

Oregon OT Licensing Board
PUBLIC MEETING MINUTES
Friday, February 26, 2021
Video Conference

The Oregon Occupational Therapy Licensing Board meeting was held Friday, February 26, 2021 via Video Conference. The Board members present were: Board Chair Sybil Hedrick Park, OTR/L, CHT, CSCS; Erion Moore II, Vice Chair & Public Member; Kari Hill, COTA/L; Clyde Jenkins, Public Member; Maxwell Perkins, OTR/L, and Nancy Schuberg, Executive Director. Guest: Linda Smith, OTR/L also attended.

With a quorum present, Board Chair Sybil Hedrick Park called the Friday meeting to order at **10:00 am**.

1. Review and approve public and confidential Board meeting minutes from November 6, 2020:

The Board reviewed the minutes of the **public** meeting of **November 6, 2020**. A MOTION WAS MADE BY Erion Moore AND SECONDED BY Maxwell Perkins TO APPROVE THE PUBLIC MEETING MINUTES. THE MOTION PASSED WITH ALL PRESENT VOTING IN FAVOR.

The Board reviewed the **confidential** meeting minutes of **November 6, 2020**. A MOTION WAS MADE BY Erion Moore AND SECONDED BY Maxwell Perkins TO APPROVE THE CONFIDENTIAL MEETING MINUTES. THE MOTION PASSED WITH ALL PRESENT VOTING IN FAVOR.

2. Report of the Director:

2019-21 BUDGET REVIEW: Financial reports for the months of the October, November, December of 2020 were provided to Board members in their board packets.

Revenue: Oct: \$4,963; Nov: \$3,678; December: \$4,394. These amounts include revenue received from fingerprinting. The total revenue projected in the budget for this biennium is \$482,000.

TOTAL Overall Expenditures:

Oct: \$21,803; Nov: \$20,722; December: \$19,880. The allotment is what the board can spend for the biennium and it \$619,842, or \$25,327 per month. The Board is within the allotment.

Total Expenditures are broken into two categories, personal services (payroll costs) and services and supplies, (everything else)...

Personal Services: Expenditures: **Oct: \$13,596; Nov: \$14,781; December: \$14,209.**

The Personal Services budget is \$400,255 for the biennium or \$16,677/mo. The Board is within the limitation.

Services and Supplies: Oct: \$8,208; Nov: \$5,941; December: \$5,672. The Sales and Supply budget is \$219,587 or \$9,149/mo. The Board is within the limitation.

LEGAL FEES: The Board pays their legal fees on a quarterly basis based on a flat fee contract with the DOJ, but tracks actual costs monthly. For **Oct: \$1,648; Nov: \$1,389; December: \$518.**

21-23 BUDGET PLANNING: The Board reviewed the Governor's biennial budget for 2021-2023 which was released in early December. It is proposing that six agencies that currently report directly to the Governor, including the Occupational Therapy Licensing Board, be moved under the Oregon Health Authority's Health Licensing Office (HLO).

HLO is one agency that oversees several Boards and Programs, including the Art Therapy Program, Board of Cosmetology, Licensed Dietitians, Athletic trainers, etc. The other agencies being transferred along with the OT Licensing Board are the Speech Board, Naturopathic board, Mortuary and Cemetery Board, Medical Imaging, and the Vet Board. Currently and since 2006 these six boards have been grouped together for budgetary purposes as the Health Related Licensing Boards. The Boards share resources and a budget code but outside of that all operate as independent agencies.

Not a lot of details are known at this time. According to the Governor's office, the Board will retain its current authority, oversight and structure, however administratively it will operate in the HLO. The board has been given a one year budget to operate as it does currently and to figure out and make the transition.

As a state agency in the executive branch, the board members nor staff can take a position. The Directors were told we cannot take steps forward, until the legislature gives approval.

The Director assured the board her goal will be to transition smoothly with as little disruption as possible to licensing and customer service while maintaining public protection. As the Board moves forward, the Board will keep the Board's mission at the forefront, to protect the public while ensuring safe and ethical delivery of occupational therapy services on the state.

The Director and Board Chair presented the OT Boards 21-23 budget to the Education Sub-Committee on February 10th. The presentation went well and there were no questions by the committee.

