

Oregon OT Licensing Board
PUBLIC MEETING MINUTES
Friday, November 6, 2020
Video Conference

The Oregon Occupational Therapy Licensing Board meeting was held Friday, November 6, 2020 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. Katharine Disalle, AAG and Genevieve deRenne, Board Consultant, 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 August 7, 2020 meeting and September 29, 2020 special meeting:

The Board reviewed the minutes of the public meeting of **August 7, 2020**. A MOTION WAS MADE BY Erion Moore 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 **August 7, 2020**. A MOTION WAS MADE BY Erion Moore AND SECONDED BY Kari Hill TO APPROVE THE CONFIDENTIAL MEETING MINUTES WITH MINOR AMENDMENTS. THE MOTION PASSED WITH ALL PRESENT VOTING IN FAVOR.

The Board reviewed the minutes of the SPECIAL public meeting of **September 29, 2020**. A MOTION WAS MADE BY Erion Moore 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** SPECIAL meeting minutes of **September 29, 2020**. A MOTION WAS MADE BY Erion Moore AND SECONDED BY Kari Hill TO APPROVE THE CONFIDENTIAL MEETING MINUTES WITH MINOR AMENDMENTS. THE MOTION PASSED WITH ALL PRESENT VOTING IN FAVOR.

2. Report of the Director:

This is the eighth Board meeting of 2020 and the Director expressed her appreciation to the Board members for their willingness and flexibility to meet for four extra special meetings in 2020. This allowed the Board to respond to COVID quickly by extending renewals, make timely decisions on the budget, and address pending cases so applicants did not have to wait an extra two months to get their license.

2019-21 BUDGET REVIEW: Financial reports for the months of the 13th Month, July August and September 2020 were provided to Board members in their board packets.

Revenue: 13th Month: \$7,450 July: \$9,704; August: \$8,613; September: \$6,352. These amounts DO include revenue received from fingerprinting. The total revenue projected in the budget for this biennium is \$482,000.

TOTAL Overall Expenditures:

13th Month: \$532; July: \$16,853; August: \$17,359; September: \$17,895. 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: **13th Month: 0 July: \$13,353; August: \$13,217; September: \$13,245.**

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

Services and Supplies: For the **13th Month: \$532 July: \$3,500; August: \$4,142; September: \$4,651.** 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 **July: \$1,134; August: \$1,905; September: \$1,691.**

21-23 BUDGET PLANNING: The Board submitted the Agency Request Budget in June and is waiting to see the outcome in the Governors recommended budget. It has not yet been released.

LICENSE NUMBERS: As of November 5, 2020, the total number of licensees are: **2,155 OTs; 495 OT Assistants** for a total of **2,650** licensees in Oregon.

KEY PERFORMANCE MEASURE – CUSTOMER SERVICE SURVEY: The November meeting is when the Board reviews the customer service survey for the prior fiscal year, July 1 2019- June 30, 2020. There were over 160 responses and a 98% good or excellent rating or better in every category.

2020 OTAO CONFERENCE / PRESENTATION: The OTAO Virtual Conference was held throughout the month of October. Speaking on behalf of the board, Kate Morrell, Speech pathologist did an excellent job on her presentation on telehealth.

NBCOT Leadership Forum – The Director reported that she attended sections of the forum and provider her notes to the Board members.

AOTA/NBCOT WEBINAR – “Student Con” – The Director reported she participated in a national webinar with AOTA on Licensing for students.

BOARD INVESTIGATOR: Genevieve deRenne will be retiring the end of this year after 18 years with the board as a member and then consultant. The Board will honor her for her service later in the meeting. Sybil Hedrick Park will replace her in October 2021 when she goes off the Board.

ANNUAL BOARD TRAINING: The Board has a 100% completion rate of the state required training.

End of Directors report.

3. POLICY REVIEW:

The Board reviewed two policies in regards to Application review for those applicants with criminal history:

1. How to handle cases that involve non-disclosure of an arrest that later shows up on a Background check. The Board reviewed a new matrix that the Board would use to ensure consistency across all cases. After applying it to past cases, the board voted to adopt.

