



**STATE OF NEVADA
BOARD OF OCCUPATIONAL THERAPY**

**SUMMARY MINUTES
PUBLIC BOARD MEETING**

May 14, 2022

Members Present: Allison Stone, Elizabeth Straughan, Phil Seitz, Sol Magpantay
Members Absent: Mel Minarik
Staff Present: Loretta L. Ponton, Executive Director
Stacey Whittaker, Licensing Coordinator
Wayne Springmeyer, Investigator
Henna Rasul, Sr. Deputy Attorney General
Sophia Long, Sr. Deputy Attorney General
Public Present: Jeanette Belz, Melissa Raab, Candace Taylor, Meghan Pudeler AOTA, J.M.
Trevino OT, Paula Cook NOTA

The full transcript of the meeting is attached and is incorporated herein by reference.

Call to Order, Confirmation of Quorum

Chair Stone, called the Board meeting to order at 3:05 p.m. A roll call confirmed a quorum was present.

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

Approval of Minutes – Chair Stone called for approval of minutes.

Elizabeth Straughan made the motion, seconded by Phil Seitz to approve the minutes of the meeting of March 19, 2022.

The motion passed.

Disciplinary Hearing in Case No. C22-03, Jennifer Courtad, OT, License No. 0637

Sophia Long, Sr. Deputy Attorney General, Board Counsel provided a summary of the process for deliberations and decision making and answered procedural questions from the Board .

Loretta Ponton verified that Jennifer Courtad was not present for the Hearing.

Elizabeth Straughan disclosed she had a working acquaintance with Ms. Courtad and that she was the Board Chair at the time of the Summary Suspension. Ms. Long affirmed that Ms. Straughan would not be participating in the Hearing and confirmed a quorum was present.

Henna Rasul, Sr. Deputy Attorney General, Prosecutor presented the State's case stating Ms. Courtad was arrested on criminal charges of statutory sexual seduction resulting in a summary suspension of her OT license and that her actions constitute unprofessional conduct.

Ms. Rasul affirmed that Ms. Courtad was properly noticed for the Hearing.

Ms. Rasul moved to enter Exhibits 1-9 into evidence. Chair Stone accepted Hearing Exhibits presented by Ms. Rasul into the record.

Ms. Rasul called witnesses Loretta Ponton, Wayne Springmeyer, Melissa Raab and Candace Taylor. All witnesses were properly sworn in and testified under oath.

Ms. Rasul concluded the State's case with recommendations for disciplinary action:

- Revocation of License for 10 years, the maximum allowable by law;
- Assessment of Legal Fees
- should she attempt to apply after the 10 years, she would need to submit proof to the board satisfaction that any and all court orders and stipulations related to the aforementioned case in Clark County, Las Vegas Justice Court; Including, but not limited:
 - to completion of any applicable terms of incarceration,
 - completion of any applicable terms and conditions related to parole, and or probation,
 - completion of any applicable counseling, treatment and or psychiatric services,
 - completion of any applicable community service,
 - completion of any applicable educational programs, and
 - payment in full related to any legal parole and or probation costs affiliated with Courtad case in justice court.
- After meeting items stipulated in the aforementioned, to the board satisfaction, the respondent may submit an application including the associated cost and fees for a new occupational therapy license and any other requirements as of that date.
- Courtad will not be eligible for licensure in the state via endorsement or reciprocity of any occupational therapy license held in any other state that has been revoked, suspended or disciplined within the previous five years.
- This new application would need to comply with any applicable NRS & NAC pertaining to criminal background checks including fingerprinting and any affiliated costs or fees pursuant to NRS 622.360, any positive criminal history resulting from the background check including any criminal history, during the period when Courtad was previously licensed by the board may be grounds to refuse her license application.
- If the board following its examination of Courtad accepts her occupational therapy application, her newly issued occupational therapy license will be placed on probation for three years.
- The board at the time of the approval of her application may by order of the board, establish any limitations or restrictions on her license or practice as an occupational therapist as may be determined by the board at the time of approval.
- Any actions taken by the board will be reported to the National Data Bank, and any other banks or data banks that are required by law, the National Board For Certification In Occupational Therapy and American Occupational Therapy Association.

Sophia Long, Board counsel, advised the Board they will consider four separate items requiring a vote:

- Ms. Courtad was given proper legal notice of the Hearing;
- Whether Ms. Courtad was in violation of the single count in the Complaint;

- Whether to assess discipline as recommended by Ms. Rasul or something different; and
- Award of Attorney's fees.