LICENSE NUMBERS: As of February 25, 2021, the total number of licensees are: **2,224** OTs; **507** OT Assistants for a total of **2,731** licensees in Oregon

COMPLIANCE SUMMARY: A chart summarizing the boards discipline cases for the last 5 years was provided to the Board for review.

2020 OTAO CONFERENCE PRESENTATION FEEDBACK: The Board reviewed survey feedback that the OTAO provided regarding the presentation by Kate Morrell on telehealth. All high marks. The presentation was well received.

BOARD APPOINTMENTS/RE-APPOINTMENTS: The vacancy for a new OT member was advertised in the Board's December newsletter and there were five OT's that expressed interest. Meetings have been set up with each candidate and the Board Chair and Director to interview and provide information on the role of a board member.

Member Re-appointments:

Clyde Jenkin's re-appointment forms were submitted in January and his senate confirmation is March 2nd.

Kari Hill's re-appointment forms were submitted and the senate confirmation hearing will be held in either April or June.

2021-23 AFFIRMATIVE ACTION PLAN: The Board reviewed the first draft of the Affirmative Action plan which was submitted in November. It was recently approved and the final version will be submitted along with the 2020 Workforce Data.

DIVERSITY IN THE HEALTHCARE WORKFORCE: A huge priority with the Education Subcommittee. Every health board that gave budget testimony was asked to provide written updates on what steps are being taken by each board to recruit more BIPOC people to go into these profession.

The Director has been in touch with the OT schools, Pacific and LBCC who both made diversity in their co-horts a priority. The national association, AOTA, has worked with congress to introduce the Allied Health Workforce

Diversity Act, and has created a Diversity Equity and Inclusion task force. The NBCOT is working with the Coalition of OT Advocates (COTAD) to explore opportunities for advancement in this area. Website: <https://www.cotad.org/>

One of the goals of the Director is to provide public access to bilingual OTs. Since the OTLB already collects this information, this can be achieved by creating a new report in the new database.

STUDENT LEG. DAY: On February 23rd, the Director took part in virtual Legislative Day. OTD students from Pacific University and OTA students from Linn-Benton Community College came together to learn about the legislative process and working together, the OTs and OTAs. This is an annual event.

TIES: The RSOI conference for school therapists will be held April 26-28.

End of Directors report.

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 2020-21:** New
- **OT 2020-23:** New
- **OT 2021-01:** New
- **OT 2021-02:** New

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:

2020-21 A MOTION WAS MADE BY Erion Moore AND SECONDED BY Maxwell Perkins TO **investigate the case.** THE MOTION PASSED WITH ALL PRESENT VOTING IN FAVOR.

2020-23 A MOTION WAS MADE BY Erion Moore AND SECONDED BY Maxwell Perkins TO **dismiss the case, send a letter of concern and the “Effects of Alcohol”.** THE MOTION PASSED WITH ALL PRESENT VOTING IN FAVOR.

2021-01 A MOTION WAS MADE BY Erion Moore AND SECONDED BY Maxwell Perkins TO **dismiss the case, send a letter of concern and the “Effects of Alcohol”.** THE MOTION PASSED WITH ALL PRESENT VOTING IN FAVOR.

2021-02 A MOTION WAS MADE BY Erion Moore AND SECONDED BY Maxwell Perkins TO **dismiss the case.** THE MOTION PASSED WITH ALL PRESENT VOTING IN FAVOR.

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

5. NBCOT Ambassador Program – Linda Smith: Former Board member, Linda Smith joined the Board meeting to inform the board about her new role as NBCOT Ambassador.

6. 2021 Legislative Session: The board reviewed a list of bills that could have impact on the board and/or the profession of OT:

Bills related to the OT board (bill numbers are hyperlinked to bill on OLIS):

[HB 2078](#) – changes pain management from one time 7 hrs on pain to 1 hr every 3 years, or more frequently to align with the licensing boards renewal cycle. Public Hearing held.

[HB 2315](#) – requires health boards to require licensees to complete 6 hours of CE related to suicide risk assessment, treatment and management every 6 years. No public hearing scheduled yet.

[SB 682](#) – very similar to HB 2315, requires licensees to complete between 3-6 hours every six years of CE related to suicide risk, assessment, treatment and management. No public hearing scheduled yet.

[SB 5521](#) – Budget bill for Health Related Licensing Boards. Public Hearing held.

