



CALIFORNIA BOARD OF OCCUPATIONAL THERAPY

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**CALIFORNIA BOARD OF OCCUPATIONAL THERAPY
MEETING MINUTES**

Friday, March 6, 2015

Board Member(s) Present

Richard Bookwalter
Linda Florey
Nancy Michel
Denise Miller
Sharon Pavlovich

Board Staff Present

Heather Martin, Executive Officer
Jeff Hanson, Enforcement Coordinator
Jody Quesada, Enforcement Analyst
Norine Marks, Supervising Attorney
Iliana Butu, Attorney

9:00 am - Board Meeting

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

The meeting was called to order at 9:02 am; all Board members were in attendance with the exception of Jeff Ferro, and a quorum was established.

2. President's remarks.

President Denise Miller thanked Board staff and welcomed the Board's newly assigned Attorney, Iliana Butu.

Ms. Miller stated that she would be attending the Occupational Therapy Association of California's Spring Symposium where she will make two presentations and she will be attending the American Occupational Therapy Foundation conference in Nashville where she will be accepting the "Legacy of Leadership" award.

Ms. Miller stated that she would be focusing on increasing the participation on the Board's committees.

3. Board member updates/activities.

Sharon Pavlovich reported that she has been busy teaching and that she would be returning to the Harvard Macy Institute in May.

Richard Bookwalter reported that he planned on attending the Rehabilitation Engineering Society of North America conference in June and that he has also taken on a consulting position for developmentally disabled adults.

Linda Florey reported that she has been involved with the California Foundation activities and planned to attend the Spring Symposium. Ms. Florey announced that Ann Neville-Jan recently passed away.

Nancy Michel reported that she was chairing the fundraising campaign at the YMCA for at-risk families.

President Denise Miller welcomed member of the public Ernie Escovedo, an occupational therapist.

4. Review and approval of the November 13, 2014, Board meeting minutes.

Nancy Michel recommended that Board staff remove the “s” from the word “scenarios” on page three, line two as well as another grammar error on page 6, paragraph three which led to Heather Martins’ recommendation that would encompass said grammar correction by rearranging the wording to read as follows: “...which states that an occupational therapist approved to use Physical Agent Modalities (PAMs) can use topical medications etc...”

Legal Counsel, Norine Marks stated that with regard to page three, agenda item 7, Section (2) her notes reflected that the word “employer” should have been removed at the direction of the Board. The Board members agreed.

- ❖ Linda Florey moved to approve the November 13, 2014, Board meeting minutes as amended.
- ❖ Nancy Michel seconded the motion.

Roll Call Vote

Nancy Michel -	Aye
Denise Miller -	Aye
Sharon Pavlovich -	Aye
Richard Bookwalter -	Aye
Linda Florey -	Aye

5. Public Comment session for items not on the agenda.

No Public Comment

6. Update and take action, if necessary, on pending Rulemaking files, California Code of Regulations, Title 16, Division 39:

- Section 4151, Hand Therapy and Section 4152, Physical Agent Modalities

Executive Officer Heather Martin explained that due to a staffing resource issue, Board staff was unable to get the file submitted timely. Ms. Martin stated that this language would be noticed again in time for the Board to consider it at their June meeting.

Ms. Miller expressed concern and stated that this language was very important to the profession and that the Board and Board staff must be responsive and mindful of our obligation to the profession. Ms. Martin assured the Board members that the rulemaking package would be a high priority.

- Section 4161, Continuing Competency

Ms. Martin stated that an extension was obtained from the Director of the Department of Consumer Affairs (DCA) and there is a future effective date pending DCAs approval.

- Section 4170, Ethical Standards of Practice.

Ms. Martin stated that this package also received an extension from the Director and will be further discussed in agenda item 7.

Ms. Martin referenced page two of the report and asked Board members to prioritize the pending amendments not yet started so as to give Board staff direction.

The Board members decided the order of importance should be:

- Standards of Practice for Telehealth
- Notification to Consumers
- Continuing Competency

Mr. Bookwalter asked Ms. Martin to bring back information on how other Boards have drafted language and tackled issues regarding Notification to Consumers requirements.

7. Discussion and consideration of adopting proposed regulatory language to amend Title 16, CCR Section 4170, Ethical Standards of Practice.

