

## **AGENDA ITEM 5**

**REVIEW AND VOTE ON APPROVAL OF THE REVISED MAY 2-3,  
2024, BOARD MEETING MINUTES.**



**\*\*DRAFT\*\***

## **BOARD MEETING MINUTES**

**May 2-3, 2024**

**Department of Consumer Affairs  
First Floor Hearing Room  
1625 North Market Blvd., Sacramento, CA 95834**

### **Board Members Present**

Richard Bookwalter – Board President  
Beata Morcos – Board Vice President  
Lynna Do – Board Secretary  
Hector Cabrera  
Denise Miller  
Sharon Pavlovich  
Christine Wietlisbach

### **Board Staff Present**

Heather Martin – Executive Officer  
Jody Quesada Novey - Manager  
Helen Geoffroy – Board Attorney  
Rachael Hutchison - Analyst  
Austin Porter - Analyst

**Thursday, May 2, 2024  
9:00 am - Board Meeting**

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

The meeting was called to order at 9:08 a.m. Vice President Beata Morcos called roll and a quorum was established.

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

Board President Richard Bookwalter thanked the Department of Consumer Affairs (DCA) for hosting the meeting. Mr. Bookwalter also thanked Board staff and Cesar Victoria, the Television Specialist, for their work.

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

Board Member Denise Miller greeted the audience and announced that she recently had the opportunity to present at California State University, Dominguez Hills. Ms. Miller spoke to students about the occupational therapy profession and how to avoid common violations pertaining to practice.

#### **4. Public Comment for Items Not on the Agenda.**

Jeff Hanson, the Board's Retired Annuitant Staff Services Manager I, chose to introduce himself.

Ada Boone Hoerl, OTA, Professor and Occupational Therapy Assistant (OTA) Program Coordinator at Sacramento City College (SCC), chose to introduce herself.

Torri, Doctoral Student at the University of the Pacific (UOP), chose to introduce herself.

Shaun Conway, Vice President, Regulatory Affairs at the National Board for Certification in Occupational Therapy (NBCOT), introduced himself.

#### **5. Presentation by the National Board for Certification in Occupational Therapy (NBCOT). Topics include but are not limited to, the NBCOT Ambassador Program, the Occupational Therapy Licensure Compact, national licensure examinations; a question-and-answer session will follow.**

Shaun Conway, Vice President, Regulatory Affairs at NBCOT, announced that NBCOT periodically reaches out to all Occupational Therapy Boards throughout the country to share information in effort to provide the most current and accurate information to help everyone make educated and informed decisions.

Francielle Pineda, Assistant Director, External and Regulatory Affairs at NBCOT, discussed the Licensure Compact, which is a joint initiative with AOTA, noting that significant progress had been made in recent months.

Ms. Pineda provided an extensive presentation regarding the examination for licensure that included information on how NBCOT chose the content for the exams. Ms. Pineda also talked about exam scoring, cheating, and NBCOT's copyright law.

Mr. Bookwalter thanked Mr. Conway and Ms. Pineda for their presentation.

A brief discussion regarding NBCOT's disciplinary process ensued. Board Secretary Lynna Do requested that Board staff acquire a list of practitioners that had their certification revoked by NBCOT.

Board Member Denise Miller asked whether practitioners would be required to have NBCOT certification in the future.

Mr. Conway replied that NBCOT is not a requirement, however, South Carolina was a state that did require their licensees to be certified by NBCOT to practice. Individuals must take the NBCOT Certification exam because all states have that requirement.

Ms. Miller and Ms. Do suggested that Board staff research the number of PDU violations that occurred in South Carolina to determine if the Board should consider making the NBCOT certification a requirement.

**Public Comment**

Ada Boone Hoerl, OTA, Professor and OTA Program Coordinator at SCC expressed her concern for the practitioners who were not registered with NBCOT, if it were to become a requirement for the Board.

Mr. Conway replied that there was not a grandfather clause in the new policy. The policy would be effective January 1, 2027, for new applicants.

There were no additional Board member remarks.  
There were no additional public comments.

**6. Review and vote on approval of the February 8-9, 2024, Board meeting minutes.**

- Lynna Do moved to accept the February 8-9, 2024, Board meeting minutes and directed staff to make non-substantive changes.
- Denise Miller seconded the motion.

**Board Member Vote**

Richard Bookwalter	Yes
Hector Cabrera	Yes
Sharon Pavlovich	Yes
Christine Wietlisbach	Yes
Lynna Do	Yes
Beata Morcos	Yes
Denise Miller	Yes

The motion carried.

**7. Open Meeting Act Requirements as of January 1, 2024.**

The Board’s Attorney, Helen Geoffroy, announced that effective January 1, 2024, the legislature adopted new rules to permit virtual meetings that also met the requirements of the public’s ability to access their government representatives.

Under the new rules, the Board may meet in person with a quorum physically present and additional members beyond the quorum may meet virtually without noticing a location. If there is a situation either in person or virtually where there is less than a quorum, the location of the virtual members must be noticed and accessible. If a member failed to appear at a physical location as noticed, the meeting may be cancelled. If a Board Member requested to appear from their home and there wasn’t a quorum present at one physical location, that member must post their home address and provide an accessible location to host the public within their home. Alternately, Committee members could attend in any combination of in-person and virtual. Both Board and Committee members are required to be on camera at all times.

Board Secretary Do noted that the Board’s options to provide virtual capabilities were very limited.

Ms. Geoffroy replied some Boards bring their own equipment to meetings to make virtual attendance possible.

### **Public Comment**

Ms. Boone Hoerl, expressed her appreciation of the Board's efforts towards making their meetings more accessible to the public.

There were no additional Board member remarks.

There were no additional public comments.

### **8. President Announcement of Committee Appointments.**

Mr. Bookwalter announced that Kersten Laughlin agreed to serve on the Legislative and Regulatory Affairs Committee and Ada Boone Hoerl was appointed to the Ad Hoc on Supervision Standards Committee.

Candace Chatman and Penny Stack were appointed to serve on the Education and Outreach Committee.

Vice President Beata Morcos and Board Member Christine Wietlisbach were appointed to serve on the Search Committee for the new Executive Officer.

There were no additional Board member remarks.

There were no public comments.

### **9. Practice Committee update.**

Chair/Board Member Christine Wietlisbach announced that the Board received an inquiry from the public asking if approval in hand therapy was required to treat carpal tunnel syndrome, repetitive motion injuries, or pain that was not due to an injury or surgery.

The Practice Committee met on March 1, 2024, and discussed the existing language in the Board's laws. The committee had a robust conversation about carpal tunnel syndrome which was not always developed as a result of an injury.

The Practice Committee's recommendation to the Board was to respond to the author that the Board does have language in their laws, however, the Board cannot provide an all-encompassing answer. Board staff should add that determining if hand therapy approval was necessary to treat patients with carpal tunnel syndrome depended on the etiology of the problem and that the author should refer to the Board's laws and regulations.

Mr. Bookwalter suggested that when a similar request is made, Board staff could provide licensees with a pathway for hand therapy approval by sharing that an occupational therapist in the process of achieving the education, training, and competency requirements established by the board for providing hand therapy may practice these techniques under the supervision of an occupational therapist who has already met the requirements.

Ms. Wietlisbach agreed with Mr. Bookwalter and added that practitioners could also be supervised by a physical therapist, physician or surgeon.

Board Member Sharon Pavlovich agreed with the committee’s recommendation to the Board.

The Board agreed to direct staff to repeat the existing law to the author and to provide them with the information necessary to seek Board approval for hand therapy.

There were no additional Board member remarks.  
There were no public comments.

Ms. Wietlisbach noted that the next item to discuss was the Practice Committee Meeting Minutes from October 13, 2023.

- Denise Miller moved to accept the October 13, 2023, Practice Committee Meeting Minutes and directed staff to make non-substantive changes.
- Lynna Do seconded the motion.

There were no additional Board member remarks.  
There were no public comments.

**Board Member Vote**

Richard Bookwalter	Yes
Hector Cabrera	Yes
Sharon Pavlovich	Yes
Christine Wietlisbach	Yes
Lynna Do	Yes
Beata Morcos	Yes
Denise Miller	Yes

The motion carried.

**10. Ad hoc Committee on Disaster Preparedness and Response update.**

President/Chair Richard Bookwalter announced that the Disaster Preparedness and Response Committee had met twice since the February 2024 Board meeting.

The Committee members had a brainstorming session to generate and document ideas about how the Board could contribute to disaster preparedness and response.

Mr. Bookwalter recapped the Committee’s recommendations to the Board, which included:

- Consideration of requiring Professional Development Units (PDU) related to disaster preparedness, response, and recovery.
- Partnering with occupational therapy associations and other organizations to promote the Board’s interest related to disaster preparedness, response, and recovery for practitioners.
- Direct Board staff to get occupational therapy recognized by the Emergency Medical Services Authority (EMSA), the California Health Corps (CAHC), and the California Medical Assistance Team (CAL-MAT) programs and draft a duty statement, if necessary.

- Direct Board staff to draft information for inclusion on the DCA Disaster Help Center webpage.
- Review the National Emergency Medical Services Education Standards.
- Approve a survey aimed at evaluating the licensing population's awareness of disaster preparedness, response, and recovery.

Mr. Bookwalter explained that the second Disaster Preparedness and Response Committee meeting focused on creating a survey and language for the webpage.

The Board members discussed having an introductory statement or cover letter to accompany the survey.

Ms. Miller expressed concern that the proposed survey did not include a question that connected disaster preparedness and response to the consumer. She would like to hear from occupational therapists that were on the front lines during disasters and what they did to assist the consumers.

Board Secretary Lynna Do suggested that the Board add questions about occupational therapists who worked on the front lines to the survey in the beginning. Ms. Do recommended asking for names and contact information from the surveys especially from those that had worked on the front lines, the Board could then follow up with those practitioners at a later time to get additional information.

Ms. Miller agreed with Ms. Do's suggestion and added that the survey could ask if the practitioner had ever worked with a patient that had experienced a disaster.

Board Member Hector Cabrera recommended asking licensees if they felt there were bilingual services available for those who were not English speaking.

Ms. Do suggested using the language, "have you experienced any barriers to service in regard to disaster planning and mitigation for example, language, social, or financial barriers?"

Mr. Bookwalter summarized the edits for Board staff as follows:

- Update the opening paragraph of the survey to include an introductory statement.
- Add a comment field to question #1 where the licensee could provide contact information if they have worked with patients who went through a natural disaster.
- Add mental health to question #3.
- Add a comment field to question #7 that asks what kind of education was required.
- Add question #9 which will ask, "have you experienced any barriers to service in regard to disaster planning and mitigation for example, language, social, or financial barriers?"
- Add question #10 which will ask, "do you have anything you would like to add?"

Mr. Bookwalter steered the discussion to the proposed website page. He suggested that Board staff could create two pages, one for the consumer and one for the practitioner. He provided an overview of what information the committee recommended to include on the webpages.

The Board members agreed with the recommendations made by the Ad Hoc Committee on Disaster Preparedness and Response including accepting the February 8, 2024, meeting minutes.

- Denise Miller moved to accept the February 8, 2024, Ad Hoc Committee on Disaster Preparedness and Response Meeting Minutes and the April 10, 2024, Ad Hoc Committee on Disaster Preparedness and Response Meeting Minutes and directed staff to make non-substantive changes. Additionally, Ms. Miller moved to direct staff to make the recommended changes to the survey as presented and to further develop the consumer and practitioner webpages.
- Beata Morcos seconded the motion.

There were no additional Board member remarks.

There were no public comments.

