

california
BOARD OF OCCUPATIONAL THERAPY



2005

Sunset Review Report

**Presented to the:
Joint Committee on Boards,
Commissions & Consumer Protection**

Submitted September 1, 2005

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**California Board of Occupational Therapy
Sunset Review Report
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CALIFORNIA BOARD OF OCCUPATIONAL THERAPY

BACKGROUND INFORMATION AND OVERVIEW OF THE CURRENT REGULATORY PROGRAM

BACKGROUND AND DESCRIPTION OF THE BOARD AND PROFESSION

The Mission of The California Board of Occupational Therapy is:

“To protect the well-being of the public by regulating the practice of occupational therapy by:”

- ♦ **Enforcing the laws and regulations of occupational therapy; and providing effective means for resolving consumer complaints**
- ♦ **Ensuring that those entering the profession meet minimum standards of competency through education, fieldwork and examination**
- ♦ **Defining and upholding professional and ethical standards of practice**
- ♦ **Informing the public and other entities about the profession and standards of practice**

➤ Explanation of the History and Function of the Board.

Occupational Therapy was established in 1917 to treat World War I soldiers and is one of the oldest allied health professions in the United States. Occupational therapists used functional activities to increase the independence of veterans returning from the European warfront with physical and psychological trauma. The use of activity or “occupation” as a treatment modality continues today.

California enacted a title control/Title Act for occupational therapy in 1977 (Business & Professions Code (B & P Code), Section 2570, [Stats 1977 ch 836] prohibiting individuals from using the professional titles occupational therapist (OT, OTR) and occupational therapy assistant (OTA, COTA) without appropriate professional training. The law was amended in 1993 [Stats 1992 ch 361] to further clarify the threshold education and examination requirements for occupational therapy practitioners. The law had no registration process with the state or enforcement structure. Nor did it prevent an unqualified individual from practicing occupational therapy as long as the individual did not refer to himself as an occupational therapist or occupational therapist assistant.

Senate Bill (SB) 1046, [Stats 2000, ch 697] created the California Board of Occupational Therapy (Board), operative January 1, 2001. The Board is responsible for the licensure and regulation of Occupational Therapists (OT) and Occupational Therapy Assistants (OTA) in California. Occupational therapists use the professional titles “Occupational Therapist”, “OT”, “OTR” and “OTR/L”. Occupational therapy assistants use the professional titles “Occupational Therapy Assistant”, “OTA”, “COTA”, “COTA/C”. The “L” designates licensed and “C” designates certified.

Occupational therapy practitioners provide important health and rehabilitation services to people of all ages, who, because of illness, injury, developmental or psychological impairment, need specialized intervention to regain, develop, or build skills necessary for independent functioning. The focus of occupational therapy is on an individual's ability to effectively engage in performance areas that are purposeful and meaningful, such as activities of daily living (ADL's), work and other productive activities.

Occupational therapists evaluate and treat sensorimotor, cognitive and psychosocial problems that interfere with an individual's ability to perform in their specific environment.

The initial Occupational Therapy Practice Act (OTPA) required all occupational therapy practitioners to be licensed by January 1, 2003. The first license was issued on February 28, 2002. Over the past four years, amendments to the licensing laws and regulations have enhanced the Board's ability to protect the consumers. Some of these include modifications of the original practice act, and development of Disciplinary Guidelines, Advanced Practice Regulations, Continuing Education, and Supervision Guidelines. For example, under the enabling law, the Board had no authority to revoke a license, only deny the application. The Board's ability to appropriately discipline OTs found to have committed unprofessional conduct was greatly enhanced when SB 1244 was chaptered in September 2002. This bill gave the Board the authority to discipline a licensee or permit holder. Additional enhancements to the licensing laws and regulations included Cite and Fine Authority and Ethical Guidelines.

The Occupational Therapy Association of California, Inc. (OTAC), represents the profession of Occupational Therapy in California. OTAC represents the professional interest of the 10,000 practitioners in California, and provides information about the profession to new practitioners entering the state. The national organization for practitioners is the American Occupational Therapy Association, Inc. (AOTA). AOTA was established in 1917 and currently represents the professional interest of more than 112,653 practitioners. Members reside in all 50 states, the District of Columbia, Puerto Rico, Guam and foreign countries.

Licensing and Examination

The Board ensures that those entering the profession of Occupational Therapy possess at least minimal competency to practice independently and safely. Education and experience requirements established by the Board are identified in the OTPA. These requirements comply with those set by the Accreditation Council for Occupational Therapy Education (ACOTE). ACOTE is the nationally recognized accrediting agency for professional occupational therapy education in the United States. Its standards comply with those set by the United States Department of Education (USDE) and the Council on Higher Education Accreditation (CHEA). Accreditation by an agency recognized by the USDE is one of the conditions qualifying an educational institution or program to participate in federal funded programs. Affiliation with USDE and CHEA also serves the public and provides consumer protection by identifying institutions or programs of high quality.

Licensure applicants must successfully apply for and complete the entry-level certification examination for occupational therapist or occupational therapy assistant administered by the National Board for Certification in Occupational Therapy (NBCOT). A limited permit may be granted to an applicant who has completed the education and experience requirements identified in the OTPA. This limited permit allows these individuals to practice under the supervision of a licensed occupational therapist while waiting to take the NBCOT examination or awaiting the results of an examination. The permit is only valid for 4 months and practice privileges cease if the individual fails to pass the examination on the first attempt.

Enforcement

The Board's enforcement program is focused on protecting the consumer from exploitative, incompetent and potentially harmful licensees and from unlicensed individuals. The Board investigates and mediates consumer complaints. Serious complaints such as proven sexual misconduct with a patient result in disciplinary action, such as revocation. The Board's citation and fine program and probation program provide other tools that expand enforcement options.

Continuing Competency

Continued competency of licensees is assured through mandatory participation in professional development activities. Effective January 1, 2006, occupational therapists and occupational therapy assistants will be required as a condition of license/certificate renewal to complete twelve Professional

Development Units (PDU) during the annual renewal period. A minimum of six units must be directly related to the delivery of occupational therapy services. The remaining units must be relevant to the practitioner's current or anticipated area of practice. This requirement is in alignment with the requirements set by NBCOT.

Continuing competency courses may be taken from the AOTA, OTAC, or any approved or accredited educational institution that is not part of a course of study leading to an academic degree. The coursework or activity for continuing education must contribute directly to the professional knowledge, skill and ability of the practitioner and be objectively measurable.

Education and Outreach

The Board ensures that information is available for consumers, licensees, applicants, students and other professionals through the Board's Web site, brochures, on-line verification of licensure and certification, and the Board newsletter, "Best Practices."

In addition, the Board educates the profession on the latest regulatory and legislative changes through the Internet and through speaking engagements at professional association meetings and conferences. Board members and Board staff have spoken at official AOTA and OTAC meetings on a regular basis. Outreach services have also been made to the Physical Therapy Board of California, Medical Board of California, allied health and medical training programs in California, many medical facilities throughout the state, community facilities providing occupational therapy services, and to consumer organizations such as Rotary Clubs and civic organizations.

➤ Current Composition of the Board (Public vs. Professional) and listing of Board Members, who appointed by, when appointed, when terms expire, and whether vacancies exist and for how long.

The seven member Board is a mix of licensed and public members. Under current law, the Governor appoints three occupational therapists, one occupational therapy assistant and one public member. The Senate Rules Committee and the Speaker of the Assembly each appoint a public member. Upon enactment of the initial Occupational Therapy Practice Act, Board member terms were staggered. The Governor appointed two members for a term of one year and two members for a term of two years and one member for a term of three years. Current appointments are for four-year terms, with a limit of two consecutive terms.

There are currently two vacancies on the Board; one is a Governor OTA appointment, and the other is a public member appointed by the Speaker of the Assembly.

Board member qualifications are defined in B & P Code Sections 2570.19 (d) and (e), and require members to be residents of California. With the exception of the public members, all must be licensed. All members serve at the pleasure of their appointing authority and are subject to the same standards of conduct including; financial disclosure, meeting attendance, and conflict of interest as other Boards under the Department of Consumer Affairs (DCA).

The DCA is mandated by B & P Code Section 453 to provide formal orientation and training for Board members. Most of the members of the OT Board have participated in the Board member training and orientation.

Upon enactment of the OTPA and B & P Code Section 2570.19 (f) members of the Board were initially appointed as follows:

*Appointed by the Governor; **Appointed by Senate Rules Committee; ***Appointed by Speaker of the Assembly

Initial Board Members		Term Begins	Term Expires
Luella Grangaard (OT)*	Professional Member	06-14-01	12-31-02
Christine Wietlisbach (OT)*	Professional Member	06-14-01	12-31-04
Margaret Cunningham*	Public Member	06-14-01	12-31-02
Cynthia Burt (OT)*	Professional Member	06-14-01	12-31-03
Collins E. "Hugh" Smith, Jr.**+	Public Member	06-14-01	12-31-04
Roberta Murphy (OTA)*	Professional Member	06-14-01	12-31-03
Suzanne Sampson *** ++	Public Member	06-14-01	12-31-04

++Suzanne Sampson resigned effective January 2004

Current Board Members		Term Begins	Term Expires
Luella Grangaard (OT)*	Professional Member	06-18-03 reappointed	12-31-06
Christine Wietlisbach (OT)*	Professional Member	03-09-05 reappointed	12-31-08
Margaret Cunningham*	Public Member	06/18/03 reappointed	12-31-06
Mary Evert (OT)*	Professional Member	03-09-05	12-31-07
Collins E. "Hugh" Smith, Jr.**+	Public Member	03-14-01	12-31-04
Vacant Position (OTA)*	Professional Member		
Vacant Position ***	Public Member		

+ Collins E. "Hugh" Smith is serving his grace period

➤ Describe the Committees of the Board and their functions. Provide organization chart.

The Board makes effective use of committees, which include the following:

Practice Committee: The Practice Committee was established to review practice issues and provide recommendations to the Board regarding these issues for developing Board policy. The committee receives questions from the public, licensees and other health care professionals concerning occupational therapy practice issues. The committee's recommendations are used to clarify these practice concerns to licensees/public, as well as to determine the need for future legislation and policy. When questions have arisen, this committee has reviewed applications of practitioners pursuant to B & P Code Section 2570.14 who have not practiced for over five (5) years and makes recommendations to the Board when the education requirement of the application is in question.

Luella Grangaard, Board member
 Hugh Smith, Board member
 Deborah Bolding, Ad hoc member
 Janet Jabri, Ad hoc member
 Roberta Murphy, Ad hoc member
 Judith Palladino, Ad hoc member
 Pamela Roberts, Ad hoc member

Advanced Practice Regulatory Committee: The Advanced Practice Regulatory Committee develops regulations for advanced practices identified in B & P Code Sections 2570.3 (d-g) of the OTPA. The Advanced Practice regulations are currently published in Article 6 of Title 16, Division 39 of the California Code of Regulations. They regulate the education and training requirements for hand therapy, physical agent modalities (PAMS), and swallowing assessment, evaluation or intervention certification, as well as the application requirements.

Christine Wietlisbach, Board member
 Margaret Cunningham, Board member
 Cynthia Burt, Ad hoc member

Regulatory Committee: The Regulatory Committee develops regulations to support the practice act. This includes regulations on ethics, supervision, continuing education, and consumer complaint disclosure policy.

Hugh Smith, Board member
Roberta Murphy, Ad hoc member

Advanced Practice Review Committee: The Advanced Practice Review Committee evaluates portfolios submitted by occupational therapists applying for advanced practice certification. The ad hoc members are utilized as necessary for their respective professional expertise. The committee also communicates any identified trends, concerns and issues to the Board regarding this process.

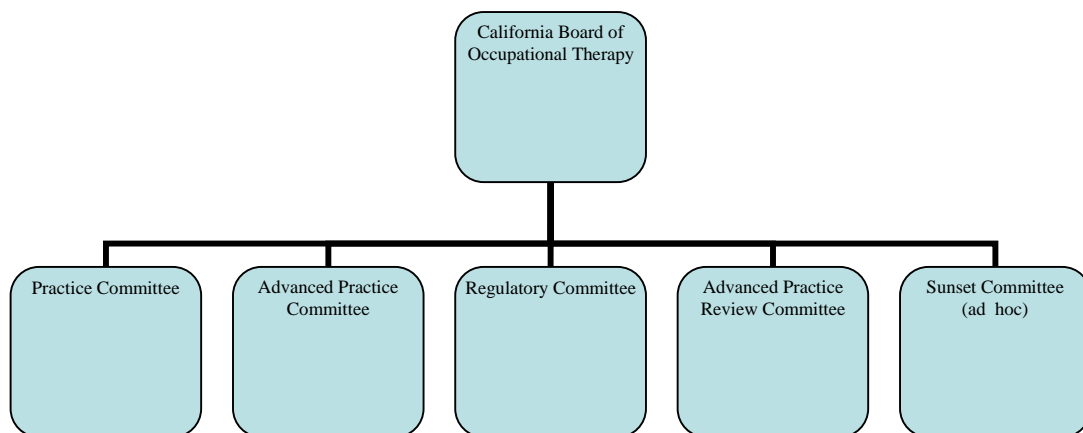
Luella Grangaard, Board member
Roberta Murphy, Ad hoc member
Debra Morawski, Ad hoc member
Mary Kasch, Ad hoc member

Sunset Committee: The Sunset Committee is responsible for development and coordination of the Sunset Review Report required for the Sunset Review due July 2006.

