

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



**STATE OF NEVADA
BOARD OF OCCUPATIONAL THERAPY**

**MINUTES
PUBLIC HEARING & BOARD MEETING**

November 6, 2021

Members Present: Elizabeth Straughan, Phil Seitz, Sol Magpantay
Members Absent: Allison Stone, Mel Minarik
Staff Present: Loretta L. Ponton, Executive Director
Stacey Whittaker, Licensing Coordinator
Henna Rasul, Sr. Deputy Attorney General, Board Counsel
Public Present: Jeanette Belz, Belz & Case Government Services; Karen Picus, OT; Joyce Mosely, OT; Rachel Martin, OT; Connie Christiansen; Niki Neilon; Mary Dynis, OTA; Cindy Sloan, OTA

PUBLIC HEARING – LCB File R001-21

Loretta Ponton, Executive Director opened the public hearing at 10:15 a.m.

Ms. Ponton explained the purpose of the Public Hearing and summarized each section of the proposed regulation with public comments accepted after each section. Ms. Ponton noted two corrections in the Erratum to the Regulation which are not substantial, and the Legislative Counsel Bureau will incorporate the corrections into the Adopted Regulation, upon approval by the Board.

There were no public comments on the regulation.

Loretta Ponton closed the Public Hearing at 10:22 a.m.

BOARD MEETING

Call to Order, Confirmation of Quorum

Chair Straughan, called the Board meeting to order at 10:22 a.m. A roll call confirmed a quorum was present.

Public Comments – Chair Straughan opened public comments. There were no comments.

Approval of the Minutes - Chair Straughan asked if there were any corrections, revisions, or other discussion of the minutes of the August 21, 2021, board meeting.

No revisions were noted. Ms. Straughan called for a motion.

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Sol Magpantay made the motion, seconded by Phil Seitz, to approve the minutes of the Board meeting of August 21, 2021. The motion passed.

Consideration of Public Comments on LCB File R001-21 – There were no comments to consider.

Adoption of Regulation – LCB File R001-21 – Chair Straughan asked if there were any comments or concerns from Board members on the proposed regulation. Phil Seitz stated the regulation changes are necessary; Sol Magpantay agreed with the proposed regulation.

Chair Straughan called for a motion.

Sol Magpantay made the motion to adopt LCB File R001-21 and erratum as presented. Phil Seitz seconded the motion. The motion passed.

Public Workshop – Chair Straughan directed Ms. Ponton to facilitate the public workshop.

Ms. Ponton opened the public workshop.

Ms. Ponton reviewed each section of the proposed regulation revising NAC 640A:

- NAC640A.030 paragraph 10 – removes reference to “standard” license and provides that any license renewal application will not be accepted after 30 days. This change will allow late renewal of a temporary or provisional license in addition to a standard license.

Current regulation establishes a late renewal period for a standard license only and does not provide for a late renewal period for a temporary or provisional license.

NRS 640A.180 (3.) provides authority to establish by regulation the late renewal of any license.

“3. The Board may adopt regulations providing for the late renewal of a license”

- NAC 640A.065 paragraph 2 – removes the requirement that a provisional licensee must obtain 640 hours of supervision practice if they were previously certified but have not practiced occupational therapy for 5 years prior to issuance of the provisional license.

This provision was added by R210-07, effective September 18, 2008. Since adoption, there has been only one (1) individual who met the criteria requiring 640 hours of supervision who opted to apply for a new license after reinstating their NBCOT. This provision is not deemed necessary.

- NAC 640A.070 and NAC 640A.090 – removes the requirement to submit a form and/or narrative statement in addition to documentation of completion of continuing education activities.

Improvements to on-line renewals and audits of continuing education are sufficient to ensure CE activities are related to the provision of OT practice. Justification is requested at the time of the CE audit, if a course/activity is questionable.

There were no public comments.

Loretta Ponton closed the Public Workshop at 10:31 a.m.

Consideration of Proposed Regulation – Chair Straughan called for discussion on the proposed regulation.

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There were no objections to the proposed revisions to NAC 640A as presented; Chair Straughan commented the revisions clean up the provisions on continuing education put in place when there were not a lot of available providers of CE's; and the 640-hour provision is obsolete in today's practice environment.

Sol Magpantay made the motion, seconded by Phil Seitz to approve the language as presented for submittal to the Legislative Counsel Bureau for formal drafting. The motion carried.

Phil Seitz requested clarification on treating OT reassignment being documented in the client record as referenced in LCB File R001-21. Ms. Ponton responded she would provide clarification on the process after the meeting.

