

PUBLIC MEETING MINUTES
Occupational Therapy Licensing Board

The Oregon Occupational Therapy Licensing Board met **Friday February 8, 2013** in Conference Room 445 at the Portland State Office Building. Board members present were: Alan King, OTR/L, Chair; Robert Bond, B.A. public member and Vice-Chair; Mashelle Painter, MEd., COTA/L; Linda Smith, OTR/L. Felicia Holgate, Director was present. With a quorum present, Alan King called the Friday meeting to order at 10 a.m.

Juanita Shepherd, who is still waiting for the Governor's appointment and ratification by the Senate, attended part of the meeting. The hearing at this time is set for Wednesday March 6th. Also present at part of the meeting, to represent the state Association, OTA/O, was Chrissy Van Osdol. Tim Esau presented to the Board on Telehealth after lunch.

1. Minutes: The Board reviewed October 26, 2012 Public meeting minutes. Linda Smith MOVED THAT THE PUBLIC MINUTES OF October 26, 2012, BOARD MEETING BE APPROVED WITH A MINOR AMENDMENT. Robert Bond SECONDED THE MOTION AND IT PASSED WITH ALL PRESENT.

The Board reviewed Confidential October 26, 2012 meeting minutes. Linda Smith MOVED THAT THE CONFIDENTIAL MINUTES OF THE October 26, 2012 BOARD MEETING BE APPROVED. Alan King SECONDED THE MOTION AND IT PASSED WITH ALL PRESENT.

2. Ratify List of Licensees: Licenses issued since the last Board meeting were distributed. Robert Bond MOVED TO RATIFY THE LIST OF LICENSEES ISSUED SINCE THE LAST BOARD MEETING. Linda Smith SECONDED THE MOTION AND IT PASSED WITH ALL PRESENT.

3. Report of the Director: Director, Felicia Holgate sends monthly reports.

Board member appointment: **Juanita Shepherd** is set on March 6, 2013 for the Senate hearing on Governor Appointments. The Director will also attend the hearing. Her first formal meeting will be at the May meeting in Lebanon. The next appointment that will be required will be to replace Alan King's position ends October 14, before the October Board meeting. The Director is working with the Association to give names to the Governor's office as required by law.

Budget Review: The Director gave a **fiscal summary**. Monthly revenue, expenditure, and payment statements are scanned and sent to Board members. The Board is in good fiscal shape. The seven Governor's Approved Budget Binders and 2 CDs were submitted. The hearing for the Ways and Means, Education subcommittee is set for Tue. Feb. 19, 2013 at 8:30 to 10 a.m. Alan King, Board Chair, will try to attend with the Director. There should be no controversy at the budget hearing.

2012 Revenues: **October \$1,034; November \$3,078; December \$2,531.**

2012 Expenditures: **October \$8,744; November \$9,283; December \$11,872.** The Board has an average budgeted amount of \$15,000 per month; we spend approximately \$12,000 per month. The Director will check what the Expendable property amount was for under Budget Object code 4700. That is for an amount biennium to date \$946.45 with a total of \$1,028 in the financial plan.

The monthly average breakdown of a monthly amount just shows the total divided by 24 for the biennium. The payments for “Confuzer Inc” are for Agency IT services.

As of February 7, 2013 there were 311 OT Assistants and 1519 OTs for a total of 1830 licensees. We estimated about 1800 licenses by the end of 2012 and reached that number in November. By the end of December 2013 we expect to have over 2000 licensees if the trend continues. We issued approximately 12 licenses per month in the last three months, which is during the slow holiday months of Nov. and December. During the summer we have many more licenses issued per month.

For another year the OT Licensing Board received the **2012 Gold Star Certificate** awarded to agencies that provide accurate and complete fiscal year end information in a timely manner.

The Director is ready to start with a contract with the Nursing Board for LEDS (Law Enforcement Data System) to do background checks. Felicia Holgate’s fingerprint checks were done as needed for the Director to process the background checks.

The Law/Ethics exam has been used from time to time on specific cases. The Director expects to have the exam online to be ready soon. The Director was waiting until the results can be taken and results given online.