A MOTION WAS MADE BY Max Perkins AND SECONDED BY Sybil Hedrick Park TO adopt the amended policy and discipline guidelines. THE MOTION PASSED WITH ALL PRESENT VOTING IN FAVOR.

2. The second policy would involve cases of licensees who get arrested for DUI that involve alcohol and whether Board wants to make it protocol to investigate if they worked or were they on call on the day of the arrest or the next day. The Board decided to not go forth with the amended policy.

4. 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:

- **OTA 2019-09:** Continued
- **OT 2020-01:** Continued
- **OTA 2020-04:** Continued
- **OTA 2020-10:** Continued
- **OTA 2020-13:** Continued
- **OT 2020-15:** Continued
- **OT 2020-16:** New
- **OT 2020-17:** New
- **OT 2020-18:** New
- **OT 2020-20:** New

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

5. Motions from Executive Session and Ratify List of Licensees:

2020-16: A MOTION WAS MADE BY Erion Moore AND SECONDED BY Max Perkins TO **dismiss the case.** THE MOTION PASSED WITH ALL PRESENT VOTING IN FAVOR

2020-17: A MOTION WAS MADE BY Erion Moore AND SECONDED BY Max Perkins TO **dismiss the case, send a letter of recommending best practices.** THE MOTION PASSED WITH ALL PRESENT VOTING IN FAVOR

2020-18: A MOTION WAS MADE BY Erion Moore AND SECONDED BY Max Perkins TO **dismiss the case, send a letter of concern and the “effects of alcohol” letter.** THE MOTION PASSED WITH ALL PRESENT VOTING IN FAVOR

2020-20: A MOTION WAS MADE BY Erion Moore AND SECONDED BY Max Perkins TO **dismiss the case, send a letter of concern and the “effects of alcohol” letter.** 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.

6. Recognition of Service : The Board recognized the 18 years of outstanding service by Genevieve deRenne to the board. Genevieve was appointed to the board in 2003, served two terms, and then became the board consultant. Genevieve's background in several areas of mental health, her time on the NBCOT disciplinary action committee and her many years of practice made her an outstanding board investigator. The Board thanked Genevieve for her time and dedication to the board.

7. Pain Management: The Board reviewed changes to the pain management requirement that are being proposed at the upcoming legislative session.

8. Division 20 CE Rule Change: Notice was filed on August 12, 2020. The Board reviewed the public comments received and voted to file the permanent rules. The Board voted to make the slight changes as follows based on the comments received: **339-020-0020 CE Categories and Points**

(3) Completion of **online** educational-courses. ~~recorded or live~~: Points as awarded by certificate or per credit, see (1). Certificate of successful completion required.

Suggested language change by AOTA:

(4) **Satisfactory completion of educational sessions activities** relating to occupational therapy **approved by the AOTA Approved Provider Program**, sponsored by OTAO, AOTA, ~~AOTA approved providers~~, and NBCOT or professional academic institutions relating to occupational therapy: One point per hour of attendance. Certificate of attendance required.

A MOTION WAS MADE BY Erion Moore AND SECONDED BY Max Perkins TO **file the permanent rule per August 7 meeting draft but with slight revisions to #3 and #4, as noted above.** THE MOTION PASSED WITH ALL PRESENT VOTING IN FAVOR.

9. Delinquency Fee Rule Change: Eliminates 339-005-0000 (6) the delinquent fee due on renewal applications not renewed before May 1. Notice was filed on August 12, 2020 and there were no public comments.

A MOTION WAS MADE BY Erion Moore AND SECONDED BY Max Perkins TO **file the permanent rule per the August 7 meeting draft.** THE MOTION PASSED WITH ALL PRESENT VOTING IN FAVOR.

10. Telehealth Rule Change: Notice was filed on August 12, 2020. Changes wording occupational therapists to occupational therapy practitioners and for #4 on consent, clarifies that it may be verbal, written or recorded and must be documented in the patient or client's permanent health record. The board made one slight change in #4 wording as follows:

(4) Prior to initiation of occupational therapy services, occupational therapy practitioners 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.