Audit Services Proposals – Chair Straughan directed Ms. Ponton to facilitate.

Loretta Ponton explained pursuant to NRS 218.825, the Board is required to have an independent audit of the financial statements either annually or biennial. The Board approved and adopted a biennial audit period on May 30, 2009.

A Solicitation for Audit Services was issued August 30, 2021, for the Biennial Audit of the Board Financial Statements for period Fiscal Years 2021 / 2022 with option to renewal for Fiscal Years 2023 / 2024.

Two proposals were received:

- Christiansen Accounting Network
- Casey Neilon

Chair Straughan remarked the Neilon proposal is more extensive and provides more information on the firm. Phil Seitz asked what the price difference is for the audit services.

Ms. Ponton stated Christiansen proposed \$9,600 per audit; Neilon proposed \$9,000 for the first audit and \$9,500 for the second.

Ms. Ponton stated both firms are professionally qualified and have to adhere to the same audit standards. Christiansen has previously worked on the Board's audit while employed with another firm.

Phil Seitz asked if audit firms have a national rating process like stocks/bonds. Ms. Ponton responded they must hold Nevada licenses, adhere to strict guidelines for auditing and undergo peer reviews. Both firms meet all requirements.

Sol Magpantay stated she favors Christiansen Accounting Network as they have had experience with the Board audits previously.

Liz Straughan called for a motion.

Sol Magpantay made the motion, seconded by Phil Seitz to approve Christiansen Accounting Network to conduct the biennial audit. The motion carried.

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Revised Operating Policies and Procedures – Chair Straughan asked Loretta Ponton to facilitate.

Ms. Ponton presented revisions to the operating policies and procedures explaining sections have been updated to reflect new and improved internal operating processes. The Board financial system has been enhanced by moving from a manual system of financial controls to the QuickBooks On-Line platform which allows continual review, processing, and real-time reporting for Board finances.

A new section has been added to delineate the Internal Control structure of the Board documenting the segregation of financial responsibilities of staff and the Board. Also added are Administrative Collaborative Resources, Reporting Guidelines and Record Retention Summary.

Chair Straughan commented the document is very thorough; Phil Seitz remarked it is great to have real-time information. Sol Magpantay agreed with the changes.

Chair Straughan called for a motion.

Phil Seitz made the motion, seconded by Sol Magpantay to approve the revised operating policies and procedures. The motion carried.

Executive Director's Report - Loretta Ponton reported on licensure statistics through September 30, 2021, with comparisons to prior year and current fiscal year by quarter. Ms. Ponton reported licensing numbers have increased 5% from the previous year; current licensees total 1642.

FY 2021 Financial Statements: Ms. Ponton summarized the 1st Quarter Financial Statements reporting licensing revenue is at 22.62% of budget with new application fees exceeding budget. Expenses are 25.09% of budget. Net operating income/loss for the 1st Quarter is (\$2,678.53), 23.40% of budget.

Balance sheet cash on September 30, 2021, is \$693,789.43 with deferred revenue of \$186,940.24. The investment account has \$522,795 invested in CD's.

Activities: Ms. Ponton reported on the activities and meetings of the Administrative Collaborative. Discussions included AB 253 revised posting requirements for public meetings; COVID office protocols and remote work impacts on operations, communications and staffing; and State Administrative Manual changes requiring formal contracts for licensing data systems.

Ms. Ponton reported she and Stacey Whittaker participated in an online seminar hosted by the Counsel of State Governments on the OT and SLP Compact efforts; the Board of Applied Behavior Analysis officially moved into the office mid-September; and licensees are being notified of the requirement to take the Nevada Jurisprudence Exam.

Deferred Renewal Fee Status: Ms. Ponton stated two (2) OTA licensees have not paid the deferred renewal fees. The OTA's license records have been flagged which will not allow them to renew on-line.

Complaints: Ms. Ponton reported two (2) open complaint cases in the investigative process.

Phil Seitz asked if the OTA's have been notified of the fees. Ms. Ponton responded they have been notified by email and sent written notices; their employers have been contacted with one reporting the OTA was no longer employed and the other refusing to verify employment. Ms. Ponton stated it is possible the OTAs

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are no longer in the State. Outreach will be continued during the on-going state of emergency, the disciplinary action process has not been pursued.

