



## TELECONFERENCE BOARD MEETING MINUTES

**February 15, 2022**

Board Member(s) Present

Sharon Pavlovich –President  
 Beata Morcos – Secretary  
 Richard Bookwalter – Board Member  
 Lynna Do – Board Member  
 Denise Miller – Board Member

Board Staff Present

Heather Martin – Executive Officer  
 Jody Quesada – Associate Analyst  
 Jeanine Orona – Enforcement Analyst  
 Helen Geoffroy – Attorney III

**3:00 pm - Board Meeting**

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

The meeting was called to order at 3:04 p.m., Secretary Beata Morcos called roll and a quorum was established.

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

Board President Sharon Pavlovich welcomed everyone in attendance and acknowledged the Lunar New Year – Year of the Tiger and Black History Month. President Pavlovich stated that she received an Occupational Therapy Association of California (OTAC) email that offered an educational course called ‘Occupational Therapy and Black Women’s Hair’ and that 1.5 PDU’s could be earned for participation. She applauded OTAC and expressed her excitement at this offering because she had recently learned from some of her African American students that they finally felt comfortable wearing their hair in its natural state due to the passing of the Crown Act. President Pavlovich also noted that the American Occupational Therapy Association’s (AOTA) 2022 Annual Conference & Expo would take place March 31 – April 3 in San Antonio and virtual.

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

There were no Board Member remarks.

**4. Public Comment Session for items not on the Agenda.**

President Pavlovich summarized the written public comment that requested the Board address the need for a rate increase to the compensation rate for Practice Reviewers which is currently \$75 an hour.

- Denise Miller moved that the Board add this topic to a future Board meeting.
- Beata Morcos seconded the motion.

**Public Comment**

There was no public comment.

**Board Member Votes**

Sharon Pavlovich:	Yes
Beata Morcos:	Yes
Richard Bookwalter:	Yes
Lynna Do:	Yes
Denise Miller:	Yes

The motion carried.

American Occupational Therapy Association (AOTA) State Affairs Manager Kristen Neville introduced herself via the WebEx ‘chat’ and thanked the Board for the opportunity to participate.

Gigi Smith also introduced herself via the WebEx ‘chat’ feature.

President Pavlovich asked that the public comment be left open for convenience

**5. Discussion on the Board’s Fund Condition and possible increase of license renewal fees and other miscellaneous fees to maintain fiscal solvency.**

Executive Officer Heather Martin gave an overview of the provided handouts that included a fund condition statement, revenue and expenditure reports, information on fees charged by other health care boards. Several scenarios with various fee increases were discussed as possibilities to ensure the Board’s long-term fiscal solvency.

Board member Denise Miller asked clarifying questions throughout regarding the layout of each document so that the public could gain a better understanding of the very detailed documents.

Ms. Martin summarized the document that showed the Board’s budget and expenditures year to date. Ms. Martin stated that this document showed a point in time projection that the Board was slated to save again but wanted to reiterate that this document should be viewed as only a planning tool and should be considered very fluid.

Ms. Martin reviewed the PY Actuals with (FM) 5 projections in detail including an adjustment that was returned to the Board because the Board did not use all the funds that were saved over several fiscal years to fund the office move.

Ms. Martin explained that the Board should be self-funding and aim for being revenue - neutral, meaning the annual revenue and expenditures being close. Ms. Martin explained that when expenditures exceed the revenue collected, the Board must use its funds in reserve which is depicted by the downward trend in months of operating reserves. Ms. Martin went on to say that because the annual revenue earned less than the Board’s expenditures, despite a demonstrated reversion of \$99,000 - \$340,000 per year, there is still a concern for

long-term fiscal solvency. Board staff worked with the Department of Consumer Affairs (DCA) Budget office to provide scenarios of increased renewal fees which would also impact the delinquent renewal fees and prorated initial license fees.

Ms. Miller thanked Ms. Martin for the provided examples of potential fee increase scenarios. Ms. Miller sought clarification as to what “other regulatory fees” was in reference to.

Ms. Martin reported that it included initial license fees, limited permit fees, retired license fees and application fees.

