

Oregon OT Licensing Board  
**PUBLIC MEETING MINUTES**  
**Friday, November 2, 2018**

800 NE Oregon Street / Conf. Room 445 / Portland, OR 97232

The Oregon Occupational Therapy Licensing Board meeting was held Friday, November 2, 2018 at the Portland State Office Building in Conference Room 445. The Board members present were: Linda Smith, OTR/L, Board Chair; Sybil Hedrick Park, OTR/L, CHT, CSCS, Vice Chair; Kari Hill, COTA/L; Erion Moore II and Clyde Jenkins, Public Members, Nancy Schuberg, Executive Director and Rachel Cillo, Licensing Specialist. Guests: Katharine DiSalle, AAG-phoned in.

With a quorum present, Board Chair Linda Smith called the Friday meeting to order at **10:01**.

**1. Minutes:**

The Board reviewed the public minutes of the **JULY 20<sup>th</sup>** meeting. A MOTION WAS MADE BY Sybil Hedrick Park AND SECONDED BY Kari Hill TO APPROVE THE PUBLIC MEETING MINUTES. THE MOTION PASSED WITH ALL PRESENT VOTING IN FAVOR.

The Board reviewed the confidential meeting minutes of the **JULY 20<sup>th</sup>** meeting. A MOTION WAS MADE BY Sybil Hedrick Park AND SECONDED BY Kari Hill TO APPROVE THE CONFIDENTIAL MEETING MINUTES. THE MOTION PASSED WITH ALL PRESENT VOTING IN FAVOR.

The Board reviewed the public minutes of the SPECIAL board meeting held on **OCTOBER 16<sup>th</sup>**. A MOTION WAS MADE BY Sybil Hedrick Park AND SECONDED BY Kari Hill TO APPROVE THE PUBLIC MEETING MINUTES. THE MOTION PASSED WITH ALL PRESENT VOTING IN FAVOR.

The Board reviewed the confidential minutes of the SPECIAL board meeting held on **OCTOBER 16<sup>th</sup>**. A MOTION WAS MADE BY Sybil Hedrick Park AND SECONDED BY Kari Hill TO APPROVE THE CONFIDENTIAL MEETING MINUTES. THE MOTION PASSED WITH ALL PRESENT VOTING IN FAVOR.

**2. Report of the Director:**

**2017-2019 Budget:**

**Revenues:** June \$11,369; July \$4,550; August \$8,299; September \$12,350. The totals include revenue from fingerprinting. An additional \$40 per new applicant is passed through to the Oregon State Police who runs the background checks. It is paid from Services and Supplies. The Legislature approved an additional \$24,000 in limitation for the additional expense. The total revenue projected in the budget for this biennium, \$379,000, plus \$24,000 (fingerprinting) is \$403,000. The Board's total revenue is \$417,000 with nine months left in the biennium.

**Total Expenditures:** June \$16,946; July \$10,347.89; August \$12,100; September \$11,728. The allotment is what we can spend for the biennium and it is **\$483,425**, or **\$20,142** per month. The budget remains within the allotment.

Expenditures are divided into two categories, Personal Services (payroll) and Services and Supplies:

**Personal Services:**

Expenditures: June \$12,020; July \$12,084; August \$12,100; September \$11,728. Our average spending limitation for personal services is **\$14,294/mo**. The board is within the limitation.

### Services and Supplies:

For June \$4,926.49; 13<sup>th</sup> month: \$4,317.80; July \$<1,736>; August \$5,382; September \$6,580. The average amount we can spend per month is **\$5,847**. The board is within the limitation.

Legal Costs Tracking: Legal costs were as follows: June \$509.60; July \$2,020.20; August \$1,164.80; September \$746.20. The OT Board has consulted more with the AAG due to increase in number and complexity of recent cases. OTLB is on a biennial flat fee contract with the DOJ and pays a set fee quarterly. However, the total of AAG costs for the 17-19 biennium will be factored in establishing the 19-21 contract amount. Due to the increased usage this biennium and DOJ rising costs the board predicts an increase in the contract for the 19-21 biennium. However, the legal costs fees will be within the limitation.

