

STATE OF NEVADA BOARD OF OCCUPATIONAL THERAPY

MINUTES OF PUBLIC MEETING

February 15, 2018

Members Present: Elizabeth Straughan, Allison Stone, Melissa Genovese, Sol Magpantay

Members Absent: Public Member -Vacant

Staff Present: Loretta L. Ponton, Executive Director,
Stacey Whittaker, Executive Assistant/Licensing Specialist
Henna Rasul, Sr. Deputy Attorney General, Board Counsel

Public Present: Paula Berkley, Kristen Neville AOTA, Mary Schmitz OTR

Elizabeth Straughan, Vice Chair, called the meeting to order at 5:02 p.m. A voice roll call confirmed a quorum was present.

Public Comments – Kristen Neville stated she had questions regarding the proposed revisions to LCB File No. R067-17 and asked if this was the appropriate time. Ms. Neville was informed she may make public comments during this period but questions could not be answered until the agenda item is discussed. Ms. Neville deferred comment to later.

Board Member Orientation - Liz Straughan welcomed Melissa Genovese to the Board. Ms. Genovese provided a summary of her experience, stating Psychotherapy was her first career, she has serviced in the military and is currently working as an OTR in Home Health at Health South.

Loretta Ponton provided an overview of the structure and operations of the Board. The presentation included staffing and general operations; administrative requirements to include the State Administrative Manual, open meeting law, budget process and audits; Board policies; licensing and regulatory data collection system; roles and responsibilities of Board members referencing the Nevada Board and Commission Manual, Open Meeting Law Manual, administrative rule making process; explaining the difference between the Nevada Revised Statutes and Nevada Administrative Code; and the History of the Board of Occupational Therapy.

Allison Stone noted a correction needed to the date of her appointment on the Board Member Appointments page of the History of the Board.

It was recommended the History of the Board be posted on the Board's website.

Election of Chair and Vice Chair - Loretta Ponton provided a summary of the role and responsibilities of the Chair and Vice Chair.

Sol Magpantay made a motion to appoint Elizabeth Straughan as Chair, seconded by Melissa Genovese. The motion passed with Liz Straughan abstaining.

Sol Magpantay made a motion to appoint Allison Stone as Vice Chair, seconded by Melissa Genovese. The motion passed with Allison Stone abstaining.

Approval of Minutes - Liz Straughan asked if there were any comments or revisions to the minutes of the meeting of November 14, 2017. Hearing none, called for a motion.

Allison Stone made the motion, seconded by Sol Magpantay to approve the minutes of November 14, 2017 as presented. The motion passed with Melissa Genovese abstaining.

Proposed Revisions to LCB File No. R067-17 - Liz Straughan stated the regulation revision would be considered prior to the sunset subcommittee review agenda item. Ms. Straughan called on Loretta Ponton to present.

Loretta Ponton stated the proposed revision is Section 7 establishing the term of a standard license as two-years from date of issuance and to delete the previous Section 5 pertaining to establishing an experience requirement for license by endorsement.

Ms. Ponton stated the proposed language in Section 5 as drafted by the Legislative Counsel Bureau would have exempted an individual from all other licensing requirements, including certification, which was not the intent of the Board. The Board may re-consider this matter at a later date.

Ms. Ponton explained the proposed revision to Section 7 would not change the renewal fee; the annual fee would be reduced by one-half with a two-year license. The revision would impact the funding reserves of the Board by spreading out revenue received for new and renewed licenses over a 2 year period, with a projected revenue reduction of approximately \$62,000 the first year, FY 19. The direct cash impact would be seen in FY 20 as the actual number of license renewals would be decreased by approximately 900 licenses.

It is proposed that the 2 year license term be implemented with the current year renewal period beginning April 1, 2018 for those licenses expiring June 30, 2018 and thereafter. The new license terms will be implemented to coincide with implementation of the new licensing data system.

Liz Straughan asked each member for comments regarding the proposed revisions, all members responded positively to the proposed revisions.

Kristen Neville, AOTA, stated she had no concerns with the 2 year license term but would like to ask questions regarding other sections of the proposed regulation.

Ms. Ponton stated that public comments cannot be made until the Chair opens a public comment period; the Board is limited to consideration of the current agenda item.

Liz Straughan asked if there were any other comments or discussion from the members; hearing none called for a motion.

Allison Stone made the motion, seconded by Sol Magpantay to approve the revisions to LCB File No. R067-17 as presented. The motion passed.

Liz Straughan opened the meeting to public comment at this time.

Public Comment - Kristin Neville, AOTA stated she has questions and perhaps concerns regarding supervision logs; the definition of general supervision; whether revising the exam requirements repeals the NBCOT exam. She also has questions on the use of continuing education categories compared to competency, knowledge and skills assessments which is the AOTA recommended terminology; the ratio for supervision, and how the Board came up with the number 5.

Mary Schmitz commented that she was interested in the topic of supervision and workload.

Ms. Ponton stated she would be happy to clarify and answer any questions outside of the Board meeting and encouraged the individuals to contact her.

