



BOARD MEETING MINUTES

Thursday, August 18, 2016 and Friday, August 19, 2016

Board Member(s) Present

Denise Miller – President
Richard Bookwalter - Vice President
Sharon Pavlovich - Secretary
Teresa Davies
Jeff Ferro
Laura Hayth
Beata Morcos

Board Staff Present

Heather Martin, Executive Officer
Jody Quesada, Staff Services Analyst
Jeff Hanson, Enforcement Coordinator
Ileana Butu, Legal Counsel

Thursday, August 18, 2016 10:00 am - Board Meeting

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

The meeting was called to order at 10:15 a.m., roll was called, and a quorum was established.

2. President's and Board Members' Remarks – Informational only; no Board action to be taken.

Board President Denise Miller thanked Samuel Merritt University for hosting the Board meeting. Ms. Miller also thanked the Ad Hoc committee, Board members and Board staff for their continued hard work.

Board Vice President Richard Bookwalter attended the Rehabilitation Engineering and Assistive Technology Society of North America (RESNA) conference. Mr. Bookwalter attended the industry conference on Wheelchairs and Assistive Technology. Mr. Bookwalter offered bills for interested parties to review regarding the federal funding for assistive technology products. The bills are HR 3229 and SB 2196 along with HB 1516 and SB 24.5.

Secretary Sharon Pavlovich reported that the students are back to school at Loma Linda University and that all full-time faculty will be attending the American Occupational Therapy Association (AOTA) conference.

The remaining Board members had no comment.

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

Members of the public audience introduced themselves at will.

4. Review and vote on approval of the May 19-20, 2016, Board meeting minutes.

Vice President Richard Bookwalter asked that the final paragraph of Agenda Item 7, page 7 be updated to read:

“Vice President Richard Bookwalter said that it would be difficult to impose the time limits and make time based decisions given the absence of a precedent or state standard.”

- ❖ Jeff Ferro moved to accept the minutes with the modification made by Richard Bookwalter.
- ❖ Beata Morcos seconded the motion.

Public Comment

There was no public comment.

Roll Call Vote

Denise Miller	Aye
Richard Bookwalter	Aye
Sharon Pavlovich	Aye
Teresa Davies	Aye
Jeff Ferro	Aye
Laura Hayth	Aye
Beata Morcos	Aye

5. Review and vote on approval of the June 23, 2016, teleconference Board meeting minutes.

Vice President Richard Bookwalter asked that a spelling error be corrected on Agenda Item 3, page 4, paragraph 2.

- ❖ Richard Bookwalter moved to accept the minutes with the spelling correction.
- ❖ Teresa Davies seconded the motion.

Public Comment

There was no public comment.

Roll Call Vote

Denise Miller	Aye
Richard Bookwalter	Aye
Sharon Pavlovich	Aye
Teresa Davies	Aye
Jeff Ferro	Aye
Laura Hayth	Aye
Beata Morcos	Aye

6. Discussion and possible action on Ad Hoc committee’s report and recommendation(s) regarding the definition of “occupational therapy” as set forth in Business and Professions Code Section 2570.2.

Jeff Ferro reported that the Ad Hoc Committee met in December 2015 and unanimously agreed to not open the Practice Act or seek legislative changes at the time. After reporting back to the Board the committee was tasked with providing a conclusion statement developing points as to why the broadness of existing language regarding the scope of

practice would suffice and to discuss if the Board did decide to open the Practice Act; which sections would be under consideration.

Mr. Ferro stated that two additional meetings were held and the committee learned that regulatory changes would not be possible; legislative changes would be required to change the Practice Act. Mr. Ferro reported that the committee unanimously agreed on a more broad statement recommendation and received two comprehensive proposals to bring back to the Board for review and subsequent vote.

Mr. Ferro recommended that the Board accept the recommendations of the Ad Hoc Committee and thanked the committee members for their participation.

Public Comments

Donna Breger Stanton, OT, Fieldwork Coordinator, Samuel Merritt University

- Supported the final recommendation of the committee, as it included mental health.
- Concerned that the hand therapy language is too broad
- Believed that the definition of psycho social needs to be looked at more carefully, she feels that psycho social is an important part of what an OT does.

