

STATE OF NEVADA BOARD OF OCCUPATIONAL THERAPY

MINUTES OF PUBLIC MEETING

May 25, 2016

Members Present: Linda Frasier, Kittima Conrad, Deena Spaulding, Stacey Henderson, Sol Magpantay

Members Absent: None

Staff Present: Loretta L. Ponton, Executive Director,
Brett Kandt, Chief Deputy Attorney General

Public Present: Paula Berkley, Board Lobbyist, Chrissy Vogeley, AOTA

The meeting was called to order by Linda Frasier, Chair at 4:05 p.m. A roll call confirmed a quorum was present.

Public Comments – No public comments.

Approval of Minutes - Linda Frasier asked if there were any comments or revisions to the minutes of the meeting of February 6, 2016. Hearing none, called for a motion.

Stacey Henderson made the motion, seconded by Sol Magpantay to approve the minutes of February 6, 2016. The motion passed with Deena Spaulding abstaining.

Linda Frasier asked if there were any comments or revisions to the minutes of the meeting of February 18, 2016. Hearing none, called for a motion.

Deena Spaulding made the motion, seconded by Stacey Henderson to approve the minutes of the meeting of February 18 2016. The motion passed.

Contract Amendment - Linda Frasier asked Loretta Ponton to present. Loretta Ponton stated the contract for legislative services with Paula Berkley expires June 30, 2016. An amendment to the contract to extend the date through December 2017 is presented for consideration which will increase the contract amount by \$13,200 with \$8,400 remaining on the current contract for a total of \$21,600 for services for the additional 18 months extension period.

Discussion was heard regarding the upcoming Legislative Session and the need to continue legislative services. Paula Berkley explained the types of activities that are conducted during the off-session period and the services provided during the session.

Stacey Henderson made the motion, seconded by Sol Magpantay to approve the proposal for contract amendment for legislative services with Paula Berkley as proposed. The motion passed.

Licensing and Data Collection Service - Loretta Ponton reported that the Board has been with the current vendor, GL Solutions, since 2008; at that time they specialized in providing services to small Boards. They were originally very responsive and since then their focus has changed as they have grown; they have made significant changes in their processes for communication and handling of requests for enhancements and fixes to the system; up until 2 years ago their services had been satisfactory but has steadily declined to the point that it requires a significant amount of staff time to request, review, test and approve every specification; the timeliness and delivery of work product is substandard and unacceptable; they just recently started the regulatory changes regarding the license term ending on June 30th to the one-year from date of initial license; and, as of this date, it has not been completed. In addition, expedited tasks or projects have an additional cost over and above the subscription fee.

Continued efforts have been made to mitigate the deficiencies and issues with GL Solutions over the past two years, to no avail; there are several Nevada small boards who have also expressed dissatisfaction and have terminated their services. Loretta reported that alternative options have been researched and an alternative comparable system is offered by InLumon who is locally based in Reno.

Linda Frasier asked if the Board paid an upfront fee for the services; Loretta Ponton responded there was approximately \$25,000 paid upfront and then a monthly subscription after implementation. If the Board moves to InLumon, it there would be no upfront cost, the costs would be a negotiated monthly subscription amount.

Loretta Ponton added that InLumon provides a customizable licensing and data collection system to several licensing Boards in Nevada and California. The system is very user friendly and can provide the full array of features and functions as the GL Solution system. It also supports a full “on-line application” for initial licenses in addition to renewals and has a Board meeting/correspondence feature which can be added. The references for InLumon are outstanding and the services would be provided locally.

Deena Spaulding asked how many new license applications are processed per month; Loretta Ponton responded there are would be between 150 and 200 new applicants per year, not counting those who convert from temporary or provisional licenses and license renewals.

Kittima Conrad asked which Boards are considering not using GL and what ones use GL. Loretta Ponton responded that she is not sure how many total use GL; the Veterinary Services Board, Funeral Board, State Fire Marshall, Board of Accountancy, Private Investigators, Speech Board; Massage Therapy and Cosmetology have already left; there are at least four others that are considering changing.

Ms. Ponton reiterated that she feels that as GL grew their emphasis changed from small board services to large agency services; the major change happened when they got a huge Welfare contract with a state back east about 2 years ago; they expanded their staff and moved to larger offices; that’s when the service level began to diminish.

Sol Magpantay asked where they are located; Loretta replied they are based in Bend, Oregon. Loretta added that InLumon is based in Reno with staff also in Las Vegas.

