

Oregon OT Licensing Board
PUBLIC MEETING MINUTES
Friday, May 7, 2021
Video Conference

The Oregon Occupational Therapy Licensing Board meeting was held Friday, May 7, 2021 via Video Conference. The Board members present: 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. Licensing Specialist Rachel Cillo, AAG Angela Hunt and OT Whitney Hooker also attended.

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

1. **Introductions:** BSPA Investigator Leslea Smith, now under contracted with the OTLB and newly assigned AAG Angela Hunt from the Dept. of Justice were introduced to the Board.
2. **CLOSED SESSION 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:** Continued
- **OT 2021-04:** New

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

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

2020-21 A MOTION WAS MADE BY Max Perkins AND SECONDED BY Clyde Jenkins TO **dismiss the case.** THE MOTION PASSED WITH ALL PRESENT VOTING IN FAVOR.

2021-04 A MOTION WAS MADE BY Max Perkins AND SECONDED BY Clyde Jenkins TO **approve the application.** THE MOTION PASSED WITH ALL PRESENT VOTING IN FAVOR.

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

4. **Review and approve public and confidential Board meeting minutes from February 26, 2021:**

The Board reviewed the minutes of the **public** meeting of **February 26, 2021.** A MOTION WAS MADE BY Max Perkins AND SECONDED BY Clyde Jenkins TO APPROVE THE PUBLIC MEETING MINUTES. THE MOTION PASSED WITH ALL PRESENT VOTING IN FAVOR.

The Board reviewed the **confidential** meeting minutes of **February 26, 2021.** A MOTION WAS MADE BY Max Perkins AND SECONDED BY Clyde Jenkins TO APPROVE THE CONFIDENTIAL MEETING MINUTES. THE MOTION PASSED WITH ALL PRESENT VOTING IN FAVOR.

5. Report of the Director:

REOPENING OF STATE GOVERNMENT: Targeted opening of state government is Sept. 1. There is an advisory group working on whether employees will return full time or continue to work at home or if the state buildings will be open full or part time.

2019-21 BUDGET REVIEW: Financial reports for the months of the **January, February and March** of 2021 were provided to Board members in their board packets.

Revenue: **Jan: \$6,324 ; Feb: \$7,087; March:** \$4,377 less a revenue transfer to OHA of \$9568 for the work force survey for a total revenue of \$(**5,191**). The revenue transfer to the OHA is a once a biennium and the Board pays the OHA \$4 per licensee who renews. OHA compiles the data from the survey licensees complete during renewals and provides the Board with Workforce Data charts.

Total Overall Expenditures:

Jan: \$28,189; Feb: \$17,488; March: \$20,917. The allotment is what the board can spend for the biennium and it \$**619,842**, or **\$25,327** per month. January was over at 28K, but overall, the Board is within the limitation.

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

Personal Services: Expenditures: **Jan: \$14,185; Feb: \$14,152; March: \$14,367.** The Personal Services budget is **\$400,255** for the biennium or **\$16,677/mo.** The Board is within the limitation.

Services and Supplies: Jan: \$14,004; Feb: \$3,336; March: \$6,550. The Sales and Supply budget is **\$219,587** or **\$9,149/mo.** January was higher due to the annual payment to DAS for accounting services of \$8,841.

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 **Jan: \$0; Feb: \$42.80; March: \$963.00.** Beginning 7/1/2021, the Board will make payments on a month-to-month basis.

21-23 BUDGET PLANNING: The Director and Board Chair presented the OTLB 21-23 budget to the Education Sub-Committee on February 10th. The board is awaiting legislative approval of the Governor's budget (SB5521) and the fee increase bill (SB 5526). The board is currently awaiting the work sessions.

LICENSE NUMBERS: As of May 6, 2021, the total number of licensees are: **2,278** OTs; **522** OT Assistants for a total of **2,800** licensees in Oregon.

BOARD APPOINTMENTS/RE-APPOINTMENTS: Public member Clyde Jenkins and OTA member Kari Hill are now officially reappointed to their 2nd terms on the board.

Director and Board chair interview several candidates for the OT position and asked Whitney Hooker, OT to meet the full board at the meeting. Whitney brings experience is several rural settings increasing the geographical diversity on the board.