Ms. Miller commented that she felt that due to the seriousness of having to raise fees at all, she was of the opinion to consider increases to fees that directly impact the practitioners that are not doing what is expected of them.

Executive Officer Heather Martin thanked the DCA Budget Office for provided scenarios.

Ms. Martin addressed the provided options of charging for the printing of a pocket cards and increasing the cost of license verifications, fingerprint card submission, the application fee and the retired license fee.

President Pavlovich asked if Ms. Martin thought it possible for the Board to create an adhoc Budget Review committee to work with staff and explore these options to bring back a recommendation to the Board. Ms. Martin agreed.

Board member Lynna Do agreed that establishing an adhoc committee to explore all the varying options would be helpful and felt it important to include a practitioner and a non-practitioner.

Secretary Beata Morcos stated that it was her belief that there are certain times a fee increase has to happen and that she has been shown enough data to support the need for that increase but if the Board would like to establish a sub-committee, she would support that direction.

Board member Richard Bookwalter stated that he was in favor of establishing an hoc committee to bring recommendations back to the full Board.

- Lynna Do moved to establish an adhoc Budget Review committee to explore fee increase scenarios.
- Denise Miller seconded the motion.

### **Public Comment**

AOTA) State Affairs Manager Kristen Neville asked that the fee scenarios be emailed to her. Board staff emailed the documents to Ms. Neville.

### **Board Member Votes**

Sharon Pavlovich:	Yes
Beata Morcos:	Yes
Richard Bookwalter:	Yes
Lynna Do:	Yes
Denise Miller:	Yes

The motion carried.

Ms. Miller and Ms. Do volunteered to be on the adhoc committee and to work with Heather Martin and Board staff,

**6. Consideration and possible action of approving proposed regulatory language to amend Title 16, California Code of Regulations (CCR) Section 4147, Disciplinary Guidelines.**

The Board reviewed the proposed amendments and agreed they were self-explanatory and straight forward.

- Richard Bookwalter moved to accept the proposed language of CCR Section 4147.
- Beata Morcos seconded the motion.

**Public Comment**

There was no public comment.

**Board Member Votes**

Sharon Pavlovich:	Yes
Beata Morcos:	Yes
Richard Bookwalter:	Yes
Lynna Do:	Yes
Denise Miller:	Yes

The motion carried.

*The Board agreed to move the discussion of proposed amendments to General Considerations in Disciplinary Guidelines to follow the discussion and vote on the amendments to the Probation Terms.*

The Board discussed the document that outlined the amendments to the Probation Terms.

Board member Richard Bookwalter commented that outlined changes are clearer than the previous language and the reference to specific forms is a good idea.

- Beata Morcos moved to accept the proposed amendments to the Probation Terms in the Disciplinary Guidelines.
- Richard Bookwalter seconded the motion.

**Public Comment**

There was no public comment.

**Board Member Votes**

Sharon Pavlovich: Yes  
Beata Morcos: Yes  
Richard Bookwalter: Yes  
Lynna Do: Yes  
Denise Miller: Yes

The motion carried.

President Pavlovich asked if the motion regarding proposed amendments to Probation Terms in the Disciplinary Guidelines could be amended to reflect 3 separate motions and votes, 1 for each section.

**#8 Employment Approval and Notification to Employer(s).**

*The motion was amended as follows:*

- Beata Morcos moved to accept the proposed amendments to Term 8 of the Disciplinary Guidelines and nothing else.
- Richard Bookwalter seconded the motion.

**Public Comment**

There was no public comment.

**Board Member Votes**

Sharon Pavlovich: Yes  
Beata Morcos: Yes  
Richard Bookwalter: Yes  
Lynna Do: Abstain  
Denise Miller: Yes

The motion carried.

**#10 Continuing Education/Continuing Competence Requirements.**

- Lynna Do moved to accept the proposed amendments to Term 10 of the Disciplinary Guidelines.
- Beata Morcos seconded the motion.

**Public Comment**

There was no public comment.