Sunset Subcommittee Review - Ms. Ponton reported that the Sunset Subcommittee of the Legislative Commission will review all Boards not previously reviewed in prior years. The Sunset Subcommittee has scheduled the Board of Occupational Therapy for the April 23, 2018 meeting.

Of particular interest of the Sunset Subcommittee is the amount of reserve funds; financial information and budgets, and licensing fees charged for professional licensing. Based upon an analysis conducted by the LCB Auditor, the Board has the second highest “reserve” balance of all professional licensing boards (as of 6/30/16).

In preparing for the presentation, it is the intent to highlight the growth of the Board as documented in the “History of the Board” licensing numbers and increased funding as a result. With the approval of LCB File No. R067-17, the Board has begun to address the perceived excess reserve funds. In addition, the Board will conduct a full review of board operations and fee structure by holding a Board Retreat to develop a long-term plan and identify the on-going and potential expanded needs of the Board, such as increased legal, complaint, investigative and compliance requirements, staffing levels, Board office, equipment and operational needs.

Ms. Ponton stated that Board member participation and presence at the April 23rd Sunset Committee meeting would be appreciated.

Liz Straughan stated she had a conflict with the date and would not be able to attend. Allison Stone and Melissa Genovese agreed to represent the Board at the meeting and could attend in Las Vegas.

Contracting for Legislative Services - Loretta Ponton reported that the current contract for Legislative Services is expired and that a new solicitation would need to be issued if the Board felt that Legislative Services are necessary for the upcoming session.

The Board, by consensus, determined Legislative Services would be needed considering all the audits and reviews being conducted.

Liz Straughan called for a motion. Allison Stone made the motion, seconded by Melissa Genovese to issue a solicitation for Legislative Services and to delegate to the Executive Director the authority to select and enter into a contract with the most qualified proposer. The motion passed.

Contracting for Outside Legal Counsel - Loretta Ponton provided an overview of the role of legal counsel in contested cases stating the Attorney General's office assigns Board Counsel, currently Henna Rasul, as Board counsel cannot also be conflict counsel in a disciplinary case. Currently the AG's office assigns another DAG to serve as conflict counsel; however, the Board has no say or control over who is assigned. With the increase in complaint filings, the question is whether the Board would like to have one specific attorney and control over who prosecutes disciplinary cases.

Members discussed the pro's and cons of hiring outside legal counsel, posed questions on costs compared to current fees charged by the AG's office, and availability of private attorneys knowledgeable of administrative law.

Liz Straughan called for a motion. Sol Magpantay made the motion, seconded by Melissa Genovese to issue a solicitation for legal services, with no commitment to contract. The motion passed.

Board Retreat - Liz Straughan stated a Board Retreat is a great process for members to conduct planning for the future. Loretta Ponton stated the last retreat was 4 years ago, held at Lake Tahoe. A retreat could be scheduled to coincide with the scheduled August meeting currently scheduled for Reno.

As previously discussed, the emphasis of the retreat would be developing a long-term plan for Board activities, functions, operations, policies and resources to include review of the licensing fee structure and possible revisions deemed appropriate based upon future projects identified through the planning process.

Members agreed that a Board Retreat was appropriate and that it should be held in conjunction with the August Board meeting in northern Nevada.

Liz Straughan directed Ms. Ponton to move forward with logistics and scheduling for a retreat in August.

Executive Director's Report - Loretta Ponton directed the members to the written report, summarizing licensure statistics, and provided a summary of the FY 18 2nd Quarter financial reports as of December 31, 2017.

Ms. Ponton reported revenue for FY 18 is at 60.61% of budget with expenses at 49.95%. Net income after expenses was \$ 32,043.37. Cash assets including investments are \$814,163.39.

Ms. Ponton reported the new Licensing Data System should be operational by the end of March, in time for the large number of renewals expected between April and June, 2018.

Complaints - Ms. Ponton reported that seven (7) complaints are in the investigative process and one (1) will be scheduled for Hearing at the March 24th meeting.

Legal Report - Henna Rasul stated there was nothing to report.

Report from Board Chair - Liz Straughan stated she has nothing new to report and asked members and staff for future agenda items.

Loretta Ponton responded that Shaun Conway of NBCOT has requested to provide a presentation on NBCOT services at a future board meeting. Ms. Ponton also noted that NBCOT has rescinded and will not be implementing their presumptive denial policy. Ms. Ponton recommended and the Board agreed to the May 26th board meeting for the NBCOT presentation.

Loretta asked that the Sponsored Seminars be considered, a topic with dates and venue need to be decided. Ms. Ponton recommended consideration of a Board presentation on regulatory changes as one possible topic; members also mentioned home health and sensitivity integration as possible topics, with consensus that the seminars be held in late October. Ms. Ponton was directed to research options and topics to be considered at a future meeting.

Public Comments – Kristin Neville stated the meeting was informative and she will contact Loretta regarding her questions on the regulation.

Adjournment – Liz Straughan adjourned the meeting at 6:58 p.m.