Mary Evert, Board member
Hugh Smith, Board member
Cynthia Burt, Ad hoc
Roberta Murphy, Ad hoc
Richard Bookwalter, Ad hoc

Most committee meetings are scheduled along with Board meetings to allow the public to observe and/or participate whenever possible. During committee meetings, recommendations are formulated for presentation to the full Board for review and action. Committees are composed of Board members with ad hoc members included in instances where expertise is sought. Ad hoc members are usually subject matter experts from the profession and represents views from all sides of a given issue.

An organizational chart of the Board's committee structure is provided below:



➤ Who the Board Licenses, Titles, Regulates, etc. (Practice Acts vs. Title Acts)

The Board licenses occupational therapists and occupational therapy assistants. The Title Act of 1977 established the protection of the use of the titles "occupational therapist", "occupational therapy assistant", "certified occupational therapist", "certified occupational therapist assistant", "occupational therapist registered", and the letters "OT", "OTA", "COT", "COTA", "OTR", or any other words, letters, abbreviations and insignia that indicated or implied that a person was an occupational therapist or occupational therapy assistant. The Title Act also precluded individuals from representing in any way,

orally, in writing, print or by sign, directly or by implication, that he or she was an occupational therapist or occupational therapy assistant without appropriate training and credentialing.

The Title Act was amended in 1993 with AB 1852 [Stats 1993 ch 361]. This amendment added educational standards that included graduation from an occupational therapy program accredited by ACOTE. Individuals representing themselves as occupational therapists or occupational therapy assistants had to be certified or be eligible for certification by NBCOT.

However, AB 1852 did not provide consumer protection. There was no mechanism for monitoring or enforcement under this law to prevent someone from practicing occupational therapy without a license, thus jeopardizing public protection.

California has the second largest number of nationally certified practitioners in the nation. The Board regulates more than 8700 licensed occupational therapists and 1500 occupational therapy assistants. Over 3000 advanced practice certificates have been issued to occupational therapists. Advanced practice certification is required for those individuals who provide hand therapy, physical agent modalities or swallowing assessment and interventions. Specific education and training requirements are delineated by the Advanced Practice Regulations. There are 1,180 advanced practice certificates in hand therapy and 1,236 certificates in physical agent modalities. Also, there are 655 advanced practice certificates issued allowing practitioners to provide swallowing assessment, evaluation or intervention.

➤ **Any major changes to the Board since the last review. (Internal changes, strategic planning, regulatory changes or recent legislation, etc.)**

The following list include major accomplishment of the Board since its sunrise:

- 16 CCR Sections 4100-4102 – Adoption of General Provisions. 4/2/02
- 16 CCR Sections 4110-4114 – Adoption of regulations concerning license application. 4/2/02
- 16 CCR Sections 4120-4122 – Adoption of regulations concerning renewal & status of licenses. 4/2/02
- 16 CCR Section 4130 – Adoption of regulations establishing fees. 4/2/02
- 16 CCR Section 4140-4143 – Adoption of regulations authorizing issuance of citations and fines. 7/6/02
- 16 CCR Section 4170 - Adoption of regulations pertaining to ethical standards of practice. 8/23/03
- 16 CCR Sections 4150-4155 – Adoption of regulations identifying requirements for advance practices. 4/8/04
- 16 CCR Sections 4180-4184 – Adoption of regulations setting forth supervision requirements. 11/26/04
- 16 CCR Section 4144 – Adoption of regulations establishing disciplinary guidelines. 12/22/04
- 16 CCR Section 4123 – Adoption of regulations setting forth limited permit requirements. 1/19/05
- 16 CCR Sections 4160-4163 - Adoption of regulations setting forth continuing competency requirements. 4/15/05
- 16 CCR Section 4154 – Modification of regulations identifying requirements for advanced practices. 6/30/05
- SB 1244 [Stats 2002 ch 1079] – Added B & P Code Sections 2570.26, 2570.27, 2570.28, 2570.29, 2570.30, 2570.31, and 2570.32 to authorize the Board to take disciplinary action. 9/29/02

- SB 2021 [Stats 2002 ch1011] – Amend B & P Code Section 2570.5 to clarify requirements for limited permit holders and authorize the Board to charge an application fee. 1/1/03
- SB 1402 [Stats 2002 ch 823] – Amend B & P Code Sections 2570.2 and 2570.3 to clarify requirements for advanced practices. 1/1/03
- SB 1077 [Stats 2003 ch 607] – Amend B & P Code Section 2570.4 to restrict license exemption. 1/1/04
- SB 1913 [Stats 2004 ch 695] – Amend B & P Code Section 2570.14 concerning applicants not actively engaged in the practice; and add B & P Code Section 2571 authorizing licensees to apply prescribed topical medications. 1/1/05
- Creation of a Web site that includes online license/certificate verification.
- Participation on the Older California Traffic Safety Task Force and creation of a directory listing Driver Safety and Rehabilitation programs.

➤ **Any major studies conducted by the Board. [Please provide any copies of documents or reports produced by or under the direction of the Board].**

The Board has been involved in several major studies or efforts to produce comprehensive regulations to clarify the OTPA. They include interdisciplinary collaborations to study advanced practice, and inter-agency reviews to develop regulations for supervision, ethics and continuing competency.

A Regulatory Committee was appointed to develop regulations for supervision, ethics and continuing competency. The Committee held public meetings and forums to gather opinions, concerns, and information from licensees, the public and other concerned agencies and organizations. Regulations for supervision, ethics, and continuing competency were developed following extensive review of information from professional documents from AOTA, NBCOT and guidelines prepared in other states. The Board focused on developing guidelines that were relevant for and reflective of current practice in the field.

Supervision guidelines were developed to mirror standards set by the profession. Criteria were developed to make the standards flexible enough to meet all practice areas and level of practitioner experience, while being restrictive enough to assure consumer protection and eliminate potential abuse. Potential abuse issues included the use and supervision of aides for direct care. Limitations on the use of aides were extensively discussed and addressed in regulation.

Continuing competency was a primary concern for the Board. Licensees were concerned that NBCOT was also in the process of developing mandatory continuing education requirements for re-certification. NBCOT had recently introduced the use of PDUs. The Board worked closely with NBCOT to make the state standards for continuing competency congruent with the national requirements for re-certification by NBCOT. Regulations were designed to eliminate confusion and reduce costs for practitioners, employers, and regulating health care agencies, while assuring consumer protection.

The development of advanced practice guidelines was a challenge for a newly developing Board. As a result, the Advanced Practice Regulatory Committee was appointed at the first Board meeting. The committee elected to hold a special public meeting to gather information from all stakeholders and decide how to proceed in developing the regulations. A collaborative study resulted, which is described in detail below.

ADVANCED PRACTICE REGULATORY COMMITTEE INTERDISCIPLINARY COLLABORATION STUDY ON ADVANCED PRACTICE GUIDELINES

The first California Occupational Therapy Board Meeting was held on August 15, 2001 in Sacramento. After swearing in, the Board was charged with developing regulations on feeding and swallowing assessment, evaluation and intervention, hand therapy and physical agent modalities by January 1, 2003. The Board President, Luella Grangaard appointed an Advanced Practice Regulatory Committee, to develop these professional regulations. Cynthia Burt, Margaret Cunningham, and Christine Wietlisbach were appointed to the Committee with Ms. Burt serving as chairperson. The Advanced Practice Regulatory Committee was specifically charged to work with the Speech-Language Pathology and Audiology (SLPAB), Physical Therapy of California (PTBC), and Registered Nursing (RN) Boards to develop these regulations. Executive Officers were present at the meeting and were requested to appoint representatives to work with the Advanced Practice Regulatory Committee on the Advanced Practice Regulations.

Process:

An Advanced Practice Regulatory Committee Meeting was held in Los Angeles on October 24, 2001 to begin developing regulations. The purpose of the meeting was to gather information from all stakeholders to ensure that regulations developed reflected current practice and protected the consumer. Thirty-one individuals attended the meeting and represented speech-language pathology and audiology, physical therapy, nursing, occupational therapy, hospital administration, and the public.

Specific issues identified included the following:

- Lack of consistency of OT educational programs in area of dysphagia, hand therapy and PAMS
- Identification of basic feeding versus dysphagia skills
- Clarification of "hand therapy" versus "occupational therapy"
- Relationship of CHT and competency as determined by CBOT
- How to determine competency
- Specialty areas and competency (i.e. Neonatal Intensive Care Unit)
- Supervision requirements

Two task forces were developed to address feeding/swallowing and hand therapy issues, chaired by Margaret Cunningham and Christine Wietlisbach respectively. All attendees were encouraged to sign up for either or both of the task forces. Attendees were also encouraged to inform peers of the task forces and encourage their participation. Specific tasks assigned to the task groups included:

- Review all documents relating to PAMs
- Review school curriculums
- Review continuing education guidelines of states and NBCOT
- Obtain feedback from PT and Speech Board liaisons
- Obtain competency guidelines from facilities in state
- Obtain competency and training guidelines on PAMS and dysphagia from Speech and PT
- Determine areas of regulation needing clarification and expansion for discussion at Board meetings

Task force interactions were held via the Internet by group e-mail so that all members could participate on a real-time basis and made aware of everyone's comments and contributions. The task groups were interdisciplinary and comprised of occupational therapists, physical therapists and speech-language pathologists. Members of the general public also contributed.

The members of the task forces reviewed documents over the Internet during the next 18 months and presented drafts and summaries to the Board for review. There were several Advanced Practice Regulatory Committee meetings held in conjunction with Board meetings during this period. Members of the public were invited to and attended these meetings. All meetings had an extensive comment period during which the public attendees contributed to the development of the regulations. OT Board members and staff attended many local meetings and workshops held throughout the state to discuss the regulations with professional groups and the public.

Information was received from individuals, medical and community based facilities, SLPAB, and PTBC. Noted professors at universities were on the task groups and contributed information and feedback. Efforts were made to work closely with speech pathology professors specializing in the area of dysphagia. The experts reviewed proposed dysphagia advanced regulations. Some issues identified by the task groups included the following:

- Need to separate hand therapy and physical agent modality advanced practices.
- Need to revise the practice act to identify hand therapy as advanced practice skill with requirement that specific regulations be developed by the CBOT to determine competencies.
- Lack of consistency in OT education in area of dysphagia, hand therapy and physical agent modalities. Board supported resolution to AOTA to review OT essentials of education to make reflective of current practice.
- Portfolio assessment identified as credible method of determining competency.

The Hand Therapy, Physical Agent Modalities, and Dysphagia regulations were approved by the CBOT and submitted to the Office of Administrative Law for publication and review in March 2003. The initial draft and final product of Dysphagia advanced practice regulations are presented as an example of the transformation the guidelines underwent during this participatory process (**Appendix A & B**). All advanced practice provisions became operative on March 9, 2004.

The interdisciplinary review process used to develop the CBOT Advanced Practice regulations resulted in specific competency guidelines for these specialized areas. California is the only state to have such a thorough review process of clinicians wanting to practice in these areas. The guidelines have helped generate support for a review of the essentials of OT education at a national level. Therapists across the country are submitting applications for advanced practice to demonstrate competency; a true sign that the goal of consumer protection has been achieved.

➤ **Licensing Data. What information does the Board provide regarding the licensee (i.e., education completed, awards, certificates, certification, specialty areas, etc.)? [See Table Below]**

The Board provides public information regarding licensees to individuals who request it. The public information includes the name, license number, address of record, license status, expiration date, advance practice certification, pending disciplinary action, such as accusation or statement of issues filed and final disposition. In addition the Board maintains a license verification feature on its web site that can be used directly by consumers to verify much of the same information.