[SB 5526](#) – Fee increase for the OT Board. Public Hearing held.

OTAO Bill – Establishes OT Day of Recognition annually on April 26th. (No bill number yet).

Bills related to health insurance that reference OT:

[HB 2384](#) – An insurer shall reimburse in each plan year without prior authorization, the cost of an initial eval, follow-up and mgmt. of the treatment for any condition that is within the providers scope of practice for at least 12 visits or the max number of visits prescribed, whichever is less. No public hearing scheduled yet.

[HB 2624](#) – Same bill as HB 2384 (odd). No public hearing scheduled yet.

[HB 2879](#) – Related to Vision Therapy – the OHA shall establish a code and payment rate for billing. References optometry but OTs also do vision therapy. No public hearing scheduled yet.

Bills on data collection:

[HB 3057](#) – During COVID-19, would allow OHA to share individually identifiable information related to COVID-19 info to care coordination entities (CCO's insurers, clinic based care coordinators) for coordination purposes. Public hearing and work session held. Would take place under HIPAA umbrella. No one else would have access to data. Public hearing and work session held. (OT mentioned as a health provider).

[HB 3159](#) – requires health care provider and health insurer to collect from patient, client or member data on race, ethnicity, preferred spoken and written language, disability status, sexual orientation and gender identity. Requires OHA to establish data system for receipt and storage of specified data. Public hearing scheduled for 3/2.

Bills related to health boards:

[HB 2114](#) – allows Psychology board to assess costs associated to discipline cases to person against whom disciplinary action is taken. There is a tiered structure. Currently all licensees bear the costs of very few. Medical board, nursing, HLO, social workers, chiropractor, massage therapists and optometrists have current authority to assess costs. DOJ no longer has flat fee program so costs are unpredictable. 155 cases annually. Addresses contested cases hearings that get dragged through appeals. Public Hearing held.

[SB 358](#) – changes authorization to practice for behavior analysis interventionists from registration to licensure. Behavior Analysis Regulatory Board. Public hearing scheduled for 3/1.

Bills related to professional licensing on the eastern border:

[SB 17](#) – (there is -1 amendment). Allows out of state applicant seeking a license in Oregon more time to meet Oregon standards if applicant is already licensed in another state and is seeking to work in Eastern Oregon Board Economic Development Region.

7. Supervision Rule change: Final motion – Amends the procedure for filing OTA supervision with the board. Notice of Proposed rulemaking was filed on 11/12/2020. There were no public comments. The board voted to proceed with the permanent rule.

A MOTION WAS MADE BY Maxwell Perkins AND SECONDED BY Sybil Hedrick Park TO **proceed with permanent rulemaking of rule 339-010-0035.** THE MOTION PASSED WITH ALL PRESENT VOTING IN FAVOR.

8. Limited Permit rule change: Final motion – Amends the rule by adding a definition of limited permits, adding the duration a limited permit is good for, and the process for filing the limited permit supervisor with the board. Notice of Proposed rulemaking was filed on 11/12/2020. There were no public comments. The board voted to proceed with the permanent rule.

A MOTION WAS MADE BY Maxwell Perkins AND SECONDED BY Erion Moore TO **proceed with permanent rulemaking of rule 339-010-0040.** THE MOTION PASSED WITH ALL PRESENT VOTING IN FAVOR.

9. License renewal change: Final motion – Amends the due date to renew to May 31. The Board no longer requires a CE log to be submitted along with a renewal application. Only if a licensee is selected for a random CE audit do licensees need to complete a CE log and send it in with their CE completion certificates. Notice of Proposed rulemaking was filed on 11/12/2020. There were no public comments. The board voted to proceed with the permanent rule.

A MOTION WAS MADE BY Maxwell Perkins AND SECONDED BY Erion Moore TO **proceed with permanent rulemaking of rule 339-010-0023.** THE MOTION PASSED WITH ALL PRESENT VOTING IN FAVOR.

10. CCCE rule change: Final motion – Under ORS 675.320, the board is proposing that demonstration of completion of required cultural competency CE change from every other to every license renewal. The change eliminates confusion about when the CE requirement is due. Notice of Proposed rulemaking was filed on 11/12/2020. There were no public comments. The board voted to proceed with the permanent rule.

