

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**

December 28, 2006

Board Members Present

Luella Grangaard, President
Christine Wietlisbach
Nancy Michel
Mary Evert

Staff Members Present

Heather Martin, Executive Officer
Laura Freedman-Edlson, Legal Counsel

Board Members Absent

Margaret Cunningham

8:30 a.m. – Board Meeting

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

President Luella Grangaard called the meeting to order at 8:40 a.m. Secretary Mary Evert called the roll. A quorum of the Board was present.

B. Board consideration of proposed Legislation for 2007/08 session:

1. Amendment to Business & Professions Code Section 683

The Board reviewed the proposed amendment, which would add the Board to Section 683 of the Business and Professions Code (BPC). This amendment would authorize and mandate the Board to report data to the Department of Health Services (DHS) for the purpose of preventing Medi-Cal reimbursement for services provided by any person holding an invalid license.

Other boards already included this section are: the Dental Board of California, the Medical Board of California, the Board of Psychology, the State Board of Optometry, the California State Board of Pharmacy, the Osteopathic Medical Board of California, and the State Board of Chiropractic Examiners.

- Mary Evert moved to approve as presented.
- Nancy Michel seconded the motion.
- The motion carried unanimously.

2. Amendment to Business & Professions Code Section 800

The Board reviewed the proposed amendment, which would add the Board to Section 800 of the BPC. This proposal would authorize and mandate every insurer providing professional liability insurance to an OT to report to the Board claims surrounding an OT's negligent or improper care as described, under certain conditions.

This amendment would also authorize and mandate the CBOT to maintain a central file for each of its licensees subject to certain conditions for retaining and disclosing records.

- Mary Evert moved to approve as presented.
- Nancy Michel seconded the motion.
- The motion carried unanimously.

3. Amendment to Business & Professions Code Section 2570.18

The Board reviewed the proposed amendments to Business and Professions Code Section 2570.18 which would change make change an OTA from certified to licensed and made other changes to the initials as presented to make consistent.

Discussion ensued and suggestions were made to change "C.O.T.A/C" to "C.O.T.A/L" and undelete "Certified Occupational Therapy Assistant" that was stricken in error.

- Nancy Michel moved to approve as amended.
- Luella Grangaard seconded the motion.
- The motion carried unanimously

4. Amendment to Business & Professions Code Section 2570.185

The Board reviewed the proposed amendments to BPC Section 2570.185 which would require OTAs to document their services in patient records and require both OTs and OTAs to sign patient records.

- Nancy Michel moved to approve as presented.
- Christine Weitlisbach seconded the motion.
- The motion carried unanimously.

5. Amendment to Business & Professions Code Section 2570.28

The Board reviewed the proposed amendments to Business and Professions Code Section 2570.28 amend the grounds for denial or discipline of an OT or OTA to include: violations or attempted violations of any provision of Division 2 (commencing with Section 500); use of a controlled substance or dangerous drug; working while under the influence of alcohol; or for a conviction involving the use of alcohol or a controlled substance.

- Christine Weitlisbach moved to approve as presented.
- Luella Grangaard seconded the motion.

Discussion ensued. Ms. Evert expressed concern with language, as presented, if alcohol was used at an office party and considered grounds for disciplinary action. Ms. Michel expressed concern about the provision “applied for employment;” she felt that the employer wouldn’t hire the candidate so it would be unnecessary to include that provision. Discussion ensued, including the correction of the numbering of the language as presented.

As amended, Section 2570.28(q) would read “Worked in any health care profession or environment while under the influence of alcohol.”

After discussion, no action was taken on first motion. New motion was made:

- Nancy Michel moved to approve the language as amended.
- Luella Grangaard seconded the motion.
- The motion carried unanimously

6. Amendment to Business & Professions Code Section 2570.5

The Board reviewed the proposed amendments to BPC Section 2570.5 which would clarify the length of time a limited work permit is valid and align it with availability of the “on-demand computer based testing.”

- Mary Evert moved to approve as presented.
- Christine Wietlisbach seconded the motion.
- The motion carried unanimously.

7. Amendment to Business & Professions Code Section 2570.6

The Board reviewed the proposed amendments to BPC Section 2570.6 which would allow the Board to officially recognize the academic requirements and curriculum of education programs approved by the World Federation of Occupational Therapists (WFOT), or the foreign credentialing review process of the National Board for Certification in Occupational Therapy (NBCOT). Additionally, the proposal would allow the Board to require compliance with the Accreditation Council for Occupational Therapy Education’s (ACOTE’s) standards related to fieldwork requirements.

Discussion ensued. It was recommended the proposed amendment in section 2570.6(c)(3) be consistent with section 2570.6(b)(2). Therefore, if amended as recommended, Section 2570.6(c)(3) read as follows:

(3) Or as approved by the ACOTE accreditation standards, the WFOT, or as approved by the foreign credentialing review process of the NBCOT.

- Christine Wietlisbach moved to approve as amended.
- Mary Evert seconded the motion.
- The motion carried unanimously.

