direct care” because it is not defined in the regulations.

Ms. Martin said that the Board could use “client related tasks.”

Ms. Bookwalter agreed with Ms. Martin because “client related tasks” was already defined in the Board’s regulatory language.

Board Member Sharon Pavlovich reminded the Board that a non-clinical experience is not patient care, and a clinical experience is direct patient care. The Board should make sure those are referenced as separate items because if those terms are removed “patient care” becomes nebulous, and that would become problematic.

Board member Christine Wietlisbach asked if the Board can just use the word, “client.”

Ms. Pavlovich responded that “clients” and “patients” are not the same.

Ms. Miller suggested using the phrase, “patient/client care experience.”

The Board agreed to use “patient/client care experience” in the proposed language for CCR 4181.

Ms. Miller requested that when the Administrative Committee discusses CCR section 4180 and 4181, that they determine if other regulations concerning this topic

would be impacted. If so, she would prefer everything to be noticed and brought back to a Board meeting at the same time.

Public Comment

Domenique Embrey commended the Board for their hard work on the regulatory language.

There were no additional Board member remarks.

There were no additional public comments.

- Richard Bookwalter moved to approve the proposed regulatory text amending Section 4181 with the amendments provided today and directed Board staff to submit the text and other required documents to the Director of DCA and the Business Consumer Services, and Housing Agency for review, take all steps necessary to initiate the rulemaking process, and set the matter for a hearing, if requested.
- Christine Wietlisbach seconded the motion.

Board Member Vote

Richard Bookwalter	Yes
Hector Cabrera	Yes
Sharon Pavlovich	Absent
Christine Wietlisbach	Yes
Lynna Do	Yes
Beata Morcos	Yes
Denise Miller	Yes

The motion carried.

There were no additional Board member remarks.

There were no additional public comments.

- Richard Bookwalter moved to delegate to the Executive Officer the ability to make edits to the text that are consistent with the law and substantially similar to the text of the policy approved by the Board at the meeting.
- Beata Morcos seconded the motion.

Board Member Vote

Richard Bookwalter	Yes
Hector Cabrera	Yes
Sharon Pavlovich	Absent
Christine Wietlisbach	Yes
Lynna Do	Yes
Beata Morcos	Yes
Denise Miller	Yes

The motion carried.

CONVENE CLOSED SESSION

The Board convened in Closed Session at 4:44 p.m.

ADJOURNMENT

The Board meeting adjourned at 5:05 p.m.

AUGUST 25, 2023

9:00 a.m. – Board Meeting

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

The meeting was called to order at 9:07 a.m., Secretary Lynna Do called roll and a quorum was established.

Board Members Present:

Denise Miller Board – President
Beata Morcos – Vice President
Lynna Do – Secretary
Richard Bookwalter – Board Member
Sharon Pavlovich – Board Member
Hector Cabrera – Board Member
Christine Wietlisbach – Board Member

Board Staff Present:

Heather Martin – Executive Officer
Helen Geoffroy – Attorney
Jody Quesada – SSM I
Rebecca Harris – SSM I
Rachael Hutchison - Analyst
Maureen Paquette – Office Assistant

16. President’s Remarks – Informational only; no Board Action to be taken.

President Miller thanked the Samuel Merritt Occupational Therapy Department and Dominique Embrey for their hospitality and welcomed Yvonne Dorantes, Assistant Deputy Director of Board and Bureau Relations at the Department of Consumer Affairs to day two of the meeting.

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

There were no Board member remarks.

18. Public Comment for Items not on the Agenda.

There were no comments from members of the public for items not on the agenda.

19. Update on the Occupational Therapy Licensure Compact and possible Board Action.

This agenda item was discussed on August 24, 2023.

Executive Officer Martin gave an overview of the materials provided for this item. She noted that the Licensure Compact is gaining traction. In this year alone, six states have joined the Licensure Compact.

Ms. Miller commented that the addition of six states would bring the total number of states in support to approximately 30 and that the Board could begin crafting language if they felt inclined.

There were no additional Board member remarks.

There were no additional public comments.