Table 1

LICENSING DATA FOR OCCUPATIONAL THERAPIST	FY 2001/02	FY 2002/03	FY 2003/04	FY 2004/05
Total Licensed	Total: 878	Total: 6,976	Total: 7,922	Total: 8,732
California	867	6,814	7,576	8,324
Out-of-State	11	162	346	408
Applications Received	Total: NDA	Total: NDA	Total: NDA	Total: NDA
Applications Denied	Total: 0	Total: 7	Total: 4	Total: 3
Licenses Issued	Total: 878	Total: 6,098	Total: 946	Total: 810
Renewals Issued	Total: 0	Total: 1,746	Total: 7,085	Total: 7,328
Statement of Issues Filed	Total: 0	Total: 7	Total: 5	Total: 3
Statement of Issues Withdrawn	Total: 0	Total: 1	Total: 1	Total: 0
Licenses Denied	Total: 0	Total: 0	Total: 1	Total: 2

Table 2

LICENSING DATA FOR OCCUPATIONAL THERAPY ASSISTANT	FY 2001/02	FY 2002/03	FY 2003/04	FY 2004/05
Total Licensed California Out-of-State	Total: 104 104 0	Total: 1,250 1,238 12	Total: 1,425 1,393 32	Total: 1,549 1,496 53
Applications Received	Total: NDA	Total: NDA	Total: NDA	Total: NDA
Applications Denied	Total: 0	Total: 7	Total: 1	Total: 2
Certifications Issued	Total: 104	Total: 1,146	Total: 175	Total: 124
Renewals Issued	Total: 0	Total: 247	Total: 1,213	Total: 1,277
Statement of Issues Filed	Total: 0	Total: 3	Total: 2	Total: 1
Statement of Issues Withdrawn	Total: 0	Total: 0	Total: 0	Total: 0
Licenses Denied	Total: 0	Total: 3	Total: 0	Total: 3

Table 3

LICENSING DATA FOR LIMITED PERMIT-OCCUPATIONAL THERAPIST	FY 2001/02	FY 2002/03	FY 2003/04	FY 2004/05
Total Permits California Out-of-State	Total: 0 0 0	Total: 130 130 0	Total: 261 261 0	Total: 373 373 0
Applications Received	Total: NDA	Total: NDA	Total: NDA	Total: NDA
Applications Denied	Total: 0	Total: 0	Total: 0	Total: 0
Permits Issued	Total: 0	Total: 130	Total: 131	Total: 112
Renewals Issued	Total: N/A	Total: N/A	Total: N/A	Total: N/A
Statement of Issues Filed	Total: 0	Total: 0	Total: 0	Total: 0
Statement of Issues Withdrawn	Total: 0	Total: 0	Total: 0	Total: 0
Licenses Denied	Total: 0	Total: 0	Total: 0	Total: 0

Table 4

LICENSING DATA FOR LIMITED PERMIT-OCCUPATIONAL THERAPY ASSISTANT	FY 2001/02	FY 2002/03	FY 2003/04	FY 2004/05
Total Licensed California Out-of-State	Total: 0 0 0	Total: 9 9 0	Total: 21 21 0	Total: 51 51 0
Applications Received	Total: NDA	Total: NDA	Total: NDA	Total: NDA
Applications Denied	Total: 0	Total: 0	Total: 0	Total: 0
Permits Issued	Total: 0	Total: 9	Total: 12	Total: 30
Renewals Issued	Total: N/A	Total: N/A	Total: N/A	Total: N/A
Statement of Issues Filed	Total: 0	Total: 0	Total: 0	Total: 0
Statement of Issues Withdrawn	Total: 0	Total: 0	Total: 0	Total: 0
Licenses Denied	Total: 0	Total: 0	Total: 0	Total: 0

As of June 30, 2005 the Board has 1,180 licensees with Advanced Practice certifications in hand therapy, 1,236 licensees with advanced practice certification in physical agent modalities and 655 licensees with advanced practice certification in swallowing assessment, evaluation and intervention.

BUDGET AND STAFF

Current Fee Schedule and Range

- **Discuss which fees are main source of revenues, when renewal is required, date of last fee(s) adjustment, and if any plans to increase fees and for what reasons. List all fees. [See Table Below]**

Currently the Board's main source of revenue is generated from collecting licensing and renewal fees. It is through these fees that the Board is able to support the enforcement, licensing, and administrative programs. These programs provide for among other things, the processing and issuance of licenses, renewals, enforcing Board laws, pursuing disciplinary actions, printing and distributing publications, consumer outreach, personnel, and other operating expenses.

Renewal fees are due and payable annually (based on the licensee's birth month) and are currently set at \$150. The Board's fees are set in statute as indicated in table 5 below. With the current fees charged by the Board, the year end reserve balance for FY 04/05 was \$1,337,000 or 21.7 months in reserve. Based on current fees, the reserve for FY 05/06 will have a balance of \$2,122,000 or 34.4 months. For FY 06/07 the reserve is projected to be \$2,920,000 or 46.3 months. For FY 07/08, at the current fee level the reserve is projected to have a balance of \$3,719,000 or 57.9 months. For FY 08/09, the Board's reserve level is projected to end at \$4,519,000 or 69.0 months in reserve.

(Appendix E)

The Board submitted a renewal fee reduction proposal earlier in the year, requesting a renewal fee reduction from \$150 to \$70 starting in FY 06/07, with an additional one-time reduction from \$150 to \$10 during 05/06. The one-time fee reduction in 05/06 was proposed to keep the reserve fund from exceeding 24 months. The proposal was withdrawn and resubmitted to a level that would not put the Board at risk.

The current regulatory proposal would decrease the renewal fee from \$150 to \$50, beginning January 2006. If the fee reduction is implemented in January 2006, the Board's reserve level for 05/06 is projected to be \$1,656,000 or 26.8 months. For FY 06/07 \$1,493,000 or 23.7 months. For FY 07/08 the level is projected to be \$1,312,000 or 20.4 months. For 08/09 the level is projected to be \$1,112,000 or 17.0 months.

(Appendix F)

Table 5

Fee Schedule	Current Fee	Statutory Limit
Application Fee	0	N/A
Exam Fee	0	N/A
Duplicate License/Certificate fee	\$15	Not set in statute, regulation \$15
Limited Permit Fee	\$100	Not set in statute, regulation \$100
Original License Fee	\$150	\$150
Renewal Fee	\$150	\$150
Delinquent Renewal Fee	\$75	\$75
Inactive Renewal Fee	\$25	
Fingerprint Processing Fee (DOJ & FBI)	Fees as charged by DOJ & FBI (currently \$56)	

Revenue and Expenditure History

➤ **Provide brief overview of revenues and expenditures.**

Comparison of Revenues and Expenditures: [See Table Below]

SB 1046 authorized start-up funding for the Board through the General Fund loan to the Occupational Therapy Fund of up to one million dollars. The bill authorized an appropriation of \$610,000 of the loan amount to the Board to use in FY 2001/02. The appropriation was effective July 1, 2000. In subsequent years, funds from the Occupational Therapy fund were to be available to the Board after appropriation by the legislature in the annual Budget Act. The loan, including interest was to be repaid over a period up to five years.

The first installment on the startup loan was paid in FY 2002/03 in the amount of \$459,000. The second and final installment was paid in FY 2003/04 in the amount of \$241,000. The total payoff including interest, was \$700,000.

It is anticipated that the Board's revenues will continue to increase as more Occupational Therapists and Occupational Therapy Assistants graduate from accredited occupational therapy programs and as more practitioners move to the State of California. Expenditures will remain steady through the end of FY 2005/06. However, there will be an increase in expenditures in FY 2006/07 due to a rent increase when the Board moves to a new location.

The Board has requested a one time budget augmentation of \$25,000 for FY 2006/07 to cover move related expenses and \$18,000 on-going for the rent increase. The enforcement expenditures can expect to increase along with the number of cases that are referred to the Division of Investigation and the Attorney General's office.

Table 6

REVENUES	ACTUAL				PROJECTED	
	FY 01-02	FY 02-03	FY 03-04	FY 04-05	FY 05-06	FY 06-07
Licensing Fees	104,904	1,221,742	1,294,361	1,347,379	1,482,000	1,482,000
Fines & Penalties	0	0	180	2,455	0	0
Interest	19,646	13,725	14,242	25,038	44,000	57,000
Other	4	358	865	6,203	0	0
TOTALS	124,554	1,235,825	1,309,648	1,381,075	1,526,000	1,539,000

Table 7

EXPENDITURES	ACTUAL				PROJECTED	
	FY 01-02	FY 02-03	FY 03-04	FY 04-05	FY 05-06	FY 06-07
Personnel Services	149,559	251,617	312,452	353,258	370,657	371,887
Operating Expenses	175,996	213,556	256,578	330,970	392,343	391,113
Reimbursements	-9,352	-41,177	-27,152	-20,392	-22,000	-22,000
Distributed Costs	0	0	0	0	0	0
TOTALS	316,203	423,996	541,878	663,836	741,000	741,000

Expenditures by Program Component

- **Discuss the amounts and percentages of expenditures made by program components. [See Table Below]**

During the last four years, the Board spent 42.7% of its budget on the licensing program, 35.9% on enforcement and 21.4% on administration. Enforcement expenditures are expected to increase as more complaints are investigated and referred to the Attorney General's Office.

Table 8

EXPENDITURES BY PROGRAM COMPONENT	FY 01-02 Actual	FY 02-03 Actual	FY 03-04 Actual	FY 04-05 Actual	FY 05-06 Projected	FY 06-07 Projected	Average % Spent by Program
Enforcement	80,737	162,680	188,737	232,317	308,409	307,746	35.9%
Examination	0	0	0	0	0	0	0.0%
Licensing	202,963	222,911	233,851	295,318	283,907	285,435	42.7%
Administrative	41,855	79,582	146,442	156,593	170,684	169,819	21.4%
TOTALS	325,555	465,173	569,030	684,228	763,000	763,000	100%

Fund Condition

- **Discuss reserve level, spending trends, and if a mandated statutory reserve level exists. Also whether deficit may occur and whether fee increase or reductions is appropriate. [See Table Below]**

The Board's year-end reserve balance for FY 04/05 was \$1,337,000 or 21.7 months in reserve. Based on current fees, the reserve for FY 05/06 will have a balance of \$2,122,000 or 34.4 months in reserve. For FY 06/07 the reserve is projected to be \$2,920,000 or 46.3 months. For FY 07/08 the level is projected to have a balance of \$3,719,000 or 57.9 months in reserve. For FY 08/09, the Board's reserve level is projected to end at \$4,519,000 or 69.0 months in reserve.

(Appendix E)

B & P Code Section 128.5 limits the Board's reserve to an amount equal to its operating budget for the next two fiscal years and requires the Board to take steps to reduce fees when its reserve exceeds the 24 month limit.

The Board has submitted a regulatory proposal to decrease the renewal fee from \$150 to \$50, beginning January 2006. If the fee reduction is implemented in January 2006, the Board's reserve level for 05/06 is projected to be \$1,656,000 or 26.8 months. For FY 06/07 \$1,493,000 or 23.7 months. For FY 07/08 the level is projected to be \$1,312,000 or 20.4 months. For FY 08/09 \$1,112,000 or 17.0 months.

(Appendix F)

The percentage of the budget spent on the licensing program has been steadily declining since the initial influx of licensees in fiscal years 2001/02 and 2002/03. In fiscal years 04/05 through 06/07, licensing expenditures will level off as the number of new licensees and renewals stabilize.

Conversely, enforcement expenditures are expected to increase in relation to the total budget as more complaints are investigated and referred to the Attorney General's Office.

Table 9

ANALYSIS OF FUND CONDITION	FY 02-03	FY 03-04	FY 04-05 (Budget Yr)	FY 05-06 (Projected)	FY 06-07 (Projected)	FY 07-08 (Projected)
Total Reserves, July 1	370	730	620	1,337	2,122	2,920
Total Rev. & Transfers	777	429	1,381	1,526	1,539	1,555
Total Resources	1,147	1,158	2,001	2,863	3,661	4,475
Total Expenditures	424	542	664	741	741	756
Reserve, June 30	723	617	1,337	2,122	2,920	3,719
MONTHS IN RESERVE	16.0	11.1	21.6	34.4	46.3	57.9

➤ **Staff**

Currently the Board has five full-time authorized positions:

- (1) Executive Officer
- (1) Associate Government Program Analyst
- (1) Staff Service Analyst
- (1) Office Technician
- (1) Office Assistant – Vacant as of 9/1/05

LICENSURE REQUIREMENTS

Education, Experience and Examination Requirements

- **Discuss education, experience and examination requirements for all licensure categories which the Board regulates.**

Occupational Therapists:

(A) Education:

Pursuant to B & P Code Sections 2570.6(b)(1) and (2) an applicant for an occupational therapy license must successfully complete the academic requirements of an educational program that is approved by the Board and is accredited by ACOTE. A Bachelor's Degree is the minimum requirement.

The curriculum for occupational therapists must contain the following content specifically required in the ACOTE accreditation standards:

- (a) Biological, behavioral, and health sciences.
- (b) Structure and function of the human body, including anatomy, kinesiology, physiology, and the neurosciences.
- (c) Human developments throughout the life span.
- (d) Human behavior in the content of sociocultural systems.
- (e) Etiology, clinical course, management, and prognosis of disease processes and traumatic injuries, and the effects of those conditions on human functioning.
- (f) Occupational therapy theory, practice, and processes.

(B) Experience:

Pursuant to B & P Code Section 2570.6(c), an applicant for an occupational therapy license must successfully complete 960 hours of supervised fieldwork experience approved by the Board and arranged by a recognized education institution where the applicant met the academic requirements outlined above. The 960 hours must be completed within 24 months of completion of the didactic coursework.