A MOTION WAS MADE BY Erion Moore AND SECONDED BY Max Perkins TO **file the permanent rule with slight wording change in #4, as noted above.** THE MOTION PASSED WITH ALL PRESENT VOTING IN FAVOR.

11. Questions on Telehealth in schools: The board reviewed several questions on telehealth in schools, when consent is required and not required.

1. Are we able to provide some clarity around the definition of consult as it pertains to service provision via telehealth? Which of the following examples are considered consult and thus would warrant consent?

The Board felt if the student is there, engaged in video conferencing, consent would be needed. But not for the examples provided below.

Examples:

- a. A licensee checking in with a parent in regards to their child's progress and providing guidance on how to assist the child; **No consent required**
- b. A licensee training a teacher/instructional aide to help a specific student; **No consent required unless the student is there and involved.**
- c. A licensee discussing a child with another licensee. **No consent required.**

In the second question below, there is nothing specific in the rules. There may be a policy by the school district.

2. In what scenarios would a new telehealth consent need to be obtained? For example:
 - a. At the start of each school year; **This would be established with initial consent and documented.**
 - b. If a child moves out of district and comes back; **If the child moves out and back, the board thought it would be best practices to get consent again.**
 - c. If there is a change in services. **If there is a change in services there would have and IEP meeting and at the meeting it could be discussed that as a reminder we are still doing telehealth services and document it.**
3. Clarity on the provision of telehealth services to an Oregon student temporarily out-of-state (but still enrolled/resident in OR) and the relationship of OR rules with that state. If the examples below are allowable, would there be any ramifications with the Board of those states? Examples:
 - a. A student is at grandparent's house in WA/ID/CA during the day while parents are at work;
 - b. A student is staying in AZ for a month

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. The board will research a possible change but there are legal concerns.

(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.

12. Proposed rule amendment - Supervision: The Board reviewed the proposed draft to amend rule 339-010-0035 and voted to proceed with rule making procedures.

A MOTION WAS MADE BY Sybil Hedrick Park AND SECONDED BY Kari Hill TO **proceed with rule making procedures.** THE MOTION PASSED WITH ALL PRESENT VOTING IN FAVOR.

13. Proposed rule amendment – Limited Permits: The Board reviewed the proposed draft to amend rule 339-010-0040 and voted to proceed with rule making procedures.

A MOTION WAS MADE BY Max Perkins AND SECONDED BY Sybil Hedrick Park TO **proceed with rule making procedures.** THE MOTION PASSED WITH ALL PRESENT VOTING IN FAVOR.

14. Proposed rule amendment - Renewals: The Board reviewed the proposed draft to amend rule 339-010-0023 and voted to proceed with rule making procedures.

A MOTION WAS MADE BY Max Perkins AND SECONDED BY Kari Hill TO **proceed with rule making procedures.** THE MOTION PASSED WITH ALL PRESENT VOTING IN FAVOR.

15. Proposed rule amendment – Cultural Competency: The Board reviewed the proposed draft to amend rule 339-020-0025 and voted to proceed with rule making procedures. This will allow the board to require demonstration of completion of required cultural competency every renewal.

A MOTION WAS MADE BY Max Perkins AND SECONDED BY Sybil Hedrick Park TO **proceed with rule making procedures.** THE MOTION PASSED WITH ALL PRESENT VOTING IN FAVOR.

16. Civil Penalty Rule review: The Board reviewed a working draft to update the civil penalties rule and decided that additional research was needed. The Board will review again at the Feb. 26, 2021 meeting.

17. Question for the Board: The Board received a question on whether a self-help course would count as CE. Although helpful to the licensee, the Board does not currently accept this type of CE toward the license. The Board will investigate what AOTA and NBCOT has, review it at the next meeting and may decide to add the category to the list of acceptable CE.

18. Strategic Planning Update: The meeting is set for Sept. 24, 2021. Sybil Hedrick Park will facilitate the meeting.

19. December Newsletter planning: OTA Supervision – filing with the board, new proposed rule making, wanted OT board member, Genevieve deRenne retiring.

The Board Chair adjourned the meeting at **1:16 pm.**

2021 Board Meetings: Fridays: February 26, May 7, August 6, November 5.

Nancy Schuberg, Director. November 10, 2020