

CALIFORNIA BOARD OF OCCUPATIONAL THERAPY

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State of California
Department of Consumer Affairs
Gray Davis, Governor



CALIFORNIA BOARD OF OCCUPATIONAL THERAPY
BOARD MEETING MINUTES
December 13, 2002
Sacramento, California

Agenda

A. Call to Order, Roll Call, Establishment of a Quorum

Board President Luella Grangaard called the meeting to order at 1:15 p.m. Secretary Christine Wietlisbach call the roll.

Board Members Present

Luella Grangaard, President

Hugh Smith, Vice President

Christine Wietlisbach, Secretary

Cynthia Burt

Roberta Murphy

Board Members Absent with Excused Absences

Margaret Cunningham

Suzanne Sampson

Staff Present

Gretchen Kjose, Executive Officer

Laura Freedman Eidson, Legal Counsel

B. President's Remarks

Ms. Grangaard reported that she had submitted a motion to the American Occupational Therapy Association (AOTA) requesting that they communicate to the Accreditation Council on Occupational Therapy Education (ACOTE) the importance of education being reflective of current practice and the impact it has on state laws and regulations. She stated she hoped to attend AOTA's annual conference in June to support this motion. Ms. Grangaard advised that she had attended a meeting with the National Board for Certification in Occupational Therapy (NBCOT), held in conjunction with the Occupational Therapy Association of California's (OTAC) annual conference in October, where she had an opportunity to discuss common issues with state regulators from many western states.

C. Approval of the September 21, 2002 Board Meeting Minutes

The Board reviewed the September 21, 2002 Board Meeting Minutes.

- ◆ **Roberta Murphy moved to approve the September 21, 2002 Board Meeting Minutes.**
- ◆ **Hugh Smith seconded the motion.**
- ◆ **The motion carried unanimously.**

D. Executive Officer's Report

Gretchen Kjose reported that Jeff Hanson spoke to the Occupational Therapy Association of California's (OTAC) Mountain Valley Chapter in Chico on October 4th. She noted that the Board was an exhibitor at the October OTAC conference in San Diego where over 100 visitors stopped by to ask questions or submit license applications. She thanked OTAC for having a vendor available to provide Live Scan fingerprint services because many were able to complete the entire application process at the conference.

Ms. Kjose congratulated Cynthia Burt who received an award from the California Foundation for Occupational Therapy at the conference for distinguished service.

Ms. Kjose announced that the Department of Consumer Affairs' (DCA) held a final board member orientation session in Los Angeles on October 16, 2002 which Margaret Cunningham attended. She also reported that Deputy Attorney General Janice Lachman had been assigned as the Board's liaison to the Attorney General's (AG) Office to assist the Board in disciplinary and enforcement matters.

As of December 5, 2002, 125 complaints had been opened as the result of consumer complaints or receipt of criminal conviction information from the Department of Justice. Of those, 93 had been resolved, 31 were pending additional information, and one application was denied.

Ms. Kjose summarized licensing and enforcement activities by stating that as of December 5th, 4,004 occupational therapists (OTs) and 585 occupational therapy assistants (OTAs) had been licensed or certified, 1,800 applications were in varying stages of completion, and 125 complaints had been opened, 93 had been resolved, 31 were pending, 5 licenses were issued on probation, and 1 application had been denied.

Ms. Kjose stated that license and renewal fees received in fiscal year 2002/03 should be sufficient to repay \$464,000 of the money owed to the General Fund. Ms. Grangaard asked what impact the State's budget would have on the Board and Ms. Kjose indicated that past administrations had borrowed money from Special Fund agencies and that scenario was likely to happen again. However, the Administration should not borrow money to the extent that the Board would have insufficient funds to operate.

Ms. Kjose announced that NBCOT would hold its annual conference for state regulatory boards on April 11-12, 2003 in Louisville, Kentucky during which an update on their latest practice analysis would be provided.

Ms. Kjose advised that the Department of Finance had denied the Board's request for a freeze exemption to fill its office technician position, vacated in October, leaving the Board with no support staff. She thanked Board members for giving up their time to come to Sacramento to process license applications so that occupational therapy practitioners who applied for licensure/certification prior to the deadline would be licensed/certified by January 2003.

She noted that the Board's Ethical Standards of Practice regulations were sent to the Office of Administrative Law (OAL) on November 15, 2002 and advised that OAL had until January 6, 2003 to either approve or reject them. She also said that the Continuing Competency and Supervision regulations were published by OAL on November 29, 2002 and the public hearing would be held on January 14, 2003 at the Board's office.

