

Oregon OT Licensing Board  
**PUBLIC MEETING MINUTES – Friday August 29, 2014**  
Portland State Office Building, Room 445, 800 NE Oregon St.

The Oregon Occupational Therapy Licensing Board meeting was held on Friday August **29, 2014 at 10 a.m.** at the Portland State Office Building, Room 445, 800 NE Oregon St. in Portland, Oregon. The Board members present were: Robert Bond, B.A. Chair, public member; Mashelle Painter, COTA/L, Vice Chair; Linda Smith, OTR/L, Juanita Shepherd, public member, and Sybil Hedrick, OTR/L, CHT, CSCS. Felicia Holgate, Director was present. With a quorum present, Robert Bond called the Friday meeting to order at 10 a.m.

John Terpening, legislative fiscal analyst attended the meeting. At 12:30 Sean Roush from Pacific University, School of OT attended the portion of the meeting on mental health rules. Nancy Schuberg, Office Specialist also attended.

**1. Minutes:**

The Board reviewed the minutes of the public meeting of April 28, 2014. A MOTION WAS MADE BY LINDA SMITH AND SECONDED BY SYBIL HEDRICK TO APPROVE THE PUBLIC MEETING MINUTES AND IT PASSED WITH ALL VOTING IN FAVOR.

The Board reviewed the confidential meeting minutes of APRIL 28, 2014. A MOTION WAS MADE BY LINDA SMITH AND SECONDED BY SYBIL HEDRICK TO APPROVE THE CONFIDENTIAL MEETING MINUTES AND IT PASSED WITH ALL VOTING IN FAVOR.

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

**Staff:** Felicia Holgate, Director received the Honorary 2014 *Sue Nelson Award* from Pacific University. The Board Chair approved a merit increase. Director Holgate asked to reduce her hours to 80%. The hours for Nancy Schuberg have been increased and she is taking on more responsibility for the licensing process and is now the Licensing Specialist. All licenses applications continue to be reviewed and approved by the Director.

**CURRENT 2013 – 2015 BUDGET:**

**Budget Review:** The Director gave a **fiscal summary**. Monthly revenue, expenditure, and payment statements are scanned and sent to Board members. The Board remains within its budget allotment.

**2014 Revenues:** March \$69,400; April, \$145,839, May \$50,860, June \$9,452.

The Legislative total revenue projected in 2013 for this biennium (13 – 15) was \$282,700.

As of June, 2014 we have \$292,593 in revenue and still have a year to go until June, 2015.

The projection for revenue was therefore increased in March for this biennium to \$325,500.

**2014 Expenditures:**

April was \$17,998 higher with IT cost of \$4,065 for renewals and putting the ethics exam online; May was \$17,652 higher with AG, IT, office expenses for renewals mailing, credit card billing.

June was \$14,360 plus \$2,435, the 13<sup>th</sup> month expenses from June costs paid in July (rent, AG costs, state services charges, and telecommunication).

**The biennium** is from July 2013 to June 2015. The Board has a current total 2 year budget “allotment” of **\$367,857**. For the first year of the biennium (July 2013 to June 2014) the average expenditure was **\$15,389** per month for a total of \$184,666.

**The 2<sup>nd</sup> year of this biennium** ends June 2015. \$12,275 was added to the Personal Services for increases allowed after the COLA freeze was lifted and furloughs were ended. The Board has a total of \$195,466 allotment left, which is an average of **\$16,288 per month**. Costs are higher due to discipline cases, added hours for the part time office staff to keep up with work, and IT costs for new data system.

**Next BUDGET FOR 2015 – 2017:** This next Biennium budget was submitted August 1. It was review by the Director with the Board Chair in detail and then by Board members. It now goes to DAS (Department of Administrative Services) for review, then to the Governor’s office and then to the Legislature where it will be discussed and final legislative approval given in 2015.

**Estimates for 2015 – 2017:**

Revenue: \$341,100, plus an ending balance of \$264,100 for total of \$605,100.

Expenditures: \$396,582 plus 2 policy packages of \$114,046 for total of \$510,628.

**Policy Packages for 2015 – 2017 Budget:** The Director put in two budget policy packages for:

- Increase in staff costs for adding hours from the .25 current FTE to .75 and upgrade the office staff position from an Office Specialist to Administrative Assistant 2.
- Cost of a .25 FTE investigator and for doing national background checks.

