

AGENDA ITEM 6

**REVIEW AND VOTE ON APPROVAL OF THE AUGUST 18-19, 2022,
BOARD MEETING MINUTES.**



***** DRAFT *****

TELECONFERENCE BOARD MEETING MINUTES

August 18-19, 2022

Board Member(s) Present

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

Board Staff Present

Heather Martin – Executive Officer
Jody Quesada Novey – Analyst
Jeanine Orona – Analyst
Demetre' Montue – Analyst
Helen Geoffroy – Attorney

Board Member(s) Absent

Hector Cabrera – Member

Thursday, August 18, 2022

9:30 am - Board Meeting

1. Call to order, roll call, establishment of a quorum.
The meeting was called to order at 9:42 a.m., Secretary Lynna Do called roll, all Members were present except for Hector Cabrera. A quorum was established.

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

President Sharon Pavlovich welcomed everyone in attendance and thanked them for their participation. She reported that the Occupational Therapy Association of California (OTAC) Annual Conference would be held in Santa Clara, CA October 27-30, 2022, and CBOT would be presenting a session on Friday. She also reported that her Loma Linda Occupational Therapy research group would be presenting on Diversity, Equity, and Inclusion on Sunday.

3. Introduction of new Board Member(s)

President Pavlovich stated that new Board Member Hector Cabrera was unable to attend the meeting so his introduction would take place at the November meeting. President Pavlovich informed the Board that agenda items 6-10 would be moved to Day Two of the meeting.

4. Public Comment for Items not on the Agenda.

There were no public comments for items not on the agenda.

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

Board Member Richard Bookwalter reported that the National Board for Certification in Occupational Therapy (NBCOT) would be hosting the 2022 Occupational Therapy State Regulatory Leadership Forum virtually on September 13th and 14th. Mr. Bookwalter wanted his fellow Board Members to know that all state administrators, chairs, and board members were invited and that one of the topics would surround a comprehensive look into government regulation of the professions, specifically occupational therapy. Mr. Bookwalter recommended that all Board Members attend and asked that Board staff forward the email invitation to them.

Items 6-10 were addressed on Day Two.

Review and vote on approval of the May 19-20, 2022, Board meeting minutes.

Board Member Richard Bookwalter requested grammatical corrections on pages two and ten.

- Lynna Do moved to approve the May 19-20, 2022, Board Meeting minutes with edits provided by Richard Bookwalter and to authorize the Executive Officer to make technical non-substantive changes.
- Denise Miller seconded the motion.

Public Comment

There was no public comment.

Board Member Votes

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

The motion carried.

6. Review and vote on approval of the July 27, 2022, Board meeting minutes.

Board Secretary Lynna Do asked that the titles at the top of the minutes be updated to reflect accurate Board Member positions.

- Richard Bookwalter moved to approve the July 27, 2022, Board Meeting minutes with the corrections to Board Member titles and to authorize the Executive Officer to make technical non-substantive changes.
- Denise Miller seconded the motion.

Public Comment

There was no public comment.

Board Member Votes

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

The motion carried.

7. Consideration and possible action of approving proposed regulatory language to amend Title 16, California Code of Regulations (CCR) Section 4161, Continuing Competence, to add new requirements as a condition for license renewal.

Executive Officer Heather Martin explained that the proposed new language requiring licensees, at the time of renewal, to attest to reading the laws and regulations and adding new requirements to complete professional development units (PDUs) in ethics and working with diverse populations was at the direction of the Board. Ms. Martin informed the Board that the draft language presented was a collaborative effort between herself, Department of Consumer Affairs' (DCA) attorneys Helen Geoffroy and Heather Hoganson.

- Richard Bookwalter moved to approve the proposed new language of Section 4122. Renewal Attestation and Section 4161. Continuing Competency along with all suggested changes and allow the Executive Officer to make non-substantive changes.
- Denise Miller seconded the motion.

Public Comment

There was no public comment.

Board Member Votes

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

The motion carried.

- Richard Bookwalter moved to notice the language approved in the previous motion and allow the Executive Officer to make non-substantive changes.
- Beata Morcos seconded the motion.