**Board Member Vote**

Richard Bookwalter	Yes
Hector Cabrera	Yes
Sharon Pavlovich	Yes
Christine Wietlisbach	Yes
Lynna Do	Yes
Beata Morcos	Yes
Denise Miller	Yes

The motion carried.

**11. Ad hoc Committee on Supervision Standards update.**

*This agenda item was discussed on May 3, 2024.*

Chair/Board Member Denise Miller announced that there is representation from all academic areas in the Supervision Standards Committee and encouraged the public to send letters with suggestions and solutions.

Ms. Miller stated that when California Code of Regulations (CCR) Section 4181 was discussed the committee had a very distinguished panel that resulted in a robust conversation to get to the proposed numbers.

Ms. Pavlovich agreed.

Ms. Miller noted that there were concerns about circumstances in which the doctoral capstone student who was supervising students was not from a doctoral occupational therapy program that was accredited by the Accreditation Council for Occupational Therapy Education (ACOTE).

It was pointed out that although a student requires mentorship to complete their post professional capstone, they do require supervision of their practice. However, a student



completing an entry-level doctoral capstone would need supervision similar to a student completing their fieldwork, a limited permit holder, or an occupational therapy assistant.

Ms. Miller summarized what the next steps for Supervision Standards Committee would look like moving forward which included: looking at literature and statistics to see if the proposed ratios were justified; consulting with a representative from ACOTE and inviting them to a committee meeting; researching what the majority of the states were doing and how they look at the ratios; asking the educators to attend another committee meeting to continue the discussion; discussing how “at any one time” is defined; and conducting a survey to find out what other states are doing in regard to supervision limitations.

### **Public Comment**

Ada Boone Hoerl, Ad Hoc Supervision Standards Committee member, expressed her gratitude to the Board for their diligence and support of this topic.

Dr. Penny Stack, Ad Hoc Supervision Standards Committee member, added that capstone coordinator academia was considered professional practice.

Vice President Beata Morcos expressed that she was looking forward to having an ACOTE representative attend a meeting.

There were no additional Board member remarks.

There were no additional public comments.

**2:00 P.M.**

### **Hearing – Bonnie Kennedy, Petition for Reinstatement COVENE CLOSED SESSION**

The Board convened in Closed Session at 3:00 p.m.

### **OPEN SESSION**

The Board convened in Open Session at 3:52 p.m.

### **ADJOURNMENT**

The Board meeting adjourned at 3:52 p.m.

## **Friday, May 3, 2024**

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

The meeting was called to order at 9:20 a.m., Secretary Lynna Do called roll and a quorum was established.

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

President Bookwalter welcomed everyone in attendance and noted that Executive Officer Heather Martin and Board Member Sharon Pavlovich were attending virtually.

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

Board Member Denise Miller announced that she attended the American Occupational Therapy Association's (AOTA) 2024 Annual Conference & Expo in Orlando, Florida. Ms. Miller was pleased with the quality of the presentations and the enthusiasm of the new practitioners.

There were no additional Board member remarks.  
There were no public comments.

### **15. Public Comment for Items Not on the Agenda.**

Ada Boone Hoerl, OTA, Professor and OTA Program Coordinator at SCC, chose to introduce herself.

Dr. Penny Stack, Assistant Professor Loma Linda University, chose to introduce herself.

There were no Board member remarks.  
There were no additional public comments.

### **16. Updates from DCA.**

Melissa Gear, Deputy Director Board and Bureau Relations at DCA, introduced herself. Ms. Gear thanked the Board and Board staff for their service as DCA commemorated Public Service Recognition Week. Ms. Gear then provided an extensive overview of upcoming DCA events.

President Bookwalter thanked Ms. Gear for the update.

There were no additional Board member remarks.  
There were no public comments.

### **17. Presentation by DCA's Office of Human Resources on Executive Officer recruitment process and timeline; and announcement of interview date(s).**

Olivia Trejo, Human Resources Chief at DCA Office of Human Resources, introduced herself.

Catherine Bachiller, Appointments and Recruitments Specialist at DCA, introduced herself. Ms. Bachiller provided an overview of the Executive Officer Recruitment process.

During the advertisement period, Ms. Bachiller, or a designee, will work with the Search Committee, composed of two Board members, to determine application screening, interview questions, and potential interview dates. She will provide the Search Committee with applications each Friday on a flow basis. The Search Committee will meet with candidates for an initial interview and selected candidates will have the opportunity to interview in front of the entire Board in Closed Session. The Board members will be required to select the final candidate.

- Richard Bookwalter moved to appoint Christine Wietlisbach and Beata Morcos to the Search Committee for the recruitment of the Executive Officer.
- Hector Cabrera seconded the motion.

There were no additional Board member remarks.  
There were no public comments.

**Board Member Vote**

Richard Bookwalter	Yes
Hector Cabrera	Yes
Sharon Pavlovich	Yes
Christine Wietlisbach	Yes
Lynna Do	Yes
Beata Morcos	Yes
Denise Miller	Yes

The motion carried.

Catherine Bachiller turned the Board's attention to the Duty Statement and Recruitment Announcement for the Executive Officer and asked the Board members if they had any comments.

Board Secretary Lynna Do noted that she would like the announcement to specify in the Functional Requirements on the Duty Statement that equipment would be state issued. Ms. Do felt the language as it stood was misleading. Ms. Trejo was amenable to the recommendation.

Ms. Trejo added that the Board could delegate additional changes to the recruitment documents to the Search Committee to collaborate with Human Resources to finalize the package.

Ms. Martin added that she would provide her recommendations to the Search Committee as well.

- Christine Wietlisbach moved to delegate the review and revision of the Executive Officer's Duty Statement to the Search Committee.
- Lynna Do seconded the motion.

There were no additional Board member remarks.

There were no public comments.

**Board Member Vote**

Richard Bookwalter	Yes
Hector Cabrera	Yes
Sharon Pavlovich	Yes
Christine Wietlisbach	Yes
Lynna Do	Yes
Beata Morcos	Yes
Denise Miller	Yes

The motion carried.

Ms. Bachiller turned the Board's attention to the Recruitment Announcement and asked the Board members if they had any changes, deletions, or additions to the Desired Qualifications portion of the announcement.

Ms. Martin added that the Recruitment Announcement in the Board meeting materials reflects the changes that she had, and she will forward any additional changes she might have to the Search Committee.

- Denise Miller moved to delegate the review and revision of the Executive Officer's Duty Statement to the Search Committee.
- Lynna Do seconded the motion.

There were no additional Board member remarks.

There were no public comments.

**Board Member Vote**

Richard Bookwalter	Yes
Hector Cabrera	Yes
Sharon Pavlovich	Yes
Christine Wietlisbach	Yes
Lynna Do	Yes
Beata Morcos	Yes
Denise Miller	Yes

The motion carried.

Ms. Bachiller moved on to the release of the Recruitment Announcement after the documents have been finalized. The projected release date would be September 1, 2024. The position would be advertised for thirty days. Preliminary interviews would be scheduled for late October or early November, or the Search Committee could work with Human Resources to determine a different release date.

- Lynna Do moved to delegate the determination of the release date of the recruitment Announcement to the Search Committee.
- Denise Miller seconded the motion.

There were no additional Board member remarks.

There were no public comments.

**Board Member Vote**

Richard Bookwalter	Yes
Hector Cabrera	Yes
Sharon Pavlovich	Yes
Christine Wietlisbach	Yes
Lynna Do	Yes
Beata Morcos	Yes
Denise Miller	Yes

The motion carried.

**18. Update to the Board on Method(s) to Determine Whether Treatment(s) Fall Within Scope of Practice (e.g., dry needling).**

President Bookwalter provided background as to why dry needling was on the Board meeting agenda. In the past, Board staff has received inquiries about whether or not dry needling is within the scope of practice. Previously, the Board has delegated the topic to the Practice Committee and to the Board’s attorney to identify areas of law that might be relevant. In 2018, the Executive Officer of the Physical Therapy Board of California proclaimed that dry needling was not within their scope of practice.

Mr. Bookwalter referenced the Acupuncture Board laws regarding dry needling. Practitioners who use dry needles without an acupuncture license may be subject to legal penalties.

The Board’s attorney, Helen Geoffroy, announced that the Board had tasked her with providing legal guidance on forming a solid foundation for determinations on the scope of practice, in general. Ms. Geoffroy explained that a legally supported process for the Board would begin with establishing a publicly accessible formalized scope of practice document that explicitly included dry needling.

The Board’s next step would be to look the statutes and review what the legislature said, if anything, about dry needling or any other act or task. If the law is unclear or if there is some overlap, legal would recommend that the Board meet with overlapping jurisdiction to discuss or the Executive Officers to discuss, etc. Other options include receiving testimony or hold task forces to provide information regarding the scope of practice to present to the Practice Committee.

Ms. Geoffroy, explained that the legislature has defined acupuncture in the Acupuncture Scope of Practice, Business and Professions Code 4927, which defined acupuncture as the stimulation of point or points near the surface of the body by the insertion of needles to prevent or modify the perception of pain or to normalize physiological functions including pain control or treatment of certain diseases or

functions of the body. This definition of acupuncture closely mirrors the definition of dry needling.

The California Acupuncture Board provides that it is a misdemeanor punishable by a fine not less than \$100 and not more than \$2,500 or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment, for any person who does not hold a current and valid license to practice acupuncture under this chapter or to advertise or otherwise represent that he or she is practicing or engaging in the practice of acupuncture.

A robust discussion regarding the difference between dry needling and acupuncture ensued. In conclusion, the Board could seek to change the statute if they wished to include dry needling in the Scope of Practice.

### **Public Comment**

Ms. Boone Hoerl added that the definition provided by Ms. Geoffroy referred to acupuncture as the application of needles near or on the surface of the body is very different than using a needle deeper into the body for myofascial release. This language might be helpful to distinguish between acupuncture and dry needling should the Board wish to add dry needling to the Occupational Therapy Scope of Practice.

Kristen Neville, State Affairs Manager with AOTA, noted that some states have incorporated dry needling into their Practice Act others have gone down the regulatory path. Ms. Neville offered to provide the Board with the information she had gathered regarding dry needling.

Board Member Wietlisbach asked why is it necessary for the California Acupuncture Board to proclaim that dry needling is in their Scope of Practice only, if it is already a misdemeanor to perform an intervention that you are not licensed to do?

Ms. Geoffroy responded that the legislature found the application of a needle is required to have a particular license, that language is in the Acupuncture Practice Act and in the language for Business and Professions Code for all Healing Arts. A practitioner must have one of those licenses to apply a needle to a human being.

Ms. Wietlisbach recommended that the topic of dry needling be removed from the Practice Committee agenda since any Board action would require change at the legislative level.

Ms. Miller agreed with Ms. Wietlisbach and added that she would like Ms. Neville to bring the information she gathered about dry needling to a future meeting for the Board to review. Ms. Miller noted that courses that teach occupational therapists to use dry needles are offered; hopefully, the associations will formulate legislation in California that will align with what the practitioners are being trained to do.

Secretary Do added that her research indicated that the associations were in support of the use of dry needles in the occupational therapists' scope of practice. The associations need to be the driving force for the legislation. The Board needs to know if enough occupational therapy practitioners were using dry needles to consider endorsing the lengthy legislative process of adding it to the scope of practice.

Vice President Beata Morcos agreed with Ms. Miller's and Ms. Do's comments. Ms. Morcos added that if occupational therapy practitioners received the advanced training

offered for dry needling, then the Board should support legislation to be brought forth to add it to the scope of practice.