Ruth Ramsey, OT, Program Director, Dominican University of California

- Supported the inclusion of mental health in the committee's recommendation
- Suggested that the Social Work code be monitored so that OTs are not excluded from part of the core practice.

Sabrena McCarley, OT, Advocacy and Government Affairs Chair, Occupational Therapy Association of California (OTAC)

- Supported the inclusion of mental health in the committee conclusion statement
- Concerned that mental health is not included in the Practice Act which is what insurers reference and could potentially lead to reimbursement issues

President Miller clarified that the Ad Hoc committee was never tasked with changing the Practice Act. Ms. Miller stated that when the Board does decide to open the Practice Act it will be done with a focused, thorough and methodical approach of which practitioners and associations alike will be invited to participate.

President Miller thanked everyone for their comments and thanked the Ad Hoc committee for doing a great job.

Legal Counsel Ileana Butu clarified that the Board does not have control of the Practice Act and if the Board ever wanted to open the Practice Act and alter anything, it would have to go through legislature, both houses and multiple committees.

Heather Kitching, OT, OTAC President thanked President Miller for her clarification as to the expectation of the Ad Hoc committee and that the committee did exactly what they were asked to do. Ms. Kitching stated that the view of OTAC is that the protection of the consumer includes adequate provision of reimbursement for mental health services and it is their view that protection of the consumer overlaps with the clear definition in the scope of practice.

- ❖ Jeff Ferro moved to accept the Ad Hoc committee's conclusion statement and accept potential legislative changes provided to the committee for the consideration of the Sunset Review committee.

- ❖ Laura Hayth seconded the motion.

Public Comment

There was no additional public comment.

Roll Call Vote

Denise Miller	Aye
Richard Bookwalter	Aye
Sharon Pavlovich	Aye
Teresa Davies	Aye
Jeff Ferro	Aye
Laura Hayth	Aye
Beata Morcos	Aye

7. Discussion of policy issues to be included in the Sunset Review Report.

Executive Officer Heather Martin gave a Sunset Review handout overview and stated that there would be upcoming Sunset committee meetings that the public was welcome to attend. Ms. Martin stated that Laura Hayth is the committee chairperson and Beata Morcos and Denise Miller are members of committee. Ms. Martin said that she was looking to the Board to decide what issues they would like included in the Sunset Review.

- ❖ Laura Hayth moved to add Teresa Davies to the Sunset Review committee.
- ❖ Beata Morcos seconded the motion.

Public Comment

There was no public comment.

Roll Call Vote

Denise Miller	Aye
Richard Bookwalter	Aye
Sharon Pavlovich	Aye
Teresa Davies	Aye
Jeff Ferro	Aye
Laura Hayth	Aye
Beata Morcos	Aye

- ❖ Teresa Davies moved to direct the Sunset Review committee to review outstanding issues and identify any additional issues for consideration.
- ❖ Denise Miller seconded the motion.

Public Comment

OTAC submitted a letter to have the Sunset Committee review.

Roll Call Vote

Denise Miller	Aye
Richard Bookwalter	Aye
Sharon Pavlovich	Aye
Teresa Davies	Aye
Jeff Ferro	Aye
Laura Hayth	Aye
Beata Morcos	Aye

8. Update and take action, if necessary, on pending Rulemaking files, California Code of Regulations, Title 16, Division 39:
- Section 4110, Application for Licensure;
 - Section 4172, Standards of Practice for Telehealth

Executive Officer Heather Martin gave an overview of the provided Regulations Update report that included those rulemaking files that were ‘in-process’ and those that were not yet started.

Public Comment

There was no public comment.

9. Consideration and possible adoption of proposed regulatory language to add Title 16, Division 39, CCR Section 4176, Notice to Consumer.

Executive Officer Heather Martin reviewed the included handouts which were the Notice, Proposed Text, the Initial Statement of Reasons, and one written public comment.

Vice President Richard Bookwalter stated that he was under the impression the Board agreed to remove the license number from being required in 4176 (b) and (c)(1).

Legal Counsel Ileana Butu confirmed that the license number is not legally required.

- ❖ Richard Bookwalter moved to strike “and number” from proposed edits to California Code of Regulations CCR 4176 (b) and (c)(1) and notice as required.
- ❖ Laura Hayth seconded the motion.