Public Comment

There was no public comment.

Board Member Votes

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

The motion carried.

8. Consideration and possible action on adding supervision of individuals completing a doctoral capstone as a method for earning professional development units.

President Pavlovich believed the language proposal to be relevant and asked fellow Board Members for their opinion.

The consensus of the Board was to support the implementation of the proposed language by noticing it and allowing the public the opportunity to weigh in regarding the number of hours that should be awarded for supervision of a Doctoral Capstone student during the required public comment period.

- Denise Miller moved to approve the proposed new language allowing PDUs to be earned for supervising individuals completing a Doctoral Capstone and gave authority to the Executive Officer to make technical, non-substantive changes.
- Beata Morcos seconded the motion.

President Pavlovich read a statement from the OT Capstone Coordinator at Loma Linda University. The coordinator wrote in support of allowing PDUs to be earned for the supervision of a Doctoral Capstone student consistent with the PDUs earned for supervising a Level II Fieldwork student.

Ms. Martin stated that the language cannot yet be noticed but only approved from a policy perspective and if the Board wished to move forward that she would certainly reach out to programs to gain their input on the amount of supervision hours that should be granted. Ms. Martin further explained that the language previously included “week” in relation to the amount of supervision time, but it was changed to “hours” so that multiple supervisors could divide the time if one of them went on vacation.

Denise Miller agreed to amend her previous motion and Vice President Morcos agreed to withdraw her second.

- Denise Miller amended her motion to approve the proposed new language regarding the supervision of individuals completing a doctoral capstone as a method for earning professional development units, direct Board staff reach out to doctoral programs to ask their opinion on how many hours should be allowed for supervising a Doctoral Capstone student.
- Beata Morcos seconded the motion.

Public Comment

There was no public comment.

Board Member Votes

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

The motion carried.

Ms. Martin clarified that Board staff would check-in with both entry level and post professional doctoral programs for their input because some schools do not have both programs.

President Pavlovich stated that programs that have both entry level and post professional Doctoral programs recognize both as a Capstone Experience.

9. Consideration and possible action on requiring an attestation to reading and understanding the Board’s laws and regulations upon submission of an application for an initial license.

The consensus of the Board was to support the proposed language requiring an applicant for licensure to attest to reading and understanding the Board’s laws and regulations.

- Richard Bookwalter moved to approve proposed new language for Section 4110.1 Applicant Attestation for noticing and delegate to the Executive Officer the ability to make non-substantive changes.
- Lynna Do seconded the motion.

Public Comment

There was no public comment.

Board Member Votes

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

The motion carried.

10. Consideration and possible action on the request to adjust the hourly rate of compensation for occupational therapy advanced practice reviewers.

President Pavlovich opened the floor for Board discussion regarding the public request that expert reviewers should receive a wage increase.

Board member Denise Miller asked for comparables from other boards/bureaus because the argument submitted by the public commenter compared wages gained for treating patients to the task of reviewing enforcement cases and advance practice courses.

President Pavlovich agreed and stated that she felt that the wages were generous at \$75 an hour and should not be compared to patient care.

Board Member Richard Bookwalter stated that as a Board Member he is a steward of the profession and he and his fellow Board Members receive a much lower wage than that of a reviewer. He also said that considering the Board's need to raise fees that it would seem tone deaf to increase Expert Reviewer wages at the present time.

Secretary Lynna Do agreed that seeing what other boards pay their experts would be helpful.

President Pavlovich asked Board staff to gather the data from similar healthcare boards, including Physical Therapy and Speech, and bring the information to the November meeting.

Public Comment

There was no public comment.

11. Consideration and possible action on determining the appropriate number of occupational therapy students that could be supervised by an occupational therapist (OT) who is concurrently supervising occupational therapy assistants.

Executive Officer Heather Martin stated that there is not a provision that determines how many students can be supervised at one time. Ms. Martin provided historical information surrounding a complaint that included 16 students being supervised by one OT and when questioned about this, the OT's attorney opined that since the Occupational Therapy Practice Act was silent on the matter, it was up to the individual practitioner to decide how many students they could safely supervise.