After discussions and review of evidence presented, Chair Stone called for a motion.

Phil Seitz made the motion, seconded by Sol Magpantay that Ms. Courtad was given proper legal notice. The motion passed.

Sol Magpantay made a motion that it was proven Ms. Courtad was in violation as stated in Count 1 of the Complaint. Phil Seitz seconded the motion.

Discussion:

Sol Magpantay stated she is in violation with inappropriate sexual relationship with a minor as evidenced by testimony of Ms. Raab and Ms. Taylor.

Phil Seitz stated she is in violation as evidenced by the testimony of Candace Taylor and the mother as well as the exhibits that were presented in the case.

Allison Stone stated there was quite a bit of evidence provided, both written and in the testimony that overwhelmingly shows an inappropriate relationship with the juvenile.

Chair Stone called for a vote.

The motion passed.

Phil Seitz made a motion to accept counsel's recommendations for disciplinary sanctions. Sol Magpantay seconded the motion.

Sol Magpantay made the motion to assess attorneys fees, fees are reasonable, necessary and actually occurred for the amount of \$4,120 plus one and one-half hours for services of Henna Rasul and Sophia Long. Phil Seitz seconded the motion.

The motion passed.

Disciplinary Matters – Recommendation for Dismissal – Chair Stone called for a motion.

Sol Magpantay made the motion, seconded by Elizabeth Straughan to dismiss Complaint Case C22-02.

The motion passed.

Legislative Report – Jeanette Belz, Belz and Case Government Affairs was introduced and provided an interim report on legislative items of interest including interim committee proceedings. Ms. Belz highlighted the Interim Commerce and Labor Committee stating the Director of DETR mentioned working with the Governor's office to elevate its priorities specifically relating to occupational licenses; the Governor mentioned in the state of the state address earlier this year that he was going to put together a bipartisan task force to further reduce red tape; and meetings relating to veterans and veterans affairs in which it was mentioned the Governor's task force would be examining issues related to veterans and their spouses.

Ms. Belz reported the Governor will be suspending the emergency declaration as of May 20 and that several legislative races will be decided in the June 14th primary elections.

Discussion of Bills to be Presented at the 2023 Session of the Legislature – Chair Stone turned this item over to Loretta Ponton to present.

Loretta Ponton explained the purpose of this item is to determine the direction the Board wishes to take on potential legislation at the next Legislative Session in regards to the OT Compact, and/or other law revisions and provide direction to staff on where to put their efforts. The presentation outline is as follows:

Occupational Therapy Licensure Compact

The national Occupational Therapy Licensure Compact (OT Compact) has established eligibility requirements for States to become members of the OT Compact. As of April 22, 2022, there are nineteen (19) states who are members of the Occupational Therapy Compact. The first meeting of the OT Compact Commission is scheduled for August 2022. It will take 1-2 years for full implementation of the OT Compact.

It should be noted that Nevada has “independent” licensing boards; wherein other States’ licensing boards are not independently operated or funded and fall under the governance of a state agency.

Currently, the biggest barrier to Nevada becoming a Member State is that Nevada does not currently meet the eligibility criteria as Nevada does not require criminal background checks.

A survey was conducted of all current licensees to solicit interest in “compact privilege” through the OT Compact. The response rate was 3.3% of current licensees.

Legislation, a Bill, would be required to be introduced and pass for Nevada to join the OT Compact. In addition, Nevada would be required to implement fingerprint background checks. At the request of the Board, AOTA’s Kristen Neville compiled a report on States’ criminal background check requirements. Twenty-two (22) states require background checks; twenty-eight (28) do not. It is unclear whether background check authority must be in place prior to joining the OT Compact or whether the authority can be added later (would require legislative action).

Current Licensing System

Our current on-line application process is very expediate, with applications being reviewed, approved, and issued normally within 3 business days. The Stakeholder Survey indicated that expediency is very important and that our current licensing system is working well.

If the criminal background check is required, additional revisions would be proposed to the temporary license to enable practice while pending results of the criminal background check. Revisions and enhancements to our licensing data system would be required for both the OT Compact legislation “privilege to practice” and the “temporary license” requirements.

With the alternative “reciprocity” provisions, minimal revisions to the licensing system would be required.