(C) Examination:

Pursuant to B & P Code Sections 2570.6(d) and 2570.7, an applicant for an occupational therapy license must successfully complete the entry level certification examination for occupational therapists approved by the Board, which is the examination administered by NBCOT. Applicants must complete a written examination to test their knowledge of occupational therapy techniques and methods, and any other subjects that the Board may require to determine the applicant's fitness to practice under this chapter.

Occupational Therapy Assistants:

(A) Education:

Pursuant to B & P Code Sections 2570.6(b)(1) and (3) an applicant for an occupational therapy assistant certificate must successfully complete the academic requirements of an educational program that is approved by the Board and is accredited by ACOTE. An Associate Degree is the standard.

The curriculum for occupational therapists must contain the following content specifically required in the ACOTE accreditation standards:

- (a) Biological, behavioral, and health sciences.
 - (b) Structure and function of the normal human body.
 - (c) Human development.
 - (d) Conditions commonly referred to occupational therapists.
 - (e) Occupational therapy principles and skills.
- (B) Experience:

Pursuant to B & P Code Section 2570.6(c), an applicant for an occupational therapy assistant certificate must successfully complete 640 hours of supervised fieldwork experience approved by the Board and arranged by a recognized education institution where the applicant met the academic requirements outlined above. The 640 hours must be completed within 20 months of completion of the didactic coursework.

(C) Examination:

Pursuant to B & P Code Section 2570.6(d), an applicant for an occupational therapy assistant certificate must successfully complete the entry level certification examination for occupational therapy assistants approved by the Board, which is the examination administered by NBCOT. Applicants must successfully complete a written examination to test their knowledge of occupational therapy techniques and methods, and any other subjects that the Board may require to determine the applicant's fitness to practice under this chapter.

All OT & OTA applicants must be at least 18 years of age and not addicted to alcohol or any controlled substances. Pursuant to B & P Code Section 30, all applicants must possess a Social Security Number. In addition, each applicant must undergo a background check. Foreign-trained candidates for an occupational therapist license are also required to pass the NBCOT entry-level certification examination as described above.

Areas of Advanced Practice:

An occupational therapist may provide advance practices if they have the knowledge, skill, and ability to do so and have demonstrated to the satisfaction of the Board that they have met the educational training and competency requirement. Areas of advanced practice include hand therapy, physical agent modalities, and swallowing assessment, evaluation, or intervention (dysphagia).

Hand therapy is defined as the art and science of rehabilitation of the hand, wrist, and forearm requiring comprehensive knowledge of the upper extremity and specialized skills in assessment and treatment to prevent dysfunction, restore function, or reverse the advancement of pathology. In order to become certified in hand therapy, an occupational therapist must complete 45 contact hours of education in the

subjects listed in B & P Code Section 2570.3(e) and complete 480 hours of on-the-job training under the supervision of a physical therapist, physician and surgeon, or occupational therapist who holds an advanced practice certification in hand therapy.

A physical agent modality is a technique that produces a response in soft tissue through the use of light, water, temperature, sound, or electricity. These techniques are used as adjunctive methods in conjunction with, or in immediate preparation for, occupational therapy services. In order to become certified in physical agent modalities, an occupational therapist must complete 30 contact hours of education in the subjects listed in B & P Code Section 2570.3(f) and complete 240 hours of on-the-job training under the supervision of a physical therapist, physician and surgeon, or occupational therapist who holds an advanced practice certification in physical agent modalities.

Dysphagia is defined as dysfunction in any stage or process of swallowing. It includes any difficulty in the passage of food, liquid, or medication through the pharyngeal and esophageal phases of the swallowing process that impairs the client's ability to swallow independently or safely. In order to become certified in swallowing assessment, evaluation, or intervention, an occupational therapist must complete 45 contact hours of education in the subjects listed in 16 CCR Section 4153(b)(1) and complete 240 hours of on-the-job training under the supervision of a speech language pathologist, physician and surgeon, or occupational therapist who holds an advanced practice certification in swallowing assessment, evaluation, or intervention.

➤ **What does the Board do to verify information provided by the applicant regarding education and experience? What process is used to check prior criminal history information, prior disciplinary actions, or other unlawful acts of the applicant?**

The Board verifies information from each applicant for licensure such as passage of NBCOT examination and a certified copy of an official transcript from an accredited program.

All applicants for licensure or certification must be fingerprinted through Live Scan or a local law enforcement agency. The Board receives Live Scan results within one week of submission by the applicant. Results obtained from applicants who apply outside of California and are fingerprinted through a local law enforcement agency of their jurisdiction may not receive results for up to six weeks. Applicants are not licensed/certified until the Department of Justice background check results are received by the Board.

➤ **Discuss passage rates for all examinations, whether there is legitimate justification for all exams, whether exams have had an occupational analysis performed and been validated and when, and the date of the next scheduled occupational analysis for each exam.**

Currently, the only nationally recognized entry-level certification examination for occupational therapists and occupational therapy assistants is developed and administered by the NBCOT. NBCOT certifies occupational therapy professionals in the United States, Puerto Rico, Guam, and U.S. Territories. More than 140,000 occupational therapy practitioners have obtained their credentials from this certification organization. The OCCUPATIONAL THERAPIST REGISTERED OTR and CERTIFIED OCCUPATIONAL THERAPY ASSISTANT COTA credentials are:

- Accredited by the American National Standards Institute (ANSI) as being in conformity with the comprehensive international personnel certification standard ISO/IEC 17024.
- Recognized by the National Skill Standards Board (NSSB). NSSB is a national coalition created by the U.S. Congress. The Coalition includes representation by the U.S. Department of Labor, Education and Commerce.

NBCOT is a long-standing member of the National Organization for Competency Assurance (NOCA) and follows nationally accepted standards and benchmarks in professional certification.

NBCOT examinations are computer-delivered at 350 Prometric Testing Centers throughout North America on an "on-demand" basis. NBCOT examinations are also administered worldwide at U.S. military

installations through the DANTES program. The U.S. Veterans Administration has approved payment of NBCOT examination fees as a benefit for eligible veterans.

The procedures used to prepare the NBCOT certification tests are consistent with the technical guidelines recommended by the American Educational Research Association, the American Psychological Association, and the National Council on measurement in Education. They adhere to the relevant sections of the Uniform Guidelines on Employee Selection adopted by the Equal Employment Opportunity Commission, Civil Service Commission, Department of Labor, and Department of Justice. Test development and administration policies and procedures satisfy the program accreditation for the National Organization for Competency Assurance and the American National Standards Institute.

The NBCOT examinations are designed to ensure that candidates demonstrate a minimum level of professional competency. The agency completed a practice analysis in 2003 to provide ongoing evidence that the examination content is valid. Information from the study is used to develop validated knowledge domains, tasks, and knowledge statements that guide the development of the OTR and COTA test construction.

➤ **Comparison of exam passage rates for all candidates for both a national exam (if applicable) and/or a California state exam(s) if provided: [See Tables Below]**

The Board does not offer a California State Constructed OT or OTA exam. The Board requires applicants for licensure as an OT or OTA to take and pass the NBCOT examination. The passage rate of California's candidates in comparison with the national level are illustrated below.

In FY 2001/02 the passage rate for OTR in California was 94% in comparison to the national average of 86%. A substantial drop occurred in the California passage rate and the number of candidates taking the exam in FY 2002/03 and FY 2003/04.

In FY 2001/02 the passage rate for COTA in California was 96% in comparison to the national average of 83%. A substantial drop occurred in the California passage rate and the number of candidates taking the exam in FY 2002/03 and FY 2003/04.

Enrollment in OT and OTA programs declined due to program closures. As the technology field became more attractive and the dot.com industry thrived, OT and OTA enrollment declined.

Employment of occupational therapists and occupational therapy assistants is expected to increase faster than the average for all occupations through 2012. Over the long run, the demand for occupational therapists should continue to rise as a result of growth in the number of individuals with disabilities or limited functions who require therapy services. The impact of proposed Federal legislation imposing limits on reimbursement for therapy services may adversely affect the job market for occupational therapist in the near future.

Table 10

NBCOT – OTR				
YEARS	NATION-WIDE		CALIFORNIA GRADUATES ONLY	
	TOTAL CANDIDATES	PASSAGE RATE Calendar Year	TOTAL CANDIDATES	PASSAGE RATE
2001/02	6,486	2001 – 86%	353	94%
2002/03	3,317	2002 – 85%	137	70%
2003/04	4,414	2003 – 84%	268	70%
2004/05	3,971	2004 – 80%	270	75%
*NOTES				

Table 11

NBCOT – COTA				
YEARS	NATION-WIDE		CALIFORNIA GRADUATES ONLY	
	TOTAL CANDIDATES	PASSAGE RATE Calendar Year	TOTAL CANDIDATES	PASSAGE RATE
2001/02	2,312	2001 – 83%	88	96%
2002/03	759	2002 – 79%	28	68%
2003/04	1,170	2003 – 84%	34	65%
2004/05	1,291	2004 – 79%	40	80%
*NOTES				

Table 12

[NAME OF CALIFORNIA EXAMINATION IF GIVEN]				
	2001/02	2002/03	2003/04	2004/05
CANDIDATES	N/A	N/A	N/A	N/A
PASS %	N/A	N/A	N/A	N/A
NOTE:				

- **Discuss any increase or decrease in average time to process applications, provide exam and issue license. [See Table Below]**

NBCOT administers the licensing and certification examinations for occupational therapists and occupational therapy assistants on an on-demand basis using 350 Prometric Testing Centers throughout North America. Scoring is completed two times per month. Applicants can access the NBCOT web site on the Monday following the scoring for their exam to find their test results. Applicants can request that written score reports be mailed to them by expedited mail. Applicants typically receive notifications of score reports by mail within six weeks after taking the examination. Since NBCOT administers the scoring of the examinations, the Board has not yet been able to obtain the requested data indicating the average number of days from receipt of an application to issuance of a license or certification.

Applications received are reviewed to determine if the applicant has met all of the qualifications for licensure/certification. The Board reviews and verifies education, experience and certification by NBCOT. If any of these components are deficient, the applicant is notified in writing within thirty days of receipt of the application. If all of the requirements have been met, the Board must wait for the results of the California Department of Justice (DOJ) and Federal Bureau of Investigation (FBI) background results, if they have not already been received.

Pursuant to B & P Code Section 2570.6(a), all applicants must be good standing and not have committed acts or crimes constituting grounds for denial of a license under Section 480. To meet this requirement, applicants must undergo a background check. For applicants who reside in California, the Board recommends and promotes the use of the Live Scan procedure. Live Scan allows applicants to have their fingerprints scanned into a computer at a local law enforcement agency after which the DOJ transmits the results directly to the Board, usually within 72 hours. In most cases, the Board receives the results of the background check prior to receiving the application for licensure or certification. In cases where the results are not received prior to receipt of the application, the applicant is notified that further review of their application is pending the results of the background check.

In cases where applicants reside outside California, fingerprint cards must be submitted to the Board. The Board must forward the cards to the Department of Justice, which can take 4-6 weeks or longer to process. Many times the Board recommends that applicants who are moving to California use the Live Scan process once they arrive which is usually much quicker than fingerprint cards. The Board does not have control of the process time for fingerprint cards or the Live Scan forms.

Under either of the above circumstances, the Board takes immediate steps to notify applicants if their Live Scan or fingerprint cards have been rejected and need to be resubmitted. The Board also processes follow-up requests after thirty days when notified by the DOJ that a background check has been delayed. This is standard DOJ policy.

Once the Board determines that an application is complete, including education, experience, examination and background results, the applicant is sent an approval letter. This letter informs them that they qualify to become licensed or certified in California. It instructs them to send their initial license/certification fee to the Board. Once the Board receives the initial license/certification fee, the average time to issue the license or certificate is 1-7 business days.

The Board processes Limited Permits in much the same way. The application for a Limited Permit is the same application used for licensure or certification. To receive a Limited Permit, the applicant must provide the Board with proof of completing the education and fieldwork, proof of acceptance to the NBCOT examination, undergo a background check, and submit a fee of \$100. Once this documentation is received and verified, the applicant is issued a Limited Permit. The average time to issue is 1-7 business days. Limited Permit holders can become licensed or certified quickly after passing the NBCOT examination. They do not need to submit a new application. They must have the results of their examination submitted to the Board, official college transcripts (if not already provided), and any remaining initial license/certification fee over and above the \$100 fee for the Limited Permit. Once these items are received, a license or certification is issued in an average of 1-7 business days.

Table 13

AVERAGE DAYS TO RECEIVE LICENSE	FY 2001/02	FY 2002/03	FY 2003/04	FY 2004/05
Application to Examination	N/A	N/A	N/A	N/A
Examination to Issuance	N/A	N/A	N/A	N/A
Total Average Days	N/A	N/A	N/A	N/A

Continuing Education/Competency Requirements

- **Discuss briefly: changes made by the Board since last review to assure competency. How does the Board verify CE or other competency requirements?**

On April 15, 2005, the initial regulations were effective requiring continuing competency in order to ensure that licensees maintain the knowledge, skills, and abilities necessary to perform their professional responsibilities. Effective January 1, 2006, occupational therapists and occupational therapy assistants renewing an active license or certificate will be required to submit evidence of having completed 12 professional development units (PDUs) during the preceding renewal period.