Public Comment

Sabrina McCarley agreed with the motion as she felt it was an administrative burden to the employer.

Roll Call Vote

Denise Miller	Aye
Richard Bookwalter	Aye
Sharon Pavlovich	Aye
Teresa Davies	Aye
Jeff Ferro	Aye
Laura Hayth	Aye
Beata Morcos	Aye

10. Consideration and possible adoption of proposed regulatory language to amend Title 16, Division 39, CCR Section 4161, Continuing Competency, Section 4162, Completion and Reporting Requirements, and Section 4163, Exemption from Continuing Competency Requirements.

Executive Officer Heather Martin reviewed the included handouts which were the Notice, Proposed Text, the Initial Statement of Reasons, and two written public comments.

Public Comment

Ms. Breger Stanton voiced her support of increasing the amount of continuing competence credit that an OT can earn supervising as well as offering credits for supervising Level One students as a way to incentivize more licensees to supervise a students' fieldwork. Ms. Breger-Stanton stated that it is becoming increasingly difficult to find OTs willing to supervise students.

- ❖ Richard Bookwalter moved adopt the proposed language as written.
- ❖ Laura Hayth seconded the motion.

Public Comment

There was no additional public comment.

Roll Call Vote

Denise Miller	Aye
Richard Bookwalter	Aye
Sharon Pavlovich	NAY
Teresa Davies	Aye
Jeff Ferro	Aye
Laura Hayth	Aye
Beata Morcos	Aye

- ❖ Jeff Ferro moved to direct staff to draft FAQs to address and clarify the proposed Attestation form as it pertains to the use of the term Fieldwork Supervisor as opposed to the term Fieldwork Educator, Preceptor or Fieldwork Educator, etc.
- ❖ Teresa Davies seconded the motion.

Public Comment

There was no additional public comment.

Roll Call Vote

Denise Miller	Aye
Richard Bookwalter	Aye
Sharon Pavlovich	Aye
Teresa Davies	Aye
Jeff Ferro	Aye
Laura Hayth	Aye
Beata Morcos	Aye

11. Consideration and possible adoption of proposed regulatory language to amend Title 16, Division 39, CCR Section 4130, Fees.

Executive Officer Heather Martin reviewed the included handouts which were the Modified Text, Document Added to the Rulemaking File, along with the Notice, Proposed Text, the Initial Statement of Reasons, and five written public comments.

Public Comment

Heather Kitching, OTAC President, stated that she was looking forward to a positive and collaborative relationship between the association and the licensing Board regarding the management and rollout of communication and helping the licensing population understand the rationale.

President Denise Miller clarified that the Board is not currently in a deficit or financial trouble and the intent is to head off future fiscal deficits.

- ❖ Jeff Ferro moved to adopt the proposed language and authorize the Executive Officer to make any technical, non-substantive changes.
- ❖ Laura Hayth seconded the motion.

Public Comment

There was no additional public comment.

Roll Call Vote

Denise Miller	Aye
Richard Bookwalter	Aye
Sharon Pavlovich	Aye
Teresa Davies	Aye
Jeff Ferro	Aye
Laura Hayth	Aye
Beata Morcos	Aye

12. Discussion and consideration of outreach plan to educate and inform licensees about proposed fee increases.

Board members suggested posting information on proposed fee increases on various social media venues as well as developing an FAQ or Question/Answer fact sheet.

- ❖ Richard Bookwalter moved to direct the Executive Officer to develop a Question/Answer sheet to educate licensees regarding the fee increase.
- ❖ Beata Morcos seconded the motion.

Public Comment

There was no public comment.

Roll Call Vote

Denise Miller	Aye
Richard Bookwalter	Aye
Sharon Pavlovich	Aye
Teresa Davies	Aye
Jeff Ferro	Aye
Laura Hayth	Aye
Beata Morcos	Aye

13. Consideration and possible action of requiring probationers to pay probation monitoring costs and proposed regulatory language to add Title 16, CCR Section 4147.2, Probation Monitoring Costs.

Executive Officer Heather Martin gave an overview of the disciplinary process that brings a license to the point of probation monitoring as well as the provided table that displayed the probation monitoring cost projection estimates.