The OT Compact will be establishing their own data system which will require additional reporting to the Compact Commission including disciplinary actions, licensee status among other elements to be determined by the Commission. Compact reporting may require additional enhancements to the Nevada licensing system.

Costs and Fees

By law, NRS 640A.100 3. The expenses of the Board and members of the Board, and the salaries of its employees, must be paid from the fees received by the Board pursuant to this chapter, and no part of those expenses and salaries may be paid out of the State General Fund.

The compact “privilege to practice” is obtained from the Compact, a state fee can be included which is minimal averaging about \$50 in other professional compacts. The practitioner is not required to obtain a full “license” in Nevada and does not apply in Nevada. The compact privilege is active if the individual retains their home state license. There is no additional “renewal” fee for a compact privilege. The fiscal impact to Nevada would be the loss of revenue from practitioners who work primarily in telehealth and temporary traveling positions – non-residents of Nevada.

The OT Compact Commission may assess each compact member state an amount to be determined by the Commission to cover the costs of the Commission. For reference only, the Psychology Compact has assessed \$90 per compact privilege issued for Nevada.

Nevada has 372 current practitioners with out-of-state residential addresses; 108 of which are new licensees this fiscal year. If 50% of those new licensees were to apply for compact privilege, the resulting revenue loss would be projected at \$21,000 in initial license fees annually not considering subsequent loss of renewal fees. An additional Compact Commission fee charge would also be incurred.

The long-term impact cannot be projected at this time. The Board may be required to re-consider biennial licenses by reverting to annual licenses or adjust license fees to cover the loss of revenue and costs associated with OT Compact participation.

Alternative Legislation in Lieu of Occupational Therapy Compact

Reciprocity - Presented for discussion and consideration was an alternative to joining the OT Compact which would not require the criminal background check. An OT practitioner who holds a license in an OT Compact state could apply for a Nevada license by reciprocity. This new provision would supplement the current license by endorsement provisions in NRS 640A.165 and NRS 640A.166 (military affiliated).

NBCOT Certification, verification of license status and Nevada jurisprudence exam would still be required for all applicants.

Board Discussion:

Phil Seitz inquired whether background checks are being required by employers. Ms. Ponton responded some employers do require background checks however, they may not be the FBI background check.

Phil Seitz questioned whether the changes would come at a cost to the licensee, that additional costs would ultimately be passed down to the therapists.

Phil Seitz stated an understanding of what the intent is with reciprocity and OT Compact, in relation to travelers and telehealth, but questioned the applicability to State of Nevada therapists.

Sol Magpantay commented there are three options; stay the same, do endorsement and reciprocity, or the OT compact. She stated we remain the same or go for compact because endorsement and reciprocity will be the same process as the compact. Phil Seitz did not agree.

Loretta Ponton clarified that endorsement is already in our law; however we don't use it as we give expedited processing to all applicants whether they are licensed in another state or not. Same with reciprocity, we already have expedited processing, one to three days.

Ms. Ponton added however, we have to look at the emphasis of the legislature at the legislative session and the concerns that are being expressed on barriers to employment and barriers to licensure that are being looked at by the state legislature, by the legislative committees, by the governor's office; they target veterans and they target the military. We're ahead of the game because we've already addressed all of that.

However, it doesn't say that we're already doing it in our law. If we use the word reciprocity, even though it would have no real effect in the way we process applications and licenses get issued, it is something that the legislature would be very happy with to say, "look what we've done. We are addressing reciprocity in the state of Nevada and we're addressing barriers to licensure by granting reciprocity".

So it's really two things. One is the perception from the outside looking at us and the other is the reality that we give everybody equal treatment, no matter what they do, where they come from or what their affiliation is. That is our goal as the Board of Occupational Therapy, that everybody is equal in being able to obtain their license in a quick and efficient manner. But then you look at the legislators, they're looking from the outside and remember, it's not just our board. They're looking at all of the boards and we would get lumped in. If the legislature does something to address a problem they may have with a dental board, they may throw in all the licensing boards. We want to be able to have something that says, look, we've already addressed that problem. It's right here in our law. See, we've addressed that, you don't need to do anything else with us. If they can't see it in writing, then they don't believe it.

Sol Magpantay commented if one of the OTs from Nevada wants to be a consultant in one of the compact states, then it'll benefit that OT.