President Bookwalter summarized the robust discussion. The Board will remove dry needling from the Practice Committee tasks. Mr. Bookwalter added that if a consumer asked Board staff if dry needling was within the scope of occupational therapy, staff would respond that the Board does not have clear statutory authority to practice dry needling and clear statutory authority would be required in California. Board staff could consider creating a template response for the inquires they receive or post language on the Board's website to provide information to both licensees and consumers regarding dry needling.

There were no additional Board member remarks.

There were no additional public comments.

**19. Legislative and Regulatory Affairs Committee update and recommended positions on the following:**

a) Bills introduced in 2024:

i. AB 1991 (Bonta), Licensee and registrant records.

The Board agreed to **watch** AB 1991.

ii. AB 2269 (Flora), Board membership qualifications: public members.

- Sharon Pavlovich moved to support AB 2269 and directed Board staff to write a letter of support to the author.
- Denise Miller seconded the motion.

There were no additional Board member remarks.

There were no additional public comments.

**Board Member Vote**

Richard Bookwalter	Yes
Hector Cabrera	Yes
Sharon Pavlovich	Yes
Christine Wietlisbach	Yes
Lynna Do	Yes
Beata Morcos	Yes
Denise Miller	Yes

The motion carried.

iii. AB 2442 (Zbur), Healing Arts: expedited licensure process: gender-affirming health care and gender-affirming mental health care.

The Board agreed to **watch** AB 2442.

iv. AB 2725 (Rubio and Muratsuchi), Teacher credentialing: occupational and physical therapists.

- Christine Wietlisbach moved to support AB 2725 and directed staff to write a letter in support to the author.
- Sharon Pavlovich seconded the motion.

There were no additional Board member remarks.

There were no additional public comments.

**Board Member Vote**

Richard Bookwalter	Yes
Hector Cabrera	Yes
Sharon Pavlovich	Yes
Christine Wietlisbach	Yes
Lynna Do	Yes
Beata Morcos	Yes
Denise Miller	Yes

The motion carried.

v. AB 2753 (Ortega), Rehabilitative and habilitative services: durable medical equipment and services.

The Board agreed to **watch** AB 2753.

vi. AB 2862 (Gipson), Licenses: African American applicants.

The Board agreed to **watch** AB 2862.

vii. AB 3127 (McKinnor), Reporting of crimes: mandated reporters.

The Board agreed to **watch** AB 3127.

viii. AB 3137 (Flora), Department of Consumer Affairs.

The Board agreed to **remove** AB 3137 from the list of bills to track.

ix. Senate Bill (SB) 1067 (Smallwood-Cuevas), Healing arts: expedited licensure process: medically underserved area or population.

The Board agreed to **watch** SB 1067.

x. SB 1290 (Roth), Health care coverage: essential health benefits.

The Board agreed to **watch** SB 1290.

xi. SB 1468 (Ochoa Bogh), Healing Arts boards: Information and Educational

The Board agreed to **remove** SB 1468 from the list of bills to track.



xii. Materials for Prescribers of Narcotics: Federal “Three Day Rule.”

b) Bills introduced in 2023:

i. AB 796 (Weber), Athletic trainers.

President Bookwalter announced that Nick Harvey, Governmental Affairs Committee Chair for the California Athletic Trainers Association (CATA), was in attendance to join the Board’s discussion regarding AB 796.

Mr. Harvey introduced himself and noted that David Gonzalez, lobbyist with Gonzalez Government Consulting, was also in attendance.

Mr. Gonzalez introduced himself and added that he felt that CATA was still a good fit with the Board. They will be meeting in front of the Senate Business, Professions and Economic Development Committee in the next month or two and attended the Board meeting to answer any questions the Board might have.

Mr. Harvey stated that establishing licensure in California is a very difficult process and CATA needs guidance from an established Board.

Mr. Gonzalez added that the athletic trainers would have their own Executive Officer and Board. California is the only remaining jurisdiction without a registration for licensure and regulation of the athletic trainers.

A robust discussion ensued wherein the Board members shared their concerns with Mr. Harvey and Mr. Gonzalez who ensured that the Board would be protected and not take on any burdens and that the new language would incorporate the Board’s previous recommendations.

Mr. Gonzalez thanked the Board for inviting them to speak on AB 796.

**Public Comment**

“GK” commented that he was not in support of the athletic trainers coming underneath the Board. In his opinion there would be a conflict of interest. GK understood that occupational therapists cannot do dry needling, however, athletic trainers can. Also, GK asked why the athletic trainers did not try to join under the California State Athletic Commission?

Mr. Gonzales responded that the athletic trainers are open to being under this Board or any regulatory authority including the California State Athletic Commission.

There were no additional Board members remarks.  
There were no additional public comments.

ii. AB 1028 (McKinnor), Reporting of crimes: mandated reporters.

The Board agreed to **remove** AB 1028 from the list of bills to track.

There were no additional Board members remarks.  
There were no additional public comments.

**20. Discussion and possible action on amending Business and Professions Code Sections 2570.18, 2570.19, and 2570.32.**

President Bookwalter asked the Board members to refer to their meeting materials and invited Ms. Martin to introduce the agenda item.

Executive Heather Martin summarized the proposed amendments for amending Business and Professions Code Section 2570.18, which included changing a gender reference to “they” and new language regarding educators.

Ms. Pavlovich expressed her appreciation for Ms. Martin’s work on the proposed language.

**Public Comment**

Ada Boone Hoerl, OTA, Professor and OTA Program Coordinator at SCC, noted that some occupational therapy assistants do serve as educators in education programs if they have higher education.

Ms. Martin thanked Ms. Hoerl for her comment. She agreed and recommended that the second sentence in subsection (h), “the licensure requirement also applies to an occupational therapist that is serving as an educator in an education program for occupational therapy assistants in California” should also appear in subsection (i) and replace “occupation therapist” with “occupational therapy assistant.”

The Board members agreed with the recommendations.

- Christine Wietlisbach moved to approve the proposed language to amend Business and Professions Code Sections 2570.18 which references a licensee’s gender and educators as presented and directed staff to submit the text and other required documents to the Director of DCA and the Business, Consumer Services, and Housing Agency for review, take all steps necessary to initiate the rulemaking process, and set the matter for hearing, if requested.
- Hector Cabrera seconded the motion.

There were no additional Board members remarks.

There were no additional public comments.

**Board Member Vote**

Richard Bookwalter	Yes
Hector Cabrera	Yes
Sharon Pavlovich	Yes
Christine Wietlisbach	Yes
Lynna Do	Yes
Beata Morcos	Yes
Denise Miller	Yes

The motion carried.

The Board's next discussion was concerning Business and Professions Code 2570.19.

Ms. Martin suggested for Business and Professions Code 2570.19(k), "this section shall remain in effect only until January 1, 2027," that the Board change the year to 2028 because the Board had previously discussed pushing out the Sunset Review Report.

In reference to BPC Code 2570.19(g), "the board shall meet and hold at least one regular meeting annually in the Cities of Sacramento, Los Angeles, and San Francisco," Ms. Martin recommended that the Board either propose new language today or the Board can discuss this at the August Board Meeting and pursue a legislative proposal in January of 2025.

Mr. Bookwalter added that those cities do not offer affordable accommodations for meeting locations.

Ms. Wietlisbach replied that the Board could also utilize Webex for meetings.

Ms. Miller suggested changing "cities" to "counties."

Secretary Do suggested specifying southern and northern California instead of specific cities.

Ms. Martin suggested removing the word "annually." Adding Webex in the language might be difficult because there must be a quorum present at one location, otherwise, Board members would be required to provide the address at which they were attending virtually to the public.

The Board's attorney, Helen Geoffroy, added that other Practice Acts have used the language, "meetings shall be held in northern and southern California." Further, there is an ability to have a quorum in one location and then an open meeting location at an opposite location.

Mr. Bookwalter and Ms. Miller liked Ms. Geoffroy's recommended language.

- Richard Bookwalter moved to approve the proposed language to amend Business and Professions Code Section 2570.19 (g) which references specific meeting locations to be updated to, "the board shall meet at least three times a year, meeting at least once each calendar year in northern California and once each calendar year in southern California" and directed staff to submit the text and other required documents to the Director of DCA and the Business, Consumer Services, and Housing Agency for review, take all steps necessary to initiate the rulemaking process, and set the matter for hearing, if requested.
- Christine Wietlisbach seconded the motion.

There were no additional Board members remarks.  
There were no public comments.

**Board Member Vote**

Richard Bookwalter	Yes
Hector Cabrera	Yes
Sharon Pavlovich	Yes
Christine Wietlisbach	Yes
Lynna Do	Yes
Beata Morcos	Yes
Denise Miller	No

The motion carried.

The Board’s final discussion for that agenda item pertained to Business and Professions Code 2570.32.

Ms. Martin shared her recommendation to change 2570.32(b) to add the requirements of a completed form and a fee. In addition, she recommended adding, “the fee to petition for reinstatement and reduction or termination of probation, shall be established in regulation, and shall not exceed the cost to the board.”

Next, Ms. Martin suggested that the Board remove the current language in 2570.32(c) and replace it with, “the board shall give notice to the Attorney General of the filing of the petition and the Attorney General and the petitioner shall be given an opportunity to present either oral or written argument before the board. The board itself shall decide the petition, and the decision shall include the reasons therefor, and may impose any terms and conditions that the board reasonably deems appropriate.” Section 2570.32(f) would need to be changed to “(d)” and 2570.32(g) would need to be changed to “(e).”

Ms. Geoffroy added that the Board’s Practice Act was adopted with a strict method in order to hear petitions before the Board. She noted that the Board’s requirements were stricter than those in the Administrative Procedure Act Section 11522, “..... The agency shall give notice to the Attorney General of the filing of the petition and the Attorney General and the petitioner shall be afforded an opportunity to present either oral or written argument before the agency itself. The agency itself shall decide the petition, and the decision shall include the reasons therefor, and any terms and conditions that the agency reasonably deems appropriate to impose as a condition of reinstatement.”

Ms. Wietlisbach asked Ms. Geoffroy if she knew if any other Boards required petitioners to appear in person?

Ms. Geoffroy replied that there were several Boards that language similar to the Board’s language with that requirement. The proposed language would allow for in person and virtual appearances. The Board would decide the method of the appearance.

President Bookwalter determined that further discussion regarding 2570.32 should be tabled for a future meeting because time was limited.

- 21. Update on communication plan, Frequently Asked Questions, and social media and website messaging, regarding future increases to fees charged by the Board.**

*This agenda item was tabled for the August 2024 Board Meeting.*

**22. Executive Officer's Report.**

The Board members accepted the Executive Officer's Report as presented and agreed to submit any questions or comments they had to Ms. Martin.

**23. Update on facilitator availability for 2025 Strategic Planning session and selection of meeting date(s).**

Ms. Martin noted that in past years, the Board has always had a two-day Strategic Planning session. The meeting dates would be selected at the August 2024 Board Meeting; however, Ms. Martin wanted the Board members to know that she was looking at January 9-10, 23-24, or 30-31.

Ms. Martin added that the goal is to have the new Executive Officer start at the beginning of January as she believed that there was value in having the new Executive Officer be part of the Board's Strategic Planning session.

The Board consensus was to start with dates at the end of January and go backwards until they agreed on a date.

There were no additional Board members remarks.  
There were no public comments.

**24. New suggested agenda items for a future meeting.**

There were no items suggested for a future meeting.

**ADJOURNMENT**

The Board meeting adjourned at 3:52 p.m.