One professional development unit is equivalent to 50 minutes of participation in a professional development activity. Professional development activities acceptable to the Board include, but are not limited to, programs or activities sponsored by AOTA or OTAC; post-professional coursework completed through any approved or accredited educational institution that is not part of a course of study leading to an academic degree; or otherwise meet all of the following criteria:

- The program or activity contributes directly to professional knowledge, skill, and ability;
- The program or activity relates directly to the practice of occupational therapy; and,
- The program or activity must be objectively measurable in terms of the hours involved.

Practitioners can earn professional development units at no or low costs by participating in the following activities:

- Involvement in structured special interest or study groups with a minimum of three (3) participants.
- Structured mentoring with an individual skilled in a particular area
- Structured mentoring of a colleague to improve his/her skills.
- Supervising the fieldwork of Level II occupational therapy and occupational therapy assistant students.
- Publication of an article in a non-peer reviewed publication.

- Publication of an article in a peer-reviewed professional publication.
- Publication of chapter(s) in occupational therapy or related professional textbook.
- Making first time professional presentations at workshops, seminars and conferences.

Of the 12 PDUs required for each renewal period, a minimum of six (6) units must be directly related to the delivery of occupational therapy services. The delivery of occupational therapy services may include: models, theories or frameworks that relate to client/patient care in preventing or minimizing impairment, enabling function within the person/environment or community context. Other activities may include, but are not limited to; occupation based theory assessment/interview techniques, intervention strategies, and community/environment as related to one's practice.

Beginning with 2006 renewals, practitioners will be required to record the following information for each activity on their renewal form:

- The date each course or activity was completed;
- The provider, course number, and course title, if applicable;
- A description of the course; and
- The total number of PDUs.

Practitioners who earn more than 12 PDUs in a single renewal period can carry three units into the next renewal period. Records showing participation in each activity must be maintained by the practitioner for four years following the renewal period.

Any practitioner who is unable to provide records documenting completion of the continuing competency requirements is subject to a citation and/or administrative fine or disciplinary action.

Practitioners are exempt from continuing competency requirements if any of the following circumstances occurred for a period of one year or longer during the renewal period:

- Foreign residence;
- Military service;
- Total physical or mental disability and the inability to work during this period has been verified by a license physician and surgeon or licensed clinical psychologist;
- Total physical or mental disability of an immediate family member for whom the practitioner had total responsibility as verified by a license physician and surgeon or licensed clinical psychologist
- First-time license renewals

Comity/Reciprocity With Other States

- **Discuss briefly: temporary licensing process, or any other methods used to facilitate licensing of those from other states or foreign countries. Any anticipated changes or changes made since last review?**

The Board does not have true reciprocity for practitioners licensed in other states or foreign countries. All applicants must meet the requirements outlined in B & P Code section 2570.6. Applicants licensed in other states are required to submit license verifications from those states to allow the Board to ensure that no disciplinary action has been taken against their license(s).

The only "temporary" license the Board issues is a Limited Permit in accordance with B & P Code section 2570.5. Limited Permits are issued to recent graduates who have not yet taken or received the results of the national licensing examination. To qualify for a Limited Permit, the graduate must have applied to the National Board for Certification in Occupational Therapy (NBCOT) to take the licensing examination within four months of completing the education and fieldwork required for licensure. The permit is valid for a period of four months unless the graduate fails the examination. Upon notification of a failing score, the Limited Permit is automatically cancelled. Limited Permit holders must work under the supervision of a licensed occupational therapist.

ENFORCEMENT ACTIVITY

The Board acknowledges all complaints within ten (10) days of receipt. Every attempt is made to review complaints for jurisdiction, complexity and availability of evidentiary documentation within thirty (30) days. Complaints that are determined to be complex in nature or require extensive review of medical records or witness interviews are referred to DOI. The Board resolves less complex complaints in-house. When resolving a complaint in-house, Board staff takes into consideration the nature and severity of the violation, the duration of time elapsed since the violation, the subject's criminal history and/or prior complaints filed. Upon completion of initial review, the following actions may be taken:

- Contacting the complainant for clarification and/or additional information.
- Contacting the subject for a response to the allegation.
- Obtaining medical and billings records.
- Obtaining arrest reports and certified court documents.
- Preparing cases for review by an expert consultant.
- Discussing legal issues with the Attorney General Office's Board liaison

Table 14

ENFORCEMENT DATA	FY 2001/02	FY 2002/03	FY 2003/04	FY 2004/05
Inquiries	Total: 48	Total: 261	Total: 115	Total: 138
Complaints Received (Source)	Total: 48	Total: 261	Total: 115	Total: 138
Public	7	9	13	11
Licensee/Professional Groups	1	3	5	14
Governmental Agencies	13	50	43	53
Internal/Other	27	199	54	60
Complaints Filed (By Type)	Total: 48	Total: 261	Total: 115	Total: 138
Competence/Negligence	3	2	1	1
Unprofessional Conduct	5	12	14	24
Fraud	3	1	7	4
Health & Safety	0	1	0	0
Unlicensed Activity	0	1	9	28
Personal Conduct	37	244	84	81
Complaints Closed	Total: 27	Total: 264	Total: 97	Total: 111
Investigations Commenced (DOI)	Total: 0	Total: 2	Total: 6	Total: 8
Compliance Actions	Total: 7	Total: 73	Total: 18	Total: 40
ISOs & TROs Issued	0	0	0	0
Citations and Fines	0	0	2	20
Public Letter of Reprimand	0	0	0	0
Cease & Desist/Warning	7	73	16	20
Referred for Diversion	N/A	N/A	N/A	N/A
Compel Examination	0	0	0	0
Referred for Criminal Action	Total: 0	Total: 0	Total: 0	Total: 1
Referred to AG's Office	Total: 0	Total: 1	Total: 5	Total: 3
Accusations Filed	0	1	2	5
Accusations Withdrawn	0	0	0	0
Accusations Dismissed	0	0	0	0
Stipulated Settlements	Total: 0	Total: 6	Total: 4	Total: 5
Disciplinary Actions	Total: 0	Total: 6	Total: 4	Total: 9
Revocation	0	0	0	3
Voluntary Surrender	0	0	0	0
Suspension Only	0	0	0	0
Probation with Suspension	0	0	0	0
Probation	0	0	1	2
Probationary License Issued	0	6	3	4
Probation Violations	Total: 0	Total: 0	Total: 0	Total: 0
Suspension or Probation	0	0	0	0
Revocation or Surrender	0	0	0	0
*NOTES:				

Enforcement Program Overview

- **Discuss statistics in enforcement data. What is the source of most of the complaints? Are there some unique reporting requirements? For example, requiring local officials or organizations, or other professionals to report violations, or for civil courts to report any judgments taken against the licensee. Any current problems with Board's receiving relevant complaint information or obtaining information for investigation purposes? What are the largest number and type of complaints filed (incompetence, unprofessional conduct, etc.)? Explain which type of cases are being stipulated for settlement. Any significant changes since last review (increases or decreases)?**

What is the source of most of the complaints?

The major source of complaints the Board opens are generated internally from applications for licensure in which the applicant self discloses a criminal conviction, or indicates they have been practicing occupational therapy without a license subsequent to the licensure requirement of 2003. Several practitioners have been issued citations, under the boards cite and fine authority, for working without a license.

The second largest source of complaints, are received from government agencies such as the Department of Justice during the initial background check or from subsequent arrest reports. Complaints received from members of the public, professional organizations, and other licensees are also sources of complaints.

Are there some unique reporting requirements? For example, requiring local officials or organizations, or other professionals to report violations, or civil courts to report any judgments taken against the licensee.

There are no unique reporting requirements concerning local officials, organizations, other health care professionals, or courts. However, pursuant to 16 CCR Section 4170(g), occupational therapy practitioners are required to report unprofessional conduct as defined by section 2570.28 of the Occupational Therapy Practice Act.

Any current problem with Board's receiving relevant complaint information or obtaining information for investigation purposes?

The Board has not had any unusual problems obtaining information that is necessary to conduct appropriate investigations of complaints. Complaints involving complex issues that require review of medical records would be forwarded to DOI at which time an investigator could issue a subpoena.

What are the largest number and type of complaints filed (incompetence, unprofessional conduct, etc.)?

- 79.50% - personal conduct, arrests and criminal convictions
- 9.75% - unprofessional conduct
- 6.75% - unlicensed activity
- 2.50% - fraud
- 1.25% - competence/negligence
- 0.25% - health & safety

Explain which types of cases are being stipulated for settlement.

The cases most commonly settled involve convictions for driving under the influence of alcohol. The Board takes into consideration whether or not the applicant/licensee has a pattern of driving under the

influence, the length of time elapsed since the conviction, and mitigating circumstances surrounding the incident. If the Board determines it is appropriate, a stipulated settlement for a term of probation will be offered to the applicant/licensee.

The type of complaint that is filed against the licensee has no bearing on whether the resulting disciplinary case is stipulated for settlement. Pre-hearing settlement conferences before an Administrative Law Judge (ALJ) have proven to be successful and continue to be required as part of the Administrative Procedures Act (APA). Due to the cost of prosecuting a case during an administrative hearing and the uncertain outcome, the pre-hearing settlement has become an effective option for the Board and its accused licensees.

- **Discuss what percentage of complaints are referred for investigation, then to accusation, and end up having some disciplinary action taken. What overall statistics show as to increases or decreases in disciplinary action since last review. [See Table Below]**

During the past four fiscal years, the Board has forwarded sixteen complaints (3%) to the Division of Investigation (DOI). The vast majority of complaints are initiated based on arrests and/or criminal convictions and do not warrant a formal investigation by DOI. Board staff requests the certified documents directly from the appropriate law enforcement agency and/or court. Documents are reviewed internally and a decision is made whether to issue, deny or revoke a license or to forward the information to the Attorney General's (AG) Office for the filing of either a Statement of Issues or Accusation.

The types of cases referred to DOI include unlicensed practice, unprofessional conduct, and fraud. These violations are typically complex and serious in nature, requiring reviewing records, interviewing witness's and obtaining expert opinions. For lesser violations the Board uses in-house actions such as Citations and Fines and Notices of Warning.

Of the sixteen cases the Board has forwarded to DOI, three investigations have been completed. Two of those three cases were referred to the AG's office and accusations were filed in both cases. Both accusations resulted in disciplinary action. The third case has been referred to the District Attorney's Office and is pending the filing of criminal charges. The Board has not had any accusation withdrawn or dismissed.

Table 15

NUMBER AND PERCENTAGE OF COMPLAINTS DISMISSED, REFERRED FOR INVESTIGATION, TO ACCUSATION AND FOR DISCIPLINARY ACTION				
	FY 2001/02	FY 2002/03	FY 2003/04	FY 2004/05
COMPLAINTS RECEIVED	48	261	115	138
Complaints Closed	27	264	97	111
Referred for Investigation	0	2	6	8
Accusation Filed	0	1	2	5
Disciplinary Action	0	0	3	3

Case Aging Data

- **Discuss time frames for processing complaints, investigation of cases, from completed investigation to formal charges being filed, and from filing of the accusation to final disposition of the case. Discuss if any changes from last review. [See Table Below]**

The majority of complaints the Board has processed involve criminal violations committed by applicants and licensees. Typically, criminal violation complaints do not require a formal investigation with DOI. When warranted, Board staff has been able to obtain records of arrest and convictions in an expeditious and cost effective manner. Within the meaning of formal charges being filed, we are including statistical data for Statement of Issues (SOI) cases that formally denies a license or certification.

2001/2002

Six months prior to the licensure/certification requirement for occupational therapists and occupational therapy assistants the Board had already received and opened 48 complaints. 87% of the complaints were initiated as a result of applicants disclosing criminal history and/or the Board receiving a record of arrest and prosecution as a result of fingerprint background checks. The Board closed 27 complaints in an average of 38 days. No complaints in this fiscal year warranted a formal investigation by DOI or the filing of a SOI or Accusation. The only statistical timeframe data that can be provided for this fiscal year is complaint processing.

2002/2003

In FY 02/03 the Board received and processed the greatest number of applications for licensure and certification. Of the 261 complaints that were opened, 87% were initiated as a result of applicants disclosing criminal history and/or the Board receiving a record of arrest and prosecution during the background checks. Of the 264 complaints that were closed, the average processing time was 39 days. The majority of cases involved old convictions, minor in nature, which took little time to render a determination.

Two cases were referred to DOI for formal investigation. Data is unavailable regarding these investigations since no formal investigation progressed to a point where the case had been closed or disciplinary action had been taken.

The Board filed 10 SOIs denying licensure or certification. Eight of the SOIs were drafted and filed by Board staff. Staff prepared SOIs simultaneously including offers (stipulations) to grant licensure/certification with terms and conditions (probation). Six individuals accepted the stipulated offers within the fiscal year. One individual indicated an intention to contest the denial in an administrative hearing, however upon review by the AG's Office it was recommended that the staff SOI be withdrawn.