Vice President Richard Bookwalter asked that “the monetary” be removed from CCR Section 4147.2 (a).

- ❖ Richard Bookwalter moved to approve the language with edits for future noticing.
- ❖ Laura Hayth seconded the motion.

Public Comment

There was no public comment.

Roll Call Vote

Denise Miller	Aye
Richard Bookwalter	Aye
Sharon Pavlovich	Aye
Teresa Davies	Aye
Jeff Ferro	Aye
Laura Hayth	Aye
Beata Morcos	Aye

14. Staff report on status of Action Plan to implement 2016 Strategic Plan.

Public Comment

There was no public comment

Executive Officer Heather Martin reported no movement on the Action Plan to implement the 2016 Strategic Plan and she would bring any updates to the October meeting.

15. Selection of 2017 Board meeting dates

The 2017 dates are:

March 9-10, 2017	June 15-16, 2017
August 17-18, 2017	October 18-19, 2017

The Board directed Ms. Martin to choose the meeting locations.

16. Disciplinary process overview by Legal Counsel

Legal Counsel, Ileana Butu verbally reviewed the included handouts regarding the Disciplinary Process.

Public Comment

There was no public comment

CLOSED SESSION

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

Closed session began at 4:54 p.m.
The Board meeting returned to open session at 5:19 p.m.

18. Recess

The Board meeting adjourned at 5:20 p.m.

Friday, August 19, 2016
9:00 am - Board Meeting

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

The meeting was called to order at 9:05 a.m., roll was called, Denise Miller and Sharon Pavlovich were absent. A quorum was established.

20. Public Comment session for items not on the agenda.
Please note: The Board may not discuss or take action on any matter raised during this public comment section, except to decide whether to place the matter on the agenda of a future meeting
[Government Code Sections 11125 and 11125.7(a)]

There was no public comment.

21. Discussion and possible action on proposed national policy regarding licensure portability (ease of inter-state movement by practitioners).

President Denise Miller and Vice President Richard Bookwalter attended the American Occupational Therapy Association Annual Conference.

Mr. Bookwalter reviewed the included draft minutes of the Spring RA Meeting.

The draft minutes reflected that the motion for supporting expedited licensure was defeated.

- ❖ Jeff Ferro moved to instruct Board staff to watch the movement of this recommendation and keep the Board abreast of the progress.
- ❖ Laura Hayth seconded the motion.

Executive Officer Heather Martin expressed her concern to the Board regarding license portability and the fact that some states do not require fingerprinting and that the Board should always require fingerprinting as a condition of licensure, no matter how this recommendation finalizes.

Public Comment

There was no public comment.

Roll Call Vote

Richard Bookwalter	Aye
Teresa Davies	Aye
Jeff Ferro	Aye
Laura Hayth	Aye
Beata Morcos	Aye

22. Presentation of enforcement data and reports for the quarter ending June 30, 2016.

Board staff member, Jeff Hanson reviewed the included handouts regarding all enforcement action that took place for the quarter.

Public Comment

There was no public comment.

23. Executive Officer's Report.

a. Operational Report

Executive Officer Heather Martin reported that two vacancies have been filled and a Retired Annuitant was hired. Ms. Martin stated that there are recruitment efforts beginning for five additional positions in Enforcement and one and one-half positions in Licensing.

b. Budget Update

Ms. Martin reported that the 2015-16 final revenue and expenditure information was not yet made available to her.

c. BreEZe Update

Ms. Martin gave a verbal on the data regarding the number of transactions submitted on-line using BreEZe.

Vice President Bookwalter asked how much of the Board's budget was spent on BreEZe last fiscal year. Ms. Martin replied over \$300,000.

d. Future Agenda Items

Ms. Martin stated that Chuck Wilmarth of the American Occupational Therapy Association will be attending the October 27, 2016, Board Meeting and Shaun Conway of the National Board for Certification in Occupational Therapy will be attending the December 8, 2016, Board meeting.

e. Other Informational Items – No Board discussion or action

Ms. Martin reviewed her provided list of future agenda items.

24. Suggested agenda items for a future meeting.

Jeff Ferro inquired about updating and making the CBOT website more user-friendly.

27. Adjournment.

The Board meeting adjourned at 9:54 a.m.