



# STATE OF NEVADA BOARD OF OCCUPATIONAL THERAPY

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## SUMMARY MINUTES PUBLIC BOARD MEETING

February 18, 2023

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Members Present: Allison Stone, Melanie Minarik, Jose Pablo Castillo, Phil Seitz, Jocelyn Pereira  
Staff Present: Loretta L. Ponton, Executive Director  
Stacey Whittaker, Licensing Coordinator  
Henna Rasul, Sr. Deputy Attorney General  
Public Present: Jeanette Belz, Marco Flores, Matt Olivier, Angela Terencio

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### **Call to Order, Confirmation of Quorum**

Chair Stone, called the Board meeting to order at 9:01 a.m. A roll call confirmed a quorum was present.

### **Public Comments**

Chair Stone opened public comments.

Loretta Ponton read a letter submitted anonymously to the board regarding concerns with the new Doctorate OT programs.

### **Approval of Minutes**

Chair Stone called for approval of minutes.

Vice Chair Minarik made the motion, seconded by Jose Pablo Castillo to approve the minutes of the meeting of November 5, 2022. Allison Stone and Jocelyn Pereira abstained. The motion passed.

### **Legislative Report**

Jeanette Belz of Belz and Case Government Affairs provided an update on the Board's bill and sponsor; legislative activities, and potential bills that may affect the occupational therapy profession and/or Board administration. To date, over 300 bills have been introduced this session and they are tracking approximately 13 that are not directly related to occupational licensing boards. The OT Board Bill, (BDR 737) sponsored by Assemblyman CH Miller has not yet been introduced, the deadline is March 20<sup>th</sup>.

March 24, 2023 is Nevada Occupational Therapy Association Day at the Legislature. NOTA will be in attendance and Jeanette will be facilitating a Board Member Legislative Tour and possible floor session.

**Disciplinary Matters – Citation for Unauthorized Practice; Administrative Fine pursuant to NRS 640A.230 2(c) Kristine Booth, OTA, License No. OTA-2107**

Chair Stone called on Ms. Ponton to review the citation and administrative fine process.

Ms. Booth contacted the Board office on November 17, 2022 regarding late renewal of her license which expired September 18, 2022. An application for reinstatement was received the same day with appropriate CE documentation, NBCOT verification of current certification and explanation of her unauthorized practice. Ms. Booth's license OTA-2107 was reinstated as of November 17, 2022 as all the requirements for reinstatement were met. Pursuant to NRS 640A.230 2(c), a Citation for Unlicensed Practice was issued with notice to appear before the Board for a determination as to whether to assess an administrative fine of \$200-\$5,000 pursuant to NRS 640A.230 and NAC 640A.170.

Vice Chair Minarik is concerned that the licensee is not in attendance and would like to know if her employer was notified of the billing submitted during the two months of unlicensed practice. Stacey Whittaker reads for the record a letter from Ms. Booth explaining the circumstances behind the lapsed license.

Chair Stone called for a motion.

Jose Pablo Castillo made the motion, seconded by Vice Chair Minarik to assess an administrative fine of \$200 for unlicensed practice. The motion passed.

**Disciplinary Matters – Recommendation for Dismissal**

Case No. C23-05 alleged falsification of license application; non-disclosure of criminal history and disciplinary action by another State. After review of all documentation received regarding the above referenced complaint, it has been determined that there is insufficient evidence to file a formal complaint for hearing before the Board and the facts set forth in the accusations are insufficient to establish a violation of Chapter 640A of the Nevada Revised Statutes or the Nevada Administrative Code.

Chair Stone called for a motion.

Phil Seitz made the motion, seconded by Vice Chair Minarik to dismiss Complaint Case C23-05.

The motion passed.

**Consideration of Application for Licensure – Prior Criminal History**

Ms. Ponton reported that Marco Flores submitted an application for licensure as an Occupational Therapist on January 26, 2023. The application comes before the Board for consideration due to prior criminal history disclosed with the Application. Mr. Flores initially contacted the Board in 2020, at which time he was a OT Student, regarding a criminal gross misdemeanor conviction stemming from an incident in 2018 and was placed on probation. Mr. Flores completed all terms and was released from probation. Mr. Flores requested a pre-determination from NBCOT on eligibility to take the certification exam. NBCOT, after review of all documentation, issued a pre-determination that he would not be eligible for examination for 2 years, with conditions for reconsideration after the 2-year period. Mr. Flores has since completed all the requirements established by NBCOT, graduated from his OT educational institution in 2022 and received approval and

authorization to take the certification examination from NBCOT. Mr. Flores was certified on January 26, 2023 and is requesting a Nevada Occupational Therapy License.