- ❖ Richard Bookwalter moved to adopt the second modified text as presented.
- ❖ Nancy Michel seconded the motion.

No Public Comment

Roll Call Vote

Nancy Michel - Aye
Denise Miller - Aye
Sharon Pavlovich - Aye
Richard Bookwalter - Aye
Linda Florey - Aye

- ❖ Richard Bookwalter moved to delegate authority to the Executive Officer to make technical, non-substantive changes.
- ❖ Sharon Pavlovich seconded the motion.

Roll Call Vote

Nancy Michel - Aye
Denise Miller - Aye
Sharon Pavlovich - Aye
Richard Bookwalter - Aye
Linda Florey - Aye

8. Discussion and consideration of the Ad Hoc Committee's recommendation regarding the request from California Fieldwork Council to increase the number of PDUs earned for supervising students completing their Level II Fieldwork.

Mr. Bookwalter reviewed the request that the Board award one PDU per each forty hour week of supervision with a maximum of twelve PDUs per biennial renewal period which would conform to the current National Board for Certification in Occupational Therapy's (NBCOT) PDU levels, and to allow for proportional sharing amongst supervisors. The Ad Hoc committee also raised the issue of awarding PDUs for supervising a student's Level I fieldwork.

Mr. Bookwalter reported that the Ad Hoc committee recommended the Board adopt the NBCOT standards. He stated that the change would positively affect the profession by offering higher quality fieldwork slots that would ultimately impact the quality of care, introducing new ideas from academia in to the practice setting, challenging therapists to verify their knowledge, and incentivize a therapist to supervise a student.

- ❖ President Miller moved to establish a committee to work on this issue.

Discussion ensued regarding earning credit based on supervised hours vs. supervised weeks, the issue of a student having multiple supervisors, and the development and use of a fieldwork log/form.

Ms. Miller withdrew her recommendation to establish a new committee and asked the current Ad-Hoc committee to discuss and bring to the June Board meeting: recommendations on fractional supervision, fieldwork log/form and how to assist Board staff enforcement and regulation.

Public Comment

Ernie Escovedo, OT, commented on the Attestation form used by the practitioner whom is actively gaining physical agent modalities (PAMs) credit as an example.

Muhammad Ali from the Centers for Public Interest Law (CPIL) joined the meeting.

9. Discussion and consideration of the possibility of AOTA/ACOTE amending the academic requirements of an educational program required for licensure.

Ms. Miller stated that AOTA met but she had not been advised of any update. She expects an update will soon be available and will present it at the June Board meeting.

10. Update on OT educational programs providing superficial/mechanical modalities and deep thermal/electrotherapeutic modalities content in OT curriculum.

Ms. Martin reviewed the proposed draft survey of modalities education being provided in the OT curriculum presented by Dr. Donna Breger-Stanton.

President Miller asked who would monitor the data extracted from this survey. Ms. Martin stated that Dr. Breger-Stanton would monitor the data and would share her findings with the Board.

Richard Bookwalter reported that in speaking with Dr. Breger-Stanton her expectation was that the survey would inform and allow the Board to make a recommendation to alter the advanced practice requirements for PAMs in the future.

Public Comment

Ernie Escovedo, OT, concurred that there is additional work to be done. He commented that he works with physical agent modalities (PAMs) and is not comfortable with post-professional education being eliminated and supports continuing with the advanced practice approval process from a consumer safety standpoint.

11. Discussion and consideration of the request from the National Board for Certification in Occupational Therapy to serve as the 'authorized agent' to report disciplinary actions to the (federal) National Practitioner Data Bank (NPDB) on behalf of the Board.

Ms. Martin reported that by NBCOT serving as the authorized agent for the Board, they would report the Board's disciplinary action to the NPDB on behalf of the Board and would also keep the information for themselves in order to build a repository of national disciplinary actions to share with state licensing Boards.

Discussion ensued about the pros and cons of allowing NBCOT to be the Board's authorized agent.

The Board members asked Ms. Martin to collect more information including a sample/draft contract to be reviewed by the Board's attorney and bring this information to the June Board meeting.

12. Discussion and consideration of amending Board's mail-ballot policy to discuss decisions in an upcoming closed session.