The Board Members agreed that supervising 16 students was not reasonable for consumer safety and that language needed to be developed.

President Pavlovich asked Board staff to find out what supervision ratios other Boards are using for aides, students, and Capstone students if they have them and bring the topic back to a future meeting.

Public Comment

There was no public comment.

Friday, August 19, 2022

9:30 am - Board Meeting

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

The meeting was called to order at 9:36 a.m., Secretary Lynna Do called roll, all Board Members were present except for Hector Cabrera. A quorum was established.

13. President's Remarks – Informational only; no Board Action to be taken.

President Sharon Pavlovich reminded all in attendance that the Board would be addressing agenda items 6-10 because agenda items 17-23 were addressed the previous day.

Ms. Pavlovich reported that a proper introduction of the newest Board Member Hector Cabrera would take place at the first board meeting he would be able to attend.

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

There were no Board Member remarks.

15. Public Comment for items not on the agenda.

Items 17-23 were addressed on Day One.

16. Discussion and possible action on increasing fees and establishing new fee to ensure the future fiscal solvency of the Board's fund.

Executive Officer Heather Martin reviewed the included example of Business and Professions Code Section 2570.16 which shows what the language would look like if the Board agreed to the fee increases and new fees proposed by the ad Hoc Budget committee.

Board Member Richard Bookwalter pointed out that the removal of the first three lines of language in that section is from the year 2000 when the renewal fee was \$150 per year which would equal \$300 over a two-year period. He pointed out that licensees pay less than that now and 22 years later the Board is looking to exceed the amount charged at the inception of the Board. Mr. Bookwalter voiced his support for making the inactive fee half of the renewal fee or even less since the people that would use this status would not be working in California and may decide that they would leave the profession in California altogether if the inactive fee was too high.

President Pavlovich thanked Mr. Bookwalter for that reminder and said that the Board has done a good job in being able to hold off for 22 years before increasing the fee established in 2000. She also voiced her concern regarding the inactive fee being too high of a price for someone who is unemployed.

Board Members Lynna Do and Denise Miller agreed that the inactive fee should be half of the renewal fee.

Vice President Beata Morcos voiced her support for a \$100 Retirement application fee. Mr. Bookwalter agreed with the \$100 Retirement application fee as well.

The Board had a robust discussion on how to implement B&P Section 2570.16(p) establishing a fee for Probation Monitoring. Executive Officer Heather Martin presented sample statutory language. One option would be to establish authority to charge a licensee a probation monitoring fee and the Board would need to determine the fee to be included in the language. The other option could be to the establish the authority in statute and specify the amount to be charged and the frequency in regulation.

Board Members Miller, Bookwalter and Do agreed that establishing the authority in statute and specify the amount of the probation monitoring fee in regulation.

Ms. Miller added that specifying the language in regulation allows the Board the most discretion.

- Denise Miller moved to approve the statutory language presented and specify the probation monitoring fee in regulation.
- Beata Morcos seconded the motion.

Public Comment

There was no public comment.

Board Member Votes

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

The motion carried.

- Denise Miller moved to adopt the language specific to the renewal fee for the inactive license renewal and allow the Executive Officer to make non-substantive changes.
- Richard Bookwalter seconded the motion.

Public Comment

There was no public comment.

Board Member Votes

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

The motion carried.

- Richard Bookwalter moved to approve the proposed statutory language drafted for Agenda Item 17, allow the Executive Officer to make non-substantive changes and pursue an author for the fee bill.
- Beata Morcos seconded the motion.

Public Comment

There was no public comment.

Board Member Votes

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

The motion carried.

- Richard Bookwalter moved to approve the changes proposed in Section 4130 as presented including the \$250 occupational therapist limited permit fee and the \$150 occupational therapy assistant limited permit fee, to authorize the Executive Officer to make non-substantive changes and approve the language for noticing.
- Beata Morcos seconded the motion.

Public Comment

There was no public comment.

Board Member Votes

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

The motion carried.

President Pavlovich acknowledged and expressed her gratitude for the letter from OTAC surrounding the license fee increase.