A MOTION WAS MADE BY Maxwell Perkins AND SECONDED BY Erion Moore TO **proceed with permanent rulemaking of rule 339-010-0025.** THE MOTION PASSED WITH ALL PRESENT VOTING IN FAVOR.

11. Questions on Telehealth in schools:

As it stands for OT, according to the telehealth rules #3, if the patient is physically outside of the state of Oregon then he/she would not fall under the jurisdiction of Oregon and a therapist would be subject to the licensing laws in the other state. Here is the rule:

339-010-0006 Standards of Practice for Telehealth

(3) In order to provide occupational therapy services via telehealth to a patient/client in Oregon, the occupational therapist providing services to a patient/client must have a valid and current license issued by the Oregon OT Licensing Board. Oregon licensed Occupational Therapists using telehealth technology with a patient/client in another state may also be required to be licensed in the state in which the patient/client receives those services and must adhere to those state licensure laws.

The board received requests to change this rule to allow therapists to continue seeing their patients if the patient steps out of state. The OTLB checked with legal counsel and has no authority to write a rule that will override other state's licensing laws. The rule stands. If a patient steps outside of Oregon, they are subject to the state's licensing laws and a therapist must be licensed in the state that the patient is located.

12. Telehealth rule review – requiring procedures in case of an emergency.

The Board discussed whether or not add a telehealth rule requiring procedures in case of an emergency.

339-010-0006

Standards of Practice for Telehealth

(1) "Telehealth" is defined as the use of interactive audio and video, in real time telecommunication technology or store-and-forward technology, to deliver health care services when the occupational therapy practitioner and patient/client are not at the same physical location. Its uses include diagnosis, consultation, treatment, prevention, transfer of health or medical data, and continuing education.

(2) Telehealth is considered the same as Telepractice for occupational therapy practitioners working in education settings; and Teletherapy and Telerehab in other settings.

(3) In order to provide occupational therapy services via telehealth to a patient/client in Oregon, the occupational therapy practitioner providing services to a patient/client must have a valid and current license issued by the Oregon OT Licensing Board. Oregon licensed occupational therapy practitioners using telehealth technology with a patient/client in another state may also be required to be licensed in the state in which the patient/client receives those services and must adhere to those state licensure laws.

(4) Prior to initiation of occupational therapy services, an occupational therapy practitioner shall obtain informed consent of the delivery of service via telehealth from the patient/client. The consent may be verbal, written or recorded and must be documented in the patient or client's permanent health or education record.

(5) When providing telehealth services, an occupational therapy practitioner shall have procedures in place to address remote medical or clinical emergencies at the patient's location.

(6) Occupational therapy practitioners shall secure and maintain the confidentiality of medical information of the patient/client as required by HIPAA and state and federal law.

(7) In making the determination whether an in-person evaluation or intervention are necessary, an occupational therapist shall consider at a minimum:

- (a) The complexity of the patient's/client's condition;
- (b) His or her own knowledge skills and abilities;
- (c) The patient's/client's context and environment;
- (d) The nature and complexity of the intervention;
- (e) The pragmatic requirements of the practice setting; and
- (f) The capacity and quality of the technological interface.

(8) Occupational therapy practitioners providing occupational therapy services via telehealth must:

- (a) Exercise the same standard of care when providing occupational therapy services via telehealth as with any other mode of delivery of occupational therapy services;
- (b) Provide services consistent the AOTA Code of Ethics and Ethical Standards of Practice; and comply with provisions of the Occupational Therapy Practice Act and its regulations.

(9) Supervision of Occupational Therapy Assistants under 339-010-0035 for routine and general supervision, can be done through telehealth, but cannot be done when close supervision as defined in 339-010-0005 is required. The same considerations in (7)(A) through (F) must be considered in determining whether telehealth should be used.

(10) An occupational therapy practitioner who is supervising a fieldwork student must follow the ACOTE standards and other accreditation requirements.

(11) Failure to comply with these regulations shall be considered unprofessional conduct under OAR 339-010-0020.

Some concerns discussed of creating barriers to care with school therapists. The Director will bring it up with school therapists at the April Town Hall to see if there is any push back. The Board will discuss further at the May 7th meeting.

13. Rule review - Civil Penalty Rule – for those working under a lapsed license

The Board is proposing to revise its Civil Penalty schedule in rule 339-010-0021 Impositions of Civil Penalties. The Board reviewed research on what other board have in their rules. The Board discussed the fees for civil penalties. The will draft the rule amendment for final review during the May 7th meeting.