## **AGENDA ITEM 6**

**REVIEW AND VOTE ON APPROVAL OF THE AUGUST 22-23,  
2024, BOARD MEETING MINUTES.**



**\*\*DRAFT\*\***

## **BOARD MEETING MINUTES**

**August 22-23, 2024**

**Stanbridge University  
1450 Iowa Avenue, Therapy Lab 101  
Riverside, CA 92507**

### **Board Members Present**

Richard Bookwalter – Board President  
Beata Morcos – Board Vice President  
Lynna Do – Board Secretary  
Denise Miller  
Sharon Pavlovich  
Christine Wietlisbach

### **Board Staff Present**

Heather Martin – Executive Officer  
Anthony Pane - Attorney  
Helen Geoffroy – Board Attorney  
Charlita Scipio - Office Technician  
Austin Porter - Analyst

### **Board Members Absent**

Hector Cabrera – *Absent* (tech difficulties)

### **Thursday, August 22, 2024**

#### **9:00 am - Board Meeting**

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

The meeting was called to order at 9:09 a.m. Board Secretary Lynna Do called roll and a quorum was established.

Board member Hector Cabrera experienced technical difficulties and was unable to participate in the meeting.

There continued to be a quorum of the Board.

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

Board President Richard Bookwalter thanked all in attendance and Stanbridge University for hosting the Board and expressed his appreciation for the use of their lab that housed a wide range of ‘tools of the trade’ used in occupational therapy (OT).

Mr. Bookwalter welcomed Department of Consumer Affairs (DCA) Attorney Anthony Pane and noted that Attorney Helen Geoffroy would join the meeting during the afternoon.

Mr. Bookwalter spoke of DCA Leadership trainings surrounding how boards/bureaus address questions about practice that are not covered in their Practice Acts, how trauma causes people to violate Practice Act provisions, and how Board Members can avoid triggering further trauma through the disciplinary process. He added a friendly reminder that 'Workplace Violence Prevention' training completion is due August 30, 2024.

Mr. Bookwalter announced that the National Board for Certification in Occupational Therapy (NBCOT) has an OT state regulatory leadership forum online from September 10-11, 2024, which is free to all OT licensing board members. He found the sessions to be very useful.

Lastly, he remarked that agenda item six would be moved to day two because there were updates to the proposed language within this item and the Board members needed time to review.

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

Denise Miller welcomed all to the Stanbridge University campus and stated that she teaches a course on Leadership, Health Policy and Management and it was very nice to be on the brand-new campus.

Secretary Lynna Do apologized for not being present in person but expressed her appreciation for being able to attend via Webex.

4. Public Comment for Items Not on the Agenda.

Ada Boone Hoerl, Occupational Therapy Assistant (OTA), Professor and OTA Program Coordinator at Sacramento City College (SCC), chose to introduce herself and thanked the Board for the Webex opportunity.

Myka Persson, Master of Science in Occupational Therapy Program Director at Stanbridge University, chose to introduce herself and said she would be attending the meeting in person later in the morning.

President Bookwalter thanked Ms. Boone Hoerl and Ms. Persson for participating.

5. Review and vote on approval of the May 2-3, 2024, Board meeting minutes.

Denise Miller asked that the request from herself and Lynna Do that requested Board staff research the number of violations that occurred in South Carolina to determine if the Board should consider making the NBCOT certification a requirement be added to the list of Future Agenda Items.

Updates to the May 2-3, 2024, minutes were as follows:

1. Review the transcript for Vice President Morcos' comment(s) regarding dry needling to add to the minutes.
2. Page 3, remove repetitive phrase.
3. Page 12, Agenda Item 18, second paragraph "may be subject to legal penalties."



4. Page 12, Agenda Item 18, third paragraph, Executive Officer (E.O.) Heather Martin to revisit with Attorney Helen Geoffroy.
5. Page 13, E.O. to revisit with Ms. Geoffroy regarding the transcription of her comments on that page.
6. Page 13, first paragraph, “in protecting its jurisdiction....” sounds editorial.
7. Page 13, second paragraph, “seeking to change the statute.”
8. Page 13, Public Comment, third paragraph “their scope of practice...”

E.O. Heather Martin asked that all additional requested edits be forwarded to her by email following the meeting and she would review suggestions made by Board members, discuss with the DCA Attorney, and ensure accuracy.

President Bookwalter asked to have the May 2-3, 2024, Board meeting minutes brought back to the November meeting.

### **Public Comment**

There was no public comment.

6. Practice Committee update.

*This item was discussed on August 23, 2024.*

Chair/Board Member Christine Wietlisbach announced that the Practice Committee met on June 21, 2024, and August 2, 2024.

Ms. Wietlisbach shared that the Practice Committee recommended that the Board consider reducing the required supervised training hours for licensed OTs seeking Advanced Practice approval for Physical Agent Modalities (PAMs) from 240 hours to 40 hours.

The Practice Committee agreed that if the number of training hours was reduced, the cost of obtaining additional courses and training for the licensees would decrease which would positively affect the consumer by increasing access. The committee opined that the 240 hours of required supervised on-the-job training was excessive considering that most PAMs treatments are approximately 8-15 minutes long, which equated to about 960 treatments to fulfill the 240-hour requirement. From a consumer safety lens, the practitioners would be more than competent before completing 960 treatments.

Mr. Bookwalter added that he had PAMs approval from the Board and that in his opinion, PAMs applications mostly consisted of applying hot and cold packs. A practitioner might use a hot pack to warm up a client/patient’s joint before an activity or an ice pack might be used for tendonitis. There are some contraindications to be familiar with along with knowing the appropriate amount of layering for the packs; however, Mr. Bookwalter agreed that it would not take 240 hours of supervised treatment to become competent.

Ms. Pavlovich asked what would prevent a licensee from only gaining supervised on-the-job training in the application of hot and cold packs and not the other modalities to gain Board approval for PAMs.

Ms. Wietlisbach acknowledged that practitioners might focus on specific modalities and not have training in all areas, however, she emphasized that it is the practitioners' responsibility to exercise good judgment and to perform only the modalities they have been trained to use.

Further, the Practice Committee recognized that other professions have varying requirements for training in PAMs and that occupational therapy should align with industry standards. For example, a physical therapy aide can use a hot or cold pack on a patient, but an OT with a doctorate cannot unless they have received Board approval.

Ms. Pavlovich expressed concern with the honor system aspect of the requirements; however, she agreed that the 240-hour requirement was excessive for PAMs approval and did not want the Board to over-regulate.

Ms. Miller thanked the committee for their recommendation regarding the requirements for Board approval of PAMs.

- Christine Wietlisbach moved to approve the proposed language for CCR Section 4152(a)(2) reducing the required supervised on the job training hours from completion of 240 hours of supervised on the job training, clinical internship, or affiliation, which may be paid or voluntary, pertaining to PAMs, to 40 hours.
- Beata Morcos seconded the motion.

#### **Public Comment**

There was no public comment.

#### **Board member vote**

Richard Bookwalter	Yes
Hector Cabrera	<b>Absent</b>
Lynna Do	<b>Absent</b>
Denise Miller	Yes
Beata Morcos	Yes
Sharon Pavlovich	Yes
Christine Wietlisbach	Yes

The motion carried.

E.O. Heather Martin suggested that the Board also vote on updating the language in the Application for Advanced Practice Approval in PAMs to reflect the approved reduction of supervised hours required for Board approval.

- Richard Bookwalter moved to approve the proposed language for the Application for Advanced Practice Approval in PAMs to reflect the reduction of required supervised hours of on-the-job training, clinical internship, or affiliation, which may be paid or voluntary, pertaining to PAMs, from 240 to 40 hours.
- Christine Wietlisbach seconded the motion.

#### **Public Comment**

There was no public comment.

**Board member vote**

Richard Bookwalter	Yes
Hector Cabrera	<b>Absent</b>
Lynna Do	<b>Absent</b>
Denise Miller	Yes
Beata Morcos	Yes
Sharon Pavlovich	Yes
Christine Wietlisbach	Yes

The motion carried.

Ms. Martin further explained that the Practice Committee had two recommendations:

1.) to reduce the number of required training hours from 240 to 40 hours for current licensees who wanted to seek Board approval in PAMs and 2.) to make a statutory amendment to eliminate the requirement for Board approval to use PAMs for those occupational therapy students who graduated on or after July 31, 2020.

Ms. Wietlisbach provided an overview of the evolution of the Accreditation Council for Occupational Therapy Education (ACOTE) standards concerning PAMs, spanning from 2008 to 2023. The Practice Committee agreed that the 2018 version of the ACOTE standards, which became effective in July 2020, was the strongest regarding PAMs. ACOTE's language in 2018 stated in part that the student must, "Demonstrate knowledge and use of the safe and effective application of superficial thermal agents, deep thermal agents, electrotherapeutic agents, and mechanical devices as a preparatory measure to improve occupational performance. This must include indications, contraindications, and precautions."

The Practice Committee felt the 2018 ACOTE standards effective in July 2020, were aligned with the language in the Board's law. The 2023 ACOTE standards will become effective in January 2025 and do not vary much from the 2018 language.

Ms. Pavlovich noted that ACOTE Standard B.4.17, on page 31, stated, "demonstrate knowledge and use" as requirements for advanced practice. When comparing those ACOTE standards to the OT and the OTA curriculums, the only word missing from the curriculums was "knowledge." Ms. Pavlovich questioned why OTAs couldn't apply for PAMs approval.

Ms. Wietlisbach replied that OTAs could practice PAMs under the supervision of any Board approved OT, thus the proposed language would not affect OTAs.

Ms. Pavlovich noted the disparity among the education programs regarding PAMs education and training. For example, one program may offer an entire quarter of PAMs education and training while another program might only dedicate three hours to the subject.

Mr. Bookwalter stated he was pleased with ACOTE's new language. Mr. Bookwalter added that currently, OT students must earn a master's or doctorate. Updating the language to keep up with the expansion of entry-level education programs was important.

- Richard Bookwalter moved that the Board approve amending the proposed language for B&P Section 2570.3(d) and (f), and 4155(a)(2) to include, “This provision only applies to OTs who began their qualifying degree program prior to July 31, 2020,” and directed Board staff to find an author to introduce legislation to enact those changes.
- Denise Miller seconded the motion.

**Public Comment**

There was no public comment.

**Board member vote**

Richard Bookwalter	Yes
Hector Cabrera	<b>Absent</b>
Lynna Do	<b>Absent</b>
Denise Miller	Yes
Beata Morcos	Yes
Sharon Pavlovich	Yes
Christine Wietlisbach	Yes

The motion carried.

Ms. Wietlisbach added that the Practice Committee will look at the other areas of advanced practice at future meetings.

President Bookwalter noted that DCA held a leadership meeting yesterday, to discuss how some Boards were taking more of an advocacy role in expanding their scope of practice. DCA expressed that such advocacy was beyond the Board’s purview; Boards are responsible for interpreting, defining, and enforcing the statutes. Mr. Bookwalter pointed out that it is DCA’s position that removing hand therapy, or any other practice area, from advanced practice would require a change in the statute, and therefore would fall outside of the Board’s mandate and should be addressed by the associations.

- Denise Miller moved to accept the Practice Committee Meeting Minutes from June 21, 2024, and March 1, 2024.
- Beata Morcos seconded the motion.

**Public Comment**

There was no public comment.

**Board member vote**

Richard Bookwalter	Yes
Hector Cabrera	<b>Absent</b>
Lynna Do	<b>Absent</b>
Denise Miller	Yes
Beata Morcos	Yes
Sharon Pavlovich	Yes
Christine Wietlisbach	Yes

The motion carried.

