

*Minutes have not yet been approved and are subject to revision at the next meeting.*

## **STATE OF NEVADA BOARD OF OCCUPATIONAL THERAPY**

### **MINUTES OF PUBLIC MEETING**

**January 26, 2013**

**Enterprise Library, Las Vegas, Nevada**

**Board of Occupational Therapy, Reno, Nevada**

**The meeting was teleconferenced between Reno and Las Vegas due to weather**

---

Members Present:	Eric Gerken, Ronald Tulak, Allison Stephens, Linda Frasier
Members Absent:	Kittima Conrad
Staff Present:	Loretta L. Ponton, Executive Director, Henna Rasul, Senior Deputy Attorney General
Public Present:	Liz Straughan, Paula Berkley, Richard Dreitzer

---

The meeting was called to order at 10:52 p.m. by Liz Straughan, Interim Chair. A verbal roll call confirmed a quorum was present.

There was a consensus that agenda items would be taken out of order, Items 6. Disciplinary Actions – Consent Decrees and Item 7. Dual Licensure – PT and OT Practice would be considered in the afternoon.

**Public Comment** –No public comment was heard.

**Election of Chair and Vice Chair** – Liz asked for nominations for Chair. Allison motioned to elect Eric Gerken as Chair; seconded by Ron Tulak. The motion passed unanimously, with Eric abstaining. Liz turned the meeting over to Eric.

Eric asked for volunteers for the Vice Chair position. Linda motioned to elect Ron Tulak as Vice Chair; seconded by Allison Stephens. The motion passed, with Ron abstaining.

**New Board Member Orientation** – Loretta provided an orientation to the Board to Board structure, administration include staffing, operations and administrative requirements; policies and procedures, licensing and reporting systems, Board meeting schedules, roles and responsibilities of the Board and Board members and legal authority contained in Nevada Revised Statutes 640A and Nevada Administrative Code 640A.

**Approval of the Minutes** – Eric asked if there were any comments or revisions to the minutes of the meeting of September 30, 2012. No comments or revisions were heard.

Ron made the motion, seconded by Eric to approve the minutes of the September 30, 2012 meeting as written. The motion passed with Allison and Linda abstaining.

Eric asked if there were any comments or revisions to the minutes of the meeting of November 15, 2012. No comments or revisions were heard.

*Minutes have not yet been approved and are subject to revision at the next meeting.*

Ron made the motion, seconded by Eric to approve the minutes of the November 15, 2012 meeting as written. The motion passed with Allison and Linda abstaining.

**Legislative Report** – Paula Berkley provided a report on the legislative session, stating the legislature is working on budgets during January; February will be when the session will begin to consider bills. The Board's bill has been sponsored by Senator David Parks and will be heard in the Senate Commerce Committee first. Paula asked that Eric and Loretta be prepared to provide testimony when the bill is scheduled for hearing.

**Executive Director's Report** – Loretta directed the members to the written report in the board packet.

Loretta summarized the financial reports for the 1<sup>st</sup> and 2<sup>nd</sup> quarters of FY 2013, as of December 31, 2012. There were no questions on the financial reports.

Loretta reported she has one new complaint in the investigative stage.

Loretta stated the Governor has made new appointments; the appointments terms are staggered to get the terms back into compliance with the original legislation.

An enhancement to On Line Services on the website will allow licensees to log-into their accounts through a single login site to access multiple services.

The meeting was recessed at 12:20 p.m. and reconvened at 1:25 p.m. A quorum was confirmed present. Mr. Dreitzer was introduced and was participating from Las Vegas.

**Dual Licensure – PT and OT Practice** – Mr. Dreitzer was welcomed and asked to explain the potential issues about which the Physical Therapy Board is concerned.

Mr. Dreitzer explained there are individuals who are licensed as both occupational therapists and physical therapists and in the course of their day, some of the work is PT work and some is OT work. The question is multijurisdictional activities such as supervision where the PT Board has different requirements specifically in the ratio of individuals allowed to be supervised. Mr. Dreitzer explained the issue was recently brought before the PT Board where an individual holding dual licensure wanted to apply the OT requirements regarding supervision as they are more liberal than the PT board supervision requirements.