At this time the Board **will** do national background checks through a national company after costs of \$150 are approved by the legislature. We are not asking for costs of fingerprinting:

1. The Board is doing LEDS checks for all renewal applicants with a Nursing Board contract.
2. DAS State is working on rules and having live scan instead of fingerprint cards.
3. State is working on a two year voluntary fingerprint registry for health care workers.
4. NBCOT, the national Association is considering doing fingerprinting.
5. Cost of fingerprints are expensive for applicants who had background checks done at school

Performance Measures: As part of the Budget the Board also reports on Performance Issues:

1) Percent of Licenses issued within 5 days: We usually issue within **3** days and it is over 95%

2) Customer Satisfaction results: An email was sent to all Interested Parties and all licensees asking them to rate the board in categories of timeliness, accuracy, helpfulness, expertise, availability of information and Overall. If they want they can fill out the comments section. The Director provided the results and all comments made this last year to the Board. The results show a very high customer satisfaction level. Results are over 95% rating services as good or excellent. A majority are in the excellent category. The question most often answered “don’t know” is the one asking about comparison with other states.

There was discussion that the CUSTOMER SATISFACTION results should be made available to the legislative committee considering the Board's budget.

- 3) Board Best Practices: Board members filled out the form and the results showed that the Board follows all categories and it was summarized in the Customer Satisfaction section.
- 4) Disciplinary cases reviewed within 120 days: All cases were reviewed by the Board at each meeting within the required time.

**Summary of Renewal Process:** Nancy Schuberg has learned a lot in the last two years, going through a complete renewal period and is now a Licensing Specialist. The Director with Nancy evaluated the renewal process and we plan to make some changes/improvements for the next renewal in two years:

- Check the supervision of Assistants before renewals so Assistants know whether they are current with their supervision forms being filed. Perhaps we will do it yearly.
- Send notice to licensees about the CE audit early and give them more information and a sample of a perfectly completed log form. Perhaps do CE audit after renewals.
- Check early whether new applicants have completed the one time Pain CE.

The new data base should make it easier to pull up lists like who is currently supervised, and who has not completed Pain Management CE. We can ask licensees whether they are currently NBCOT certified and whether they practice Telehealth.

License Numbers: As of August 28, 2014 there were 359 OT Assistants and 1609 OTs for a total of 1968 licensees. We issued approximately 35 licenses a month, if we count the LP issued prior to issuing a regular license. There is always a high average during the summer when students graduate and get licensed. 31 Limited Permits were issued in 2014 the same number as in 2013, and 15 already passed the exam and were issued a regular license.

NBCOT: After renewals, the Board checked with NBCOT and found that 75% of renewal applicants are NBCOT certified. There are several scenarios the Board can consider about certification. Rather than discussing this at a future meeting, the Board decided that if the licensees are currently certified by NBCOT their CE will be considered complete even though NBCOT currently requires 12 CE points of year (or 24 for two years) and the Oregon Board requires 30 points.

The Director will return with proposed revisions to the rules to reflect this change. This would also be reflected in the CE audits done, in that if the licensee has completed their NBCOT requirements they would not need to be audited by the Oregon Board.

The Director has been asked to appear on a panel at the NBCOT conference in October. The registration and one night lodging will be paid by NBCOT. Costs will be low.

Mashelle Painter noted that there is a new program looking at starting an OT Assistant program in Portland.

**3. 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 2012 - 08:** Case closed
- **OT 2013 – 03:** License lapsed. Case Closed.
- **OT 2013 – 05:** Continued.
- **OT 2013 – 06:** License lapsed, Case closed
- **OT 2013 – 08:** Continued
- **OT 2013 – 12:** Continued
- **OT 2013 – 15:** Continued
- **OT 2014 – 09:** A MOTION WAS MADE BY MASHELLE PAINTER AND SECONDED BY ROBERT BOND TO ISSUE A LICENSE ONLY AFTER SHE SIGNS AN AGREEMENT TO HAVE THE BOARD RECEIVE PERIODIC REPORTS FROM HER WORK AND THAT SHE WRITE HER GOALS, PLANS AND TIMELINES.
- **OT 2014 – 10:** A MOTION WAS MADE BY SYBIL HEDIRCK AND SECONDED BY JUANITA SHEPHERD TO ISSUE A REPRIMAND WITH A \$100 PENALTY.
- **OT 2014 – 11:** Continued
- **OT 2014 – 12:** Continued
- **OT 2014 -13:** Continued
- **OT 2014 – 14:** Closed
- **OT 2014 – 15:** A MOTION WAS MADE BY LINDA SMITH AND SECONDED BY SYBIL HEDRICK TO ISSUE A CONFIDENTIAL LETTER OF CONCERN.