7. Ad hoc Committee on Non-Licensee Criteria to Serve on Board Committees update.

Chair of the Committee and Board Vice President Beata Morcos thanked Committee member and Board member Sharon Pavlovich and Committee members Ada Boone Hoerl and Carlin Daley Reaume for their participation on the Ad hoc committee. Although a document detailing the proposed changes was provided, Chair Morcos summarized the Committee's recommendations and the subsequent need to update the Board Member Guidelines and Procedures manual (board manual) regarding standing and Ad hoc committees as follows:

- Replace "Non-Licensees" with "Public Members".
- Standing and Ad hoc committee composition, with the exception of the Administrative Committee will be a minimum of four members, 75% of which shall be licensees and at least one of whom shall be a Board member, the remainder may be public members. (*e.g. Four, five and six person committees = one public member, a seven-person committee = two public members.*)
- Add a new chapter titled Committee Members to the board manual that defines Public Members and specifies criteria that must be met.
- Add submission of a curriculum vitae as a requirement for a committee candidate.

The committee acknowledged and discussed the importance of the Practice committee members being practitioners rather than public members due to practice experience being required to address topics assigned to the committee. The consensus was that the appointment of the committee members is carried out by the Board President, and they can vet the appointment on a case-by-case basis so as not to miss out on an extremely qualified public member who may be qualified to contribute to a specific practice topic.

Discussion ensued regarding changing the minimum number of members required to participate on standing and Ad hoc committees. The ultimate decision was to leave the language pertaining to minimums as is.

- Christine Wietlisbach moved to adopt the proposed language of the Ad hoc Committee on Non-Licensee Criteria to Serve on Board Committees and direct Board staff to make non-substantive changes.
- Denise Miller seconded the motion.

**Public Comment**

There were no public comments.

**Board Member Vote**

Richard Bookwalter	Yes
Hector Cabrera	<b>Absent</b>
Lynna Do	Yes
Denise Miller	Yes
Beata Morcos	Yes
Sharon Pavlovich	Yes
Christine Wietlisbach	Yes

The motion carried.

- Beata Morcos moved to accept the October 12, 2023, and August 5, 2024, meeting minutes of the Ad hoc Committee on Non-Licensee Criteria to Serve on Board Committees.
- Sharon Pavlovich seconded the motion.

**Public Comment**

There was no public comment.

**Board Member Vote**

Richard Bookwalter	Yes
Hector Cabrera	<b>Absent</b>
Lynna Do	Yes
Denise Miller	Yes
Beata Morcos	Yes
Sharon Pavlovich	Yes
Christine Wietlisbach	Yes

The motion carried.

Following return from the a.m. break, Board Secretary Lynna Do called roll and a quorum was re-established.

Board member Hector Cabrera continued to experience technical difficulties and was unable to participate in the meeting.

8. Ad Hoc Committee on Disaster Preparedness and Response Meeting update.

Committee Chair Richard Bookwalter reported that the committee did not meet again since approval of the related survey that would be sent to licensees and its accompanying web pages.

Mr. Bookwalter asked E.O. Heather Martin to provide an update on those topics.

Ms. Martin explained that the survey approved at the May Board meeting is a very short survey that would include questions surrounding practice area, whether or not the employer provides emergency response materials etc. Unfortunately, due to expenditure limitations, Board staff was not authorized to renew the Survey Monkey subscription that would formulate a survey. As of the August meeting, Board staff was again authorized to place purchase requests and would be doing so and sending out the survey and compiling the results into a report format for the November meeting. Additionally, Board staff would be working on the various updates to the Board website, DCA Emergency website and following up with the Emergency Medical Services Authority to request that OTs get added to their website and a duty statement added, if possible.

Board member Sharon Pavlovich offered that Board staff should investigate Qualtrics as an alternative to Survey Monkey because she believed it to be a free service.

### **Public Comment**

Myka Persson arrived in person and chose to re-introduce herself but had no public comment on the agenda item.

#### 9. Executive Officer Selection Committee update.

The two Board members that make up the E.O. Selection Committee are Vice President Beata Morcos and Christine Wietlisbach.

Christine Wietlisbach thanked DCA Human Resources Chief Olivia Trejo on behalf of her and Vice President Morcos for helping them in the Executive Officer selection process.

They met with Chief Trejo on August 13, 2024, to review the duty statement and the job announcement that will be published on September 2, 2024. After the announcement, applications will be reviewed by Ms. Morcos and Ms. Wietlisbach and first-round interviews will be held for qualified individuals. Final candidates will be interviewed in person before the whole Board on December 13, 2024.

Ms. Morcos added that the use of a prescribed scoring system is not a requirement and that she is excited to get started.

### **Public Comment**

There was no public comment.

#### 10. Ad hoc Committee on Supervision Standards update.

Chair Denise Miller reported that the Ad hoc Committee on Supervision Standards is a very large committee of great thinkers and thought partners from all different walks of practice and education. The committee met twice since the last Board meeting on June 26, 2024, and August 14, 2024, and the Director of ACOTE, Teresa Brininger, participated in the August meeting.

Chair Miller summarized that there was not an action item before the Board presently, but two additional meeting dates will be selected, and the committee-recommended proposed language will be brought back before the Board in December at the latest.

The next meeting(s) will focus on shoring up the supervision ratios, clarifying the language surrounding entry-level versus post-professional, and breaking down the varied categories of fieldwork students.

Board member Sharon Pavlovich thanked all the committee members for every idea, notion, and discussion they brought to the table. Ms. Pavlovich acknowledged that the conversations have been robust, eye-opening, and displayed growth patterns in the level of conversation. Lastly, she thanked Chair Miller for her leadership.

President Bookwalter also thanked Chair Miller.

Vice President Beata Morcos expressed her appreciation for the committee members and Chair Miller's dedication.

### **Public Comment**

Myka Persson stated that she was glad to hear about the committee's progress and, as an educator, looked forward to following the committee's work. Ms. Persson utilized the platform to encourage more participation by Fieldwork Coordinators from California Universities which would alleviate any confusion about whether the ratios have yet been finalized.

Chair Miller thanked Dr. Persson for her comments and summarized that consumer protection will be the driving force of where the supervision ratios end up and thanked the 15 committee members who work in academia for their commitment to the committee and the profession.

Ada Boone Hoerl thanked the committee members for their diligent work and contribution. She also thanked AOTA for the document they provided that summarized the national picture of supervision standards. The document displayed that a small percentage of states had pertinent language and then it was possible for committee members to review the diversity of that language.

DCA Attorney Helen Geoffroy joined the meeting and replaced Anthony Pane as the attending attorney.

- Denise Miller moved to accept the April 12, 2024, and June 6, 2024, meeting minutes of the Ad hoc Committee on Supervision Standards.
- Sharon Pavlovich seconded the motion.

### **Public Comment**

There was no public comment.

### **Board Member Vote**

Richard Bookwalter	Yes
Hector Cabrera	<b>Absent</b>
Lynna Do	Yes
Denise Miller	Yes
Beata Morcos	Yes
Sharon Pavlovich	Yes
Christine Wietlisbach	Yes

The motion carried.

11. Consideration and possible action to initiate a rulemaking package to amend California Code of Regulations, Title 16, Division 39, Article 9, Section 4180, Definitions, and Section 4181, Supervision Parameters.

E.O. Heather Martin noted that due to the need for additional meetings as outlined in agenda item 10, agenda item 11 will be added to the November Board meeting agenda.

12. Discussion and possible action on seeking amendments to Business and Professions Code Sections 2570.18, 2570.19, and 2570.32.



E.O. Heather Martin reported that proposed amendments to Business and Professions Code 2570.18, 2570.19 and 2570.32 were brought to the May Board meeting and a subsequent motion and vote took place. However, because those proposed amendments brought to the May meeting were brought in regulatory amendment language format and not in the format that should have been used when seeking statutory amendments, the same language was brought back in the correct format.

Ms. Martin recommended that if the Board was still in agreement, she would need a new motion to direct staff to seek an author for a bill to amend the language as shown.

Ms. Martin reported that she reached out to the Senate Business and Professions (B&P) committee regarding the proposed change presented in B&P section 2570.19 that suggested extending the Board's Sunset Review from 2027 to 2028 because two Board members' grace year would expire December 31, 2024, Ms. Martin's December 31, 2024, retirement, the new E.O. would start with the Board in January 2025 and the upcoming Strategic Planning sessions that will also take place in January. Ms. Martin reported that those conversations concluded without support from Senate B&P which was an indicator that it would be near impossible to get someone to carry 2570.19 language. Thus, Ms. Martin was requesting a motion to pursue an author for 2570.18 and 2570.32 only. She reminded that section 2570.32 was not discussed at the May meeting due to time constraints.

Denise Miller commented that although section 2570.32 was not discussed at the May Board meeting, she felt that the Board had discussed it numerous times and felt like the Board could get to a decision regarding the proposed language.

- Richard Bookwalter moved to direct staff to seek an author to enact the proposed amendments of Business and Professions sections 2570.18 and 2570.32, as provided.
- Denise Miller seconded the motion.

President Bookwalter stated that even though the motion included section 2570.32, the Board could discuss that section before the roll call vote if they wished.

Sharon Pavlovich asked that Board staff add an "e" to the end of "therefor" in the proposed language of B&P Section 2570.32(e).

The Board did not wish to discuss B&P Section 2570.32 any further.

### **Public Comment**

There was no public comment.

### **Board Member Vote**

Richard Bookwalter	Yes
Hector Cabrera	<b>Absent</b>
Lynna Do	Yes
Denise Miller	Yes
Beata Morcos	Yes
Sharon Pavlovich	Yes
Christine Wietlisbach	Yes

The motion carried.

Ms. Martin informed the Board that she would need rationale and justification for the proposed amendments of section 2570.32 regarding the new language on page four, about the petition for reinstatement or modification of a penalty.

DCA Attorney Helen Geoffroy recommended that the language be changed to the default language used in the Administrative Procedure Act (APA) because it allows for maximum flexibility for the Board and the Petitioner.

President Bookwalter confirmed with Ms. Geoffroy that using the default language from the APA would bring alignment with other Boards to its legal language and allow for flexibility so that a potential petitioner will have the option to present written or oral arguments. Mr. Bookwalter added that cost savings would also be realized.

Ms. Geoffroy agreed with President Bookwalter.

Ms. Martin thanked the Board and stated that President Bookwalter's rationale and justification would suffice.

## **2:00 pm - Hearing – Rondelle (Bake) McKee, Petition for Reinstatement**

President Richard Bookwalter called the meeting to order at 2:05 p.m.

Roll was called by Secretary Lynna Do. All Board members were present except for Hector Cabrera. A quorum was established.

### **CONVENE IN CLOSED SESSION**

The Board convened in Closed Session at 3:54 p.m.

### **RECONVENE IN OPEN SESSION**

The Board reconvened in open session at 5:19 p.m. and immediately adjourned.

### **MEETING ADJOURNMENT**

The meeting adjourned at 5:19 p.m.

**Board Members Present**

Richard Bookwalter – Board President  
Beata Morcos – Board Vice President  
Denise Miller  
Sharon Pavlovich  
Christine Wietlisbach

**Board Staff Present**

Heather Martin – Executive Officer  
Helen Geoffroy – Board Attorney  
Austin Porter – Analyst  
Lita Scipio – Office Technician

**Board Members Absent**

Lynna Do, Board Secretary  
Hector Cabrera

**Friday, August 23, 2024**

**9:00 am - Board Meeting**

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

The meeting was called to order at 9:10 a.m. Vice President Beata Morcos called roll and a quorum was established.

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

President Richard Bookwalter welcomed everyone in attendance and thanked Stanbridge University for hosting the Board meeting.

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

There were no Board Member remarks.