SUPERVISION AUDIT RESULTS: Rachel Cillo reviewed with the board the status of the annual audit of OTAs to make sure they have an OT supervisor on file with the board. We are working with OTAs to educate them on the new process for filing supervision and to let them know that they must be "Approved" in the License Portal by the OT Supervisor. Rachel is working on Q and A for the next newsletter.

2021 OTAO CONFERENCE: Will be held virtually on **Saturday, October 9th**. The board discussed ideas for the OTLB presentation at the conference and decided look for a speaker to address strategies for dealing with stress and burnout.

NBCOT AMBASSADOR – Linda Smith has resigned from her position as NBCOT Ambassador. No word yet whether NBCOT will find a replacement.

NBCOT TESTIMONIAL: NBCOT is performing interviews with various stakeholder to get testimonials addressing the value of certification and partnerships with the NBCOT. The Director was asked to be interviewed and it was recorded. The interview will be included in various outreach efforts, and on social media and the website.

BOARD MEMBER RECRUITMENT EVENT: Board member Max Perkins and the Director participated in the event on Saturday, May 1.

End of Directors report.

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

Tuesday, April 12th was the deadline for bills to be voted out of their first-chamber committee or they die in committee.

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

[HB 2078-2](#) – changes pain management from one time 7 hrs to 1 hr. Completion at initial license and every 36 months thereafter. Passed the House. Senate: work session held.

[HB 2315-3](#) – Amended so that is only requires specified behavioral health providers (OT is not included) to complete required CE on Suicide risk assessment, risk and management. OT will continue to report any CE per SB 48 (2017). Passed the House. Awaiting public hearing in the Senate.

[SB 682](#) –Creates Adult Suicide Intervention and Prevention Coordinator with the OHA to develop and maintain a statewide plan and intervention strategy with respect to adult suicide. Requires licensees to complete between 3-6 hours every six years of CE related to suicide risk, assessment, treatment and management. Passed House, referred to Ways and Means.

[SB 5521](#) – Budget bill for Health Related Licensing Boards. Awaiting work session.

[SB 5526](#) – Fee increase for the OT Board. Awaiting work session.

[HB 3360 - OTAO Bill](#) – Establishes OT Day of Recognition annually on April 26th. Did not get a hearing. Did not move forward.

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. Did not get a hearing. Did not move forward.

[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. Did not get a hearing. Did not move forward.

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) at health plans and with for coordination purposes. Protect privacy Public hearing and work session held. Would take place under HIPAA umbrella. No one else would have access to data. (OT mentioned as a health provider). Passed House. Senate Work session held on 4/28.

[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. Pass house committee. Referred to Ways and Means.

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. Passed house committee and motion to re-refer to Behavior Health carried.

[SB 358](#) – changes authorization to practice for behavior analysis interventionists from registration to licensure. Behavior Analysis Regulatory Board. Pass Senate committee. Referred to Ways and Means.

[HB 2788](#) – Prohibits Dept. of Justice from charging officers and agencies of state government for assistance rendered. Passed House and referred to Ways and Means.

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. Did not get out of committee.

7. Rule amendment – Fee Increase: Public Notice filed on 3/11/21, with public comments due by April 23 @ Noon. There were no comments. Proposed rule change posted on website, emailed notice to stakeholders, OTA, Legislature and sent to all licensees via March e-newsletter.

A MOTION WAS MADE BY Max Perkins AND SECONDED BY Clyde Jenkins TO **proceed with permanent rulemaking of rule amendment of 339-050-0000.** THE MOTION PASSED WITH ALL PRESENT VOTING IN FAVOR.

8. Rule amendment – Unprofessional conduct – Non-compliance with executive orders: Public Notice filed on 3/11/21, with public comments due by April 23 @ Noon. There were no comments. Proposed rule change posted on website, emailed notice to stakeholders, OTA, Legislature and sent to all licensees via March e-newsletter.

A MOTION WAS MADE BY Max Perkins AND SECONDED BY Clyde Jenkins TO **proceed with permanent rulemaking of 339-010-0020 Unprofessional Conduct for not following Exec. Orders.** THE MOTION PASSED WITH ALL PRESENT VOTING IN FAVOR.