Mr. Dreitzer stated the PT Board wants to talk about the jurisdiction of these types of issues; how to work together, and how to maintain consistency in how these issues are handled between the boards.

Discussion was heard regarding differences in the PT supervision and OT supervision requirements.

Loretta asked for clarification on the intent of the restrictive supervision; whether the PT Board considers all supervision activities under their jurisdiction if the individual holds a PT license.

*Minutes have not yet been approved and are subject to revision at the next meeting.*

Loretta gave the example: A licensee supervising 5 individuals; under the OT statutes there is no violation; however, under the PT statutes there is a limitation of 3 individuals and would therefore be a violation and under the PT statute they would be prosecuted.

Loretta clarified that the OT Board jurisdiction does not cover PT assistants; those individuals would be considered an unlicensed person for application of OT supervision provisions.

Paula Berkley stated this is not a new issue – the Chiropractic Board previously licensed Massage Therapists and Chiropractic Assistants and also had other unlicensed people in the office. Their Board had a limitation on how many of each could be in the office. When a complaint was filed, the investigator looked at what functions were billed to determine if there was a violation.

Linda stated she had concerns; activities sometimes overlap, there are different purposes and the activities are billed differently. Ron stated it comes down to documentation, a Physical Therapist and Occupational Therapist may assist the same patient, it would come down to documentation of time frames and billings which would not overlap; they can't do treatments at the same time. It must be clear on PT documentation, billing and supervision; or OT documentation, billing and supervision.

Paula asked Mr. Dreitzer if there have been any complaints. Mr. Dressler answered no, this was a case of someone trying to maximize practice by flexing the supervision arrangement. Paula stated the two services can't happen simultaneously, and it better not show up in billing. Ron added billings will eventually get reviewed.

Loretta stated perhaps they could develop an agreement to consult and work with each other with issues of multijurisdictional practice.

Eric stated the question is which Board has the jurisdiction and how to apply the regulations; if one regulation is more stringent, then what regulation should apply?

Loretta stated she would be willing to draft a document on multi-jurisdictional guidelines for review of both Boards; the document would not be a regulation or law; but a guidance document for licensees in multi-jurisdictional practices.

Mr. Dreitzer asked that the document be sent to him for the PT Board to review. Henna stated she will work with Loretta and asked the draft be sent to her before sending to Mr. Dreitzer.

The Board agreed by consensus.

Paula Berkley excused herself, thanking the Board for their cooperative attitude in working with the Physical Therapy Board and also stated she will work very hard to move the OT bill through the legislative session.

**Disciplinary Actions** – Eric turn this item over to Loretta for presentation. Loretta confirmed the consent decree documents were received.

*Minutes have not yet been approved and are subject to revision at the next meeting.*

**Consent Decree Case No. 12-03, Anna-Lee Haber, OTR/L, License # 08-0029**

Loretta stated Ms. Haber wishes to enter into a Consent Decree with the Board and has agreed to a Public Reprimand, 3 hours of continuing education in ethics and assessment of \$500.00 in costs. After review of the Consent Decree and discussion of the terms, Allison made the motion, seconded by Ron to approve the consent decree as written. The motion passed.

**Consent Decree Case No. 12-07 – Curt Otte, OTR/L, License #0860**

Loretta stated Mr. Otte wishes to enter into a Consent Decree with the Board and has agreed to a Public Reprimand, 3 hours of continuing education in ethics and assessment of \$250.00 in costs. After review of the Consent Decree, discussion was heard regarding mitigating factors surrounding the violation. There was a consensus that continuing education in ethics may not be appropriate.

Ron made the motion to eliminate paragraph 2. Of the Stipulated Adjudication regarding continuing education and approve the consent decree as revised. The motion was seconded by Allison. The motion passed.

**Consent Decree, Case No. 12-08, Tracy Hoffman, COTA/L, License #1065**

Loretta stated Ms. Hoffman wishes to enter into a Consent Decree with the Board and has agreed to a Public Reprimand, 3 hours of continuing education in Ethics and \$250.00 in costs. Discussion of the stipulated facts was heard with additional information provided on the mitigating circumstances of the violations.