16. Public Comment for Items Not on the Agenda.

Ada Boone Hoerl, OTA, Professor and OTA Program Coordinator at Sacramento City College (SCC) chose to introduce herself.

17. Report on pending legislation and consideration of taking a position, or updating a previous position taken on proposed legislation impacting the Board, including:

- a) Legislative Update report.

Items (b) through (i) were summarized in Item 17(a) titled Legislative Report.

- b) AB 1991 (Bonta), Licensee and registrant records.

The Board instructed Board staff to continue to **watch** AB 1991.

- c) AB 2269 (Flora), Board membership qualifications: public members.

The Board **supported** AB 2269; however, the author has since canceled the bill.

- d) AB 2442 (Zbur), Healing Arts: expedited licensure process: gender-affirming health care and gender-affirming mental health care.

The Board instructed Board staff to continue to **watch** AB 2442.

- e) AB 2725 (Rubio and Muratsuchi), Teacher credentialing: occupational and physical therapists.

The Board **supported** AB 2725 on May 3, 2024. The bill moved to the Senate floor and Board staff sent a letter of support to them. The Senate passed AB 2725 with amendments and now the bill is on the Assembly floor to consider those amendments.

- f) AB 2753 (Ortega), Rehabilitative and habilitative services: durable medical equipment and services.

AB 2753 was held in submission, meaning there won't be any movement for the rest of the year. The Board instructed Board staff to continue to **watch** AB 2753.

- g) AB 2862 (Gipson), Licenses: African American applicants.

The Board instructed Board staff to continue to **watch** AB 2862.

- h) AB 3127 (McKinnor), Reporting of crimes: mandated reporters.

AB 3127 was held in submission, meaning there would not be any movement for the rest of the year. The Board instructed Board staff to continue to **watch** AB 3127.

- i) Senate Bill (SB) 1067 (Smallwood-Cuevas), Healing arts: expedited licensure process: medically underserved area or population.

SB 1067 was ordered to a Third Reading. The Board instructed staff to continue to **watch** SB 1067.

- j) SB 1290 (Roth), Health care coverage: essential health benefits.

SB 1290 was ordered to a Third Reading. The Board instructed staff to continue to **watch** SB 1290.

### **Public Comment**

There was no public comment.

## 18. Executive Officer's Report.

- a) Administrative Summary, including budget, personnel, and technology updates.

E.O. Heather Martin provided a summary of the Memorandum dated August 18, 2024, from DCA regarding the reduction to state budgets with limited exceptions.

Next, Ms. Martin summarized the revenue and expenditure reports. The revenue earned through June 30, 2024, was \$3.1 million. The revenue exceeded the projected expenditures by more than \$150,000.00, partly due to salary savings.

Ms. Martin reminded the Board members that in 2020 the Board determined a fee increase was necessary to stay solvent. Since the revenue has exceeded the expenditures in the past few years, the fee increases to the licensees kept getting pushed out. However, once the Board staff vacancies are filled, those salary savings won't exist and the fee increase will need to become effective.

The "vacancy sweep" didn't just include vacancies, but the Department of Finance (DOF) also identified a specific dollar amount in salary savings the Board must achieve. DCA proposed a reduction to the number of positions and salary savings identified by DOF and provided instructions to Board staff to comply with and respond to DCA by the August 16th deadline. Board staff identified a position to be eliminated, requested the exclusion of the positions filled after June 30th and requested the exclusion of one other vacancy. However, the proposed reduction was not approved and the position we identified failed to meet the salary savings specified by DOF. Board staff's next response similarly identified the position to be eliminated and requested the exclusion of the other vacancy to meet the salary savings identified.

In November, the Board staff should have more information about the budget reduction. Also, a fee study contract will be upcoming. The fee study contract would include a fee audit and evaluation report. That report should be available in early to mid-February. The proposed fees might need to be re-evaluated based on the study results. They might also identify other services the Board provides that need a fee.

The Board pays \$45,000 to \$53,000 yearly in credit card processing fees. Next year, Board staff will begin adding a 2% processing fee charged for online transactions to shift that cost.

b) Pending Regulatory Proposals.

The Regulations Update report was included for review.

c) Enforcement Unit data.

The Case/Complaint, Citation, Pending Attorney General cases, Final Decisions and Probation reports were included for review.

d) Licensing Unit data.

The standard Applications Processed report during the period of April 1 – June 30, 2024 was included for review.

e) Future Agenda Items.

The listing of Future Agenda Items was included for review. Ms. Martin noted that she would include an update regarding dry needling in her next report after she gets the documents from Kristen Neville as discussed earlier. Ms. Martin will reach out to NBCOT and AOTA for information regarding the positions of other states on the use of dry needles and whether it is in statute or regulation and report that information in her November report as well.

Other items prioritized for the November Board meeting included the proposed amendments to B&P 2570.19 that addressed the frequency and geographical locations of the Board meetings.

f) Data or information requested at prior Board meeting.

There was nothing to report for this agenda item.

**Public Comment**

There was no public comment.

19. Selection of 2025 Board meeting dates.

President Bookwalter noted that the Board members should have January 23-24, 2025, marked on their calendars for the Strategic Planning Session in Sacramento.

A robust discussion regarding the 2025 Board meeting dates ensued.

Board staff will ask the University of Southern California, Keck School of Medicine, if they would host the March 6-7 or 13-14, 2025 Board meeting. The second Board meeting of the calendar year will be in Sacramento on May 8-9 or June 12-13, 2025, in a DCA hearing room. Board staff will find hosts for the September 11-12 or 18-19 meeting in the Bay Area and for the December 11-12, 2025, meeting in either Los Angeles, San Diego, or Inland Empire.

**Public Comment**

Ada Boone Hoerl, OTA, Professor and OTA Program Coordinator at Sacramento City College (SCC), asked if Webex would be available for all meetings.

Ms. Martin replied that Webex availability is based on the meeting location.

20. New suggested agenda items for a future meeting.

*This topic was discussed in Agenda Item 18(e).*

**MEETING ADJOURNMENT**

The meeting adjourned at 11:24 a.m.

## **AGENDA ITEM 7**

### **REPORT FROM THE ADMINISTRATIVE COMMITTEE.**

Included are the following:

- Excerpt from current Board Administrative Guidelines and Procedures Manual (BAM).
- Excerpt from 2011 BAM.
- Excerpt from 2022 California Board of Occupational Therapy Sunset Report Background Paper.

# Chapter 6. Committees

## **Standing Committees**

*Board Policy – February 21, 2008*

*Revised December 1, 2011*

*Revised September 16, 2013*

The Board has four standing committees subject to the Open Meetings Act:

- Administrative Committee
- Education and Outreach Committee
- Legislative and Regulatory Affairs Committee
- Practice Committee

Internal organization of each committee is at its discretion, except as specified in this manual, and must be approved by the Board. Each Committee shall be chaired by a member of the Board. The Committee Chairperson will oversee the meetings and work with the Executive Officer to develop agenda packet materials. Meetings must be consistent with the Bagley-Keene Open Meeting Act. The Board member will be responsible for providing the Committee report at the Board meeting.

Member terms will be two years, and members will serve a maximum of two full, consecutive terms. Meetings will be held two or three times per year or as needed to conduct business. All Committee meetings will be noticed and conducted as required by the Bagley-Keene Open Meeting Act. Non-Board Member committee members shall be entitled to reimbursement of travel expenses but shall not receive any compensation.

## **Committee Chair**

A Committee Chairperson shall:

- Approve the Committee Meeting agendas
- Chair and facilitate all Committee Meetings, and
- Report to the Board all committee meeting outcomes.

## **Administrative Committee**

*Board Policy – February 21, 2008*

*Revised December 1, 2011*

*Revised xxxxxx*

**The Administrative Committee consists of the President, and Vice President, and the Executive Officer.**

~~Members shall serve a maximum of two full, consecutive terms. Meetings shall be held two or three times per year or as needed work requires.~~

~~The purpose of the Administrative Committee is to annually update the Strategic Plan, respond to items identified in an internal audit and provide guidance to staff in fulfillment of the audit staff's recommendations, provide guidance to staff for~~



~~the budgeting and organizational components of the Board (i.e., sunset review, sunrise projects, budget change proposals, out-of-state trip requests, contracts, meeting agendas and preparations) and other duties as required.~~

The purpose of the Administrative Committee is to provide guidance to staff for the budgeting and operational issues of the Board, including but not limited to budget change proposals, meeting agendas and materials preparation, Sunset Review and State Leadership Accountability Act reports and related projects; to provide suggestions regarding the Board's Strategic Plan; to review legislative position letters on behalf of the Board for approval and submission; and to perform other administrative duties as required.

Members of this committee are not subject to the maximum terms specified above.

### **Education and Outreach Committee**

*Board Policy – February 21, 2008*

*Revised December 1, 2011*

*Revised September 16, 2013*

*Revised August 22, 2024*

The Education and Outreach Committee will consist of a minimum of four members, 75% of which shall be licensees and at least one of whom shall be a Board member. The remainder of the committee may be Public Members.

The purpose of the Education and Outreach Committee is to develop consumer and licensee outreach projects, including the Board's newsletter, website, e-government initiatives, and outside organization presentations. Committee members may be asked to represent the Board at meetings, conferences, health, career or job fairs, or at the invitation of outside organizations and programs.

### **Legislative/Regulatory Affairs Committee**

*Board Policy – February 21, 2008*

*Revised December 1, 2011*

*Revised September 16, 2013*

*Revised August 22, 2024*

The Legislative/Regulatory Affairs Committee will consist of a minimum of four members, 75% of which shall be licensees and at least one of whom shall be a Board member. The remainder of the committee may be Public Members.

The purpose of the Legislative/Regulatory Affairs Committee is to provide information and/or make recommendations to the Board and Committees on matters relating to legislation and regulations.

The classification system to be used by the Committee on recommendations to the Board on proposed legislation is:

**Support:**

The Board supports the current version of the bill. This designation commits the Board to full involvement in the legislative process including sending letters to key people, conferring with key people prior to committee hearings and testifying at hearings by Board members, legislative committee members or senior staff.

**Support, if Amended:**

The Board generally supports the concept or intent of the bill. Technical flaws need to be corrected before the Board will fully support the bill. The Board identifies the amendments or requirements that must be met in order for support to be obtained. If the requested amendments or requirements are accepted, the Board's position will change to support. This designation commits the Board to full involvement in the legislative process as noted above.

**Oppose:**

The Board is opposed to the current version of the bill. This designation commits the Board to involvement in the legislative process as noted above.

**Oppose Unless Amended:**

The Board is opposed to the bill but is willing to work with the author and sponsor of the bill to resolve the Board's concerns. The Board identifies the amendments or requirements that must be met to remove the Board's opposition. If the requested amendments or requirements are accepted, the Board will adopt a support position.

**Neutral:**

The Board takes no official position

**Watch:**

The Board has some interest in the bill because it potentially may affect the work of the Board. This designation requires careful tracking through the legislative process.

***Practice Committee***

*Board Policy – February 21, 2008*

*Revised December 1, 2011*

*Revised September 16, 2013*

*Revised August 22, 2024*

The Practice Committee will consist of a minimum of four members, 75% of which shall be licensees and at least one of whom shall be a Board member. The remainder of the committee may be Public Members.

The purpose of the Practice Committee is to review and provide recommended responses to the Board on various practice issues/questions submitted by licensees and consumers; provide guidance to staff on continuing competency audits; review and provide recommendations to the Board on practice-related proposed regulatory amendments; and review and provide recommendations to Board staff on revisions to various applications and forms used by the Board.