Paula Berkley stated the Legislature is encouraging and in some cases mandating electronic services and want services to be paperless; the more information you can get on-line the better for public transparency.

Linda Frazier asked how long a transition would take; Loretta Ponton replied 6 months to convert and build the customized features; there would be an overlap between the old and new systems until we are sure everything is working correctly; then the GL system would be discontinued.

Kittima Conrad asked if Angela went to the GL conference. Loretta responded that yes, Angela did attend the GL User Conference; she reported that there was great dissention at the conference from the attendees who were experiencing the same issues as this Board. In addition, GL has a new version of the program, version 6, which they want all their clients to convert to; however, there is a cost of about \$6,500 to move to their new version.

Kittima Conrad asked what the cost of the InLumon is; Loretta Ponton responded that hasn't been finalized, she has been talking with them, and doing research on what other options are out there; there are very limited number of companies that can service boards. Kittima asked if there was anyone else in Reno; Loretta Ponton answered there are no other providers in Reno and added that if the Board was to contract with someone to develop a customized program it would be much more expensive.

Linda Frasier asked if the cost has been determined; Loretta Ponton answered that she is proposing to authorize up to \$15,000 for the first year; any increases to the subscription cost after that would be brought before the Board through the budget process and would have to be approved.

Sol Magpantay stated there is no upfront fee, \$15,000 for the first year and an increase after that? Loretta stated that would be negotiated after the first year, in discussions it was indicated no or a very small increase but it is negotiable. Sol asked if that included additional features and upgrades; Loretta responded yes, it is an all-inclusive subscription, no additional fees would be charged.

Deena Spaulding asked if \$7,500 is the buy-out for GL; Loretta responded the \$7,500 is an annual cost, if the conversion is completed in March, only the remainder of the amount would be due.

Mr. Brett Kandt, Chief Deputy Attorney General, stated that it appears the Board could terminate the GL Solution agreement for cause, if necessary since they have not been performing. His office would be happy to look at the agreement to pursue early termination if need be. Mr. Kandt also stated that the AG's office should review any new agreement with InLumon before it is executed.

Linda Frasier stated it appears it will take time to make the conversion and that it may not be an issue; Loretta added that it will take time, there are over 2500 - 3000 historical records that need to be converted in addition to the current licenses; we would also need to test the new system to make sure everything is working properly.

Linda Frasier summarized the consensus of the Board to approve the move from GL Solutions to InLumon; and provide Loretta authority to negotiate an agreement with InLumon on a subscription basis at a cost of up to \$15,000 for FY 2017. The GL Solution agreement would not be renewed at the end of the current term, or ended earlier if InLumon can be developed and data converted prior to that time.

Loretta Ponton added that sufficient funding is available now and in the future to support the increased costs of a new licensing system.

Kittima Conrad made the motion, seconded by Stacey Henderson to authorize staff to terminate the agreement with GL Solution upon expiration of the agreement or pursue termination early for cause, if necessary; and to approve the Executive Director to negotiate an agreement with InLumon to be reviewed by the Attorney General's office prior to execution; the agreement to be on a subscription basis with no upfront costs, not to exceed \$15,000 for FY 2017.

The motion passed.

Fiscal Year 2017 Budget – Loretta Ponton present for approval the FY 2017 budget; summarizing the historical and projected revenue and expenses for Board operations. Ms. Ponton directed the members to the comparison of FY 2016 and FY 2017 proposed budget, explaining the overall increase of approximately 11% in both revenue which reflects increased licensing activity, and increases in line item expenses for the biennial audit for FY15/16, change in licensing system, personnel and legislative services as well as decreases in several other line items. Loretta reported that in the current fiscal year there will be approximately \$25,000 in cash revenue due to savings in expenses which will carry-over as reserve to FY 2017.

Sol Magpantay asked for clarification on the educational seminars; Loretta stated that is the cost for the Board sponsored seminars for licensees which will be in September this year.

Kittima Conrad asked what was covered under the equipment rental; Loretta responded that represents the cost of the postage meter and copier which are both under a monthly lease.

Kittima Conrad asked for clarification on the cost sharing income. Loretta Ponton responded that is the revenue received from the Board of Speech-Language Pathology and Board of Environmental Health Specialists, for providing a physical location for their administrative offices under a cost sharing agreement. Ms. Conrad asked how much the Speech Board is paying; Loretta responded their share is budgeted at \$6,000 for this coming year and the Environmental Health Specialists pay \$600, they have a staff person 2 hours per week. This income helps the Board offset the costs of the administrative office.