20. Status update on legislation to increase and establish new fees.

This agenda item was discussed on August 24, 2023.

President Miller read the comment from a member of the public regarding the Board's fee increases. The author requested that the Board revise the fee increases to be no more than 25% over current fees and that the Board make the results of the fee study available to the public.

Executive Officer Martin stated that previously the Board was projected to run out of money by January 1, 2024. The fund was now in better condition; however, the downside is that expenditures were lower due to staff vacancies. She clarified that the Board authorized the expense for a fee study; however, one had not yet been done as staff had anticipated being included in Senate Bill 816 over the Summer, along with seven other Boards needing fee increases. This fall, the Board will develop a plan to communicate with the licensees about the process and will pursue a bill in January 2024 for fee increases to take place January 2025.

There were no additional Board member remarks.

There were no additional public comments.

21. Discussion on legal analysis of proposed amendments to Assembly Bill (AB) 1028, Reporting of crimes: mandated reporters; and consideration of taking a position on the bill.

This agenda item was discussed on August 24 & 25, 2023.

Attorney Helen Geoffroy performed a legal analysis of AB 1028 on August 21, 2023. Her analysis would be rendered moot upon any changes or amendments. Ms. Geoffroy stated when researching law she reviews statute case law, regulations, and any legislative intent, which is included in the Legislative Digest but also in the supporting documents.

Section 1 of the legislation indicates that the intent is to provide access to healthcare and medical treatment apart from criminal and legal involvement.

The legislature found that requiring health practitioners to file reports with law enforcement can create a chilling effect on victims of domestic and sexual violence who require medical care, decreased patient autonomy and trust, and could result in practitioners being reluctant to address domestic and sexual violence.

Current law states that a health practitioner shall report when there is a wound from a physical injury that was self-inflicted or when there is an injury by means of firearms. If someone is suffering from a wound or physical injury as a result of an assaultive or abusive conduct, they shall report. Subdivision D lists all the items that are within that term assaultive or abusive conduct.

AB 1028 proposes the term "assaultive and abusive conduct" be removed and that health practitioners report self-inflicted injuries, injuries from a firearm, and child or elder dependent abuse.

The proposed amendments to Penal Code section 11160, subdivision (n) requires a warm handoff for many of the sexually related offenses. A warm handoff is defined as a direct contact with a survivor advocate, either in person or on the phone. If a phone call is not possible, an email would suffice. The victim can also refuse that service. A referral is when the health practitioner informs the victim where to get this information. That will become the new responsibility for practitioner when encountering these types of injuries on a patient.

Ms. Miller announced that AB 1028 would be heard by the Senate on Monday, August 18, 2023. If the Board decided to take a position, a letter would need to be sent immediately.

Public Comments

Domenique Embrey offered the example of a child being abused by a mother's boyfriend. She felt the boyfriend was protected from being reported under AB 1028.

Helen Geoffroy responded by explaining that the phrase "domestic violence" is broad, and it does include people cohabitating. But, agreed with Ms. Embrey that the language is not clear.

Domenique Embrey stated that AB 1028 would make an occupational therapist's job more complicated. She should not be having discussions regarding domestic violence or abuse with her patients without a team of therapists behind her. In the past, she did not mind handing victims over to Child Protective Services (CPS) or the Sheriff's Department, because they had procedures in place. Ms. Embrey said she was not sure about reporting to a "survivor advocate."

Ms. Geoffroy replied that she could not find a definition for "survivor advocate," if their groups were limited to receiving victims of sexual or domestic violence, or if their services were broader.

Vice President Beata Morcos stated that she opposed AB 1028, because it did not protect the consumer.

Ms. Embrey summarized that she opposed AB 1028 for the following reasons: it puts an onness on the licensee to investigate the alleged abuse to determine whether it is a warm hand off situation or a report situation, it is out of scope of the occupational therapist, the term "survivor advocate" was not well defined, and these actions could damage the healthcare practitioner's relationship with the patient.