## ***Ad Hoc Committees***

*Board Policy – February 21, 2008*

*Revised December 1, 2011*

*Revised September 16, 2013*

The Board may establish ad hoc committees as needed for the Board and its standing Committees. Ad-Hoc committee meetings are subject to the Open Meeting Act.

# **Chapter 7. Committee Meeting Procedures**

## **Advisory Capacity**

*Board Policy – February 21, 2008*

*Revised December 1, 2011*

Committee recommendations and reports shall be submitted to the Board in a timely manner for consideration and possible action.

## **Agendas**

*Board Policy – February 21, 2008*

*Revised December 1, 2011*

Agendas shall focus on the specific tasks assigned by the Board and include:

- Public comment
- Time for committee members to recommend new areas of study to be brought to the Board's attention for possible assignment.

Committee chairs shall confer with the Board President prior to including any agenda item that is not clearly within that committee's assigned purview. All Committee meeting agendas shall contain the statement: "A quorum of the Board may be present at the committee meeting. Board members who are not members of the committee may observe, but not participate or vote."

## **Appointments**

*Board Policy – February 21, 2008*

*Revised December 1, 2011*

*Revised August 22, 2024*

At the last meeting before the end of the fiscal year, standing committees shall make recommendations for possible members.

The Board President shall appoint licensees and public members, which includes retired licensees, students, health care licensees, or other professionals with experience relevant to the committee's purpose, to fill vacancies on each standing committee and appoint members to ad hoc committees.

## **Attendance at Committee Meetings**

*Board Policy – February 21, 2008*

*Revised December 1, 2011*

Board members who are not members of the committee may attend a committee meeting and observe, but not participate or vote.

It is required that non-Committee Board members sit in the audience and not participate in the meeting discussion.

## **Dual Membership**

*Board Policy – February 21, 2008*

A non-Board member cannot serve concurrently on more than two committees.

## **Meeting Rules**

*Board Policy – February 21, 2008*

Meetings will be conducted under Robert's Rules of Order to the extent that it does not conflict with the Bagley-Keene Open Meeting Act or any other section of law.

## **Record of Meetings**

*Board Policy – February 21, 2008*

*Gov. Code § 111255 (d)*

The minutes are a summary, not a transcript of each committee meeting. The minutes shall be prepared by Board staff and shall serve as the official record of the meeting. The Committee's recommendations and meeting materials shall be presented at the next scheduled Board meeting.

Approved minutes of the committee meeting are available to the public and shall be posted on the Board's website.

## **Recruitment**

*Board Policy – February 21, 2008*

The Board shall actively recruit interested persons to serve on appropriate committees when vacancies exist.

## **Reimbursement of Travel-related Expenses**

*Board Policy – February 21, 2008*

Consistent with the State Guidelines, Committee members are entitled to be reimbursed for travel-related expenses to attend Committee meetings.

## **Residence Requirement**

*Board Policy – February 21, 2008*

A member of a standing advisory committee must be a California resident.

## **Staff Participation**

*Board Policy – February 21, 2008*

Board staff provides advice, consultation and support to committees.

## **Recording**

*Gov. Code § 11124.1*

*Board Policy – February 21, 2008*

Committee meetings will be recorded and/or webcast subject to supporting technology and barring technical difficulty. Recordings shall be retained until the minutes are adopted; the tape(s) shall then be destroyed.

# **Chapter 8. Committee Members**

## ***Minimum Qualifications***

*Board Policy – February 21, 2008*

*Revised May 21, 2021*

*Revised August 22, 2024*

Any individual who wants to be considered for appointment to a standing or ad hoc committee must provide a curriculum vitae or resume for the Board's review and meet the criteria specified.

## ***Licensee criteria to serve on a committee***

The minimum qualifications for a non-Board member licensee to participate on a committee are:

- Three years of professional experience.
- An occupational therapist or occupational therapy assistant holding a current, active and unrestricted license.
- No pending, current or prior disciplinary action.
- No pending criminal charges.

## ***Public member criteria to serve on a committee***

Public members may include retired licensees, students, health care licensees, or other professionals with experience relevant to the committee's purpose, and meet the minimum qualifications specified.

- An occupational therapist or occupational therapy assistant whose license was placed on retired status within three years of holding an active license and no pending criminal charges.
- An occupational therapist student or an occupational therapy assistant student who has:
  - Completed one calendar year in a California occupational therapy education program.
  - Have a letter of support from the occupational therapy education program director or fieldwork educator.
  - No pending, current, or prior disciplinary action of any license or certification issued by the State of California or any other profession.
  - No pending criminal charges in any state.
- Health care licensees must hold a current, active, and unrestricted license, and have:
  - Three years of professional experience.
  - No pending, current, or prior disciplinary action of any license or certification.
- No pending criminal charges. Other non-licensed professionals with three years of professional experience relevant to the committee and no pending criminal charges.

State of California  
Department of Consumer Affairs



# ***BOARD MEMBER GUIDELINES AND PROCEDURES MANUAL***

Heather Martin, Executive Officer  
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## **Chapter 5. Committees**

### **Standing Committees**

*(Board Policy – February 21, 2008)*

*(Revised December 1, 2011)*

The Board has six standing committees subject to the Open Meetings Act:

- Administrative Committee
- Disaster Preparedness/Disaster Response Committee
- Education and Outreach Committee
- Enforcement Committee
- Legislative and Regulatory Affairs Committee
- Practice Committee

Internal organization of each committee is at its discretion, except as specified in this manual, and shall be approved by the Board.

Member terms shall be two years, and members shall serve a maximum of two full, consecutive terms.

Meetings shall be held two or three times per year or as work requires.

### **Administrative Committee**

*(Board Policy – February 21, 2008)*

*(Revised December 1, 2011)*

The Administrative Committee consists of the President and Vice President.

Members shall serve a maximum of two full, consecutive terms.

Meetings shall be held two or three times per year or as work requires.

The purpose of the Administrative Committee is to annually update the Strategic Plan, respond to items identified in an internal audit and provide guidance to staff in fulfillment of the audit staff's recommendations, provide guidance to staff for the budgeting and organizational components of the Board (i.e., sunset review, sunrise projects, budget change proposals, out-of-state trip requests, contracts, meeting agendas and preparations) and other duties as required.

**Disaster Preparedness/  
Disaster Response  
Committee**

*(Board Policy – February 21, 2008)*

*(Revised December 1, 2011)*

The Disaster Preparedness/Disaster Response Committee shall consist of five members, at least one of whom shall be a Board member.

The Committee chairperson, the assigned Board member, shall be responsible for overseeing the meeting(s) and work with the Executive Officer in development of agenda packet materials. The Board member will be responsible for providing the Committee report at the Board meeting.

The Disaster Preparedness/Disaster Response Committee is assigned to identify and provide input into reducing barriers to occupational therapy roles in disaster preparedness and response, review the current laws and regulations to ensure consistency, be responsible for the development and maintenance of the Board's Disaster Response plan, and provide input into updates of the Board's Continuity of Operations and Continuation of Government (COOP/COG) report.

Members may be asked to represent the Board at meetings held regarding emergency/disaster response (i.e., meetings held by the California Department of Public Health, the Governor's Office of Emergency Services, local govern

**Education and Outreach  
Committee**

*(Board Policy – February 21, 2008)*

*(Revised December 1, 2011)*

The Education and Outreach Committee shall consist of five members, at least one of whom shall be a Board member.

The Committee chairperson, the assigned Board member, shall be responsible for overseeing the meeting(s) and work with the Executive Officer in development of agenda packet materials. The Board member will be responsible for providing the Committee report at the Board meeting.

The Education and Outreach Committee is assigned to develop consumer and licensee outreach projects, including the Board's newsletter, website, e-government initiatives and outside organization presentations.

Members may be asked to represent the Board at meetings, conferences, health, career or job fairs, or at the invitation of outside organizations and programs.

## **Enforcement Committee**

*(Board Policy – February 21, 2008)*

*(Revised December 1, 2011)*

The Enforcement Committee shall consist of five members, at least one of whom shall be a Board member.

The Committee chairperson, the assigned Board member, shall be responsible for overseeing the meeting and work with the Executive Officer in development of agenda packet materials. The Board member will be responsible for providing the Committee report at the Board meeting.

The purpose of the Enforcement Oversight Committee is to continually seek ways to improve the Board's enforcement activities, develop and review enforcement policies, review enforcement and discipline-related regulatory proposals, review enforcement and discipline-related forms, review and make recommendations regarding the Board's disciplinary guidelines and to assist in identifying situations where enforcement procedures might be improved.

Please note: Members will not review individual enforcement cases.

## **Legislative/Regulatory Affairs Committee**

*(Board Policy – February 21, 2008)*

*(Revised December 1, 2011)*

The Legislative/Regulatory Affairs Committee shall consist of five members, at least one of whom shall be a Board member.

The Committee chairperson, the assigned Board member, shall be responsible for overseeing the meeting(s) and work with the Executive Officer in development of agenda packet materials. The Board member will be responsible for providing the Committee report at the Board meeting.

The Legislative/Regulatory Affairs Committee is assigned to provide information and/or make recommendations to the Board and committees of the Board on matters relating to legislation and regulations affecting the regulation of Occupational Therapists, Occupational Therapy Assistants and other items in the public interest or affecting Board operations.

The Committee's goals and objectives are to:

- Monitor current legislation on behalf of the Board and make position recommendations to the Board at each Board meeting.

**Legislative/Regulatory  
Affairs Committee  
(Cont.)**

- Serve as a resource to other Board committees on legislative and regulatory matters.
- Serve as a resource for the Board to implement proposed revisions to the Act and Board regulations.

The classification system to be used by the Legislative/Regulatory Affairs Committee in recommending Board positions is:

- Support:  
The Board supports the current version of the bill. This designation commits the Board to full involvement in the legislative process including sending letters to key people, conferring with key people prior to committee hearings and testifying at hearings by Board members, Legislative Committee members or senior staff.
- Support if Amended:  
The Board generally supports the concept or intent of the bill. Technical flaws need to be corrected before the Board will fully support the bill. The Board identifies the amendments or requirements that must be met in order for support to be obtained. Should the requested amendments or requirements be accepted, the Board's position will change to support. This designation commits the Board to full involvement in the legislative process as discussed above.
- Oppose:  
The Board is opposed to the current version of the bill. This designation commits the Board to involvement in the legislative process as discussed above.
- Oppose Unless Amended:  
The Board is opposed to the bill but is willing to work with the author and sponsor of the bill to resolve the Board's concerns about the bill. The Board identifies the amendments or requirements that must be met to remove the Board's opposition. Should the requested amendments or requirements be accepted, the Board will adopt a support position.

**Legislative/Regulatory  
Affairs Committee  
(Cont.)**

- Watch  
The Board has some interest in the bill because it potentially may affect the work of the Board. This designation requires careful tracking through the legislative process.
- Neutral  
The Board takes no official position.

**Practice Committee**

*(Board Policy – February 21, 2008)*

*(Revised December 1, 2011)*

The Practice Committee shall consist of no less than five members, one of whom shall be a Board member. The members shall include a diverse representation for a variety of work settings.

The Committee chairperson, the assigned Board member, shall be responsible for overseeing the meeting(s) and work with the Executive Officer in development of agenda packet materials. The Board member will be responsible for providing the Committee report at the Board meeting.

The purpose of the Practice Committee is to review and provide recommendations to staff on Applications for Advanced Practice Post-Professional Education courses; review and provide recommended responses to the Board on various practice issues/questions submitted by licensees and consumers; provide guidance to staff on continuing competency audits; review and provide recommendations to the Board on practice-related proposed regulatory amendments; and review and provide recommendations to Board staff on revisions to various applications and forms used by the Board.

