

CALIFORNIA BOARD OF OCCUPATIONAL THERAPY

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State of California
Department of Consumer Affairs
Arnold Schwarzenegger, Governor



**CALIFORNIA BOARD OF OCCUPATIONAL THERAPY
BOARD MEETING MINUTES**

**March 15, 2005
Ontario, California**

Board Members Present

Luella Grangaard, President

Margaret Cunningham

Mary Evert

Hugh Smith

Christine Wietlisbach

Staff Present

Gretchen Kjose, Executive Officer

Norine Marks, Legal Counsel

April Freeman, Associate Governmental Program Analyst

Marsha Gove, Office Technician

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

President Luella Grangaard called the meeting to order at 9:15 a.m. Executive Officer Gretchen Kjose called the roll. A quorum of the Board was present.

B. President's Remarks

Ms. Grangaard announced that Ms. Kjose would be retiring from state service and that this would be her last Board meeting. On behalf of the Board she thanked Ms. Kjose for her diligence and hard work over the past four years.

C. Approval of the December 10, 2004 Board Meeting Minutes and the February 1, 2005 Board Meeting Teleconference Minutes

The Board reviewed and made two corrections to the December 10, 2004 Board Meeting Minutes. Cynthia Burt attended the December meeting but her name was inadvertently omitted from the minutes and a typographical error was noted under Agenda Item J.

- ◆ **Hugh Smith moved to approve the December 10, 2004 Board Meeting Minutes as corrected.**
- ◆ **Christine Wietlisbach seconded the motion.**
- ◆ **The motion carried unanimously.**

The Board reviewed and approved the February 1, 2005 Teleconference Meeting Minutes.

- ◆ **Christine Wietlisbach moved to approved the February 1, 2005 Board Teleconference Meeting Minutes.**
- ◆ **Hugh Smith seconded the motion.**
- ◆ **The motion carried unanimously.**

D. Executive Officer's Report

1. Legislation

2. Regulations

3. Other Informational Items

Legislation: Ms. Kjose reported on four bills that had been introduced. Senate Bill 836 and Assembly Bill 1024 were spot bills containing language that would have abolished boards and commissions. She noted that since the Governor had withdrawn his proposal to eliminate boards, these bills would probably be used for other issues. Senate Bill 724 (Scott) would allow the California State University system to begin offering doctoral degrees. Assembly Bill 861 (Bass) would exempt certain licenses from the provisions of Business and Professions Code 480 that allow a board to deny a license for conviction of a crime substantially related to the duties, qualifications, and functions of a license. Specifically, this bill would prohibit most boards from denying licensure for conviction of a non-violent drug offense or conviction of a misdemeanor or felony that was not violent or serious if certain conditions were met. Ms. Kjose said she had contacted the Department of Consumer Affairs (DCA) legislative office and asked to be included in discussions with the author about the impact of this bill on all health care boards. The Board had concerns about this bill and agreed to follow the bill's progress with the possibility of opposing it if it is not amended.

Regulations: Ms. Kjose advised that the Board's limited permit and disciplinary guideline regulations took effect in December 22, 2004; that proposed amendments to California Code of Regulations (CCR) Section 4154, Post Professional Education and Training were sent to the director of DCA and the State and Consumer Services Agency (Agency) for review on March 2, 2005; that DCA's director had granted an extension to the one-year deadline for the Board's proposed fee reduction regulations and that those regulations were also under review by DCA and Agency; and that the continuing competency regulations were in the final stage of review by the Office of Administrative Law. She indicated that the Board would begin working on regulations to implement Occupational Therapy Practice Act (OTPA) section 2571 that would identify the topical medications that could be applied through iontophoresis and phonophoresis and regulations that identify minimum, median, and maximum processing times for applications for licensure.

Other Informational Items: Ms. Kjose reported that as of January 31, 2005, the Board had expended \$398,113 of its \$705,718 net appropriation for fiscal year 2004/05. She stated that the Board's Spring newsletter would be mailed to California occupational therapy (OT) practitioners by the end of March. She also said that the OTPA, CCR and other pertinent laws would be available in booklet form and sent to OT practitioners by the end of June 2005 and that consumer brochures would be published in 2005/06.

Ms. Kjose advised that the Department of General Services' Real Estate Division had begun work on locating larger office space for the Board within the 444 North Third Street complex.