4. Disciplinary/Investigations/Complaints: In accordance with ORS 192.660, which allows the Board to meet in Executive Session on matters to consider information obtained as part of investigations of licensees, the following cases were considered:

- **OT 2011 – 07:** Continued
- **OTA 2012 – 04:** File Closed
- **OT 2012 – 05:** A MOTION WAS MADE by Mashelle Painter AND SECONDED by Robert Bond THAT THE BOARD CONSULTANT HAVE A PHONE CONSULTATION WITH THE APPLIANT TO DETERMINE THAT THE APPLICANT RECOGNIZE THE CONCERNS OF THE BOARD. IF THAT CONVERSATION IS POSITIVE, THE BOARD WILL ISSUE A PROBATIONARY LICENSE WITH CONDITIONS. THE CONDITIONS WILL INCLUDE CONTINUING ALCOHOL TREATMENT WHILE IN OREGON AND SUBMITTING WORK EVALUATIONS AFTER 30 DAYS, 90 DAYS AND SIX MONTHS TO THE BOARD FOR REVIEW.
- **OT 2012 – 06:** Conditions met; File was closed.
- **OT 2012-07:** File Closed
- **OT 2012-08:** Continued
- **OT 2012 -09:** A MOTION WAS MADE by Linda Smith AND SECONDED by Alan King TO ISSUE A LETTER OF CONCERN THAT IS NOT PUBLIC ABOUT HER CONDUCT FOR NOT REPORTING DISCIPLINARY ACTION TAKEN BY ANOTHER LICENSING BOARD.

- **OT 2013 – 01:** Complaint continued.
- **OT 2013 – 02:** New applicant continued
- **OT 2013 – 04:** New applicant continued
- **OTA 2013 – 05:** Continued

5. Discipline: MATRIX and Civil Penalties: A draft has been prepared by the Director. The Board members already started using the discipline matrix for this meeting. Information on parameters for civil penalties was included with the matrix draft. The Board will use the same matrix when dealing with DUIs. A summary of comparative actions taken on recent cases was available.

6. At 1 pm: Presentation by Tim Esau from Infinity on Telehealth:

At the last Board meeting the Board formally adopted the AOTA paper on Telehealth and the policy has been formally adopted in the updated Board Policies and Procedures. Tim Esau, physical therapist from Infinity came before the Board and talked about how telehealth is a way to help with care in rural communities. His video presentation shows an example how Telehealth can help with treatments, with an Assistant working directly with a patient, while the therapist is directing the therapy and progress by video conferencing. The therapist must be the one to do the evaluation and establish treatment. It is very useful in home health and education.

The Telehealth does not combine OT and PT services. Infinity works with skilled nursing homes a lot and having Telehealth can help with better and cheaper treatment for patients. Payment is being worked out for Telehealth. Medicare innovation is being encouraged but CMS regulations must be followed. An Assistant can gather data by Telehealth and having the therapist watching can make it even more effective. The initial evaluation though is in person by the therapist, not the Assistant. Telehealth might be very effective for reevaluations and discharge visits.

Areas that need watching besides confidentiality is the threat of having less face to face therapy and liability when specific hands on cannot feel a joint that indicates inflammation. A camera might not catch the inflammation and therapist in case would have to default to hands on live evaluation and/or treatment for best practice. The Director will set up a committee to review and help draft a rule to allow Telehealth in Oregon OT therapy.

7. Review of Changes to Board Policies and Procedures: The Director updated the Board Policies and procedures to reflect changes made by the board in the last year. The Board reviewed them and copies were distributed.

8. Legislation and OT Day: The Director outlined the current bills that are being followed for the Board. On Thursday Feb. 28th Pacific and OTA is having an **OT Legislative Day in Salem**. OTA is giving CE and with Pacific OT students and Linn Benton CC OTA students. The Director, Robert Bond and Juanita Shepherd plan to attend. Pacific University students drafted a flyer which was sent to all legislators. These are the bills the Director is following:

HB 2037 & 2161 Examine application to allow license to spouse of active service, spouse, partner
HB 2065: Dentistry Board: licensee can petition to expunge discipline
HB 2074: Change name Or Health Licensing Office (OHLA); put under Oregon Health Authority
HB 2076: Safeguards to protect identifiable health information
HB 2082: Modifies Social Work board regulation; changes civil penalties language
HB 2100 & 2101: OHLA changes to disclosure of investigative information; consolidate provisions on fees
HB 2102: Modifies provision for athletic trainers (under OHLA)
HB 2111: Limitations on major life activities – probably only for human services – *delete?*
HB 2115 & 2121: Expands DUI any drug affecting physical mental faculties; notice if fail treatment
HB 2120 & 2124 & 2130: Impaired Practitioner program changes – OT is not in the state program
HB 2170: Add to Hearing Notice the right to present additional evidence
HB 2171: If Civil Penalties over \$2,000 have right to trial
HB 2195: Health care provider report person with impairment to safely drive
HB 2217: Filing adverse health care incident with Oregon Patient Safety Commission
HB 2370: Posting minutes on Oregon Transparency web site
HB 2371: Outcome- based budget – identify priorities of government progress
HB 2373: Sunset law to abolish agencies – conduct performance evaluations
HB 2374: Public records request changes in fees
HB 2498: Require Agency collaborate with Revenue on pilot to show licensees are tax compliant
HB 2519: Modified provisions limiting liability for health professionals in homeless outreach
HB 2522: Chiropractic, naturopath, acupuncture, massage, optometry same reimbursement by CCO
HB 2560 & 2720: Rulemaking advisory committees and review of all rules by legislature
HB 2611: Adopt rules for Cultural Competency CE mandated for health care professionals
HB 2642: Directors license agencies to provide nonmonetary assistance to qualified persons
HB 2678: PT authority to practice in state when previously treated patient in another state
HB 2684: Changes when PT referral required to Doctors
HB 2691: Medicine and nursing from other states coming to Oregon to practice as volunteer
HB 2750 & 2752: Preference for special education integrated in school district; performance summaries