Mr. Bookwalter stated that it was a good letter from OTAC, and he wished to address their comment regarding wanting to ensure that all other avenues were exhausted before the fee increase was implemented. Mr. Bookwalter stated that the Board continued to endure increases in the Enforcement area, including the Office of the Attorney General (AGO) costs and court reporter charges, and an increase to the charges paid to DCA. He reminded the Board that staff endured many years of low staffing levels to ensure large cost savings that have helped to keep the Board solvent.

Mr. Bookwalter felt that since these same facts were supplied in writing and verbally at multiple meetings that it was fair to say that all other avenues have been exhausted.

Ms. Miller agreed with Mr. Bookwalter's comments and expressed her understanding that it is OTAC's job to reiterate their position on behalf of the profession, and although she was initially against an increase, following a review of the data and her participation along with Ms. Do on the ad Hoc Budget committee she acknowledged that the increases suggested by the committee are fair and equitable.

Ms. Do also expressed her appreciation for OTAC's letter but stands by her decision to ensure there is sufficient monetary reserves to ensure the Board's sustainability and its ability to protect the public.

President Pavlovich expressed her appreciation for the insight supplied by her fellow Board Members and agreed with their positions.

17. Discussion and possible action on taking steps to join the Occupational Therapy Licensure Compact.

Executive Officer Heather Martin informed the Board that Dan Logsdon, Director, National Center for Interstate Compacts attended a 'Brown Bag' discussion held by DCA to report to DCA Executive Office personnel and the Board/Bureau leadership as to why Licensure Compacts are needed. Following the 'Brown Bag' discussion, DCA sent out a Survey Monkey to the Board/Bureau leadership asking for input regarding participation in Licensure Compacts.

The consensus of the Board was to wait for direction from DCA before taking a position.

Ms. Martin informed the Board that the Nursing and Physical Therapy compact bills were dead.

Public Comment

Kristin Neville, State Affairs Manager at American Occupational Therapy Association (AOTA) expressed her appreciation for this Licensure Compact being placed on the Board Meeting agenda. Ms. Neville reported that there were 22 states participating in the Occupational Therapy compact. She clarified that if California chose to participate that legislation would be required and that AOTA could provide a copy of what this legislation looked like. In closing Ms. Neville informed the Board that if they had any questions regarding the compact that she would be happy to assist.

President Pavlovich thanked Ms. Neville and asked her to send a copy of the legislation to Executive Officer Heather Martin.

18. Discussion and consideration of talking a position on:
a) Assembly Bill 2671 (Assembly Committee on Business and Professions):
Occupational therapy

Ms. Martin explained that the Board's request to be added to the exemption and not be required to obtain a certificate of registration to render services as a corporation has been added. Ms. Martin stated that any other requested edits to the bill would have to be requested in a future bill.

The Board agreed that they were grateful that their most important request was honored.

Public Comment

There was no public comment.

- b) Senate Bill 1237 (Newman), Licenses: military service.

The Board members agreed to continue watching SB 1237 because the bill benefits military families and the Board supports that.

Public Comment

There was no public comment.

- 19. Report on Chaptered Legislation.

Executive Officer Heather Martin reported that SB 189 was chaptered June 30, 2022, and it authorized until July 1, 2023, the suspension of certain requirements contained in the existing law, including the requirement that each teleconference location be published and accessible to the public.

Public Comment

There was no public comment.

- 20. Executive Officer's Report.

- a) Operational report.

Ms. Martin reported that the Board's Enforcement Manager position had not yet been filled but a Retired Annuitant (RA) was hired to assist in the review and closure of cases, and he would work with Board staff until September 9, 2022, with a possible return date of January 2023. She stated two additional RAs were approved for hiring to assist with Licensing and Administration duties and that one started on August 15th and she hoped the second RA would start in September or October.

Ms. Martin stated that DCA put together policy and procedures regarding the Asset Management Audit process, and they would be shared with the Board at the November meeting.

Ms. Martin informed the Board that staff contacted all occupational therapy and occupational therapy assistant programs to find one willing to host the November Board Meeting and staff had a couple of leads.