She reported that the American Occupational Therapy Association (AOTA) would hold its annual conference in Long Beach from May 12-15, 2005 and that each Board member had been invited to attend. She also indicated that the Occupational Therapy Association of California (OTAC) would hold its annual conference from October 28-30, 2005 in Santa Clara.

Finally, Ms. Kjose gave the following statistics: As of March 9, 2005, 8121 OTs had been licensed and 1443 OTAs had been certified; 506 complaints had been opened of which 54 were pending; 9 cases were pending at DCA's Division of Investigation; 23 applications had been denied; 6 accusations and 9 statements of issues had been filed; 1 OT license and 1 OTA certificate had been revoked; 9 OTs and 4

OTAs were on probation and 3 OTs had successfully completed probation; and 15 citations, totaling \$3400, had been issued and, of that amount, \$3,000 had been paid.

Following the executive officer's report, Mary Evert was sworn in as a Board member by Nancy Hall, DCA's Deputy Director of Board Relations. Ms. Evert, a Governor Appointee and an occupational therapist will serve a four-year term.

Christine Wietlisbach was re-appointed for another four-year term. She was sworn in by Nancy Hall, DCA's Deputy Director of Board Relations.

E. Election of Officers

Luella Grangaard was elected president, Margaret Cunningham was elected vice president, and Mary Evert was elected secretary for 2005.

F. Appointment of Committees

Mary Evert, Christine Wietlisbach (Chair) and Margaret Cunningham were appointed to the Advanced Practice Regulatory Committee. Luella Grangaard (Chair) and Hugh Smith will serve on the Regulatory Committee and Roberta Murphy will be asked to be a member. Mary Evert (Chair), Hugh Smith, and Richard Bookwalter were appointed as the Board's Sunset Review Committee and Cynthia Burt will be asked to serve on that committee as well.

G. Discussion of Possible Legislative Amendments to Occupational Therapy Practice Act Sections 2570.4(d), Persons Exempt from Requirements and 2570.8(c) and (d), Granting of a License or Certificate, and Adoption of Section 2570.12, Retired Status

Ms. Kjose explained that the Board originally proposed regulations to implement OTPA section 2570.4(d), the provision of law that grants licensure exemption to practitioners licensed in another jurisdiction with licensure standards at least as stringent as those in California, so long as they work for no more than 45 days in a calendar year and they work in association with an OT licensed by the Board. However, she stated that Agency refused to sign off on those regulations because they felt they were unenforceable. Instead, Agency suggested that 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 was being processed. She summarized the proposed text by indicating that it would grant a 60-day timeframe from the date on which an application was filed with the Board for licensed out-of-state practitioners to work in California while their application for licensure or certification was being processed. Ms. Kjose indicated that if the Board voted to adopt the proposed amendments to section 2570.4(d), staff would ask the Senate Business and Professions Committee to include the amendments in one of their Omnibus Bills.

- ◆ **Christine Wietlisbach moved to adopt the proposed amendments to OTPA section 2570.4(d).**
- ◆ **Mary Evert seconded the motion.**
- ◆ **The motion carried unanimously.**

Ms. Kjose stated that OTPA section 2570.8(c) and (d) allowed individuals to apply for licensure based on their work experience, so long as they applied for licensure within one year of the effective date of the law. She noted that the one-year period ended January 1, 2002 and advised that these provisions of law should be repealed. She also indicated that if the Board votes to repeal this section, staff would ask the Senate Business and Professions Committee to include the amendment in one of their Omnibus Bills.

- ◆ **Christine Wietlisbach moved to amend OTPA section 2570.8(c) and (d) by repealing these sections.**
- ◆ **Hugh Smith seconded the motion.**
- ◆ **The motion carried unanimously.**

Ms. Kjose indicated that at its December 10, 2004, the Board voted to seek legislation that would create a “retired” license status so that practitioners who retire from the profession could still use the title “occupational therapist” or “occupational therapy assistant.” Proposed language was provided for the Board’s consideration that would allow the practitioner to place his/her license/certificate in “retired” status if certain conditions were met. Following discussion, Ms. Evert suggested that the language be modified to require that the word “Retired” be spelled out. Ms. Kjose indicated that if the Board votes to adopt this proposal, staff would ask the Senate Business and Professions Committee to include the provision in one of their Omnibus Bills.

