

Oregon OT Licensing Board

Board Meeting – Friday, February 11, 2022

Portland State Office Building, 800 NE Oregon St. Suite 407, Portland, OR 97232

PUBLIC Board Minutes

The Oregon Occupational Therapy Licensing Board held a Board Meeting on **Friday, February 11, 2022** via Zoom Video Conference. Board members: Board Chair/public member Erion Moore, Vice Chair Kari Hill, COTA/L, Maxwell Perkins, OTR/L, Whitney Hooker, OTR/L, CLT and Nancy Schuberg, Executive Director were present. Public member Clyde Jenkins had an excused absence. Guests: Angie Hunt, AAG; Dr. Jennifer Pitonyak.

With a quorum present, Board Chair Erion Moore called the meeting to order at 10:17am.

EXECUTIVE SESSION: 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.

1. Disciplinary/Investigations/Complaints:

The following cases were considered:

- **OT 2021-10** Continued
- **OT 2021-14** Continued
- **OT 2022-03** Continued (LEDS)
- **OT 2022-07** New
- **OT 2022-08** New

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

2. Review and approve public and confidential Board meeting minutes from the November 5, 2021 regular meeting and January 7, 2022 Special Meeting:

The Board reviewed the minutes of the **public** meeting of **November 5th and January 7th**. A MOTION WAS MADE BY Max Perkins AND SECONDED BY Kari Hill TO APPROVE THE PUBLIC MEETING MINUTES with amendments. THE MOTION PASSED WITH ALL PRESENT VOTING IN FAVOR.

The Board reviewed the **confidential** meeting minutes of **November 5th and January 7th**. A MOTION WAS MADE BY Max Perkins AND SECONDED BY Kari Hill TO APPROVE THE CONFIDENTIAL MEETING MINUTES. THE MOTION PASSED WITH ALL PRESENT VOTING IN FAVOR.

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

2022-03 A MOTION WAS MADE BY Kari Hill AND SECONDED BY Max Perkins that there sufficient evidence of a violation of OAR 339-010-0020(5)(d) and the Board delegates to the executive director the authority to settle the case. THE MOTION PASSED WITH ALL PRESENT VOTING IN FAVOR.

2022-07 A MOTION WAS MADE BY Kari Hill AND SECONDED BY Max Perkins TO **dismiss the case.** THE MOTION PASSED WITH ALL PRESENT VOTING IN FAVOR.

2022-08 A MOTION WAS MADE BY Kari Hill AND SECONDED BY Max Perkins TO **approve the application but continue the investigation.** THE MOTION PASSED WITH ALL PRESENT VOTING IN FAVOR.

4. Policy Review: The board received the an update on the declaration verbiage included on the applications and the renewals.

5. Report of the Director:

COVID-19/RE-OPENING OF STATE GOVERNMENT UPDATE: The Omicron variant delayed the opening of state government. The new date is still under consideration. The mask mandate will be lifted on March 31, 2022.

2021-23 BUDGET REVIEW: The Financial summaries for the months of **Oct., Nov., and Dec.** were reviewed by the Board. The 2nd quarter of the biennium.

Revenue: **Total Revenue by month: Oct. \$2,031; Nov. \$5,396; Dec. \$6,387.** Half of the total revenue for Oct was included with the November totals. Revenues reflect the one-year application fee.

Overall Expenditures: **Oct. \$27,272; Nov. \$21,712; Dec. \$18,507.**

The allotment is what we can spend for the biennium and it is **\$697,289 or \$29,053** per month. Overall expenditures are within the limitation.

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

Personal Services: Expenditures: **Oct. \$16, 890; Nov. \$18,520; Dec. \$17,071.**

In December there was a 2.5% cola for all employees. The Board contract Investigator did not work any hours for the 3 month period.

The Personal Services budget is **\$486,932** for the biennium or **\$20,288/mo.** That reflects a 1.65 FTE but we are keeping Rachel's position at .5. Personal Services totals are within the limitation.

Services and Supplies: **Oct. \$10,381; Nov. \$3,192, Dec. \$1,435.** October was higher due to DAS assessments, charges assessed in association with using DAS services, payroll, financial services, etc. The Sales and Supply budget is **\$210,357 or \$8,765/mo.** The board is within the limitation. The average of the first 6 months of the biennium is \$4,662 per month.

21-23 Budget Note: The HRLB Executive Directors submitted their report to the Legislative Fiscal Office in mid-January and a work session was held on Feb 2nd with the Joint Ways and Means Education Subcommittee. The subcommittee voted to advanced the report to the JWM Full committee. The Full JWM Committee work session was held and voted unanimously to in favor accepting the report without any discussion or questions.

The LFO response is the directors should continue to work with them to provide info. This work will be used inform recommendations for possible transfer of the HRLBs to HLO in the 23-25 budget.

Fingerprinting fee increase: The Oregon State Police raised their fees for the fingerprint background checks. Currently the board pays 28.00 plus \$13.25 (FBI) for a total of \$41.25 per background check. Currently the board charges applicants \$40 per background check and absorbs the \$1.25/check difference, roughly \$800 per biennium. With the increase, the board will be charged \$46.25 per check, which equals \$4K per biennium the board must absorb. A motion was made to raise the fingerprinting fee to \$50.