The OT board is within the 2017-19 budget.

**19-21 Budgeting:** The Director recapped the budgeting process. The Board submitted the Agency Request Budget (ARB) the end of July to the Chief Financial Office (CFO). The board reviewed the Analyst Report received back from CFO. OTLB submitted four Policy Option Packages in June. The IT increase in limitation to pay for the new database, etc. was approved. The increase in administrative staff from .5 to .75 was approved. The fee increase was not approved. The analyst stated in the report that there was enough ending balance and the board does not need to raise fees. The re-class for 407 directors from PEMC to PEMD level was denied until CHRO approves it first. The request was submitted to CHRO on 10/25/2018 by the 83300 Directors.

### **IT Update:**

**End-User/Help Desk Support:** CTA is fully security cleared and on board.

**Database Replacement Project:** The initial scope of this project was to implement Elite, which at the time, was on an existing state contract. Due to circumstances outside the control of 83300 agencies, the scope of the project changed significantly when DAS changed the status of the contract, no longer allowing new agencies to use it. As a result, the agency must go through a formal procurement process to select any vendor/product. Irrespective of the contract, the Elite vendor had become increasingly unresponsive and the situation had been escalated to high-risk. Had DAS not closed the contract, a recommendation to consider other options would have been made. With the change in scope and need to go through a RFP process, the project will likely last longer than a year. The 83300 Boards have seen three new prospects and are working with DAS IT for security clearance.

**License Numbers:** As of Thursday, November 1st there were 2,086 OTs; 508 OTA's; a total of 2,594 licensees. There were 135 total licenses issued from July 20, 2018 – November 1, 2018.

**Board Appointments:** The Board has recommended OT Maxwell Perkins to the Governor's office as Linda Smith's replacement. The Senate hearing will be on December 12<sup>th</sup>. Sybil Hedrick Park will become Board Chair and Erion Moore will be the Vice Chair when Linda goes off the Board in mid-June. Sybil will chair the May meeting. The next board member for re-appointment will be Erion Moore in April 2020.

**OTAO:** The Board recapped the OTAO Conference presentation by AAG Joanna Tucker-Davis. The Board was pleased with her presentation. The Board will post the presentation, create a quiz and give a CE point for passing the quiz.

The Director attended the OTAO board meeting on 10/30/2018 and gave an update on the 19-21 budget, the annual performance report and recent scope of practice questions.

**FARB:** The Director attended the Federation of Regulatory Boards law conference held in September in Portland. She explained about Chevron Deference and the case law presented the meeting, including consequences of not following public meeting law.

**2019-21 Affirmative Action Plan:** The Board reviewed the first draft of the 19-21 Affirmative Action plan for any initial comments. The final draft will be adopted at the February 1<sup>st</sup> board meeting.

**Customer Service Survey results / Annual Performance Progress Report:** The Director provided the customer survey report feedback and the Annual Performance Progress Report. The Board's customer service rating for the period for fiscal year 7/17-6/18 is **100%** good or excellent rating based on 163 responses in every category except for availability of information 98% and comparison to other states 99%!!! The Board scored **100%** on our best practice survey and **100%** on discipline cases investigated and 96% of licenses issued within 3 days. The Board met all four of their key performance goals for the fiscal year.

**Supervision Audit:** The Director reviewed the results of the Supervision Audit. If there was no supervisor listed Board staff verified that the OTA was working out of state.

**Discipline Sheet:** The Director provided a new reference document for new board members regarding the discipline process.

**Change 2019 Board meeting date:** The August 2, 2019 meeting date was changed to July 26, 2019.

**3. Disciplinary/Investigations/Complaints:** In accordance with ORS 192.660 (2) (L) which allows the Board to meet in Executive Session on matters to consider information relating to information obtained as part of complaints and disciplinary investigations.