**Ad Hoc Committees**

*(Board Policy – February 21, 2008)*

*(Revised December 1, 2011)*

The Board may establish ad hoc committees as needed for the Board and its standing Committees.

**Advisory Capacity**

*(Board Policy – February 21, 2008)*

*(Revised December 1, 2011)*

Committee recommendations and reports shall be submitted to the Board in a timely manner for consideration and possible action.

## **Agendas**

*(Board Policy – February 21, 2008) (Revised December 1, 2011)*

Agendas shall focus on the specific tasks assigned by the Board and include:

- Public comment
- Time for committee members to recommend new areas of study to be brought to the Board's attention for possible assignment.
- Only those information items dealing with subjects assigned or delegated to the respective committee.

Committee chairs shall confer with the Board President prior to including any agenda item that is not clearly within that committee's assigned purview.

If more than two Board members will attend a Committee meeting, the agenda shall contain the statement: "A quorum of the Board may be present at the committee meeting. Board members who are not members of the committee may observe but not participate or vote."

## **Appointments**

*(Board Policy – Adopted date) (Revised December 1, 2011)*

At the last meeting before the end of the fiscal year, standing committees shall make recommendations for possible members.

The Board President shall appoint the members to fill positions with expired terms of each standing committee and appoint members to ad hoc committees.

## **Attendance at Committee Meetings**

*(Board Policy – February 21, 2008) (Revised December 1, 2011)*

Board members who are not members of the committee may attend a committee meeting and observe but not participate or vote.

It is required that non-Committee Board members sit in the audience and not participate in the meeting discussion.

## **Dual Membership**

*(Board Policy – February 21, 2008)*

A non-Board member cannot serve concurrently on more than two standing advisory committees.

## **Meeting Rules**

*(Board Policy – February 21, 2008)*

Meetings will be conducted under Robert's Rules of Order to the extent that it does not conflict with the Bagley-Keene Open Meeting Act or any other section of law.

## **Minimum Qualifications**

*(Board Policy – February 21, 2008)*

The minimum qualifications for a licensee member of a standing advisory committee are:

- Five years of professional experience,
- Current California licensure as an occupational

**Minimum Qualifications**  
**(Cont.)**

Therapist or occupational therapy assistant, without restriction,

- No pending or prior disciplinary action.

**Record of Meetings**

*(Board Policy – February 21, 2008)*

The minutes are a summary, not a transcript of each committee meeting. The minutes shall be prepared by Board staff and submitted for review by Committee members within 20 working days of the meeting.

Committee’s minutes shall be approved at the next scheduled Committee meeting and serve as the official record of the meeting.

Approved minutes of the open session are available to the public, upon request, and shall be posted on the Board’s website.

**Recruitment**

*(Board Policy – February 21, 2008)*

The Board shall recruit interested persons to serve on appropriate committees.

**Reimbursement of Travel-related Expenses**

*(Board Policy – February 21, 2008)*

Committee members are entitled to be reimbursed for all travel-related expenses to attend Committee meetings.

**Residence Requirement**

*(Board Policy – February 21, 2008)*

A member of a standing advisory committee must be a California resident.

**Staff Participation**

*(Board Policy – February 21, 2008)*

Board staff provides advice, consultation and support to committees.

**Tape Recording**

*(Board Policy – February 21, 2008)*

Committee meetings are tape-recorded. Tape recordings shall be retained until the minutes are adopted; the tape(s) shall then be destroyed.

# **BACKGROUND PAPER FOR THE CALIFORNIA BOARD OF OCCUPATIONAL THERAPY**

**Joint Sunset Review Oversight Hearing, March 10, 2022  
Senate Committee on Business, Professions and Economic Development  
and the Assembly Committee on Business and Professions**

## **BACKGROUND, IDENTIFIED ISSUES, AND RECOMMENDATIONS**

### **OVERVIEW OF THE BOARD**

The California Board of Occupational Therapy (CBOT) is a licensing entity within the Department of Consumer Affairs (DCA). CBOT is responsible for administering and enforcing the Occupational Therapy Practice Act.<sup>1</sup> The act contains the laws that establish CBOT and outline the licensure program, a regulatory framework for the practice, licensing, education, and discipline of licensed occupational therapists (OTs) and licensed occupational therapy assistants (OTAs). CBOT also regulates unlicensed occupational therapy aides that provide support services to OTs and OTAs.

Occupational therapy is the use of goal-directed activities (occupations) to support client participation, performance, and function at home, school, the workplace, and in other settings. Occupational therapy services are provided for habilitation, rehabilitation, and the promotion of health and wellness for clients with disability- and non-disability-related needs or to those who have, or are at risk of developing, health conditions that limit activity or cause participation restrictions. Common situations include helping children with disabilities to participate fully in school and develop social skills, helping people recovering from injury to regain function through retraining or adaptations, and providing support for older adults experiencing physical and cognitive changes.

At the end of the 2020-21 Fiscal Year (FY), CBOT reported a total of 18,862 active licensees, including 15,135 OTs and 3,727 OTAs.

CBOT's mission is:<sup>2</sup>

To protect California consumers of occupational therapy services through effective regulation, licensing, and enforcement.

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<sup>1</sup> BPC §§ 2570-2571.

<sup>2</sup> *CBOT Strategic Plan 2020-2024*, at 5.



## Scope of Practice

OT services include assessment, treatment, education, and consultation. Specific techniques involve teaching activities of daily living (excluding speech-language skills), designing or fabricating orthotic devices, and applying or training in the use of assistive technology or orthotic and prosthetic devices (excluding gait training).

In addition to providing the services above, OTs with additional training may seek CBOT approval to perform specified advanced practices. These include hand therapy; physical agent modalities; use of topical medications; and swallowing assessment, evaluation, or intervention.

OTs also supervise OTAs and unlicensed aids. OTAs may provide any services that a supervising OT deems appropriate given the patient/client and the OTA's competence, except that the supervising OT cannot delegate the following:

- Interpretation of referrals or prescriptions for occupational therapy services.
- Interpretation and analysis for evaluation purposes.
- Development, interpretation, implementation, and modifications of the treatment plan and the discharge plan.

While OTAs may practice without the supervising OT physically present, the supervising OT is ultimately responsible for any care provided and must perform weekly reviews, document the supervision, be readily available for consultation, and periodically perform onsite reviews. OTAs may also supervise certain students and aids.

Unlicensed aides may perform routine tasks related to occupational therapy services. Non-client-related tasks include clerical, secretarial, and administrative activities; transportation of patients or clients; preparation or maintenance of treatment equipment and work area; taking care of patient or client personal needs during treatments; and assisting in the construction of adaptive equipment and splints.

Aides may also perform limited client-related tasks. The tasks must be routine and predictable and require no decision-making by the aide.

## Legislative History

The regulation of OTs and OTAs in California began in 1977 when the state first enacted a title protection law.<sup>3</sup> The law required any person representing themselves as an OT or OTA to meet the qualification established by the state health department that governed reimbursement for occupational therapy services at the time and made it a misdemeanor to use titles or representations associated with OTs and OTAs. It also prohibited health facilities from advertising that they offered occupational therapy services unless the services were provided by an OT or OTA that met the requirements under the law.

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<sup>3</sup> Assembly Bill (AB) 1100 (Egeland et al.), Chapter 836, Statutes of 1977.

<p>Bookwalter was an occupational therapist at the Davies Medical Center from 1995 to 1997, a development associate at the Manpower Demonstration Research Corporation from 1988 to 1993, and a manager in development communications at the Columbia University Teachers College from 1986 to 1987. Bookwalter earned a Master of Science degree in occupational therapy from San Jose State University.</p>				
<p><b>Vacancy, OT Member</b></p>	<p>Vacant as of January 1, 2019</p>			<p>Governor</p>
<p><b>Vacancy, Public member</b></p>	<p>Vacant as of February 15, 2022</p>			<p>Assembly</p>

**Committees**

According to CBOT, it has four committees to assist the full board address specific policy or administrative issues:

- **Administrative Committee:** the purpose of the Administrative Committee is to annually update the Strategic Plan, respond to items identified in an internal audit and provide guidance to staff in the fulfillment of the audit staff’s recommendations, guide staff for the budgeting and organizational components of the board (i.e., sunset review, sunrise projects, budget change proposals, out-of-state trip requests, contracts, meeting agendas and preparations) and other duties as required.
- **Education and Outreach Committee:** the purpose of the Education and Outreach Committee is to develop consumer and licensee outreach projects, including the board’s newsletter, website, e- government initiatives, and outside organization presentations. Committee members may be asked to represent the board at meetings, conferences, health, career, or job fairs, or at the invitation of outside organizations and programs.
- **Legislative and Regulatory Affairs Committee:** The purpose of the Legislative and Regulatory Affairs Committee is to provide information or make recommendations to the board and its committees on matters relating to legislation and regulations.
- **Practice Committee:** The purpose of the Practice Committee is to review and provide recommended responses to the board on various practice issues submitted by licensees and consumers, guide staff on continuing competency audits, review and provide recommendations to the board on practice-related proposed regulatory amendments, and review and provide recommendations to board staff on revisions to various applications and forms used by the board.

CBOT indicates that it seeks cost recovery in all cases where cost recovery is authorized. CBOT seeks the award of costs when settling cases with a stipulation, as well as in decisions provided through an administrative hearing. However, not all licensees are ordered to reimburse CBOT for all costs, and licensees who do not seek license reinstatement are difficult to collect from. In addition, the use of the Franchise Tax Board Intercept Program is limited to lottery winnings and tax refunds.

Overall, CBOT recovers very little of its overall enforcement expenditures, which is not uncommon among licensing boards. In the last four FYs, CBOT collected between \$9,000 and \$19,000 in cost recovery each FY, averaging approximately \$12,000 per FY.

### **Additional Background Information**

For additional information regarding CBOT's responsibilities, operations, and functions, please see CBOT's *2021 Sunset Review Report* and attachments. The report is available on the Assembly Committee on Business and Professions website: [abp.assembly.ca.gov/reports](http://abp.assembly.ca.gov/reports).

### **PRIOR SUNSET REVIEWS: CHANGES AND IMPROVEMENTS**

CBOT was last reviewed in 2017. A total of 15 issues were raised by the Committees at that time. Below are actions that have been taken over the last four years to address these issues. Those that were not addressed and may still be of concern are discussed further under the "Current Sunset Review Issues" section.

- 1) **ISSUE #2: Does the CBOT use its administrative committee to address any ongoing issues?** CBOT reports that it uses its administrative committee to provide direction to the executive officer regarding ongoing administrative issues or to make recommendations to the full board. The information regarding the various issues is shared with members at meetings in the President's Remarks, Board Member Remarks, or Executive Officer's Report, all of which are provided during a publicly noticed meeting.
- 2) **ISSUE #4: Are there duplicative requirements for out-of-state and military applicants that can be streamlined?** CBOT acknowledges there are several duplicative requirements for out-of-state licensed and military applicants, including submission of the qualifying degree transcript, verification from the NBCOT that the applicant has passed the national examination, and letters of good standing from states where the applicant holds or held a license to verify if discipline had been imposed on their license. However, CBOT reports that it has been a long-standing practice for staff to obtain primary source verification of applicant documentation and not delegate this task to other institutions and entities.
- 3) **ISSUE #6: What has the CBOT discovered about current workforce trends since implementing its workforce survey?** Due to the redirection of staff during BreEZe

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<sup>16</sup> BPC §125.3.

implementation, CBOT stated it had not been able to devote resources to exploring workforce issues. Once BreEZe was implemented in January 2016, CBOT was able to incorporate a voluntary survey into the system to collect the following from initial