Secretary Lynna Do noted that she would watch AB 1028. From her perspective, society victim blames and people will not want to discuss these topics knowing the healthcare practitioner must report them to law enforcement. Ms. Do added that the language was not in alignment with the Board's mission of consumer safety.

Board member Bookwalter and Board member Hector Cabrera both agreed with Ms. Do to watch AB 1028.

Executive Officer Martin stated that there is a meeting about AB 1028 on August 28, 2023, and this would be the last chance for the Board to take a position on the legislation.

Ms. Embrey added that the consumer she had in mind, was not one who could legally make their own decisions. Her patients are homeless, mentally ill, or children with disabilities. That is who the Board should be trying to protect.

Mr. Bookwalter responded that he appreciated Ms. Embrey's comment, and clarified that if the injury involves a child, the healthcare practitioner is mandated to report under AB 1028.

Secretary Lynna Do stated that when a practitioner does a warm hand off, you are giving them access to direct services. Handing it off to a direct service is better because the licensee does not have to investigate. That service provider will do the investigation. Ms. Do recommended the Board support AB 1028 and include some bullet points.

Ms. Miller stated that she could move to watch.

Ms. Pavlovich was also in support of AB 1028. With a warm hand off, the patient/client is taken away from the abuser. She has worked in a system that has been trying to implement the warm hand off. The institution she works at was starting to use this interdisciplinary approach for occupational therapists.

Ms. Morcos responded that she believed in a warm hand off situation, the abuser would continue the abuse.

In response to Ms. Morcos' comment, Mr. Bookwalter said that even if a situation has been reported to the authorities that does guarantee a uniformed officer will come to the victim's door. Mr. Bookwalter added that Police Departments also have a variety of programs to support victims of domestic violence.

Ms. Miller replied that Mr. Bookwalter's comment was a very clear argument for watching AB 1028 for her. She added that the Bill still allowed for the occupational therapist to report as permitted under the Federal Health Insurance Portability Act of 1996.

Ms. Wietlisbach noted that she initially opposed AB 1028, however had changed her mind to watch.

Ms. Embrey added that she agreed with Ms. Morcos in that there would not be accountability with a warm hand off. Many community agencies really want to help but are severely underfunded.

The consensus of the Board was to watch AB 1028.

There were no additional Board member remarks.
There were no additional public comments.

22. Discussion and consideration of taking a position on proposed legislation impacting the Board, including:

a) Report on Pending Legislation.

b) Assembly Bill (AB) 47 (Boerner), Pelvic floor physical therapy coverage.

The Board chose to support AB 47, if amended on May 19, 2023, and agreed to write submit a position letter in December 2023.

c) AB 381 (Rubio), Teacher credentialing: services credential with a specialization in health: occupational and physical therapists.

The Board agreed to continue to support AB 381.

d) AB 656 (McCarty), California State University: doctoral programs.

The Board agreed to continue to watch AB 656.

e) AB 796 (Weber), Business and Professions Code, relating to athletic trainers.

The Board would continue to watch AB 796.

f) AB 883 (Mathis), Business licenses: United States Department of Defense Skill Bridge program.

The Board agreed to continue to support AB 883.

g) AB 996 (Low), Department of Consumer Affairs: continuing education: conflict-of-interest policy.

The Board agreed to continue to watch AB 996.

h) AB 1369 (Bauer-Kahan), Business and Professions Code, relating to healing arts.

The Board agreed to continue to watch AB 1369.

i) AB 1612 (Pacheco), Health and Safety Code, relating to clinics licensure.

The Board agreed to continue to watch AB 1612.

j) AB 1707 (Pacheco), Health professionals and facilities: adverse actions based on another state's law.

Board Member Wietlisbach stated that the Board should watch AB 1707 closely as it directly affects healing arts licensing.

Mr. Bookwalter noted that AB 1707 was amended two days ago.

Ms. Do responded that the authors had expanded the language of AB 1707.

Mr. Bookwalter announced that as of August 22, 2023, there was no opposition to AB 1707.

Ms. Wietlisbach stated that the Board should consider supporting AB 1707. It would prohibit the Board from denying an applicant based on judgment in other states in situations where there was a conflict between California law and the other state's law.

