



## **BOARD MEETING MINUTES**

### **Teleconference - WebEx**

**May 7, 2020**

Board Member(s) Present

Richard Bookwalter – President  
 Sharon Pavlovich – Vice President  
 Jeff Ferro – Board Member  
 Denise Miller – Secretary  
 Beata Morcos – Board Member

Board Staff Present

Heather Martin – Executive Officer  
 Jody Quesada – Analyst  
 Jeanine Orona - Analyst  
 Reza Pejuhesh – Attorney III  
 Helen Geoffroy – Attorney III  
 Clay Jackson – Attorney III

**Thursday, May 7, 2020**

**9:30 a.m. - Board Meeting**

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

The meeting was called to order at 9:30 a.m., roll was called, a quorum was established.

2. President’s Remarks – Informational only; no Board Action to be taken.

President Bookwalter welcomed all in attendance and commented on the state of the COVID-19 crisis and the resulting uncertainty surrounding the occupational therapy practice settings. Mr. Bookwalter recognized the struggle of workplaces; small business and the challenges Board staff are facing. Mr. Bookwalter commended Executive Officer Heather Martin and her staff on the recent office move and ensuring social distancing and sanitization in the workplace.

Finally, President Bookwalter thanked the California Business, Consumer Services, and Housing Agency, the Department of Consumer Affairs and the SOLID team for their hard work and swift action in making the WebEx platform available for Board meetings.

3. Board Member Remarks – Informational only; no Board Action to be taken.

There were no remarks from the Board members.

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

American Occupational Therapy Association (AOTA), Manager of State Affairs, Kristen Neville offered assistance should the Board need help or access to AOTA's resources.

President Bookwalter thanked Ms. Neville.

5. Discussion and consideration of proposed amendments to California Code of Regulations, Title 16, Division 39, Section 4101, Delegation of Certain Functions, Section 4110, Application, Section 4141, Assessment of Administrative Fines, Section 4146, Definitions, and Section 4147, Disciplinary Guidelines; and addition of newly proposed Section 4146.1, Substantial Relationship Criteria, Section 4146.7, Rehabilitation Criteria for Applicants, Section 4146.8, Rehabilitation Criteria for Licensees, Section 4147.7, Probation Monitoring Costs, Section 4149.6, Petitions for Modification of Penalty, and Section 4149.7, Petitions for Reinstatement; and renumbering of various sections for formatting purposes.

Attorney Reza Pejuhesh explained to the Board that they previously approved the regulation package before them with changes that arose from the passing of AB 2138, however, there were further revisions for consideration and approval. Mr. Pejuhesh informed the Board that some of what will be presented has trickled down from other Boards/Bureaus because all are working on similar revisions.

Executive Officer Heather Martin asked that the items be addressed in order and section by section.

**Amend Section 4101, Delegation of Certain Functions**

- Jeff Ferro moved to accept proposed edits to Section 4101 as written.
- Denise Miller seconded the motion.

**Public Comment**

There was no public comment.

**Board Member Votes**

Richard Bookwalter:	Yes
Sharon Pavlovich:	Yes
Beata Morcos:	Yes
Jeff Ferro:	Yes
Denise Miller:	Yes

**Amend Section 4110, Application and Section 4141, Assessment of Administrative Fines**

- Jeff Ferro moved to accept the proposed edits to Sections 4110 and 4141 as written.
- Beata Morcos seconded the motion.

## **Public Comment**

Ms. Neville asked that the reference to the American Occupational Certification Board in Section 2 be stricken since it is now defunct.

Executive Officer Heather Martin responded that the reference to the American Occupational Certification Board (AOTCB) is consistent to what is in Statute and it is still valid because some of the practitioners took the exam under AOTCB. Ms. Martin noted that the use of and reference to AOTCB will eventually age out.

## **Board Member Votes**

Richard Bookwalter: Yes  
Sharon Pavlovich: Yes  
Beata Morcos: Yes  
Jeff Ferro: Yes  
Denise Miller: Yes

## **Amend the title of Article 5.5 and Section 4146, Definitions**

- Jeff Ferro moved to accept the proposed edits to the title of Article 5.5 and Section 4146 as written.
- Sharon Pavlovich seconded the motion.

## **Board Member Votes**

Richard Bookwalter: Yes  
Sharon Pavlovich: Yes  
Beata Morcos: Yes  
Jeff Ferro: Yes  
Denise Miller: Yes

## **Public Comment**

There was no public comment.