Phil Seitz inquired about the jurisprudence exam requirements. Ms. Ponton responded that by regulation adopted in 2018, all new applicants must take the NV Jurisprudence Exam and all current licensees must take the exam at least one-time every 5 years; the deadline is May 2023. The exam is free, is open-book, on-line and requires a 100% passing score.

Sol Magpantay stated continuing education is allowed for the jurisprudence exam. Ms. Ponton responded licensee are credited for two (2) hours of CE. The jurisprudence exam content is updated every time a new regulation is passed.

Chair Straughan called for a motion to approve the Executive Director's report and 1st Quarter financial statements.

Sol Magpantay made the motion, seconded by Phil Seitz to approve the Executive Director's report and financial statements for 1st Quarter, FY 2022. The motion carried.

Executive Director Performance Review – Chair Straughan stated she has received the written evaluation form from Allison Stone with a total score of 35, the maximum, for the record. Members were asked to verbally provide their individual total scores on the performance evaluation: Sol Magpantay scored 35, Phil Seitz scored 35 stating Loretta is doing a stellar job; Chair Straughan scored 35. Chair Straughan added that Loretta continues to be the best ED in the State as evidenced by the administrative collaborative.

Chair Straughan noted all members scored the Executive Director at the maximum points. Chair Straughan called for discussion on the proposed compensation increase stating she is in favor as proposed. Phil Seitz stated he was in favor.

Sol Magpantay asked if the compensation level relates to the number of licensees, i.e., like the Medical Board, whether it should be commensurate with Board size?

Loretta Ponton explained Board administrative requirements for all Boards are similar and not based upon the number of licensees. The Governor's Audit Committee report provided salary guidelines, all larger Boards are at the top of the recommended range and receive full State benefits with retirement and medical insurance.

Sol Magpantay asked if the Board can support the salary; with the pandemic practitioners are not receiving increases and facing furloughs. Ms. Magpantay stated she is not questioning the job performance.

Ms. Ponton responded the Board continues to have over \$500,000 in reserves; the licensing fees were reduced to lower reserve funds beginning in 2019; licensing numbers were stagnant last year; however, numbers are increasing this year. There is sufficient revenue to support the salary increase for the near future.

Ms. Ponton added that the salary reflects longevity with the Board of over 15 years and salary should equate to the level of experience and job performance; the next Executive Director salary would be lower.

Phil Seitz stated Loretta is doing a fantastic job and has been saving the Board money for years; cost analysis outweighs the salary.

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Chair Straughan stated that approving the proposed compensation request is appropriate and necessary; a new person will not have the experience.

Chair Straughan stated a motion would be appropriate to approve the performance evaluation, and compensation package as proposed to increase compensation retroactive to July 1, 2021, increase in salary for next fiscal year and change to the rate of payment for unused personal time off upon separation.

Phil Seitz made the motion, seconded by Sol Magpantay, to approve the compensation package as proposed. The motion carried.

Phil Seitz made the motion, seconded by Sol Magpantay, to approve the performance evaluation scores. The motion carried.

Report from Sr. Deputy Attorney General – Henna Rasul stated she had nothing to report.

Report from Board Chair and Members – Chair Straughan stated the report on the FARB Conference will be tabled. Chair Straughan reviewed the meeting schedule for 2022; adding a special meeting for a disciplinary hearing is scheduled for December 11, 2021.

Phil Seitz asked if the disciplinary hearing has to do with an occupational therapist who has been in the news in Las Vegas. Ms. Ponton responded she is aware of the incident and is doing due diligence.

Chair Straughan asked if there were any future agenda items to be discussed.

Ms. Ponton stated the Board may wish to review the NRS law and NAC regulations in more detail in relation to the changes made by AOTA to the definition of Occupational Therapy, the Code of Ethics and Ethics Standards and the Standards of Practice. The Board has adopted the AOTA Code of Ethics and Standards of Practice by regulation. The definition of Occupational Therapy would be an NRS law change requiring Legislative approval.

Sol Magpantay stated all AOTA members received the 4th Edition of the AOTA Standards of Practice for comments prior to adoption.

Phil Seitz inquired on the status of a Board member replacement for Sol Magpantay's position. Ms. Ponton reported on the email solicitation sent to eligible licensees; applicants will apply directly to the Governor's Office.

Sol Magpantay stated she will continue to serve until a replacement is appointed to ensure a quorum of the Board.

Chair Straughan asked if there were any other future agenda items. There were none.

Public Comment – Chair Straughan asked for public comments. There were no public comments.

Adjournment – Chair Straughan adjourned the meeting at 11:32 a.m.