Ms. Do noted that AB 1707 would protect the Board's consumers.

Ms. Wietlisbach provided the abortion law as an example. If a person was convicted for having an abortion and applied for licensure here in California, where abortion is legal, then the Board would be forced to deny licensure.

There were no additional Board member remarks.
There were no additional public comments.

- Christine Wietlisbach moved to support AB 1707.
- Sharon Pavlovich seconded the motion.

Board Member Vote

Richard Bookwalter	Yes
Hector Cabrera	Yes
Sharon Pavlovich	Yes
Christine Wietlisbach	Yes
Lynna Do	Yes
Beata Morcos	Yes
Denise Miller	Yes

The motion carried.

k) Senate Bill (SB) 372 (Menjivar), Department of Consumer Affairs: licensee and registrant records: name and gender changes.

The Board agreed to oppose SB 372, unless amended at the May 2023, meeting.

Mr. Bookwalter wondered if he were a licensee and had a complaint against an occupational therapist that had since transitioned, when he looked the dead name up in the database, if it would direct him to contact the Board.

Ms. Morcos believed that the dead name would be deleted from the database.

Ms. Martin replied that she believed the dead name would need to be redacted.

Ms. Do believed the old names would still be searchable. The dead name would indicate that the Board should be contacted.

Mr. Bookwalter noted that the language indicated that the licensee's former name would not be published. If the licensee was subject to prior enforcement action, the consumer would be directed to contact the Board for more information.

Ms. Geoffroy added that one of the concerns this Board and other Boards have had is the enforcement history. This amended law attempted to address that by subtracting their history. The posting under the dead name would now say contact the Board. Under the licensee's new name, it would say this person was subject to discipline and please contact the Board. The anticipated change was to redact the name from the Order. This iteration seemed to omit the Order in its entirety. She was unsure as to how the Board would disclose the requested information to the interested party. Also, from her understanding, the license number would not change. This could be a potential confidentiality issue.

Ms. Wietlisbach commented that previously the Board opposed SB 372 for privacy issues, but now the Board opposed SB 372 because they do want both names searchable.

Ms. Do responded by saying that the privacy issues were a problem when the old name was searched, and all the information would come up. She does not believe that someone's old name is necessarily going to indicate a gender change. The Board does process name changes when people get married.

Ms. Wietlisbach asked what privacy issue Ms. Do was trying to protect.

Ms. Do replied that some people do not want their gender change made public due to safety concerns.

Ms. Morcos explained that both of the licensee's names needed to be in the database. It would be difficult for a patient to search a practitioner if they were only aware of one of a licensee's names.

The Board chose to continue to oppose, unless amended. The Board also directed staff to schedule a meeting if there was an update on SB 372 before the November Board meeting.

l) SB 525 (Durazo), Minimum wage: health care workers.

The Board agreed to continue to watch SB 525.

m) SB 544 (Laird), Government Code, relating to state government.

The Board chose to support AB 544 at the May Board meeting. The Bill has been postponed by committee.

Ms. Martin explained that amendments were made to AB 544 prior to the Board submitting the letter of support.

The Board will discuss AB 544 again at the November meeting.

n) SB 802 (Roth), Licensing boards: disqualification from licensure: criminal conviction.

This Bill was cancelled by the author. Board staff was directed to bring the Bill back to the November Board meeting.

o) SB 805 (Portantino), Welfare and Institutions Code, relating to health care coverage.

The Board agreed to continue to oppose SB 805, unless amended.

p) SB 816 (Roth), Professions and vocations

The Board agreed to continue to oppose SB 816, unless amended.

There were no additional Board member remarks.

There were no additional public comments.

23. New suggested agenda items for a future meeting

Executive Officer Martin asked if the Board would add the NBCOT online survey inquiring about dry needling and wound care to a future meeting agenda because she was not comfortable responding to the survey without Board discussion.

The Board agreed to put dry needling and wound care on the November Board meeting agenda.

Christine Wietlisbach suggested the Board add discussion regarding juris prudence exams on a future Board meeting agenda.