The following cases were considered:

- **OT 2013-08:** Continued
- **OTA 2016-06:** Continued - CE
- **OT 2018-02:** Continued
- **OT 2018-04:** Continued
- **OT 2018-05:** Continued
- **OTA 2018-06:** Continued
- **OT 2018-09:** Case was closed.
- **OT 2018-10:** Continued
- **OT 2018-13:** Case was closed
- **OT 2018-15:** Continued
- **OTA 2018-16:** Continued
- **OT 2018-17** Case was closed
- **OTA 2018-18** Case was closed

- OT 2018-21            Case was closed
- OT 2018-22            Case was closed

*Lunch was provided as the Board continued working.*

**PUBLIC SESSION:** The Executive session was adjourned and the meeting was brought back to public session. All votes were taken in public session.

**4. Motions from Executive Session and Ratify List of Licensees:**

**2018-02** A MOTION WAS MADE BY Erion Moore AND SECONDED BY Linda Smith TO **suspend the license.** THE MOTION PASSED WITH ALL PRESENT VOTING IN FAVOR

**2018-09** A MOTION WAS MADE BY Sybil Hedrick Park AND SECONDED BY Linda Smith TO **send a letter of concern and required the Law/Ethics exam.** THE MOTION PASSED WITH ALL PRESENT VOTING IN FAVOR

**2018-10** A MOTION WAS MADE BY Kari Hill AND SECONDED BY Clyde Jenkins TO **proceed with the final notice by default.** THE MOTION PASSED WITH ALL PRESENT VOTING IN FAVOR

**2018-13:** A MOTION WAS MADE BY Erion Moore AND SECONDED BY Kari Hill TO **close the case.** THE MOTION PASSED WITH ALL PRESENT VOTING IN FAVOR.

**2018-15:** A MOTION WAS MADE BY Sybil Hedrick Park AND SECONDED BY Kari Hill TO **suspend the license and invoke civil penalties.** THE MOTION PASSED WITH ALL PRESENT VOTING IN FAVOR.

**2018-16:** A MOTION WAS MADE BY Linda Smith AND SECONDED BY Erion Moore TO **continue the case.** THE MOTION PASSED WITH ALL PRESENT VOTING IN FAVOR.

**2018-17:** A MOTION WAS MADE BY Linda Smith AND SECONDED BY Kari Hill TO **dismiss the case.** THE MOTION PASSED WITH ALL PRESENT VOTING IN FAVOR.

**2018-18:** A MOTION WAS MADE BY Linda Smith AND SECONDED BY Clyde Jenkins TO **approve the application and send a letter of concern.** THE MOTION PASSED WITH ALL PRESENT VOTING IN FAVOR.

**2018-21:** A MOTION WAS MADE BY Kari Hill AND SECONDED BY Linda Smith TO **approve the application and send a letter of concern.** THE MOTION PASSED WITH ALL PRESENT VOTING IN FAVOR.

**2018-22:** A MOTION WAS MADE BY Sybil Hedrick Park AND SECONDED BY Kari Hill TO **approve the application and send a letter of concern.** THE MOTION PASSED WITH ALL PRESENT VOTING IN FAVOR.

A MOTION WAS MADE BY Sybil Hedrick Park AND SECONDED BY Erion Moore TO **RATIFY THE LIST OF LICENSEES** ISSUED SINCE THE LAST BOARD MEETING. THE MOTION PASSED WITH ALL PRESENT VOTING IN FAVOR.

**5. Pelvic Floor Therapy:** The Board has been considering if Advanced Pelvic Floor Therapy is within the scope of practice for OT's in Oregon. At the May 11<sup>th</sup> meeting, Tracy Arnold, OTR/L gave a presentation to the Board: *“Advanced” therapy includes:*

“Internal pelvic floor treatment including standardized digital exams of the vagina &/or rectum along with palpation to assess tissue mobility &/or pain in the pelvic floor & surrounding tissues, & treatment interventions to treat pelvic issues including biofeedback, as well as other treatment modalities such as therapeutic exercise, external manual therapy, & myofascial release.”