FP FEE: A MOTION WAS MADE BY Kari Hill AND SECONDED BY Max Perkins TO **initiate the administrative process to raise the fingerprinting fee to \$50.** THE MOTION PASSED WITH ALL PRESENT VOTING IN FAVOR.

LICENSE NUMBERS: As of February 10, 2021, the total number of licensees are: **2,479** OTs; **566** OT Assistants for a total of **3,045** licensees in Oregon.

RENEWALS 2022: There has been a lot of work in preparing for the next renewal period starting March 1. A notification letter to all licensees will be mailed out just prior to March 1st. The link will be on the web site to start renewals on the 1st. There has been a lot of need for clarification around the legislatively mandated CE, what's due and what not due.

For licensees who are Not Renewing we have a category for them in our system so we do not continue to contact them. Staff confirms they are Not Renewing and we send them the formal letter about their license expiring.

When a licensee informs the board they're not renewing, the staff notes the reason, and checks with retiring OTs if they wish us to give their name to the State Association, where they can become "honorary" members and stay in touch with the profession. After renewals are over, staff sends the list to the OTA.

LEDS check were completed on all licensees and Audits will run right after renewals on those who are not NBCOT certified. Board staff verifies whether or not the licensee is certified when they process each renewal.

BOARD APPOINTMENTS: OT Whitney Hooker is now officially on the board. The board members have been assigned their annual trainings on IT security and Harassment in the Workday system.

2022 OTA Presentation: The board was provided a list of presentation the board has done in the past, and asked to consider options for the 2022 OTA annual conference.

Strategic Planning: the meeting will be held on September 23, 2022, in person if state government is open.

Student Legislative Day: On February 24th, will be student Leg. Day. OTD students from Pacific University and OTA students from Linn-Benton Community College come together to learn about the legislative process, advocacy and the OT and OTA roles in working together. Rep. Susan McClain is scheduled to talk, the lobbyist Nikki will present, and the director will give a presentation

6. Public Comment – there was no public comment.

7. Dr. Jennifer Pitonyak: The board welcomed the new program director of Pacific U's doctorate program.

8. Dry Needling: A task force created by the AOTA has recently determined that dry needling is in the scope of practice of occupational therapy and is a PAM. A revised position statement in process due Fall 2022.

Currently in Oregon:

The OT board discussed dry needling in 2016. And at that time AOTA did not take a position, so the board did not want to take a position in Oregon until AOTA did. The board has not reviewed since.

Currently acupuncturists are the only profession that can legally practice dry needling in Oregon. The PTs and Chiropractors have challenged the rule.

The Oregon Medical Board and its Acupuncture Advisory Committee regulates the practice of acupuncture in Oregon. They have concluded that “dry needling” is acupuncture and can only be performed by a licensed acupuncturist. Their rules state that no person may practice acupuncture without a license.

847-070-0007 Practice of Acupuncture

(1) No person may practice acupuncture without first obtaining a license to practice medicine and surgery or a license to practice acupuncture from the Oregon Medical Board.

Other professions have challenged the rule but have not been successful:

In 2017 the PT board asked received a (very costly) opinion by the Dept. of Justice General Counsel Division. The opinion was No, it is not within the scope of a PT.

In 2011, the board of Chiropractic examiners adopted a rule authorizing chiropractors to practice dry needling however the Oregon Court of Appeals held that dry needling is not within the chiropractic scope of practice.

Once the position statement is released, the Board will update licensees that dry needling is not legal in Oregon unless you are a licensed acupuncturist.

9. 2022 Legislative Session: The board reviewed the list of bills that is being tracked by board staff:

HB 4096 –Addresses health care practitioner shortage. Allows certain professions to practice in the state without a license for a certain number of days as a volunteer. OT is not one of those professions. (The bill lists Dentistry, Naturopathic, Optometry, Medical board, Nursing, chiropractic and Pharmacy).

HB 4132 – Its requiring the Dept of Consumer and Business Services – (DCBS) to meet monthly with specific health care providers about health insurance practices.

SB 1562 – Authorizes the HLO to issue sign language interpreters licenses. The HLO would be getting its 18th board.

SB 1512 – Has a direct impact the health boards. The CSG is working Sen. Dembrow who’s sponsoring the bill. SB 1512 states that a person with a prior conviction of a crime can petition a licensing board, commission or agency at any time for a pre-determination as to whether prior conviction will prevent the person from receiving an occupational or professional license.

It also states that a licensing board, commission or agency may not suspend or deny an occupational or professional license on the basis of the applicants criminal history, moral character or similar qualification. Provides that denial must be on the basis of conviction that **substantially relates** to the specific duties for which the license is required.

Prohibits employers, agencies or licensing boards from taking actions against a person with an arrest that occurred when they were a juvenile.

SB 1580 – In Nov. 2020 Oregon voters approved Ballot Measure 109 legalizing adult use of psilocybin products for therapeutic purposes. There is an advisory board that is currently setting up the framework for implementation. The bill creates a task force on Psilocybin Health equity to study equitable access to services, licensure and other opportunities and will make a recommendation to the legislature by Nov. 1 2022.

10. June Newsletter: Will include a recap of 2022 renewals.

The meeting was adjourned at 1:13pm.

Nancy Schuberg, Executive Director, February 15, 2022.