

PUBLIC MEETING MINUTES
Occupational Therapy Licensing Board

The Oregon Occupational Therapy Licensing Board met Friday Nov. 7, 2008, at the Portland State Office Building in Room 445. Board members present were: Genevieve deRenne, MA, OTR/L, FAOTA, Chair; Alan King, OTR, Vice Chair; Joyce Browne, OTA/L; and public members, Robert Bond and Mitch Schreiber. Felicia Holgate, Director was present. With a quorum present, Genevieve deRenne called the meeting to order at 10:02 a.m. Three Occupational Therapy Assistants also attended the public portion of the meeting, Mashelle Painter, Michelle Saindon-Moffet and Adriane Klaus.

1. Minutes: The Board reviewed Public meeting minutes, of July 25, 2008. Robert Bond MOVED THAT THE PUBLIC MINUTES OF JULY 25, 2008, MEETING BE APPROVED. Joyce Browne SECONDED THE MOTION AND IT PASSED WITH ALL PRESENT.

The Board reviewed confidential July 25, 2008 meeting minutes. Joyce Browne MOVED THAT THE CONFIDENTIAL MINUTES OF JULY 25, 2008, BOARD MEETING BE APPROVED. Alan King SECONDED THE MOTION AND IT PASSED WITH ALL PRESENT.

2. List of Licensees: Licenses issued since the last Board meeting were distributed. Genevieve deRenne MOVED THAT THE BOARD RATIFY THE LIST OF LICENSEES ISSUED SINCE July 25, 2008 BOARD MEETING. Mitch Schreiber SECONDED THE MOTION AND IT PASSED WITH ALL PRESENT. We are licensing approximately 15-16 applicants per month, which is an increase.

As of Nov. 7 there are 247 OT Assistants, and 1290 OTs for a total of 1537 licensed therapists.

3. Closed Session: Disciplinary/Investigations/Complaints: In accordance with ORS 192.660(1)(k), which allows the Board to meet in Executive Session on matters to consider information obtained as part of investigations of licensees:

- **OT 06 – 05; and 08-01: Request for Reinstatement:** Application withdrawn, file closed.
- **OT 08-02** Review of OT application. File Closed
- **OT 08-03** OT Assistant sent for investigation
- **OT 08-04** Complaint about PT - sent to PT Board for investigation
- **OT 08-05** New compliant sent for investigation

4. Disciplinary Procedures: The Director gave information to the Board about the complaint procedures in the Board Policy and Procedures Manual. The Director will put cases in this format with a one page outline of each complaint. These are confidential discipline files. The board also discussed calling as well as sending a letter to the complainant when there is an investigation starting and at the end of the compliant advising complainants on the result of the cases. The Director prepared all formal consent orders of the board in a secure data base.

We are working to have any licensee on the Licensee Look Up when it says YES, there has been formal discipline taken, to have the ability to open the public order document. Currently there is no place where all disciplinary orders are shown on the web site. Several verification companies contact the Director for all past disciplinary orders or e-mail for any current ones issued after board meetings. These are public documents so do not need a written request under the public records laws.

5. Report of the Director: Director, Felicia Holgate continues to send monthly office report summarizing the work in the office.

Budget Review: The Director gave a **fiscal summary**. Monthly revenue and expenditure statements with all payments are scanned and sent to the Board members. The Board reviewed the most current accounts. The Legislatively Approved **2007-2009 Budget** of \$ **290,133** comes to an average **monthly** amount of \$ **12,088**.

Expenditures were: **June \$ 8,821**, and **July \$ 15,126**. July includes the yearly payment of **\$6,756** for Shared Client services, for a monthly average of **\$563**, bringing us well under the overall monthly expenditures. **August** was **\$ 11,323**, **Sept** was **\$ 9,523**. The Board continues to spend under the average \$12,000 a month allocated.

Revenues were for **June \$ 7,003**; **July \$ 4,925**, **August \$ 5,133**, and **Sept. \$4,202**. Revenue from **interest** were: **June \$ 1,288**; **July \$ 1,320**, **August \$ 1,308**, and **Sept. \$1,112**. The State Treasury OT interest rate was 3.1 %. The Board financial situation continues to be stable.

The Agency Requested Budget was submitted August 2, 2008. The Board reviewed the Legislative Budget Office agency analysis. Corrections were made in the number of licensees. The next submission will be after the Governor's Office reviews and approves the budget.

While talking about "Best Practices", Robert Bond, public member volunteered to do an audit or financial analysis on the Board procedures and to prepare a one page report for review. This will be an added protection for the Board Director. The Director will contact Robert to set up a time.

Legislative/Governor issues: The director continues to attend various meetings of the health related boards, Governors and legislative meeting dealing with 2009 bills which will affect the licensing board. Several bills are already in legislative drafts.

- LC 1153 All health related licensing boards to develop an impaired practitioner program for those impaired by drug, alcohol or mental illness. The bill will deal with many issues, including whether it is outside the Licensing Board, confidentiality, and how facilities deal with licensees in a program. There are currently four different programs in Oregon for health licensing boards by Doctors, Nurses, Pharmacists and Dentists. If a licensee is fired for substance abuse, what is the role for the licensee in going into an impaired practitioner program vs. disciplinary board?
- LC 1152 Uniform health related boards: appointments of members, number of public members. This bill does not include OTLB at this point because The OT Board has 2 of 5 public members.