After board discussion, Vice Chair Minarik made the motion, seconded by Jose Pablo Castillo to approve the application for licensure for Marco Flores. The motion passed.

### **Governor's Executive Orders / Timelines and Activities**

Ms. Ponton provided the board with an overview of the 2023 Governor's Executive Orders.

*Executive Order 2023-03* Freezing Regulations and ordering a Review of Existing Regulations requires the Board to prepare and submit a Report to the Governor's Office by May 1, 2023. A Public Hearing is required to be held to solicit public input into how to streamline, clarify, reduce, or otherwise improve regulations. The report to the Governor's Office must include stakeholder input and must identify a minimum of 10 regulations recommended for removal. The Public Hearing is proposed for Thursday April 6th, at 1:00 p.m. via ZOOM. No new regulations may be proposed, approved or acted upon until the Executive Order is rescinded.

The board discussed whether or not there are ten regulations that can be removed and whether the boards history of regulation review will be included in the report.

Phil Seitz made the motion, seconded by Jose Pablo Castillo to move forward with the Public Hearing on April 6, 2023. The motion passed.

Chair Stone asked if the final report will have to go before the board for approval or if the board can delegate authority to the Executive Director.

Vice Chair Minarik made the motion, seconded by Jose Pablo Castillo to delegate authority to Loretta Ponton to prepare and submit the report to the Governor's Office. The motion passed.

*Executive Order 2023-04* Order Directing Professional and Occupational Licensing Boards to Suspend the Issuance of Any New Regulations, Show Cause for all Occupational Licensing Requirements and to Provide a Recommended Pathway for Facilitating Licensure Reciprocity. The Report, due April 1, 2023, must be submitted to both the Governor's Office and the Director of the Legislative Counsel Bureau.

Executive Director Ponton states that she is currently drafting this report and will present to the board for review at its March 25, 2023 board meeting.

### **Language Access Plan**

Ms. Ponton explained that Senate Bill 318 of the 2021 Legislative Session, codified as NRS 232.0081, requires an agency, board, commission, bureau, council, department, division, authority or other unit of the Executive Department of the State Government to develop a Language Access Plan to address the barriers persons with limited English proficiency face in accessing governmental programs and services. The Office of New Americans (ONA) has been the designated contact agency for questions and implementation of the requirements. The draft Language Access Plan follows the guidelines and template provided by the ONA. The Language Access Plan is provided for public input / comments and Board approval.

Jose Pablo Castillo made the motion, seconded by Phil Seitz to approve the Language Access Plan as written. The motion passed.

## **Board Policy Revisions**

Ms. Ponton presented two proposed updates to Board Policy Manual updating Section 06:034 Co-Locating/Cost Sharing Regulatory Boards and add Section 06:04 Language Access Plan.

After review of the board policy revisions, there were no questions or comments.

Jose Pablo Castillo made the motion, seconded by Phil Seitz to approve the two proposed Board Policy Manual updates as written. The motion passed.

## **2023 / 2024 Strategic Direction**

The Board Self-Assessments have been compiled and were presented by Ms. Ponton for review and consideration. The outcomes of the Strategic Planning Session on August 12 – 13, 2022 including Board Fiduciary Objectives and Action Plans have been summarized and were presented for review, potential revision and/or approval. Ms. Ponton addressed objectives such as Protecting the Public, Board Oversight, Personnel Oversight and Transition Planning.

The board consensus was that there were no additional actions needed at this time to augment the 2023/2024 Strategic Direction.

## **Review and Approval of Job Classification and Compensation Plan Revisions to include but not limited to Job Specifications, Compensation and Benefits**

Staff was directed to review and make recommendations for revisions to the Board Classification and Compensation Plan; specifically the realignment of duties and responsibilities of the Executive Director and Licensing Coordinator positions. Updated and revised Job Specifications have been developed and were presented for Board consideration.