Loretta Ponton responded, for Nevada to be a compact state, you would benefit if you wanted to go to another compact state. But any practitioner can obtain a single state license in any state. You don't have to do the privilege to practice. So if you wanted to go do telehealth in Utah, you can always apply to Utah for their license.

Sol Magpantay commented I have a California license and if I renew my license here and I renew my license there and my NBCOT, that's a thousand dollars total. And then my AOTA membership. But if Nevada is part of the compact and, let's say from Colorado, which is part of the compact state I wanted to practice here, because remember we don't have enough OTs that will serve the rural areas for telehealth. So let's say an OT from Colorado, who's part of the compact state who will give a telehealth service in the rural Nevada then it'll benefit them. I'm not thinking of Las Vegas and Reno. I'm thinking of the rural areas that are not rich by other OTs.

Loretta Ponton responded that is the benefit of the compact.

Elizabeth Straughan stated the problem is that person doesn't get a Nevada license. We miss funding, but what do we do if that person does something inappropriate in the state of Nevada with their compact license? I don't know what kind of control we have then. And if they're not licensed, we're not getting the money to actually have the cash to prosecute or whatever, too.

Sol Magpantay asked if the OT Compact Commission would have it. It'll be under them?

Loretta Ponton responded they have to have a current home state license. So if they live in California and California is a compact state, they have to maintain that license. And they have to do the continuing

education and whatever requirements it is for that state where they have a home state license. If Nevada was then a member as a compact state and they wanted to work in Nevada, they would just ask for a privilege to practice from the compact commission and pay a small fee to the compact commission.

They would be eligible to practice in the state of Nevada by telehealth or temporary license, or whatever they wanted to come over here. If there was a disciplinary issue come up, we would still be responsible for following our disciplinary process and reporting that process to the compact commission and most likely the home state, but we would still incur those costs of that disciplinary process, the investigation and everything else to make that determination. But then that would fall back to the compact... My understanding is, and again, it's so early, I'm not sure how it's going to work. They have to develop the system, the actual disciplinary action. We can't take discipline against a compact privilege. It would go to the commission or their home state. So there's a process that needs to be worked out there. And of course that would then be additional costs to our board also.

Sol Magpantay asked about payment of attorney's fees by the person who had disciplinary actions. They're the one who's going to pay the attorneys fees. However, the investigation, can it be through the fine that they had?

Loretta Ponton responded we can assess legal fees. Doesn't mean that we collect them. We have accounts receivable out there from disciplinary actions where people never pay. The legal fees would come back to us to offset our costs of paying the AG's office for the prosecution. That's why they give us the actual cost. We don't make any money from it at all. And we don't assess fines. We don't have that authority to assess a fine, but if we have the authority to assess a fine, then that fine would go to the state of Nevada. We still wouldn't be able to keep it; it's just a wash for us. It's a cost in not just legal fees, but in your own staff and operational cost of the investigator to investigate, we can't recoup the cost of the investigator. Only the legal fees.

Allison Stone stated this is something I've been kind of back and forth with for the last couple years, thinking about it, our state, one of my, or a couple of my thoughts, and maybe this is a question too. I hate jumping into something without really seeing what they're going to do; without knowing the compact laws and rules and us enacting legislation based on a suspicion of what may happen. Is it something that we have to commit to now, or this can be joined at any time, once they kind of have a plan?

Loretta Ponton responded we can join at any time, it's effective now, but again, it takes legislation. We have an opportunity every two years to bring forth legislation. If you would like to push this down the road, we can see how the compact commission comes up with their laws and what their rules will be, what their data systems will be; we could join in two years or we could join in four years. It's not something that we absolutely have to do right now because it's really not even up and running yet. We don't have those answers.

Allison Stone commented, I really like the idea of the reciprocity for now. Because that's been a big focus of our legislature in the last couple years. I think starting with something like that, so we at least have that in writing, but I also think the boards have been under exam so much within the Nevada legislature. I also don't know where that's going to go in the next two to four years, who knows what they're going to do and what's going to happen. I'm definitely not saying no to compacts, but I would definitely like to see where they go with this before we commit to something and not understand the full financial implications or how it's going to affect us or all of these questions that everyone's brought up for sure.

Sol Magpantay stated there's no board yet in Nevada that has been legislated to be part of a compact, am I right? Like nursing board is not part of a compact.