- ◆ **Christine Wietlisbach moved to adopt the language as amended.**
- ◆ **Mary Evert seconded the motion.**
- ◆ **The motion carried unanimously.**

H. Review and Approval of Proposed Regulations to Adopt Title 16, Division 39, California Code of Regulations Section 4145, Complaint Disclosure Information

Ms. Kjose indicated that one of the Board’s primary responsibilities is to protect consumers by enforcing the provisions of the OTPA. She noted that the Board has authority to discipline a license for violations of law. However, once a license or certificate is issued, it becomes the real property of the individual to whom it was issued and can only be disciplined after the person has been afforded due process under the law. Ms. Kjose explained that the Board receives complaints against practitioners from many sources and that when a complaint is received, a case is opened and staff determines whether it can be investigated in-house or whether it must be sent to DCA’s Division of Investigation. She advised that the investigative and potential disciplinary process could take several months, even years, to complete, during which, the Board is frequently contacted by complainants, employers, law enforcement personnel, attorneys, and consumers interested in the status of the case. She stated that it is important to establish a complaint disclosure policy that sets forth when a complaint would be reported and the information that would be disclosed.

Ms. Kjose noted that DCA had developed model language for boards to use as a guideline in developing their own policies or regulations and she summarized the provisions of that language. Following discussion, the Board voted to accept DCA’s complaint disclosure guidelines as the Board’s policy and to continue to research whether they should be adopted in regulation.

- ◆ **Mary Evert moved to adopt DCA’s complaint disclosure guidelines as a Board policy.**
- ◆ **Hugh Smith seconded the motion.**
- ◆ **The motion carried unanimously.**

I. Report from Advanced Practice Review Committee

Ms. Grangaard reported that the number of advanced practice applications being received had dropped dramatically. She indicated that the new application was much easier to review than the old one but she indicated OTs were still having problems providing acceptable learning statements. She stated that the Advanced Practice Committee would continue working to provide clear, concise instructions for applicants and place the instructions on the Board's web site. She also indicated that the Committee might conduct a session on how to complete the application at OTAC's October conference.

J. Discussion on Sunset Review

Ms. Kjose advised that pursuant to OTPA section 2570.19(1), the Board would become inoperative on July 1, 2007, and the law would be repealed January 1, 2008, unless extended by law. She noted that within California's State Legislature, is the Joint Commission on Boards, Commissions & Consumer Protection (formerly known as the Joint Legislative Sunset Review Committee). One of the responsibilities of this Commission is to systematically examine and evaluate all consumer boards under the Department of Consumer Affairs to ensure that they are carrying out their primary mission. This review is called a sunset review. Ms. Kjose said that prior to review, the Board must prepare an analysis of its activities based on a questionnaire developed by the Commission, and submit it to the Commission 22 months prior to the date on which it is scheduled to become inoperative. She indicated the Board's report is due to DCA in September 2005 and will be reviewed by the Commission in December 2005. She also advised that the Committee is revising the questionnaire and has indicated that it will be available by the end of March 2005. Ms. Kjose noted that once it has been published, the Board's Sunset Review Committee should immediately begin working on the report.

K. Strategic Planning

Ms. Kjose reminded the Board that its Strategic Plan must be updated annually. At today's meeting, the Board reviewed its goals and objectives from 2004 noting those that had been accomplished and reviewing the target dates of those that were still pending. The Board will hold a strategic planning workshop at its May 19, 2005 meeting and will ask DCA's Training and Development staff to facilitate the session.

L. Discussion of Process to Select an Executive Officer

Ms. Kjose briefed the Board on DCA's recruitment process for selecting a new executive officer and indicated DCA's personnel unit was available to provide assistance. The Board asked Christine Wietlisbach and Margaret Cunningham to serve as the application screening committee. Ms. Kjose indicated she would provide a copy of the executive officer duty statement to the personnel office for advertising purposes and would have personnel staff contact the screening committee to explain the next steps.

M. Schedule of Future Meetings

The Board scheduled its meetings for the remainder of the year as follows: May 19, 2005- Sacramento; August 5, 2005 – San Diego; and November 4, 2005 – Napa.

N. Public Comment Session

There were no public comments under this agenda item.

O. Closed Session Pursuant to Government Code Section 11126(c)(3) to Deliberate on Disciplinary Decisions

P. Closed Session Pursuant to Government Code Section 11126(a) – Appointment of an Interim Executive Officer

Return to Open Session

Q. Adjournment

The meeting adjourned at 2:55 p.m.