Ron made a motion, seconded by Linda to approve the consent decree as written. The motion passed.

**Board Member Report** – Eric stated he and Allison attended the NBCOT Conference in October. Eric reported on each of the presentations.

The first presentation was about the NBCOT exam, there is a very thorough process in developing the exam. The next presentation was on State's rights which was about regulations and the way board's can get into trouble; we need to be aware of the actions we take to protect the public, and make sure we are not trying to protect our turf. Another presentation was the sunset review process. The Board needs to make sure we are justifying our existence and not duplicating other agencies efforts, bringing laws current, and documenting that we are the best agency to perform these functions, all of which are critical elements of sunset reviews. Another element would be to consider whether public input is encouraged. Eric stated that updating our webpage would be an example, is it easy to find information; what would make it work better for the public.

Loretta added that the webpage would be update within next six months and asked members to help by providing ideas on what they would like to see on the webpage.

*Minutes have not yet been approved and are subject to revision at the next meeting.*

Eric continued stating another presentation was social media and social networking; anything you do or post is open with no expectation of privacy; it's easy to lose sight of that fact. Eric gave actual examples of inappropriate use with resulting outcomes. Eric stated a presentation was given by Mr. Paul Grace on the upcoming practice competency process – continuing competency plan should be managed to provide appropriate and ongoing services; NBCOT will be developing a mobile app to assist. Eric stated NBCOT also provides free access to research, contact NBCOT for access.

Eric reported on a presentation on state exchanges and the affordable care act. Information was received on the roll out and what states are doing to be ready in 2014; details are evolving. There is a webpage, [statereforum.org](http://statereforum.org), where you can go to look up how states are making progress. There is the Silver State Exchange in Nevada information on which can be found at [www.nv.gov](http://www.nv.gov).

The next presentation was regarding Contemporary Regulatory Board Issues – Discussion of issues included tele-rehabilitation and tele-medicine which are becoming more prevalent. Eric asked if the Board has received calls about tele-rehab. Loretta responded several calls have been received, she has begun research and is obtaining materials regarding tele-practice; some of the questions that have been raised are how to regulate; is it based upon the location of OT or client. Eric stated this topic will most likely be followed up at this year's NBCOT conference. Allison added that she believes there have been some cross border collaborations between states and that rural areas are prime areas for telemedicine.

Eric stated that rural area access issues are of concern; citing an example of COTA supervision in rural areas, with not enough OT's to supervise them. An example is a Skilled Nursing Facility that has several COTA's on staff, a per diem OTR comes in only to sign notes once a week, and in some cases the OTR may not have access to client records. There is a concern that an appropriate plan of care is not being followed.

Eric concluded, stating it was a better conference than in previous years; the information was very helpful and the conference was worth the expense.

### **Report from Board Chair – Future agenda items**

Eric reported a board meeting schedule has been drafted; teleconferences are tentatively scheduled for February 20<sup>th</sup> & March 20<sup>th</sup> for legislative updates; in person meeting is scheduled April 13<sup>th</sup>, Saturday in Reno; teleconference on May 22<sup>th</sup>, Wednesday; in person on June 15<sup>th</sup>, a Saturday in Reno and September 28<sup>th</sup> a Saturday in Las Vegas. Loretta added the NBCOT conference is held in October and the first meeting in 2014 is tentatively set for January 25<sup>th</sup>, Saturday in Las Vegas.

Liz asked to be on mailing list of interested parties.

Loretta stated certificates of participation; travel claim forms; and the new board member roster will be mailed. Loretta also stated there are service awards for Liz and Dave for their service on the Board for the last six (6) years. Eric thanked Liz for her service and work over the past 6 years. Liz stated she will attend Board meetings when possible.

*Minutes have not yet been approved and are subject to revision at the next meeting.*

Loretta asked Liz to serve as a Board investigator as needed. Liz agreed.

Loretta added that she and Eric attended Board Training in Carson City – Ethics in Government law handouts will also be mailed to the members.

**Report from Legal Counsel** – Henna stated she had nothing to report.

**Public Comment** – No public was present at this time.

**Adjournment** –Allison made the motion, seconded by Ron to adjourn. The motion passed and the meeting was adjourned at 3:15 p.m.