14. Proposed rule change: Fee increase - The fee increase proposed in the agency request budget was approved in the Governor's budget and has been proposed to the legislature. The Director reviewed the fee increase with the Association (OTA) Leadership at the January 27th Board Meeting.

339-050-0000 Fees

Fees are non-refundable. Two year licenses shall be issued to all licensees in even-numbered years at the fee schedule listed below. On a case-by-case basis the Board may approve the issuance of a one-year license.

(1) The fee for an initial Oregon or out of state occupational therapy license by endorsement is ~~\$100~~ **\$120**. The Board may also assess the actual cost of conducting a background check, including fingerprinting.

(2) The two-year renewal fee issued for the occupational therapy license is ~~\$150~~ **\$200**. The Board may also assess the actual cost to the Board of conducting workforce demographics surveys.

(3) The fee for an initial Oregon or out of state occupational therapy assistant license is ~~\$70~~ **\$90**. The Board may also assess the actual cost of conducting a background check, including fingerprinting.

(4) The two-year renewal fee for the occupational therapy assistant license is ~~\$100~~ **\$140**. The board may also assess the actual cost to the Board of conducting workforce demographics surveys.

(5) The fee for a limited permit is \$25 and may not be renewed.

~~(6) The fee for delinquent payment is \$50 and is due on renewal applications not renewed on or before June 30.~~

(6) The fee for a temporary Oregon occupational therapist license for military spouses and domestic partners is \$99.

(7) The fee for a temporary Oregon occupational therapy assistant license for military spouses and domestic partners is \$99.

(8) The fee for an occupational therapist or occupational therapy assistant verification of Oregon licensure is \$25.

(9) The fee for an occupational therapist and/or occupational therapy assistant electronic mailing list is \$100.

A MOTION WAS MADE BY Kari Hill AND SECONDED BY Erion Moore TO **proceed with filing notice of proposed rule change of 339-010-0000 increasing fees.** THE MOTION PASSED WITH ALL PRESENT VOTING IN FAVOR.

15. Proposed rule change: Unprofessional conduct for not following executive orders. The temporary rule expired on Feb. 5, 2021, The Board is filing the Notice of Proposed Rulemaking to make the rule permanent.

339-010-0020 Unprofessional Conduct

6) Unprofessional Conduct in a Declared Emergency:

- (a) Unprofessional conduct during a declared emergency includes failing to comply with any applicable requirement of a Governor's Executive Orders, including but not limited to:
 - (A) Providing occupational therapy services when permitted, but without wearing Personal Protective Equipment (PPE) when PPE is required;
 - (B) Providing occupational therapy services at a business required to be closed;
- (b) Unprofessional conduct during a declared emergency includes failing to comply with applicable Oregon Health Authority (OHA) guidance implementing a Governor's Executive Orders, including but not limited to failing to follow guidance on providing occupational therapy services in person.
- (c) No disciplinary action or penalty action shall be taken under this section if the Executive Order provision or OHA guidance alleged to have been violated is not in effect at the time of the alleged violation.

A MOTION WAS MADE BY Erion Moore AND SECONDED BY Clyde Jenkins TO **proceed with filing notice of proposed rule change of 339-010-0020 Unprofessional Conduct for not following Exec. Orders.** THE MOTION PASSED WITH ALL PRESENT VOTING IN FAVOR.

16. CE – Self-help courses

The Board reviewed research whether other health boards/AOTA/NBCOT accept CE for self-help courses. The director will draft a proposed rule change for review at the next meeting.

17. Strategic Planning Update: The meeting is scheduled for Sept. 24, 2021. Sybil Hedrick Park is going to facilitate the meeting. The NBCOT Leadership forum is scheduled around that time so may need to reschedule if held in person.

18. Newsletter content: The March Newsletter will include the Legislative session bills the board is tracking, proposed rules, Q and A as to why the board is raising fees, COVID updates, reminder about updating supervision in the license portal, impending transfer of OTLB to the Health Licensing Office and the new mandatory Cultural Competency CE requirements.

The Board Chair adjourned the meeting at **1:30 pm.**

2021 Board Meetings: Fridays: May 7, August 6, November 5.

Nancy Schuberg, Director. March 3, 2021