SB 45 & 125: Contested Case Hearings right to notice that active duty military has right to stay hearing
SB 52: Final Orders in digital format to Oregon State Bar
SB 86: Public meetings electronic communications
SB 101 & 171: Impaired Practitioner Program supervisory training; participant meet in person
SB 106: Chiropractic and Pharmacy Boards take fees taken out of statute and allowed establish by rule
SB 108: Reasonable costs of Naturopathic Board discipline costs paid by person disciplined
SB 140: Must advise that SS# maybe be used to match other public records of state audit purposes
SB 292 & 358 & 299 & 335: abolish merge boards, reduce government; Board audits, Sunset reviews
SB 301: Puts Accountancy and Tax preparers Boards under Dept of Consumer Affairs
SB 302: Consolidates OT and other Boards and puts Agencies into Oregon Health Licensing Agency
SB 333: Agency rules must be reviewed by legislative committee
SB 364 & 365 & 381: Autism bills: License requirement Applied Behavior Analyst in OHLA; insurance
SB 399 & 429 & 454 & SJR 21 Fees, fines, civil penalties, Agency other funds put into General Fund;
SB 5526: OTLB **Biennial Budget bill for 2013 – 2015** (with other health boards)

There may be other general health bills and other management/personnel bills that can affect the Board. Many new bills are still coming being added.

9. CE Waiver requests:

- 1) A current OT requested a waiver from required CE. The Board discussed the circumstances but will ask that the Director ask the OT to continue trying to obtain some CE and come back to the Board next year.
- 2) A lapsed licensee asked for help with obtaining CE so the OT can get reinstated. The Board is not sure how it can help this licensee. The Board is willing to be somewhat flexible but will ask for additional information on how this former licensee can stay current with practice and find some low cost CE. The Board asked that the applicant continue to advise them on her status.

10. Supervision:

The issue of OT Assistant supervision continues to be an issue the Board deals with, especially where a therapist is working just once in a while and moving from facility to facility. Specifically the Board discussed how it could comply with requirements that all Assistants have a supervision form filed and be supervised at a minimum of once a month at work in person, and have some flexibility for those therapists who work PRN. Some States like Arizona and Texas require complex documentation for specific hours that the Assistant is supervised. It is important that the OT and OT Assistant work collaboratively and develop a good relationship.

At the last Board meeting there was discussion of use of live video conferencing for supervision. The PT Board has in its rule on supervision of PT Assistants that a PT must be available for consultation either in person or by means of telecommunications. The Speech Board has that direct supervision of assistants' means "on-site, within sight and/or sound, or live videoconference observation and guidance by a speech-language pathologist while a speech-language pathology assistant performs a clinical interaction".

The Director will continue to review whether to have a specific rule on allow telecommunications for supervision, including video conferencing, and continue to look for solutions. Perhaps the Association could help come up with solutions. The presentation on supervision at the 2012 State conference was excellent but did not help with the situation when a therapist works at a facility for only a day or so. Having travelers can make it hard to continue appropriate supervision. In addition PRNs do not get regular work evaluations, though from Mr. Easu's point of view patients and other therapists let the company know and therapists that are not providing good care do not continue in those positions. Perhaps there could be a regional therapist who is a lead therapist who oversees a group of therapists. However, if the lead therapist never is at the facility that makes it hard to have them be supervising OTR.

11. New Business: Linda Smith will attend the AOTA conference in April on behalf of the Board.

Board meetings in 2013:

May 3, 2013: in Lebanon at Linn Benton CC where the new OTA School meets. We are working with OTA on whether to also provide CE Friday/Saturday with a social event Friday evening.

August 2, 2013 in Roseburg: with a community meeting planned and perhaps CE on ethics.

October 18 - 19, 2013 board meeting during the OTA meeting in Lake Oswego.

The Board meeting was adjourned by the Board Chair Alan King at 3: 07 p.m.

Drafted by Director, Felicia Holgate Feb. 12, 2013