## **Add Section 4146.1, Substantial Relationship Criteria**

Following a discussion on punctuation and placement of the word “evidences”, the Board chose to add a comma under Section (a), sentence 5, following the word “practitioner.”

- Jeff Ferro moved to accept the proposed edits to Section 4146.1 as modified.
- Sharon Pavlovich seconded the motion.

## **Public Comment**

Ciara Cox of Samuel Merritt University thanked the Board for their time and informed the Board that her Advanced Leadership class had joined the meeting.

President Bookwalter thanked Ciara and her class for their attendance.

**Renumber Section 4146.5, Effective Dates of Decisions**

Executive Officer Heather Martin explained that the renumbering of this item has been done for formatting purposes and no vote would be needed.

**Add New Section 4146.7, Rehabilitation Criteria of Decisions**

Ms. Martin explained that Rehabilitation Criteria language was “buried” at the end of the Boards’ Disciplinary Guidelines and this new section was created so that the Rehabilitation Criteria would be clear and transparent to all parties when added as a new section in the regulations.

The Board members had a discussion surrounding the grammar of this new section and the addition of a comma in Section (a), sentence 4, following the word “rehabilitation.”

DCA Attorney Clay Jackson informed the Board that there was legal reason for the use of certain language and altering that language may delay approval by the Office of Administrative Law (OAL).

Secretary Denise Miller clarified with Mr. Jackson that it was acceptable to add punctuation but was unacceptable to alter negotiated language. Mr. Jackson confirmed.

The Board members expressed their frustration that the language was negotiated by DCA and OAL prior to coming before them for consideration.

Attorney Reza Pejuhesh informed the Board that they do have some discretion but in the interest of saving time, the attorneys have learned about “sticking points” with OAL and they have adapted the language to make the process easier for all.

After further discussion, the Board came to consensus to only add a comma following the word “rehabilitation” in Section (a).

- Beata Morcos moved to accept Section 8 as modified.
- Sharon Pavlovich seconded the motion.

**Public Comment**

There was no public comment.

**Board Member Votes**

Richard Bookwalter:	Yes
Sharon Pavlovich:	Yes
Beata Morcos:	Yes
Jeff Ferro:	Yes
Denise Miller:	Yes

**Add New Section 4146.8, Rehabilitation Criteria Rehabilitation Criteria for Licensees**

- Sharon Pavlovich moved to accept Section 9.
- Beata Morcos seconded the motion.

**Public Comment**

There was no public comment.

**Board Member Votes**

Richard Bookwalter: Yes  
Sharon Pavlovich: Yes  
Beata Morcos: Yes  
Jeff Ferro: Yes  
Denise Miller: Yes

**Amend Section 4147, Disciplinary Guidelines**

Executive Officer Heather Martin explained that no vote would be needed for Section 10 because it was previously approved by the Board.

**Add new section 4147.7, Probation Monitoring Costs**

Mr. Jackson explained that the section was added to make it easier for people to understand.

- Sharon Pavlovich moved to accept the language in proposed Section 4147.7.
- Jeff Ferro seconded the motion.

**Public Comment**

There was no public comment.

**Renumber Section 4148, Mental or Physical Examination of Fitness for Licensure**

**Renumber Section 4149, Other Actions Constituting Unprofessional Conduct**

**Renumber Section 4149.1, Revocation for Sexual Contact**

**Add Article 5.6, Petitions for Modification of Penalty and Reinstatement of Licenses**

**Add new section 4149.6, Petitions for Modification of Penalty**

**Add new section 4149.7, Petitions for Reinstatement**

Executive Officer Heather Martin explained that no vote would be needed for the remaining the sections that were renumbered for formatting purposes and changes and Sections 4149.6 and 4149.7 were previously approved by the Board.

- Richard Bookwalter moved to authorize the Executive Officer and DCA Attorneys to make any needed technical, non-substantive changes and approve all language for noticing.
- Jeff Ferro seconded the motion.

### **Public Comment**

There was no public comment.

### **CONVENE CLOSED SESSION**

The Board convened in Closed Session at 11:09 a.m.

### **RECONVENE IN OPEN SESSION**

The Board reconvened in Open Session at 2:47 p.m.

### **Adjournment of meeting.**

The meeting adjourned at 2:47 p.m.