Sharon Pavlovich asked for confirmation that pelvic health therapy be discussed at the November Board meeting.

Ms. Miller stated that if there was new information regarding the OT Licensure Compact that the Board discuss it at the November Board meeting.

There were no additional Board member remarks.

There were no additional public comments.

24. Selection of 2024 meeting dates.

President Miller announced that in the past, the Board has held meetings in February, May, August, and November.

The Board agreed to a February 8-9, 2024, meeting date in the Sacramento area.

The Board agreed to a May 2-3, 2024, meeting date in the San Diego area.

The board agreed to an August 22-23, 2024, meeting date in the Bay Area.

The board agreed on a November 14-15, 2024, meeting date in the Riverside area.

There were no additional Board member remarks.

There were no additional public comments.

25. Executive Officer's Report.

a) Operational report.

Executive Officer Martin introduced Rebecca Harris, the Board's new Staff Services Manager I (SSM I), in the Enforcement Unit.

Ms. Harris was most recently a SSMI over the licensing unit at the Department of Cannabis Control and prior to that Ms. Harris worked at the Bureau of Automotive Repair (BAR). Ms. Harris has an extensive background in enforcement gained at the BAR.

Ms. Martin thanked the Board members and Jody Quesada Novey, SSM I in the Licensing and Administrative Unit (LAU) for their support during her unexpected absence.

Ms. Martin stated that she started the Lean Six Sigma Green Belt project. The project's focus was to improve the enforcement complaint processing time frames. Her final presentation will be held virtually on January 12, 2024.

Ms. Martin noted that the DCA Organizational Improvement Office will begin a review of Board operations to map and document several Board processes. The focus will be to document the processes for new and existing employees.

Ms. Martin announced that Jody Quesada Novey had been promoted to SSM I, in the License and Administrative Unit. Rachael Hutchison was promoted to Associate Governmental Analyst to replace Ms. Quesada Novey. Marco Molina was promoted to Staff Services Analyst (SSA) in the Enforcement Unit to replace Ms. Hutchison.

The Board still has a vacancy for the Probation Monitor in the Enforcement Unit. Rebecca Harris and SSA Jeanine Orona have been co-handling the probation duties in the interim.

The Board also has a vacancy for an Office Technician in the Enforcement Unit. This is an entry level position, that to date was advertised six times without success. The position was not likely to be filled soon.

Ms. Martin noted that in the past, a report regarding pending regulations was provided for the Board meetings. Beginning in November 2023, Pending Regulation report will become a standing item. The Board had three regulation packages that were recently approved.

b) Fiscal Month (FM) 12 revenue and expenditure reports.

Ms. Martin explained that the revenue exceeded the expenditures last quarter. This was because there were funds not spent on salaries. If a position was vacant, the funds are not used. The Board will not continue to see this as the vacancies become filled.

c) Fund condition statement based on FM 12.

Ms. Martin noted that when the fund condition was discussed in 2021 and 2022, the Board approved fee bill language. The plan was to move forward with the bill so the fee increases would be in effect by January 1, 2024. Now that the fund condition has improved, the Board has a little flexibility. The Board's fund was now projected not to go negative until fiscal year 2025/26.

Ms. Miller commended the Board for extending the start date of the fee increase. The Board has continued to be mindful and has consistently delayed the fee increases when there were cost savings.

d) Licensing data for 4/1/2023 – 6/30/2023.

Ms. Martin addressed the materials provided to the Board.

e) Enforcement data for 4/1/2023 – 6/30/2023.

Ms. Martin noted that Board staff has replaced the word "complaint" with "cases."

f) Future Agenda Items.

Ms. Martin provided a list of previously approved agenda items to the Board members.

g) Data or information requested at prior Board meeting. (No Board action can be taken.)

There were no items for this agenda item.

h) Other informational items. (No Board action can be taken)

There were no items for this agenda item.

There were no additional Board member remarks.

There were no additional public comments.

ADJOURNMENT

The Board meeting adjourned at 12:26 p.m.