Statistics for "pre-accusation", "post-accusation", and "total average days" are reflective of the Board staff drafted SOIs and Stipulations. No cases that had been transmitted to the AG's Office (2 SOIs and 1 Accusation) had progressed to a point where a final disposition had been rendered.

2003/2004

The Board opened 115 complaints, a 44% decrease from the prior fiscal year. Receipt of initial applications for licensure/certification began subsiding as the majority of occupational therapists and occupational therapy assistants had been licensed/certified in FY 02/03.

In FY 03/04, 30% of the complaints generated were from initial applications, 70% pertained to license/certificate holders and unlicensed practice issues. The Board closed 97 complaints on an average of 59 days. A primary factor contributing to the increase in complaint processing was in FY 02/03 the majority of complaints opened were the result of initial applications where applicants disclosed old convictions, minor in nature, which took little time to render a determination. The sheer number of cases in the prior fiscal year helped keep the Board's processing time down.

The Board referred six cases to DOI for formal investigation. Data is unavailable for FY 03/04 relating to formal DOI investigations since no case had been closed or had progressed to a point where disciplinary action had been taken.

In FY 03/04 pre-accusation, post-accusation, and total average days, processing timeframes increased as three cases had been transmitted to the AG had become final. Board staff drafted and served two SOIs with offers to issue a license with terms and conditions (probation). Both staff offers were accepted and became final in FY 03/04. In an effort to provide the committee with statistical data relevant to the AG cases alone, the following data has been extracted: 86 average days for pre-accusations processed; 144 average days for post-accusations processed; 343 total average days for cases that resulted in discipline.

2004/2005

The Board opened 138 complaints, 58% were opened against license/certificate holders, 36% were opened against applicants for licensure/certification, and 6% were opened regarding unlicensed practice. The Board closed 111 complaints on an average of 112 days per complaint. The increase in the average days to process complaints from the prior fiscal year is mainly the result of subsequent arrest notifications the Board received from the DOJ regarding the established license population. Subsequent arrest notifications drive up complaint processing statistics once the Board is notified of an arrest, it can take many months, and even a year or more, for a final criminal disposition to be rendered.

Two cases had been referred for formal DOI investigations had progressed through the entire discipline process. The respective DOI investigations took 266 and 369 days to complete (from the time the Board forwarded the case to DOI until the time the Board received a completed report). This represents an average of 318 days for each investigation. Both cases resulted in license revocation.

A third DOI investigation has been completed however a final disciplinary disposition is pending. The case is currently being reviewed for criminal filing with a District Attorney.

Statistics for "pre-accusation", "post-accusation" and "total average" increased from FY 03/04 as twelve cases had been referred to the AG became final. In FY 03/04 only three AG cases had become final, only one of those cases went through the lengthy process resulting in an administrative hearing, with two cases being resolved by stipulations.

In FY 04/05, seven cases were finalized after administrative hearings, one case was scheduled for an administrative hearing but the respondent withdrew his request for a hearing and defaulted, and four AG cases were resolved through stipulations. Board staff drafted and filed two SOIs with offers to grant licensure with terms and conditions. In an effort to provide the committee with statistical data relevant to the AG cases alone, the following data has been extrapolated: 145 average days for pre-accusation processing; 260 average days for post-accusation processing; 560 average days for cases that resulted in discipline.

Table 16

AVERAGE DAYS TO PROCESS COMPLAINTS, INVESTIGATE AND PROSECUTE CASES				
	FY 2001/02	FY 2002/03	FY 2003/04	FY 2004/05
Complaint Processing	38	39	59	112
Investigations	N/A	N/A	N/A	318
Pre-Accusation*	N/A	3	44	125
Post-Accusation**	N/A	29	92	224
TOTAL AVERAGE DAYS***	38	111	248	497
*From completed investigation to formal charges being filed. **From formal charges filed to conclusion of disciplinary case. ***From date complaint received to date of final disposition of disciplinary case.				

- **Discuss time frames for closing of investigations and AG cases over past four years, and average percentage of cases taking over 2 to 4+ years, and any decreases or increases in the percentage of cases being closed each year. Discuss any changes from last review. [See Table Below]**

The Board has included processing times for complaints on table 17 below. Board staff handles the majority of complaint investigations in-house. Of the 562 complaints that were opened in the last four fiscal years, 16 have been referred for formal investigations with DOI. Cases referred to the DOI are more serious and complex in nature, therefore taking longer to complete. At the time this report was completed three DOI investigations had been completed taking 266, 369 and 129 days respectively.

In the last four fiscal years the Board has closed 76% of the complaints it has received within 90 days, 14% were completed within 180 days, 8% were completed within one year, and 2% were completed within two years. No complaint investigation has taken over three years to complete.

FY 01/02 and 02/03 represent the initial licensing. In FY 01/02 and 02/03 the majority of complaint investigations opened were the result of criminal history received from applicants during background checks. The investigations consisted of reviewing old convictions that were minor in nature. Decisions on these matters, which were considered in house investigations, took little time.

In FY 03/04 and 04/05 demographics of the types of investigations conducted changed. In prior FY's the majority of investigations that were conducted had been against applicants seeking licensure who had a criminal history. In FY 03/04 and 04/05 the types of investigations conducted shifted to license and certificate holders.

Many of the investigations opened in FY 03/04 and 04/05 were the result of a license or certificate holder involved in a recent arrest or criminal conviction. The Board also saw an increase in the number of complaints involving unprofessional conduct, fraud, and unlicensed activity that were more complex in nature taking longer to complete.

In the past four years, the Board has referred fifteen cases to the AG's Office. Ten of those cases (66.6%) took less than one year to prosecute. Four cases (26.6%) took less than two years to prosecute. Only one case took more than two years to prosecute. Two cases were delayed at the request of the respondent to allow time to have their criminal conviction(s) expunged before the administrative hearing. In one of the cases where the respondent sought a delay, the administrative law judge who heard the case became disabled shortly after the hearing, delaying the proposed decision for an additional six months. The respondent in that matter filed a petition for reconsideration and request for stay to further delay the final order. This case took the longest to adjudicate.

All complaints filed in FY 01/02 and 02/03 have been closed. Of the 208 complaints filed in FY 03/04 and 04/05, 145 have been closed as of June 30, 2005.

Table 17

INVESTIGATIONS CLOSED WITHIN:	FY 2001/02	FY 2002/03	FY 2003/04	FY 2004/05	AVERAGE % CASES CLOSED
90 Days	23	232	58	64	76%
180 Days	4	24	18	26	14%
1 Year	0	8	15	16	8%
2 Years	0	0	4	5	2%
3 Years	0	0	0	0	0%
Over 3 Years	0	0	0	0	0%
Total Cases Closed	27	264	97	111	100%
AG CASES CLOSED WITHIN:	FY 2001/02	FY 2002/03	FY 2003/04	FY 2004/05	AVERAGE % CASES CLOSED
1 Year	0	0	3	7	67%
2 Years	0	0	1	3	27%
3 Years	0	0	0	1	6%
4 Years	0	0	0	0	0%
Over 4 Years	0	0	0	0	0%
Total Cases Closed	0	0	4	11	100%
Disciplinary Cases Pending	0	0	0	2	

Cite and Fine Program

- **Discuss the extent to which the Board has used cite and fine authority. Discuss any changes from last review and last time regulations were updated.**
[See Table Below]

The Board gained authority to issue citations and fines on September 6, 2002, with the adoption of 16 CCR Sections 4140 through 4143. These sections give the Board authority to issue citations containing orders of abatement and/or administrative fines pursuant to Section 125.9 of the B & P Code. Citations can be issued to occupational therapists or occupational therapy assistants who commit any acts or omissions that violate the OTPA. The Board can also issue citations to unlicensed individuals pursuant to section 148 of the B & P Code. Since June 2004, the Board has issued 22 citations with a total of \$4,900 in administrative fines. A total of \$4,700 has been collected. The most common violations cited include providing occupational therapy services prior to licensure and failing to disclose convictions on an application for licensure. Administrative fines for these violations range from \$100 to \$500.

Table 18

CITATIONS AND FINES	FY 2001/02	FY 2002/03	FY 2003/04	FY 2004/05
Total Citations	N/A	0	2	20
Total Citations With Fines	N/A	0	2	40
Amount Assessed	N/A	0	\$200	\$4,900
Reduced, Withdrawn, Dismissed	N/A	0	0	0
Amount Collected	N/A	0	\$200	\$4,700

Diversion Program (If applicable)

- **Discuss the Board's diversion program, the extent to which it is used, the outcomes of those who participate, the overall costs of the program compared with its success. [See Table Below]**

At the present time, the Board does not have or participate in a Diversion program. However, one of the Board's strategic goals is to research the necessity and cost of participating in the diversion program already in existence with the Department of Consumer Affairs.

The Board has received 29 complaints that involve substance abuse issues and 160 complaints regarding alcohol related issues. These statistics cover a four-year period and indicate that more research is necessary regarding the necessity of a diversion program.

Table 19

DIVERSION PROGRAM STATISTICS	FY 2001/02	FY 2002/03	FY 2003/04	FY 2004/05
Total Program Costs	N/A	N/A	N/A	N/A
Total Participants	N/A	N/A	N/A	N/A
Successful Completions	N/A	N/A	N/A	N/A
Unsuccessful Completions	N/A	N/A	N/A	N/A

Results of Complainant Satisfaction Survey

Discuss the results of the Survey. [See Table Below]

As part of this review process, the Joint Committee on Boards, Commissions & Consumer Protection (JCBCCP) required the Board to distribute a complainant satisfaction survey to a sampling of complainants who had submitted complaints to the Board over the last four fiscal years.

The Board has opened 562 complaints since September 2001. Only 11.2% of those complaints were received from the public.

On May 26, 2005, the Board mailed a complaint satisfaction survey to all 40 consumers who had filed a complaint that had been closed. Sixteen surveys were completed and returned; less than a 50 percent response rate. Five surveys were returned by the U.S. Post Office. The Board mailed 19 "second request" surveys on July 15, 2005. None of these surveys were completed and returned. One survey was returned by the U.S. Post Office.

The breakdown of surveys completed and returned is as follows:

2001 – 2 2002 – 3 2003 – 7 2004 – 4

Over the past 4 years:

- 85% were satisfied in knowing where to file a complaint
- 51% were satisfied with the way they were treated and how the complaint was handled.
- 26% were satisfied with the information and advice they received on the handling of the complaint.
- 38% were satisfied with the way the Board kept them informed of the status of their complaint.
- 22% were satisfied with the time it took to process their complaint.
- 18% were satisfied with the final outcome.
- 22% were satisfied with the overall service provided by the Board.

The areas that received the lowest satisfaction were lengths of time to process and final outcome. Unfortunately, most consumers expect a disciplinary action to result from their complaint and do not understand evidentiary requirements that slow and/or prevent most cases from being pursued in that manner. Clear and convincing evidence must support any disciplinary action taken. In some cases, there may be insufficient evidence to prove that a violation of the law has occurred and the Board is unable to proceed with disciplinary action.

The Board has implemented procedures to notify complainants of the status of their complaint. Complainants are always sent a letter acknowledging that their complaint was received. Complainants are notified when complaints are forwarded to the DOI and the AG's Office. Complainants are sent copies of any public documents filed, such as accusations, citation orders, final decisions, etc. Complainants are always sent a letters notifying them if a case is closed and the reason for the closure.

Table 20

CONSUMER SATISFACTION SURVEY RESULTS*				
QUESTIONS	Percent Satisfied by Calendar Year			
# Surveys Mailed: (40) (# Surveys Returned: (16)	2001	2002	2003	2004
1. Were you satisfied with knowing where to file a complaint and whom to contact?	100%	66.67%	100%	75%
2. When you initially contacted the Board, were you satisfied with the way you were treated and how your complaint was handled?	0	66.67%	85.7%	50%
3. Were you satisfied with the information and advice you received on the handling of your complaint and any further action the Board would take?	0	33.34%	42.85%	25%
4. Were you satisfied with the way the Board kept you informed about the status of your complaint?	0	33.34%	42.85%	75%
5. Were you satisfied with the time it took to process your complaint and to investigate, settle, or prosecute your case?	0	33.34%	28.57%	25%
6. Were you satisfied with the final outcome of your case?	0	33.34%	14.28%	25%
7. Were you satisfied with the overall service provided by the Board?	0	33.34%	28.57%	25%
<p>*All Boards and committees under review this year shall conduct a consumer satisfaction survey to determine the public's views on certain case handling parameters. (The Department of Consumer Affairs currently performs a similar review for all of its bureaus.) A list of seven questions have been provided. Each Board or committee shall take a random sampling of closed complaints and disciplinary actions for a <u>four year period</u>. Consumers who filed complaints should be asked to review the questions and respond to a 5-point grading scale (i.e., 5, 4, 3 =satisfied to 1, 2 =dissatisfied). The Board or committee shall provide the percent of satisfaction for each of the past four years.</p>				

ENFORCEMENT EXPENDITURES AND COST RECOVERY

Average Costs for Disciplinary Cases

- **Discuss the average costs incurred by the Board for the investigation and prosecution of cases, and which type of cases average more than others. Explain if the Board is having any difficulty in budgeting for Prosecution and Hearing costs, and whether cases may have been delayed because of cost overruns.**
[See Tables Below]

The Board is unable to provide a factual average cost per case as requested by the JCBCCP in Table 21 below. The Board has entered the actual costs incurred for investigation and experts, prosecution and hearings, in addition to the actual number of investigations closed and cases referred to the AG's Office. However, because the cost of cases that were being investigated but not yet closed is included in the total cost, the average cost per case for investigations would not be accurate. Again, because the number of cases referred to the AG's Office does not include cases that are still being prosecuted from previous fiscal years, the average cost per case would not be accurate.