Loretta Ponton responded, no. The Nursing board has put forth legislation to join the compact and it has not passed. There's psychology and it's limited to telehealth and temporary licensees, there's the medical board which has a compact and that's medical and osteopath board but I think that's the only one. Medical board is the only one that's really operating.

Sol Magpantay asked if the PT Board was in a compact or if they are still undergoing legislation. Loretta Ponton responded they want to join the PT compact, but this will be the third legislative session they put forth their PT compact to be passed. It has not passed in the last four years.

Sol Magpantay stated only the medical board and the psychology board. We'll just wait and see if they get approved before we do anything. It could take years anyway. And have the OT compact commission up and running first?

Allison Stone stated, that's kind of what I think, too. Give them a chance to figure it out and then see if it works for us and if we can fit into it.

Loretta Ponton concluded, am I hearing a consensus that we're not going to move forward with the full OT compact at this point? Do you have any feelings for whether you want to add the reciprocity provisions and the other small changes that we had to our bill? Shall we move forward with that and see... No guarantee it will go through, but we can try. There's no guarantees with any type of legislation, but if we're going to do it, we need to get working on it now.

Elizabeth Straughan commented, I would say "yes".

Allison Stone asked if a motion is needed.

Loretta Ponton responded, I think you should make a motion to have us move forward with a legislative packet to be brought back to the board. To include the reciprocity provisions and any other recommended changes to NRS.

Elizabeth Straughan made a motion to move forward with a legislative packet to be brought back to the Board to include reciprocity provisions and any other recommended changes to NRS. Sol Magpantay seconded the motion.

The motion passed.

Chair Stone recognized Meghan Pudeler, AOTA as requesting to provide public comments.

Ms. Pudeler stated she would like to correct some statements on the Compact; on costs, the person would pay a small fee to the Compact and a privilege fee amount would be set by the State Board; the privilege fee would also be paid at renewal, it's not a one-time only fee.

Ms. Pudeler commented licensees have the option to join the compact; it would be helpful for Nevada if a licensee wanted to work outside the state, the cost and they also would only have to do continuing education requirements for their home state, they don't have to track multiple renewal periods.

Ms. Pudeler commented on background checks which would only be required for those seeking a compact privilege, it wouldn't apply to all licensees and there would be a sharing of information on disciplinary actions.

Ms. Pudeler volunteered to have the Counsel on State Governments do a presentation to explain how it works in other states.

Ms. Pudeler indicated she was confused on how reciprocity would work; it sounds like it would help people coming into the state but not for current Nevada licensees; the Compact would have been very helpful during the pandemic to address continuity of care issues.

Elizabeth Straughan questioned Ms. Pudeler on how many boards are freestanding as opposed to in a state structured setting. Ms. Pudeler stated she doesn't have an exact number but can get back with us.

Executive Director's Report – Loretta Ponton referred the members to the written report provided in the board's packet including the financials as of March 31st. Ms. Ponton reported license fees were impacted due to the COVID provisions and lower new applicants resulting in revenue projected to be under budget by up to \$25,000.

Ms. Ponton reported one new complaint case being received and the random audit of continuing education has begun with 211 licensees selected for audit. Of those, 113 had CE documentation uploaded to the records which were desk audited and 98 audit notices have been sent.

Ms. Ponton thanked Sol Magpantay for continuing in a carry-over position on the Board, stating 2 other members' positions will be expiring in December 2022.

Revision of Regulations – Chair Stone tabled this agenda item to the next meeting.

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

Board Activities and Reports – Chair Stone tabled the appointment of the Board Financial Reviewer to the next meeting. No other reports were presented.

Public Comment – Chair Stone opened the floor for public comments.

Paula Cook thanked the Board for the work so far on the Compact and the survey. Ms. Cook commented the survey showed a lot of support for keeping licensing expedient but there was also support for background checks as well. NOTA also did a survey which indicated a lot of interest in the Compact. Ms. Cook volunteered to have NOTA host a presentation from AOTA to learn more of the nuts and bolts about it before the Board makes a decision.

Chair Stone asked if there were further comments.

Sol Magpantay commented she will be attending the May 25th AOTA conference.

Meghan Pudeler clarified the May 25th event is the state regulatory forum about ethics. Ms. Pudeler reaffirmed support for hosting a webinar for the board in conjunction with NOTA with the council of state governments to answer questions on the Compact.

Adjournment – Chair Stone adjourned the meeting at 5:22 p.m.