Kittima Conrad asked if the amount is based upon how many hours a staff works. Loretta responded it is a cost allocation formula based upon number of staff hours and amount of space in addition to fixed costs, the Speech Board has one staff working 4 days a week at 5 hours a day. Ms. Conrad stated when she looks at their website, it says 5 days a week from 9-3. Loretta explained that is the hours the physical office is open to the public; the physical office is staffed from about 8:30 to 4:30 and is open to the public, another benefit of having multiple people in the office it ensures office coverage and they all assist each other.

Brett Kandt, Chief Deputy Attorney General, added that it is actually a state law that offices must be open and accessible to the public and maintain regular office hours.

Linda Frasier asked if there were any additional questions, hearing none, called for a motion.

Stacey Henderson made the motion, seconded by Sol Magpantay to approve the Fiscal Year 2017 Budget as presented. The motion passed.

Legislative Update - Linda Frasier called on Paula Berkley to present.

Paula Berkley referenced the LCB video of Mr. Power's presentation at the Sunset Subcommittee regarding the NC Dental Board case which was previously sent to all the Board members.

Paula Berkley asked Mr. Kandt to comment, regarding proposed draft legislation to address "oversight of boards" predicated upon the North Carolina Dental Board decision by the Supreme Court.

Mr. Kandt stated the case has caused concern and uncertainty across the nation for all licensing Boards; Nevada is one of an 18 state minority that allows licensing boards autonomy without being governed by an overall agency of the state, which makes them more efficient and responsive to licensees and the professions. In Nevada, the LCB took the position that we have sufficient oversight of the Boards; the Governor appoints all Board members, the Legislature enacts the practice acts and approves regulations, and there is injunctive relief, judicial proceeding can go before a judge.

Mr. Kandt summarized the North Carolina case stating the impact won't be known for years; and expressed a concern that potential legislation may be introduced to try to "fix" the system based upon this case. He stated there was one proposal developed by the Contractor's Board which did not receive a positive reception when it became public. Mr. Kandt emphasized that a more modest approach may be more productive that will allow the Boards to continue to work effectively.

Ms. Berkley added that Mr. Powers of LCB stated that possibly more oversight of disciplinary actions could be done by establishing more oversight through committees or other means which could impact Boards.

Paula Berkley reported that the Legislative Auditors have completed the audit of the Nevada Dental Board as directed by the Sunset Subcommittee. The purpose of the audit was to determine whether the Board assessed costs for investigations and complaints reasonably. There were 14 recommendations made which may have an impact on Boards when legislation is drafted. The report goes back to the Sunset Subcommittee; there may be legislation related to Boards regarding their disciplinary action processes based upon these findings.

Ms. Berkley concluded stating she has been attending interim committees such as the Sunset Subcommittee, the Committee on Health Care and Legislative Commission to keep abreast of potential issues that may affect Boards.

Linda Frasier thanked both Paula and Mr. Kandt.

Executive Director's Report - Loretta Ponton directed the members to the written report.

Licensure Statistics - Ms. Ponton summarized the licensure statistics reporting an increase overall of 8.94%; there have been 159 new licenses issued through March 31st and that on-line renewals are now open and on-going.

Financial Reports - The FY 16 financial reports as of 3rd quarter were presented, Ms. Ponton reported revenue is at 74.5% of budget and expenditures at 64.29% of budget which is expected to remain below budget for the remainder of the fiscal year. Ms. Ponton reported that two CD's matured and have been reinvested in accordance with the Board's investment policy.

Ms. Ponton concluded the financial report stating the Board's finances remain strong and the biennial audit of FT 2015 / 2016 is schedule to begin in August.

There were no questions on the financial reports.

Linda Frasier asked if there were any questions on the financial reports, hearing none call for a motion.

Sol Magpantay made the motion, seconded by Deena Spaulding to accept the financial reports for the 3rd quarter ending March 31, 2016. The motion passed.

Sponsored Seminars - Ms. Ponton reported the Dawn Nilson, Assistant Professor of Rehabilitation and Regenerative Medicine at Columbia University has agreed to be the presenter for the Board's sponsored seminars in September. The topic of the seminar will be "Improving Occupational Performance for Persons with Motor and Cognitive Impairments after Stroke: What Does the Evidence Say?" The seminars are schedule for Friday September 23rd in Reno at Airport Plaza and Saturday September 24th at Alexis Park in Las Vegas. The seminars will run approximately 4 hours and are free to all licensees.