Table 21

COST OF INVESTIGATIONS & PROSECUTION & HEATINGS	FY 2002/03	FY 2003/04	FY 2004/05
Total cost of Investigations & Experts	\$2,610	\$9,990	\$20,880
Total number of cases under investigation	2	3	15
Average	\$1,350	\$3,330	\$1,392
Total cost of Prosecution & Hearings	\$5,588	\$41,057	\$60,063
Total number of cases being prosecuted	5	8	15
Average	\$1,118	\$5,132	\$4,004

The average cost for an investigation varies depending on the complexity of the case and whether an expert opinion is necessary. The Board's two most expensive investigations span three fiscal years and involved allegations of patient sexual abuse and fraudulent billing. Both resulted in revocation. The average cost of these two cases was \$7,900 each. The remaining 13 cases under investigation are averaging \$1,350 per case.

Over the past two years the average cost of prosecuting a case has remained steady. The Board has been successful in keeping prosecution and hearing costs low by entering into stipulated settlements when appropriate. Of the 19 statements of issues filed, over 68% were settled prior to going to an administrative hearing. Of the six cases that went to hearing, five resulted in license denial and one resulted in a probationary license. Of the six accusations filed, four were settled prior to going to administrative hearing; three resulted in probation and one revocation. Of the two cases that went to hearing, both resulted in revocation.

Cases that settled prior to going to administrative hearing averaged \$2,275 per case. Cases that proceeded to hearing averaged \$6,297 per case. The Board has charged and negotiated ten statements of issues without the involvement of the AG's Office. All ten resulted in the issuance of a probationary license.

The Board has never had to delay the investigation or prosecution of a case due to budgetary problems. Nonetheless, all enforcement costs are charged to the Attorney General line item in the budget. The Board has plans to submit Budget Change Proposals in order to put funds in the line items for investigation, experts, and hearings.

Table 22

AVERAGE COST PER CASE INVESTIGATED	FY 2001/02	FY 2002/03	FY 2003/04	FY 2004/05
Cost of Investigation & Experts	0	2,610	9,990	20,880
Number of Cases Closed	0	0	2	1
Average Cost Per Case				
AVERAGE COST PER CASE REFERRED TO AG	FY 2001/02	FY 2002/03	FY 2003/04	FY 2004/05
Cost of Prosecution & Hearings	0	5,588	41,057	60,063
Number of Cases Referred	0	5	8	4
Average Cost Per Case				
AVERAGE COST PER DISCIPLINARY CASE				

Cost Recovery Efforts

- **Discuss the Board's efforts in obtaining cost recovery. Discuss any changes from the last review. [See Table Below]**

All Accusations filed by the Board seek cost recovery pursuant to B & P Code section 125.3. Although the Board seeks costs recovery in all cases that go to hearing, ALJ's may reduce the amount payable to the Board. In some instances, cost recovery is used as a mediation tool to settle a case, as opposed to going to an administrative hearing and incurring hearing costs.

Table 23

COST RECOVERY DATA	FY 2001/02	FY 2002/03	FY 2003/04	FY 2004/05
Total Enforcement Expenditures	**	**	**	**
# Potential Cases for Recovery*	N/A	N/A	1	5
# Cases Recovery Ordered	N/A	N/A	1	3
Amount of Cost Recovery Ordered	N/A	N/A	1,428	16,637
Amount Collected	N/A	N/A	180	1,663

*The "Potential Cases for Recovery" are those cases in which disciplinary action has been taken based on a violation, or violations, of the License Practice Act.

RESTITUTION PROVIDED TO CONSUMERS

- **Discuss the Board's efforts in obtaining restitution for the individual complainant, and whether they have any formal restitution program and the types of restitution that the Board attempts to collect, i.e., monetary, services, etc. Discuss any changes from last review. [See Table Below]**

The Board may order restitution in disciplinary cases as an optional condition of probation. To date the Board has not ordered restitution in any enforcement related cases. Where restitution is an option and consumer protection is not compromised, the Board will order it or educate the public regarding the use of Small Claims Court or the Civil Courts.

Table 24

RESTITUTION DATA	FY 2001/02	FY 2002/03	FY 2003/04	FY 2004/05
Amount Ordered	N/A	N/A	N/A	N/A
Amount Collected	N/A	N/A	N/A	N/A

COMPLAINT DISCLOSURE POLICY

- **Briefly describe the Board's complaint disclosure policy. At what point in the disciplinary process is information made available to the public concerning the licensee and what type of information is made available? Does the Board have problems obtaining particular types of information? [See Table Below]**

The Board has adopted as its policy the Department of Consumer Affairs' *Recommended Minimum Standards for Consumer Complaint Disclosure*.

Disciplinary information is disclosed to the public once formal action has been filed, i.e., an Accusation, Statement of Issues, Stipulated Settlement and Decision, or Final Decision. Consumers can discover disciplinary actions taken by accessing the Board's on-line license verification system. Copies of public documents are provided to consumers upon request. Disciplinary actions remain a matter of public record indefinitely.

In an effort to alert and protect consumers, the Board publishes a list of disciplinary actions taken in its Newsletter and on its web site. Disciplinary information is also provided to the NBCOT who also posts the information on their web site.

Citations are a matter of public record and provided upon request. Citations are not disclosed on the Board's on-line license verification system.

Table 25

TYPE OF INFORMATION PROVIDED	YES	NO
Complaint Filed		X
Citation	X	
Fine	X	
Letter of Reprimand	X	
Pending Investigation		X
Investigation Completed		X
Arbitration Decision	N/A	
Referred to AG: Pre-Accusation		X
Referred to AG: Post-Accusation	X	
Settlement Decision	X	
Disciplinary Action Taken	X	
Civil Judgment	N/A	
Malpractice Decision	N/A	
Criminal Violation: Felony Misdemeanor		X

CONSUMER OUTREACH, EDUCATION AND USE OF THE INTERNET

- **Discuss what methods are used by the Board to provide consumer outreach and education.**

The Board provides a web site open to consumers with information on the profession of occupational therapy. All meetings are announced to the public and are open to consumers for observation and participation. Board members and staff are available to attend public meetings, forums and conventions to provide information and education as requested. Board members attend meetings at California OT schools and OTAC sponsored events several times a year.

- **Discuss whether the Board offers online information to consumers about the activities of the Board, where and how to file complaints, and information about licensees, or believes it is feasible/appropriate to do so.**

All Board meeting dates, locations and agendas are posted on the Board web page. Approved minutes of the Board meetings are also available on the web site.

Currently the Board web site allows access to download the complaint form. In addition, consumers can access the licensee name and/or number and ascertain current license status and if any type of action has been taken against the licensee.

Information on all licensees is available to consumers and licensees. This includes information on status of license/certification, advanced practice certification, and disciplinary action.

- **Discuss whether the Board conducts online business with consumer/licensees, or believes it is feasible/appropriate to do so.**

Available to the consumer on the web site are application and complaint forms, licensee information, activities and actions of the Board. Consumers and licensees can reach the Board through the DCA web site and the Board web site. The Board supports consumers and licensees ability to have direct access to the Board. The Board feels it is appropriate to do so, because of the importance and benefits of online communication.

- **Discuss whether the Board offers online license information and applications (initial and renewal licenses, address changes, etc.), or believes it is feasible/appropriate to do so.**

Applicants may obtain license applications, advanced practice applications, list of approved advanced practice providers, statutes and regulations and updates regarding Board and licensee activities.

- **Discuss whether the Board offers online testing/examination services for both initial and renewal licenses, or believes it is feasible/appropriate to do so.**

As stated earlier the Board does not administer an examination. However, the Board requires that all license applicants successfully take the NBCOT examinations for occupational therapist or occupational therapy assistant. The examination must be taken through NBCOT. NBCOT offers the examination on-line through Prometric Test Centers throughout all fifty (50) of the United States, Canada, Puerto Rico, and Guam. Any eligible candidate who is a graduate of a U.S. or international education program may use NBCOT's on-line examination system.

- **What streamlining of administrative functions would be necessary if the above services and information was provided via the Internet?**

Use of on-line technology between NBCOT and CBOT is acceptably streamlined and efficient. Applicants may request the results of their test be sent to the Board. The Board receives the results electronically and through the mail. The efficiencies are accomplished through existing resources at the Board.

- **Please describe if there are other ways use of the Internet by the Board could improve services to consumers/licensees.**

Any application of technology offered by the internet should continue to be explored and piloted. The public's demand for the convenience of conducting business on-line from the home or from any place in the world is a serious issue for the Board. The Board is prepared to explore the cost associated with allocating resources to technology that meets the public demand for convenience and expediency, while at the same time provide internet security.

➤ **Discuss what types of practices are increasingly occurring outside California's traditional "marketplaces" that fall under the jurisdiction of your Board.**

Traditional occupational therapy settings in California include health-care programs relying on Medicare or other health insurance for their funding and school-based and pediatric programs. Non-traditional practice areas include community-based programs that do not rely on Medicare or other health insurance or education dollars for funding. Some of these include:

- senior centers
- congregate meals
- assisted living centers
- clubhouses/community mental health centers
- supported employment
- homeless shelters
- wellness centers
- continence clinics
- public service screenings
- prisons/correctional facilities
- area agencies on aging
- Headstart and other early intervention programs
- lifestyle redesign programs
- home builders
- the Salvation Army
- life coaching programs
- adult day care centers
- the YMCA or YWCA
- safe houses for abused women
- health promotion programs
- driving programs
- occupational safety and ergonomics

More and more therapists are branching into these areas as community needs change and funding sources shift priorities and resources. Therapists are being trained in educational programs to be more entrepreneurial and are taking advantage of the many community opportunities that are developing. Today's graduates now have the skills to branch into new areas that provide needed services as well as personal satisfaction. These new service areas continue to be a challenge for the Board.

- **Discuss what type of challenges the Board faces with respect to online advice “practice without presence,” privacy, targeted marketing, and other issues.**

Occupational Therapy Assistants may be supervised by telecommunication or in person while providing occupational therapy services. The guidelines for supervision can be found in 16 CCR 4181 Section (a)(3). The type of supervision required is based on the experience and training of the OTA. It is the responsibility of the supervising practitioner to determine the most effective supervision. These guidelines were developed to take into consideration the rural areas of California. The use of telecommunications allows better use of service providers.

- **Discuss whether the Board has any plans to regulate Internet business practices or believes there is a need to do so.**

The Board currently approves providers of advance practice courses who provide education over the Internet. An example is www.HandCredits.com.

With respect to the source of complaints received, it does not appear that there are any trends indicating OTs or OTAs are providing services over the internet. If the Board were to receive a complaint within its jurisdiction regarding a California licensed OT or OTA, the matter would be reviewed and, if necessary, investigated. The practitioner would be held to the same ethical and legal standards as an OT or OTA practicing face-to-face.

BOARD’S RESPONSE TO ISSUES IDENTIFIED AT PRIOR SUNSET REVIEW

Include The Following:

Some background information concerning the issue as it pertains to the Board.

N/A - This is the first sunset review for BOT.

- **Short discussion of recommendation if made by the Joint Committee during its last review of the Board.**

N/A - This is the first sunset review for BOT.

- **What action the Board took pursuant to the recommendation or findings made by the Joint Committee.**

N/A - This is the first sunset review for BOT.

- **Any recommendation(s) the Board would have for still dealing with the issue.**

N/A - This is the first sunset review for BOT.

- **(If new issue not previously addressed by Joint Committee) Short discussion of issue, recommendation or action which could be taken by the Board, Joint Committee, Department of Consumer Affairs, or Legislature to deal with the issue.**

New Issues

Issue #1

As discussed earlier, the Board does not have reciprocity with other states. The only temporary permit, that one can obtain while waiting to get permanent licensure in California is the "limited permit" which is issued in accordance with B & P Code Section 2570.5.

Limited permits eliminate barriers to practice and create a best practice opportunity. Limited permits are only issued to recent graduates who have not yet taken or received the results of the national licensing examination. The applicant must have applied to the NBCOT to take the licensing examination within four months of completing the education and fieldwork required for licensure.