An analysis by the DOJ states that this practice is lawful by OT's in Oregon. The Board confirmed with the PT, Nursing and Medical boards that there is no conflict. The Board highlighted that if any question came up however, a therapist must always be able to show they have the education, training and experience to perform Advanced Pelvic Floor therapy.

**A MOTION WAS MADE BY Kari Hill AND SECONDED BY Sybil Hedrick Park TO allow Advanced Pelvic Floor Therapy. THE MOTION PASSED WITH ALL PRESENT VOTING IN FAVOR.**

**6. Telehealth rules:** The Board had its final motion to amend the telehealth rules OAR 339-010-0006, deleting #6 (a) and (b), per below. Concerns were stemming from the fact that the existing language requires the treating occupational therapist to attempt to ensure that an on-site OT be available in the event an in-person evaluation or interventions were necessary. In some remote rural locations, it is not feasible for the treating OT to ensure that an on-site OT would be available to perform in-person evaluations. AOTA sent a letter in support of the rule amendment. Practitioners in Oregon utilizing telehealth in their practice were polled and agreed with the change.

#### **OAR 339 – 010 – 0006 Standards of Practice for Telehealth**

~~(6) When providing occupational therapy services via telehealth, an occupational therapist shall determine whether an in-person evaluation is necessary and make every attempt to ensure that a therapist is available if an on-site visit is required.~~

~~(a) If it is determined in-person interventions are necessary, every attempt must be made to ensure that an on-site occupational therapist or occupational therapy assistant shall provide the appropriate interventions.~~

~~(b) The obligation of the occupational therapist to determine whether an in-person re-evaluation or intervention is necessary continues during the course of treatment.~~

**A MOTION WAS MADE BY Linda Smith AND SECONDED BY Sybil Hedrick Park TO amend the telehealth rules. THE MOTION PASSED WITH ALL PRESENT VOTING IN FAVOR**

**7. Vision Therapy:** An optometrist in Bend reached out to the OTLB with concerns of OT's doing Vision Therapy. OT Member Sybil Hedrick Park volunteered to contact the OD and provided an update to the Board:

There are two types of vision: Low Vision and Vision Therapy:

Low Vision: For people with degenerative conditions, blind, macular degeneration. Conditions that impair vision. Well established in OTs for decades. AOTA has a Low Vision therapist certification.

Vision Therapy: Any visual compensation or re-mediation (rehabilitative exercises) around neurological conditions, (brain injury, stroke). Can include adaptive or compensatory strategies and or/rehabilitative strategies).

The Board will contact the AOTA and the Oregon Optometry Board regarding the following questions:

- 1) Does AOTA stand firm that OTs should not be doing visual intervention without a referral from an ophthalmologist or optometrist or should that be left up to the states?
- 2) If they leave it to the states, are their ORS's/OAR's that define or bring up Vision Therapy? Vision therapists are not licensed. They are often trained by the overseeing optometrist. Is it defined anywhere in our state what is vision therapy? If there are definitions, do we fit within the definitions?

3) Are there ORS's/OAR's around defining optical devices? Needing prescription or not by an optometrist or ophthalmologist?

**8. Supervision Workgroup:** The Board reviewed new Q and A by category ready for the website: General Requirements, Roles and Responsibilities, PRN, Home Health and Schools.

**9. Strategic Plan Update:** The Board continues to track the progress of the 2016 Strategic plan goals. The Director is focusing on how to move the board forward with technology. The Director is hopeful the new database will allow for online applications and paying application fees by credit card. The Board would like to make it possible to update OTA supervision electronically via a mobile phone.

**10. December Newsletter:** Topics for the December Board newsletter will include the pain management, duty to report, work force data, supervision workgroup and recap the board presentation at the OTA meeting.

The Board Chair adjourned the meeting at **1:14 pm**.

**2019 Board meetings:** Fridays: Feb. 1; May 3; July 26; Nov. 1

Nancy Schuberg, Director. November 16, 2018