**Board Member Votes**

Sharon Pavlovich: Yes  
Beata Morcos: Yes  
Richard Bookwalter: Yes  
Lynna Do: Yes  
Denise Miller: Yes

The motion carried.

## **#12 Cost Recovery Requirements**

- Richard Bookwalter moved to accept the proposed language in Section 12 of the Probationary Terms in the Disciplinary Guidelines.
- Lynna Do seconded the motion.

### **Public Comment**

There was no public comment.

### **Board Member Votes**

Sharon Pavlovich: Yes  
Beata Morcos: Yes  
Richard Bookwalter: Yes  
Lynna Do: Yes  
Denise Miller: Yes

The motion carried.

Executive Officer reviewed the proposed amendments regarding the Zuckerman factors.

Board member Denise Miller asked DCA Attorney Helen Geoffroy whether the adoption of the proposed amendments would go in to the Board's regulatory language Disciplinary Guidelines.

Ms. Geoffroy stated that she believed it should go in to the Disciplinary Guidelines that are going into the regulatory language.

Ms. Miller asked how common it was that something like the Zuckerman Factors are added to regulatory language.

Ms. Geoffroy stated that the Zuckerman Factors have been around since 2002 and they more clearly set out the factors that the Administrative Law Judge should review.

Ms. Miller stated that the term "colorable challenged" within the Factors is a bit more subjective than she would like and raised the question of that language opening the Board up to challenges. Ms. Miller acknowledged that it is a law and as long as the Board's Attorney can defend the Board lawfully in such challenges that she could move on. She explained that her "no" vote would not be because she does not agree with the use of the Zuckerman factors but because she is leery of getting so specific when the Zuckerman Factors language could be changed which would result in the Board having to update its Disciplinary Guidelines. Ms. Miller asked if it was required to spell out the Zuckerman Factors.

Ms. Geoffroy stated it was not required but helpful.

Ms. Miller thanked Ms. Geoffroy.

Ms. Martin stated it was a requirement for the ALJ to consider the Zuckerman Factors but it would be helpful to add this language because it removes the subjectivity.

Mr. Bookwalter spoke in favor of adding the specifics of the Zuckerman Factors to the Board's Disciplinary Guidelines because the Board can easily reference it for case review.

Ms. Geoffroy reported that one of the reasons that the language was added was because the Zuckerman Factors were recently not included in a Decision. She recommending placing them in the regulatory language as the extra push to make sure they are used.

- Richard Bookwalter moved to accept the changes to the Disciplinary Guidelines.
- Beata Morcos seconded the motion.

**Public Comment**

There was no public comment.

**Board Member Votes**

Sharon Pavlovich:	Yes
Beata Morcos:	Yes
Richard Bookwalter:	Yes
Lynna Do:	Not Present
Denise Miller:	No

The motion carried.

**7. Consideration and possible action of approving proposed regulatory language to amend Title 16, CCR Section 4147.5, Uniform Standards Related to Substance Abuse.**

Ms. Martin informed the Board that the change to the regulatory language was to update the date of the document incorporated by reference.

- Richard Bookwalter moved to adopt the proposed language of CCR Section 4147.5, Uniform Standards Related to Substance Abuse.
- Beata Morcos seconded the motion.

**Public Comment**

There was no public comment.

**Board Member Votes**

Sharon Pavlovich:	Yes
Beata Morcos:	Yes
Richard Bookwalter:	Yes
Lynna Do:	Yes
Denise Miller:	Yes

The motion carried.

**8. Discuss rescheduling February 24-25, 2022, Board meeting.**

Following a robust discussion regarding rescheduling the February 24-25, 2022, Board meeting, the Board decided to have Board staff send a 'Doodle' poll for April 8<sup>th</sup> or 11<sup>th</sup> and the Board decided to choose either May 19<sup>th</sup> or 20<sup>th</sup> since both May dates had already been scheduled.

**CONVENE CLOSED SESSION**

The Board convened in Closed Session at 5:45 p.m.

**RECONVENE IN OPEN SESSION**

The Board reconvened in Open Session at 5:57 p.m.

**ADJOURNMENT**

The Board meeting adjourned at 5:58 p.m.