E. Regulatory Committee Report on Swallowing Assessment, Evaluation or Intervention; Hand Therapy; Physical Agent Modalities

Ms. Burt summarized the work that had been done thus far by the Committee on dysphagia regulations. She stated that the regulations should define what constitutes "post professional education and training" because there is some confusion as to whether this has to be "graduate level" coursework as opposed to simply coursework taken outside the degree program. She also said the definition should be consistent for all three areas of advanced practice. She noted that several comments suggested that education could involve classes, coursework, and mentoring. She further stated that there may not be college level coursework available to practitioners because schools have their own restrictions on what classes are offered. She stated that the Board could not develop standards that would be impossible to achieve

Ms. Burt noted that Patti Evans, Director of the California Physical Therapy Association, had provided the Committee with information regarding the Western Association of Schools and Colleges' standards for assigning academic credit for continuing education (CEs) and portfolio assessments. Ms. Evans thought this might be a way to assess the competencies of those currently practicing because, when it is done well, they are credible standards for assigning academic credits.

Ms. Burt also indicated that many practitioners have commented that competencies are developed in clinical settings, through online instruction, and that OTAC and AOTA provide excellent coursework as well. She concluded by stating that the Committee's goal is to propose regulations that are valid and true tests of competency that will protect consumers.

Ms. Wietlisbach reported that the laws on hand therapy and physical agent modalities would take effect January 1, 2004. She indicated that actual development of regulations would commence after that but several comments had already been received. She advised that the Committee had been asked whether certification by the Hand Therapy Certification Commission would be acceptable after January 1, 2004, how the Board would assess the competency of those already practicing in these areas, and whether or not regulations could be enforced retroactively. Other comments included that the Board should consider CE and online courses, as well as portfolio assessments. She said the Committee would try to have draft language available for the March Board meeting.

F. Review and Approval of Proposed Regulations to Adopt Title 16, Division 39, California Code of Regulations Section 4144, Disciplinary Guidelines; and 4145, Complaint Disclosure

Ms. Kjose explained that disciplinary guidelines are used by administrative law judges, attorneys, and the Board as a way of ensuring that when discipline is imposed against a license, it is consistent and fair for similar violations of law. She summarized the proposed language by indicating that it set forth minimum and maximum penalties for violations of law, standard and optional terms and conditions of probation and the criteria to be used in determining whether rehabilitation had been established.

- ◆ **Roberta Murphy moved to approve the proposed language regarding disciplinary guidelines and to delegate authority to the Executive Officer to make any technical, non-substantive changes recommended by the Office of Administrative Law.**
- ◆ **Hugh Smith seconded the motion.**
- ◆ **The motion carried unanimously.**

Ms. Kjose said that draft language for complaint disclosure was not yet available and asked that this portion of Agenda Item F be tabled until the March meeting. In the meantime she recommended that, in accordance with the Information Practice Act and the Public Records Act, the Board disclose a complaint when it becomes a matter of public record. The Board concurred.

G. Review and Approval of Proposed Regulations to Adopt Title 16, Division 39, California Code of Regulations Section 4113, Limited Permits

Ms. Kjose indicated that at its meeting on September 21, 2002, the Board had instructed staff to develop regulatory language specifying the conditions under which a limited permit would be issued to a person waiting to take the first available examination or waiting for the results of the examination. The regulations were needed to define "first available" examination because NBCOT would begin offering the examination year around beginning in February 2003 rather than four times annually as they had done in the past. The Board also agreed that the limited permit fee would be credited towards the initial license or certification fee for those successful in passing the examination on their first attempt.

- ◆ **Cynthia Burt moved to approve the proposed language regarding limited permits and to delegate authority to the Executive Officer to make any technical, non-substantive changes recommended by the Office of Administrative Law.**
- ◆ **Christine Wietlisbach seconded the motion.**
- ◆ **The motion carried unanimously.**

H. Appointment of Practice Committee

Ms. Grangaard explained that Board staff had begun receiving numerous questions regarding scope of practice issues. She suggested that the Board appoint a Practice Committee to deal with such issues and develop policies for consideration by the Board. Ms. Grangaard asked Roberta Murphy and Hugh Smith to staff the Committee and suggested that Mary Kasch and a member of OTAC's Practice Committee would be asked to serve as well. The Board agreed and the first Practice Committee meeting was set for February 6, 2003.

I. Election of Officers

Luella Grangaard was elected president, Christine Wietlisbach was elected vice-president and Roberta Murphy was elected secretary for calendar year 2003.

J. Schedule of Meetings for 2003

The Board tentatively scheduled meetings for 2003 as follows:

January 25, 2003 – Ontario (Regulatory Committee Meeting)
February 6, 2003 – Sacramento (Practice Committee Meeting)
March 13, 14, or 15, 2003 - Sacramento
June 27 or 28, 2003 – San Francisco
September 12 or 13, 2003 – Los Angeles
December 5, 2003 – San Diego

K. Public Comment Session

Members of the audience participated during the public comment session. There were no other public comments under this Agenda Item.

L. Adjournment

The meeting adjourned at 3:10 p.m.