**Renewal Issues:** The Board reviewed all the “Yes” to History questions from the 2014 renewals.

**4. Ratify List of Licensees:** A MOTION WAS MADE BY LINDA SMITH AND SECONDED BY SYBIL HEDRICK TO RATIFY THE LIST OF LICENSEES ISSUED SINCE THE MAY BOARD MEETING. THE MOTION PASSED WITH ALL PRESENT.

**Working lunch was provided**

**At 1 pm:**

## **5. Administrative rules hearing:**

**Telehealth rule:** Nancy Schuberg outlined the proposed rule, who is on the Telehealth committee, and how committee members worked on the original draft:

- 1) Section 1 states the definition. There were three drafted versions of the definition and this was the favorite of the committee. We had a conference call with Calista Natoli who is on a national Telemedicine committee called CTEL and she gave advice on the choice of words.
- 2) Section 2 states the therapist must be not only licensed in the state they are in but also the state the patient is in. This is in case there is a problem, or a complaint such as in Alaska which does not allow Telehealth outside the state.
- 3) Section 3 states the therapist must obtain informed consent. This is one Tammy Richmond, FAOTA, had concerns with and we will reviewing again with the committee. However, the controversy in CA was that they had allowed verbal content in their statutes but their regulation had stated that it must be written. Our rule does not specify verbal or written. But we do plan to revisit this section.
- 4) Section 4 ensures the confidentiality of the patient's information. No issues.
- 5) Section 5 had the most controversy. It states the therapist must determine if an in-person evaluation is necessary. If yes, a local therapist must be available. Tammy Richmond's view is that is unnecessary and burdensome to the consumer, and that in many cases, there is not a local OT provider available. Section 2 of the rule details the actual treatment, if Telehealth is a warranted means of delivery and Section 3 whether it can be used to continue the treatment. There will be more discussion to follow on this one.
- 6) Section 6 gives the considerations an OT should make before deciding that Telehealth is appropriate. Our committee agreed with this list unanimously. The national view is that it does not belong in the rules.
- 7) No issues with Section 7 as using Telehealth is a mode of delivery of services and does not change the standard of care.
- 8) Section 8 is controversial. If the therapist determines that an on-site therapist is required, an adequately trained person must be there to help with hands-on delivery of service. This was included concerns that an Aide not be providing OTA treatment. The concern is that this does not belong in regulatory language. No other state board had included it.
- 9) Section 9 states supervision through Telehealth of an OTA is allowed. It was already in the AOTA supervision rules and we decided to add in our rules.
- 10) Section 10 speaks to those supervising a field work student through Telehealth, that they must follow the ACOTE requirements (Accredited Council for Occupational Therapy Education).

11) Section 11 states that if the regulations are not followed it shall be considered unprofessional conduct.

Nancy Schuberg and Linda Smith, who is on the committee, discussed some of these concerns and the recommendation to postpone adoption of the proposed rule. Concerns expressed by national Telehealth and Telemedicine groups about some of the language that they feel is too restrictive. The committee will look at the language again. Originally the proposed rules were sent out in a newsletter, posted on the web site and published by the Secretary of State.

The final adoption of the Telehealth rules has been delayed so that the committee can review comments and new information from Jana Cason and Tammy Richmond, who are heavily involved at the national level. Tammy warned that California used the same language and it was too restrictive, and burdensome, and that some of this language belongs in a “guidance document” or position paper, rather than regulatory language.

Also in coming months, Felicia will present on a Telehealth and Portability panel at the NBCOT conference with Chuck Willmarth, from AOTA who works on state policy issues and others from national groups and state regulatory folks. Felicia is also attending a meeting next month about payment by Medicaid for OTs PTs and Speech doing Telehealth (Telepractice) in public education setting for therapies provided to children in Oregon. This will give more opportunity to gain additional insight to help us make informed decisions on our rules. The proposed language with comments will be reviewed again by the committee and brought back to the Board for approval.