Ms. Martin reported that an Invitation for Bid package was submitted on July 19th and the scope of work was expanded to ensure sufficient data was collected.

Lastly, Ms. Martin shared that the top five expenditures for the current year and past three fiscal years were provided as requested.

President Pavlovich thanked Ms. Martin for the time she spent gathering the data and presenting the top five expenditures since it was a highly sought-after report.

Public Comment

There was no public comment

b) Fiscal Year 2021-22, Month 12 Revenue and Expenditure reports.

Ms. Martin reviewed all the provided revenue and expenditure reports. She reported that fiscal month (FM) 11 was included in the mailed meeting materials and FM 12 was provided in her report due to receiving the data following the production of meeting materials.

Current year revenue earned through FM 11 was \$2,782,853 and FM 12 was \$2,853,313.

Current year expenditures through FM 11 were \$2,590,586 and FM 12 was \$2,778,338.

Public Comment

There was no public comment

c) Licensing data for 4/1/2022 – 6/30/2022.

Ms. Martin reviewed the included Licensing data report.

President Pavlovich asked for staff to follow up with NBCOT to confirm the examination pass rates and report back at the next meeting.

Public Comment

There was no public comment

d) Enforcement data for 4/1/2022 – 6/30/2022.

Ms. Martin reviewed the included Enforcement data reports including:

- Cases/Complaint data.
- Citations issued to OTs.
- Citations issued to OTAs.
- Details on cases pending at the AGO and Final Decisions.
- Listing of current probationers.

Ms. Pavlovich requested that staff include the Citation and Fine (C/F) log data as a part of the OTAC conference presentation.

Ms. Martin stated that from an outreach perspective it is widely believed that an Address Change violation is petty, however, it is very common that an address change violation leads to a renewal deficiency or a continuing competency audit. This often leads to a citation with an order of abatement being issued. Failing to satisfy the abatement order ultimately ends with the case being transmitted to the AGO for preparation of an accusation seeking revocation of licensure.

President Pavlovich agreed and noted that it is helpful to show students examples and let them know where to look for that data.

Public Comment

There was no public comment

e) Future Agenda Items.

The Board prioritized future agenda items to be addressed at the November Board meeting, time permitting:

(Agenda prioritization to be decided by Board President)

- Invite representative from the Accreditation Council for Occupational Therapy Education to discuss the 2018 Standards regarding entry-level and post professional programs and the effect on consumer safety.
- Discuss Mail Vote policy on Disciplinary matters as not being optimal as they pertain to the “discharge of Board duties.”
- Discuss the potential to cost share with OT programs for the ‘employer’ fieldwork letter.
- Asset Management Process Audit report.
- Keep Fee Study as a standing item for continued updates.
- Develop FAQs to explain revenue and expenditures to licensees in a narrative format to explain the data that pertains to the public comments.
- Discuss and decide on methods of education and outreach for the fee increase.
- Provide a report detailing:
 - Explain why fee increase needed
 - Identify expenditures by program area
 - Identify salary savings
 - Develop outreach plan to educate licensees (why fee increases needed)

Public Comment

There was no public comment

f) Other informational items (no Board action can be taken)

There were no other information items discussed.

Public Comment

There was no public comment

21. New suggested agenda items for a future meeting.

Ms. Miller asked that the Board consider partnering with OTAC and AOTA to speak on OT roles in sleep deprivation and other emerging practice areas.

22. Selection of 2023 meeting dates.

Most of the Board commented that they preferred to hold in-person meetings rather than via WebEx.

The 2023 meeting dates were chosen but are subject to change:

February 9-10, 2023

May 18-19, 2023
August 24-25, 2023
November 16-17, 2023

President Pavlovich thanked CSU Dominguez Hills for their hospitality and willingness to partner with the Board and thanked everyone in attendance for being a valuable part of the process.

She informed the audience that the Board would take a break and then convene in Closed Session to discuss disciplinary matters and return to open session only to immediately adjourn the meeting.

Closed Session.

The Board entered closed session at approximately 3:30 p.m.

Open Session.

The Board entered open session at 4:14 p.m.

Adjournment.

The Board adjourned at 4:14 p.m.