8. Amendment to Business & Professions Code Section 2570.7

The Board reviewed the proposed amendments to Business and Professions Code Section 2570.7 which would repeal outdated provisions (requiring the examination to be provided biannually) as result of available “on-demand computer based testing.”

- Luella Grangaard moved to approve as presented.
- Mary Evert seconded the motion.
- The motion carried unanimously.

Ms. Evert clarified that Section 2570.7(c) would also eliminate “or certification” if language was approved for licensing OTAs rather than issuing them a certificate. Ms. Freedman noted that OTA licensure was the next item for discussion and that if the Board agreed to move forward, that provision would also be included.

9. Delete the term “Certificate” and “Certification” throughout the Occupational Therapy Practice Act when referencing Occupational Therapy Assistants

The Board reviewed proposed new language which would change the status of Occupational Therapy Assistants from certified to licensed. Ms. Grangaard read the agenda item aloud. Due to extensive changes throughout the OT Practice Act, this proposal was discussed in concept and not provided in a printed version.

- Luella Grangaard moved to approve licensure for OTAs.
- Mary Evert seconded the motion.
- The motion carried unanimously.

10. Proposed new language that would establish a retired status for occupational therapy practitioners.

The Board reviewed proposed new language would allow OTs and OTAs to apply to the Board to place their licenses in a “retired” status and pay a one-time \$25 fee.

- Mary Evert moved to approve as presented.
- Christine Wietlisbach seconded the motion.
- The motion carried unanimously.

11. Proposed new language that would allow employers to rely upon the Board’s internet website for license verification.

The Board reviewed proposed new language which would allow, for purposes of license verification, a person to rely upon the licensing information as displayed on the California Board of Occupational Therapy’s (CBOT’s) website.

Discussion ensued regarding verification by employers. Ms. Martin explained the “update” process of the Consumer Affairs System (CAS). Ms. Martin also noted that the website also has displays the last date the information was updated.

- Mary Evert moved to approve as presented.
- Christine Wietlisbach seconded the motion.
- The motion carried unanimously.

12. Proposed new language that would require occupational therapy practitioners to report to the Board the suspension or termination for cause of any practitioner in their employ and defines that term.

The Board reviewed proposed new language which would establish mandatory reporting requirements for OTs, OTAs, and their employers.

Discussion ensued regarding the reporting requirement. Ms. Martin clarified that only suspension or termination for cause is required to be reported the Board. Cause is limited to only the following:

- (1) Use of controlled substances or alcohol to such an extent that it impairs the ability to safely practice occupational therapy.
- (2) Unlawful sale of controlled substances or other prescription items.
- (3) Patient neglect, physical harm to a patient, or sexual contact with a patient.
- (4) Falsification of medical records.
- (5) Gross incompetence or negligence.
- (6) Theft from patients, other employees, or the employer.

- Mary Evert moved to approve as presented.
- Nancy Michel seconded the motion.
- The motion carried unanimously.

13. Proposed new language that would require occupational therapy practitioners to report to the Board the violation of the statutes or regulations administered by the Board.

The Board reviewed proposed new language which would require occupational therapy practitioners to report to the Board the violation of the statutes or regulations administered by the Board and require their cooperation in furnishing information and assistance, as requested by the Board.

Ms. Martin explained that during investigations, often practitioners are not forthcoming with information or simply fail to respond to Board inquiries. Staff has also indicated that, in some cases, they were able to determine that practitioners were aware of violations by other practitioners but simply ignored it so as to not become involved.

- Mary Evert moved to approve as presented.
- Luella Grangaard seconded the motion.
- The motion carried unanimously.

- 14. Proposed new language that would allow the Board to contract with a collection agency for the purpose of collecting outstanding fees, fines, or cost recovery amounts, allows the release of personal information for collection purposes, and sets forth contractual agreement requirements, including the safeguarding of personal information from inappropriate disclosure, and holds the collection service liable for inappropriate use or disclosure of personal information.**

The Board reviewed proposed new language which would allow the Board to contract with a collection agency for purposes of collecting outstanding fees, fines or cost recovery amounts.

- Luella Grangaard moved to approve as presented
- Christine Wietlisbach seconded the motion.

Discussion ensued regarding the necessity and uncertainty of privacy protection by collection agencies. Ms. Michel indicated that she was uncomfortable sending practitioners to a collection agency and questioned how much money is not being paid each year. Staff was unable to provide an estimate at that time.

Ms. Evert suggested that Board staff monitor the amount of money not being paid each year and determine a fiscal need for collection services before contracting with a collection agency.

Ms. Grangaard expressed concern with delegating this authority to a collection agency and was also concerned for the protection of licensees' personal information.

Roll call vote:

Luella Grangaard – Abstain.

Christine Wietlisbach – No.

Nancy Michel – No

Mary Evert – No.

- None in favor; the motion failed.

C. Public comment

There was no public comment.

D. Adjournment

The meeting adjourned at 9:42 am.