**Mental and behavioral health rule:** Sean Roush from Pacific outlined the committees work and a few comments received. A few amendments were suggested to clarify that OT Assistants are part of the rule and the final rule as proposed was adopted by the Board.

Occupational Therapists are classified as Qualified Mental Health Practitioners and though they observe behavior and use the diagnosis language from the DSM, they are not diagnosing in the medical sense, and not prescribing medicine as the physicians and other health care team.

Sean Roush also talked about the successful **EASA** (Early Assessment and Support Alliance) an Occupational Therapy program that is a “first-episode program in Oregon that incorporates occupational therapy to help young people better address symptoms and resume cherished everyday activities”. This mental health program was featured in an AOTA June, 2014 OT practice article.

**Cultural Competency rule:** Felicia outlined the decision of the Board not to mandate cultural competency CE and the legislative work in this area. The Board however does count cultural competency as a part of regular CE that may be obtained by therapists. This rule makes that clear. The Director has been asked to serve on the Committee to write rules on the new law and has accepted.

LINDA SMITH MOVED AND SYBIL HEDRICK SECONDED TO ADOPT THE FINAL MENTAL HEALTH AND CULTURAL COMPETENCY RULES. THE MOTION WAS APPROVED BY ALL OF THOSE PRESENT.

**Policy for Military:** In response to **HB 4057** legislation from the 2014 session, there is a requirement that health boards help military personnel, their spouses and partners get credit for their military experience, and for the board to expedite applications. The Board adopted the following policy:

**Board Policy on OTs, spouses and partners in the military:**

After a new law in 2014 session, the Board developed a policy to expedite any applications for licensure of Occupational Therapist who work in the military, and their spouses or partners. The Board will take into consideration any military experience that can help applicants get licensed in Oregon and will expedite their applications.

- Applicants can provide documentation that they have substantially equivalent military training or experience that is evidence of compliance with requirements for supervised fieldwork or other academic requirements.
- This documentation must comply with national requirements for taking and passing the national exam given by the National Certification Board of OT.
- The army has an OT military school that complies with application requirements.

The Board will also consider on a case by case basis whether to grant a request from **active duty** military personnel occupational therapists to:

- (1) Exempt them from the license fee; and/or
- (2) Give an extension or waive the Continuing Education requirement.

The Board will track applicants and current therapists who are known to be in the military, or are spouses or partners of the military to help expedite their applications and help with any issues they may have in complying with licensing requirements.

Note: The Director knows of several therapists who are currently in the military though none on active duty. In the next newsletter we will ask if any OTs are in the military, or if they are a spouse or partner of someone in the military. There is an October reporting date for the Director to advise the legislature about the number of therapists, spouses and partners of military personnel in the profession and our steps in complying with the new law.

**6. OTs in Education workload:** There are many concerns about caseload, use of aides and the loss of OT Assistants in the schools. Mashelle Painter met with the Director and Chrissy Van Osdol who is working on a questionnaire for her doctorate program at Pacific.

The Director has made an appointment with Dr. Nancy Golden, newly appointed by the Governor as the Chief Education Officer, to meet with Mashelle Painter, and representatives from the Association, and OT schools about caseloads, workloads and other issues.

**7. OTA0 state conference** will be held on Friday and Saturday October 17 – 18 in Wilsonville. The Director has been able to have the same speaker Melissa Soll will speak on Friday on behalf of the Board. Board members and Director Holgate and Office Specialist Nancy Schuberg will attend at least part of the meetings.

**8. ServOR** requests the Board to give licensees information about this volunteer program to help Oregon citizen in time of emergency. The Board will post this information on our web site, put something in the newsletter. The Association will also help pass on this information.

## **9. New Business**

### **Confirm Dates for 2014 Board meetings:**

OTA0 conference in Wilsonville October 17 – 18

Friday, November 7, in Portland at the Portland State Office Building

### **2015 Board meetings:**

Friday Feb. 13, 2015 (2<sup>nd</sup> Friday due to winter weather)

Friday, May 1, 2015

Friday, Aug. 7, 2014

Friday, Nov. 6, 2014

The Board adjourned its meeting at 2:10 p.m.

Drafted by Director, Felicia Holgate     September 4, 2014