Board Personnel Policy ties Salary/Wage rates and Retirement Benefits (employer contributions to deferred compensation) to the State of Nevada personnel rates and PERS employer contribution rate. Effective July 1, 2023, the employer PERS contribution rate will increase by 2% to 17.5% and the State Legislature will be adjusting salary/wage rates for state employees by up to 10%.

An analysis of retirement benefits, medical insurance and leave benefits were presented to the board for review.

Jose Pablo Castillo made the motion, seconded by Vice Chair Minarik to approve the Job Specifications as presented. The motion passed.

The Benefits Analysis and Leave Benefits Analysis were tabled until the next board meeting.

## **Executive Director Performance Review**

Chair Stone stated she received the written evaluation forms from the board members with a total score of 60/60, the maximum, for the record. Ms. Ponton was described as an outstanding leader, meticulous with details, transparent and runs the board to perfection.

The last Executive Director performance review was completed by the Board at the meeting of November 6, 2021. At the November 2021 Board meeting, the salary of the Executive Director was increased to the top of the range effective July 1, 2022 in recognition of outstanding performance and years of service to

the Board. Effective July 1, 2022, the State's salary ranges were adjusted by 1% approved by the 2021 Legislature, the Board salary ranges are based upon the State compensation schedules.

Vice Chair Minarik made the motion, seconded by Phil Seitz to approve a 1% increase in base salary, \$1,315.44 annually, to top of the range, retroactive to July 1, 2022. The motion passed.

### **Consideration of Employee Performance Bonuses**

Ms. Ponton explained that pursuant to the personnel policies, the Board may award individual bonus payments. Ms. Ponton stated that for outstanding service and in recognition of willingness to take on additional responsibilities while continuing exceptional support to the Board, a 10% performance bonus is recommended for Stacey Whittaker based on her outstanding performance review. The \$3,472.56 bonus would be effective today and is a one-time payment.

Phil Seitz made the motion, seconded by Jose Pablo Castillo to approve the one-time performance bonus of \$3,472.56 for Stacey Whittaker. The motion passed.

Chair Stone directed the board to determine Ms. Ponton's eligibility for a bonus payment.

After discussion regarding the board's budget, Phil Seitz made the motion, seconded by Vice Chair Minarik to award Ms. Ponton a one-time 10% bonus effective today. The motion passed.

### **Executive Director's Report**

Ms. Ponton reported on licensure statistics, office operations, the Nevada Jurisprudence Exam, Administrative Collaborative, and board complaint status. The FY 23 Financial Statements and FY budget revisions were presented for review. Revisions to the budget include costs associated with personnel actions and in-state travel for board members to attend the Legislative Tour in March, 2023.

Phil Seitz made the motion, seconded by Jose Pablo Castillo to approve the budget changes as presented. The motion passed.

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

### **Board Activities & Reports from Members**

Chair Stone called for nominations for Board Chair and Vice Chair appointments. After discussion of the positions and responsibilities, Phil Seitz stated that he would be open to the Board Chair position.

Melanie Minarik made the motion, seconded by Jose Pablo Castillo to appoint Phil Seitz as Board Chair.

The motion passed.

Jose Pablo Castillo stated that he would be open to the Vice Chair position. Melanie Minarik made the motion, seconded by Phil Seitz to appoint Jose Pablo Castillo as Vice Chair. The motion passed.

Ms. Ponton stated that the board must appoint new authorized signatories for brokerage and bank accounts as both Sol Magpantay and Elizabeth Straughan are no longer on the board. Melanie Minarik and Jose Pablo Castillo were appointed as authorized signatories for board brokerage and bank accounts. Ms. Ponton will follow up with Wells Fargo to make the appropriate changes.

The 2023 proposed meeting and activities schedule was discussed with potential conflicts with the July 29<sup>th</sup> meeting date. Ms. Ponton will confirm the change in date with board members at a later date.

**Public Comment** – Chair Stone opened the floor for public comments. Angela Terencio, UNLV Student thanked the board for their work. She provided positive feedback on the Jurisprudence Exam and noted that there is an interest from NOTA in learning the regulatory process from both sides.

**Adjournment** – Chair Stone adjourned the meeting at 12:01 p.m.