9. Proposed rule change: CE-Self care: The board voted to amend the CE rule as follows to allow CE on personal development/self-care.

339-020-0020 CE Categories and Points

These numbers refer to a two year total of 30 points. Credit for CE shall be calculated on a point basis in the following categories and must relate to occupational therapy services. It is the responsibility of the licensee to demonstrate how specific classes contribute to the development of the occupational therapy skills. "Application to OT Services" (CE Log) must be included for credit. Unless stated otherwise, one point equals one contact hour. Sixteen to 30 required CE points must come from categories 1-10. A limit of 14 of the required CE points may be accrued from categories 11-178, unless noted otherwise.

(18) Personal Development / Self Care: not to exceed 4 points.

A MOTION WAS MADE BY Max Perkins AND SECONDED BY Clyde Jenkins TO **proceed with filing notice of proposed rule change**. THE MOTION PASSED WITH ALL PRESENT VOTING IN FAVOR.

10. Proposed rule change: Civil penalties for working under a lapsed license: The board voted to amend the rule on civil penalties to increase the penalty for working without a lapsed license:

339-010-0021 Imposition of Civil Penalties

(2) The civil penalty shall be payable to the Board by **credit card** ~~cash~~, cashier's check or money order.

(3) Civil penalties shall be imposed according the following schedule in the absence of a finding of aggravating or mitigating circumstances (per OAR 339-010-0022):

(a) Practicing or assisting in occupational therapy practice as defined in ORS 675.220(1) and 675.222 without a current Oregon license or limited permit due to nonpayment of fees, **\$250 per month**.

~~(A) Date license lapses to six months, \$100;~~

~~(B) Six months to twelve months, \$200;~~

~~(C) One year to two years, \$500;~~

~~(D) Two years and up, \$1,000.~~

A MOTION WAS MADE BY Max Perkins AND SECONDED BY Clyde Jenkins TO **proceed with filing notice of proposed rule change**. THE MOTION PASSED WITH ALL PRESENT VOTING IN FAVOR.

11. Proposed rule change: Telehealth – procedures in the event of an emergency: The board voted to amend the telehealth rule to require that procedures are in place to address a remote medical or clinical emergency at the patients location:

339-010-0006 Standards of Practice for Telehealth

(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.

A MOTION WAS MADE BY Max Perkins AND SECONDED BY Clyde Jenkins TO **proceed with filing notice of proposed rule change**. THE MOTION PASSED WITH ALL PRESENT VOTING IN FAVOR.

12. Proposed rule: Board Compensation: The OTLB board member stipend rate per meeting is \$30, too low compared with other health boards. Raising the amount will require adding a rule. Here is what is in OTLB statutes:

675.310 (4) Members of the board are entitled to compensation and expenses as provided in ORS 292.495. The board may **provide by rule** for compensation to board members for the performance of official duties at a rate that is greater than the rate provided in ORS 292.495.

The Board reviewed the compensation rates of the other health boards decided that the compensation for preparation and attendance of regularly scheduled board meetings should be \$125 and for special meetings, \$30. The Board delegated authority to Sybil Hedrick Park to approve the final drafted rule so that the proposed rule may be filed prior to the next meeting.

A MOTION WAS MADE BY Max Perkins AND SECONDED BY Clyde Jenkins TO **proceed with filing notice of proposed rule change and Sybil Hedrick Park may approve the final draft of the rule**. THE MOTION PASSED WITH ALL PRESENT VOTING IN FAVOR.

13. Strategic Planning Update: The Board has met most of the goals on the 2016 Strategic plan and it is time to have a new strategic planning session. However, with the impending transfer of the agency under the Health Licensing Office, the board feels it is difficult to plan for the future since it's not clear the impact the move will have on the OT board. The board decided to postpone the strategic planning session previously scheduled for Sept. 24, 2021.

14. Quarterly E-newsletter content: The next e-newsletter will include an update on the Legislative session bills the board is tracking, any COVID updates, reminder about updating supervision in the license portal, update on the impending transfer of OTLB to the Health Licensing Office and the new mandatory Cultural Competency CE requirements.

The Board Chair adjourned the meeting at **12:05 pm**.

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

Nancy Schuberg, Director. May 17, 2021