B & P Code Section 2570.4 (d), is the provision of law that grants licensure exemption to practitioners licensed in another jurisdiction with licensure standards as stringent as those in California, to work up to 45 days in a calendar year in association with an OT licensed by the Board. The Board proposed regulations to implement this section of the Occupational Therapy Act, however the regulations were withdrawn after, because they were seen as unenforceable. Instead, Agency suggested the Board seek legislation to change the law to require out-of-state practitioners to become licensed in California, granting them a timeframe to work while their application is being processed. The Board submitted the proposed language to the Business and Professions Committee (**Appendix C**). The language increased the amount of time from 45 to 60 days in a calendar year which one could practice occupational therapy in this state while the application was being processed for licensure.

The Board requests the committee to consider an amendment to the current Sunset Bill to include the language in Appendix C, regarding licensure exemption.

Issue #2

At its meeting on December 10, 2004, the Board voted to seek legislation that would create a "retired" license status so that a practitioner who retires from the profession could still use the title "occupational therapist" or "occupational therapy assistant." The language in Appendix D was submitted to the Business and Professions Committee for consideration in the legislative omnibus bill, but was not included. The issue would make it possible for retired OTs and OTAs to continue to serve in office if elected within OTAC and AOTA as they could still call themselves OTs and OTAs.

The Board requests the committee to consider an amendment to the current Sunset Bill to include language regarding retired status (**Appendix D**).

Issue #3

In 1998, 1999, and 2002, during testimony on licensure requirements for occupational therapists in California before the Senate Business and Professions Committee and the Assembly Health Committee, OTAC was unable to articulate standards demonstrating specific professional occupational therapy instruction as criteria for competency. The advance certifications issued by the Board are being used to meet this need under B & P Code Section 2570.3(d)(e)(f)(g)(h).

The Board has had to continuously deal with issues that arise from this section of law. Only California has this specialized identification of the specific practice areas of Hand Therapy, Physical Agent Modalities and Swallowing.

The topic continues to be a challenging matter for the Board. Due to the lack of specificity in professional Occupational Therapy education, the initial development of the OTPA required specialized areas, or advanced practice.

Many state licensure laws specify requirements for OT education and utilize the standards set by ACOTE. The standards set by ACOTE are dependent upon interpretation by individual degree programs which dilutes consistency in OT education and the ability to argue that OT education is consistent and that each entry level practitioner is equally prepared to deliver quality and safe OT services. Requiring minimum hours of instruction in all areas of occupational therapy services, such as hand therapy, dysphagia and the use of physical agent modalities, would ensure entry level competency and consumer protection.

OTAC and the Board have participated in discussions at the national level regarding the need for accreditation standards for OT and OTA programs to be consistent. Testimony has focused on making OT education more consistent from program to program, and from state to state. However, focusing just on the programs in California is not enough because a majority of the practitioners have been trained outside of California.

The advanced practice certifications issued by the Board are being used to meet the need. In the long term it seems that if the profession is working in these specific areas, to assure competence in the entry-level practitioner and to assure consumer protection the education should be reflective of the practice.

Evolution of Dysphagia Guidelines:

**4153. Swallowing Assessment, Evaluation, or Intervention
Initial Draft of Regulation**

(a) Definitions

- (1) Dysphagia - dysfunction in any stage or process of eating. It includes any difficulty in the passage of food, liquid, or medicine, during any state of swallowing that impairs the client's ability to swallow independently or safely.
- (b) Entry level occupational therapists and occupational therapy assistants may provide eating (feeding) and bedside swallowing assessment, evaluation, or intervention occupational therapy services to clients with feeding or swallowing dysfunction.
 - (1) Eating (feeding) – process of bringing food to the mouth including set up of food and feeding environment, use of adaptive aides, and completion of motor performance.
 - (2) Bedside swallowing assessment – clinical evaluation of oral-pharyngeal management of food using trial food consistencies to determine the nature of swallowing difficulties and the need for an instrumental evaluation.
- (c) The following areas of swallowing assessment, evaluation and intervention are considered advanced level practice and can only be performed when the occupational therapist has demonstrated that he or she has met the educational training and competency requirements established by the Board:
 - (1) Instrumental evaluation- assessment of any aspect of swallowing using imaging studies. These studies include, but are not limited to videofluoroscopy, cervical auscultation, deep pharyngeal neuromuscular stimulation, ultrasonography, fiberoptic endoscopy, scintigraphy, manometry, (electromyography) and manofluorography.
 - (2) Services to clients in NICU settings

(d) Videofluoroscopic Swallowing Study Competency Guidelines

- (1) Videofluoroscopic swallowing study (VSS) - fluoroscopic recording and videotaping of the anatomy and physiology of the oral cavity, pharynx, and upper esophagus using barium boluses to assess swallowing function. This procedure is also known as videofluorography, modified barium swallow, oral pharyngeal motility study, and videoradiography.
- (2) Successful completion of approved seminar or workshop on dysphagia providing a minimum of 7 contact hours. At least 3 of the 7 contact hours must include information on methodology and use of VSS.
- (3) Completion of 15 VSS studies collaboratively under the direct observation and supervision of a swallowing therapist with full clinical privileges in completing VSSs.
- (4) Successful performance and interpretation of 5 independent VSSs under the direct observation/supervision of swallowing therapist with VSS privileges.
- (5) On-going competency must be met by completion of 15 VSS studies annually.

(e) Cervical Auscultation Competency Guidelines

- (1) Cervical auscultation (CA) – Use of stethoscope to listen for sounds produced over the thyroid cartilage and thorax to determine presence of normal or abnormal breath sounds in response to oral intake to assist in identifying preliminary signs of a silent aspiration.
- (2) Successful completion of approved seminar or workshop on cervical auscultation providing a minimum of 4 contact hours.
- (3) Successful completion of 5 bedside swallow assessments using auscultation techniques and skills under the direct observation and supervision of a swallowing therapist with full clinical privileges in using CA or physician.

(f) Fiberoptic Endoscopic Evaluation of Swallowing (FEES) Guidelines

- (1) Fiberoptic Endoscopic Evaluation of Swallowing (FEES) - The process of passing a flexible fiberoptic endoscope through the nose and positioning it to observe structures and function of the swallowing mechanism to include the nasopharynx, oropharynx and hypopharynx. The procedure is also known as fiberoptic endoscopic examination of swallowing and videoendoscopic swallowing study.
- (2) Successful completion of approved seminar or workshop on methodology and use of fiberoptic endoscopy as a technique for investigating swallowing function providing a minimum of 12 contact hours.
- (3) Completion of 10 FEES procedures collaboratively under the direct observation and supervision of a swallowing therapist with full clinical privileges in completing FEES.
- (4) Successful performance and interpretation of a minimum of 25 FEES procedures under the direct observation/supervision of swallowing therapist with FEES privileges or an otolaryngologist or other physician with privileges to perform flexible nasoendoscopy. . At least 10 of these FEES exams must be done on patients with dysphagia to evaluate their swallowing function. The remaining 15 exams can be done on patients with normal swallowing function or on patients needing a laryngoscopy exam for other reasons.
- (5) Submission and approval of formal application to the practicing facility medical staff for clinical privileges to perform FEES procedures independently.
- (6) Annual renewal of privileges via FEES competency checklist after completion of a minimum of 12 FEES on an annual basis.

(g) Deep Pharyngeal Neuromuscular Stimulation

- (1) Deep pharyngeal neuromuscular stimulation (DPNS) – neuromuscular stimulation of the soft palate, tongue, uvula and pharynx to improve oral function for swallowing
- (2) Successful completion of approved seminar or workshop on DPNS providing a minimum of 4 contact hours.
- (3) Successful completion of a minimum of 2 DPNS procedures under the direct observation/supervision of swallowing therapist with DPNS privileges or physician.

(h) Ultrasonography

- (1) The use of high frequency sound waves to provide ultrasonic images of the upper digestive tract structures and motilities, bolus transit and vallecular statis. It is not effective to detect penetration or aspiration.
- (2) Successful completion of approved seminar or workshop on ultrasonography providing a minimum of 4 contact hours.
- (3) Successful completion of a minimum of ____ ultrasonography procedures under the direct observation/supervision of swallowing therapist or physician with ultrasonography privileges.

(i) Manometry

- (1) A procedure by which the strength, timing and sequencing of pressure events in the esophagus are measured by a catheter with pressure transducers. Alone, it is an ineffective tool for the diagnosis of oropharyngeal dysphagia.
- (2) Successful completion of approved seminar or workshop on manometry providing a minimum of 4 contact hours.
- (3) Successful completion of a minimum of ____ manometries under the direct observation/supervision of swallowing therapist or physician with manometry privileges.

(j) Manofluorography

- (1) Simultaneous videofluoroscopy and manometry by which oropharangeal and esophageal pressure and bolus information are recorded. This procedure is also known as pharangeal manofluorography and videomanometry.
- (2) Successful completion of requirements for completion of both videofluoroscopic and manometric procedures.

(k) NICU

- (1) Swallowing assessment of infants cared for in the NICU
- (2) Successful completion of a minimum of 24 contact hours in an approved seminar or workshop covering issues related to swallowing in the neonate. Topics must include oral-motor structure, function and quality; maturation of swallowing, feeding readiness, positioning and physiologic issues.
- (3) Successful completion of 10 bedside swallowing assessments collaboratively under the direct observation and supervision of a swallowing therapist with full clinical privileges in the NICU.
- (4) Successful performance and interpretation of 5 independent bedside swallowing assessments under the direct observation and supervision of a swallowing therapist with full clinical privileges in the NICU.
Successful performance and interpretation of 5 independent bedside swallowing assessments under the direct observation/supervision of swallowing therapist with NICU privileges.

**4153. Swallowing Assessment, Evaluation, or Intervention
Final Regulation**

- (a) The role of an occupational therapist in instrumental evaluations is to observe structure and function of the swallowing mechanism in order to assess swallowing capability and determine swallowing interventions. The occupational therapist may not perform the physically invasive components of the instrumental evaluation.
- (b) Swallowing assessment, evaluation or intervention may be performed only when an occupational therapist has demonstrated to the Board that he or she has met the post professional education and training requirements established by this section as follows:
 - (1) Education: Completion of 45 contact hours in the following subjects:
 - (A) Anatomy, physiology and neurophysiology of the head and neck with focus on the structure and function of the aerodigestive tract;
 - (B) The effect of pathology on the structures and functions of the aerodigestive tract including medical interventions and nutritional intake methods used with patients with swallowing problems;
 - (C) Interventions used to improve pharyngeal swallowing function.
 - (2) Training: Completion of 240 hours of supervised on-the-job training, clinical internship or affiliation, which may be paid or voluntary, pertaining to swallowing assessment, evaluation or intervention. An occupational therapist in the process of completing the training requirements of this section may practice swallowing assessment, evaluation or intervention under the supervision of an occupational therapist who has been certified under this article, a speech language pathologist with expertise in this area, or a physician and surgeon.
- (c) An occupational therapist may provide only those swallowing assessment, evaluation or intervention services he or she is competent to perform.

Note: Authority Cited: Sections 2570.3 and 2570.20, Business and Professions Code. Reference: Sections 2570.2 and 2570.3, Business and Professions Code.

**PROPOSED AMENDMENTS TO
OCCUPATIONAL THERAPY PRACTICE ACT
SECTION 2570.4(d) Persons Exempt from Requirements**

Strikeout is proposed deleted text. Underlined text is proposed language.

§ 2570.4(d) Any person performing occupational therapy services in the state, ~~if those services are performed for no more than 45 days in a calendar year in association with an occupational therapist licensed under this chapter, and the person is licensed under the laws of another state that the board determines has licensure requirements at least as stringent as the requirements of this chapter,~~ if all of the following apply:

- (1) an application for licensure as an occupational therapist or certification as an occupational therapy assistant has been filed with the board pursuant to §2570.6,
- (2) the person is licensed to practice occupational therapy under the laws of another state; and
- (3) occupational therapy services are performed for no more than 60 days from the date the application for licensure or certification was filed with the board.

**PROPOSED ADOPTION OF
OCCUPATIONAL THERAPY PRACTICE ACT
SECTION 2570.12 Retired Status**

Underlined text is proposed language.

§ 2570.12 Retired Status

- (a) The board shall issue, upon application and payment of a \$25 fee, a retired license to an occupational therapist who holds a license that is current and active or capable of being renewed, or retired certificate to an occupational therapy assistant who holds a certificate that is current and active or capable of being renewed pursuant to Section 2570.10 and whose license or certificate is not suspended, revoked, or otherwise restricted by the board or subject to discipline under this chapter.
- (b) The holder of a retired license or certificate issued pursuant to this section shall not engage in any activity for which an active license or certificate is required. An occupational therapist holding a retired license shall be permitted to use the title “occupational therapist retired” or “retired occupational therapist.” An occupational therapy assistant holding a retired certificate shall be permitted to use the title “occupational therapy assistant retired” or “retired occupational therapy assistant.” The designation of retired shall not be abbreviated in any way.
- (c) The holder of a retired license or certificate shall not be required to renew that license or certificate.
In order for the holder of a retired license or certificate issued pursuant to this section to restore his or her license or certificate, he or she shall comply with Section 2570.14.