Supervising Attorney Norine Marks reviewed the Board's existing mail ballot policy for disciplinary decisions that requires a majority vote for a case to be scheduled for further discussion in a closed session meeting. Ms. Marks suggested that the Board might want to consider lowering the threshold of votes needed to hold an item for discussion. For example, establish two votes received for anything other than "adopt" may be more appropriate to bring the matter back for discussion at the next meeting.

- ❖ Nancy Michel moved for Board staff to work with legal counsel to draft new language that would reflect that two votes of anything other than adopt would be brought back to the Board members in closed session.
- ❖ Linda Florey seconded the motion.

No Public Comment

Roll Call Vote

Nancy Michel -	Aye
Denise Miller -	Aye
Sharon Pavlovich -	Aye
Richard Bookwalter -	Aye
Linda Florey -	Aye

13. Enforcement data and reports for the quarter ending December 31, 2014.

Jeff Hanson reviewed all attached reports.

Board members thanked Board staff for their work. President Miller mentioned that she had recently been audited for continuing education and was happy to report that the process worked.

14. Executive Officer's Report.

- a) Operational Report

Ms. Martin stated there are currently 3 vacancies at the Board staff level. Ms. Martin noted that the Board usually receives about 900 applications per year, but received 1310 applications last year.

- b) Budget Update

Ms. Martin reviewed the provided handouts. She stated that BreEZe development costs are rising and DCA was securing additional funding. Ms. Martin pointed out that, unlike some other board's funds, the Board's fund condition can support the increased costs.

- c) BreEZe Update

The release 3 boards/bureaus have been removed from the BreEZe implementation.

Ms. Martin offered that the BreEZe functionality and the ease in which the end-user can navigate the system will be wonderful amazing. Ms. Martin ended with the fact that licensee renewal fees will not increase in price due to implementation of BreEZe.

d) Bagley-Keene Meetings Act Update

Ms. Martin provided a memo from the DCA Legal Office outlining three important updates along with the 2015 version of the Open Meetings Act.

e) Strategic Planning Update

Ms. Martin provided the draft Strategic Planning calendar. Ms. Martin volunteered to get the survey in advance to review the nature of the interview and will include the previous strategic plan.

f) Other Informational Items

Ms. Martin reviewed handouts containing the Board's Performance Measures. President Miller inquired about performance measure 4 and the total time it takes for the Board to completely adjudicate a case. Ms. Martin reported that the formal discipline process involves several agencies, including the Division of Investigation, the Office of the Attorney General, and the Office of Administrative Hearings, all of whose processing time frames are out of the Board's control when it comes to how long each entity takes to complete their work and return the matter to the Board.

15. Election of Officer(s).

- ❖ Linda Florey moved to nominate Richard Bookwalter for Vice President.
- ❖ Nancy Michel seconded the motion.

President Miller asked for any further nominations. There were no additional nominations.

No Public Comment

Roll Call Vote

Nancy Michel -	Aye
Denise Miller -	Aye
Sharon Pavlovich -	Aye
Richard Bookwalter -	Aye
Linda Florey -	Aye

16. Discussion regarding proposed agenda Items for a future meeting.

Ms. Martin reminded members of several items to be addressed at a future meeting, including:

- Consideration of proposed language to implement Business and Professions Code Section 2570.32 as it pertains to the Board's possible refusal to hear a petition for reinstatement for petitioners who are currently under court-ordered probation or parole or subject to registration pursuant to Penal Code 290.
- Discussion and consideration of records retention requirement if a business is closed or sold or if the practitioner is no longer in private practice.
- Discussion and consideration of the process and procedures of Board staff when issuing administrative citations.

Ms. Martin said she will provide Members an enforcement overview to see if that addresses any questions about when Board staff issues citations.

- Other future agenda items.

Public Comment

Ernie Escovedo, OT, asked that the Board to include clarification of the Advanced Practice course approvals, and instructor approvals. He stated that there had been changes within the application process and the instructors and providers are relying on timely approvals.

Ms. Martin said that she would contact Mr. Escovedo to discuss his concerns.

17. The Board will convene in Closed Session pursuant to Government Code Section 11126(c)(3) to deliberate on disciplinary matters.

There were no closed session items to be discussed.

18. Adjournment.

The meeting adjourned at 1:03 p.m.