Ms. Ponton continued reporting the on-line jurisprudence exam is in process of development and is anticipated to go on-line early August. The exam will be open book and two hours of continuing education credit will be awarded for successful completion of the exam which will help offset the additional 2 hours of CE required for renewal.

Ms. Ponton concluded her report stating at the time of the written report, there were three active complaints in process and one complaint in abeyance pending resolution of a civil case. Since this report, three additional complaints have been received.

Report from Board Chair - Linda Frasier reported on the 2016 NBCOT state regulatory leadership forum that she and Loretta attended in New Orleans. The purpose of the forum was to provide state regulatory board chairs and administrators with a national forum for dialogue to facilitate awareness and understanding of NBCOT's role and what goes on behind the scenes we may not be aware of. Lots of information was provided on current and emerging state regulatory issues including certification requirements, CE requirements, annual review processes, and initial application requirements; most discussions by the Chairs was on telehealth and what was

happening in that area. AOTA has provided a chart on what states have adopted regulations for telehealth and what states have not. Licensure portability was discussed relating to telehealth services, also state's jurisdiction of OT's practicing telehealth, also discussion of when use of telehealth is appropriate and when it is not and issues related to reimbursement for telehealth services.

Ms. Frasier reported NBCOT provided information regarding the NBCOT Navigator as an innovative and dynamic competency assessment platform. The Navigator provides access to the ProQuest on-line research tool and has other CEU capabilities for continuing education.

Information was provided on how practice competency standards are determined for the OTR and COTA credentials and the actions NBCOT completes to ensure certifications are legally defensible measure of OT practice; the administrative procedures used to manage the entire certification process from application to scoring, including auditing processes; the types of available data sets and trends available in the NBCOT database. NBCOT is accredited by both the National Commission for Certifying Agencies (NCCA) and the American National Standards Institution (ANSI) which means they have met both national and international standards.

The take home message was NBCOT does a great job making sure there is fairness and equality when sitting for their examination and follow up to ensure competency; they are encouraging state boards to recognize NBCOT as a continuing competency resource. NBCOT provided the 2016 Certification Data Book showing the number of certificate holders in each state; in Nevada we have 600 OTR's and 155 COTA's who have maintained their certification.

Discussion of the use of telehealth was heard with statements that telehealth is used in the schools, it is still an emerging field and still finding its way into the general practice of occupational therapy for a variety of reasons.

Chrissy Vogeley of AOTA commented that AOTA has several resources on what is going on with telehealth in other states and would be happy to provide that information to the Board; 17 states have passed regulations and several others are considering legislation or regulations.

Linda Frasier stated that all the NBCOT tools are available for those who maintain their certification. Discussion was heard regarding how the Board could assist licensees who are not currently certified to have access to the NBCOT tools through financial incentives, reduced fees or other methods. Loretta Ponton stated reduced fees would require regulatory action, it is worth further discussion on other options to try to provide access to continuing education resources.

Linda Frasier stated the next meeting is scheduled for August 6th in Reno and asked if there were any future agenda items.

Loretta Ponton stated Mr. Kandt has offered to conduct a presentation on Open Government, Open Meeting Law, and if he is available, that could be scheduled for August. Mr. Kandt stated he would be pleased to present.

An additional discussion of telehealth was requested to determine if the Board would want to draft any new regulations in the future.

Kittima Conrad asked to discuss adding a Secretary/Treasurer on the Board to help with the financial reviews and do the minutes. Loretta explained the Board positions are dictated in the law, the Board has operating policies which outline the processes and procedures for administration and asked Kittima if she meant a review of those policies. Kittima Conrad responded yes. Kittima also asked to discuss the Executive Director employment contract, she didn't think the members have seen the contract. Loretta Ponton clarified that the employment agreement was reviewed, revised and approved by the Board; a review of the employment agreement will be added as an agenda item.

The next Board meeting was confirmed for August 6, 2016 in Reno.

Legal Report - Brett Kandt stated there was nothing to report and thanked the Board.

Public Comments – Chrissy Vogeley commented that AOTA has lots of CE information and stated that the Board should feel free to contact her at any time.

Adjournment – Linda Frasier adjourned the meeting at 4:47 p.m.