- We expect a bill on a pilot project for an independent board that vets “scope of practice” changes before they are considered by the legislative health committees.
- Fingerprinting and criminal background checks – this will give all boards, who do not yet have the authority to have fingerprints or background checks but not to mandate it.
- Additional oversight of health related boards may require review disciplinary cases of health boards by DAS or the Governor’s office. It will include a hands-on review of randomly selected cases. The Directors themselves recommended that instead of creating another report imposed on boards, that health licensing director’s “audit” each other for additional oversight among themselves. The advantage of this format is that Directors learn best practices from each other (or improve poor practices). There was a recommendation from the Board that it also include a public member and perhaps a member of the profession.
- The Judiciary committee will consider giving hearing officer’s final authority on what discipline to issue rather than boards. Although at this point the OTLB has not had any cases go to hearing, it is an important issue since it would take away the authority of the board members to decide discipline.
- Another bill will require a hearing prior to a board have a licensee or applicant have a “competency” examination. The attorneys arguing this case say that this for protection of the licensee. From the board’s perspective it means that, instead of being able to get a confidential assessment done, to determine fitness, this **public** “hearing” must be held to determine whether the medical competency exam is warranted. It will not protect the licensee if the results of the exam give the Board enough information not to pursue a disciplinary case.
- LC 1469 Oregon State Hospital Advisory Board formed: We need to follow to have an OT be appointed a member of this board to deal with mental health issues.

This is a summary of some of legislation. There will be other bills to follow, and it will be a busy legislative session in January 2009.

OT Assistants and supervisors now receive notification when they send in a supervision form. It is important that licensees know the board’s primary concern is public safety. It is the responsibility of the therapists to be accountable for the collaboration and supervision.

OTA School in Linn Benton/Chemecketa College: Opening of an Assistant program is being considered. The Nov. meeting to discuss program and curriculum was postponed. An OT Assistant school may open up in Olympia, Washington.

Customer Satisfaction Survey and Comments: Comments received were not available at this time.

Hyperbaric Oxygen Therapy: Nothing new came from licensee asking this question.

6. Just after 11:00 AM: Hearing with comments on Proposed Rule dealing with OT in Education:

The Director and Board had time to receive comments on the proposed rules in accordance with the Administrative Rules Procedures. The drafts were already mailed out to the Secretary of state office on August 15, with copies to all licensees and interested parties. They were also sent to OTAOC, special interest groups in Education for consideration and comment and were posted on the board's web site.

The Board discussed a change to add Occupational Therapy "practitioner" in places to clarify that Assistants are included. The Director will make the correction, check that this does not change the intent of the wording, and proceed with final rule filing with the Secretary of State office.

339-010-0050 Occupational Therapy Services for Children and Youth in Education and Early Childhood Programs regulated by federal laws (1) Definitions:

This rule applies to all occupational therapy practitioners who include both occupational therapists and occupational therapy assistants as defined in OAR 339-010-0005. All other rules regarding Occupational Therapy practitioners apply notwithstanding what is found in these rules as they apply to practitioners in the education setting.

(a) "Children and youth" refers to a child or student determined to be eligible for services under IDEA or Section 504. *Part B* under IDEA describes requirements for the provision of special education services for preschool and school-age children and youth, ages 3 through 21 years. *Part C*, or the early intervention program, focuses on services for infants and toddlers with disabilities and their families. Section 504 and the Americans With Disabilities Act (ADA 1990) define a person with a disability as "any person who has a physical or mental impairment that substantially limits one or more major life activities..." and require a public school system to provide needed accommodations or services.

(b) "Service plans" document the program of services and supports necessary to meet a child's developmental or educational needs under the IDEA. These specify the need for occupational therapy services and include: the individualized family services plan (IFSP) for infants, toddlers and preschoolers; the individualized education plan (IEP) or a Section 504 Plan for school-age youth.

(c) "Educational or developmental goals" are developed collaboratively by a multi-disciplinary early intervention or educational team, which includes an occupational therapist as a related service provider, when areas of occupational performance have been identified.

(d) "Natural environment" refers to the most appropriate setting for the child to develop the skills needed for occupational performance.

(e) "Educational environments" refers to home; community; day care; preschool, or the general and special education settings.

(f) "Evaluation" is the process of gathering information to make decisions about a student's or child's strengths and educational or developmental needs.

(g) "Assessments" are the specific methods or measures used to gather data for the evaluation.

(2) The Occupational Therapy Process:

(a) Evaluation: The occupational therapist is responsible for the occupational therapy evaluation.

(A) The occupational therapist selects assessment methods that focus on identifying factors that act as supports or barriers to engagement in occupations. The initial occupational therapy evaluation should include analysis of the child's ability to access the natural or educational environment for learning.

(B) The occupational therapist must participate in decisions about the need for occupational therapy services, development of functional, measurable goals and determining which educational or developmental goals occupational therapy will support.

(C) The occupational therapist determines the types, frequency and duration of interventions, as well as accommodations and modifications of the environment.

(D) Screening to determine the need for an occupational therapy evaluation does not constitute initiation of occupational therapy services.

(b) Intervention: The occupational therapist **practitioner** may implement occupational therapy services, along a continuum, which may include the following:

(A) Direct intervention is the therapeutic use of occupations and activities with the child present, individually or in groups.

(B) Consultation is collaborative problem solving with parents, teachers, and other professionals involved in a child's program.

(C) The education process is imparting generalized knowledge and information about occupation and activity and does not address an individual child's specific education plan.

(c) Outcomes: The occupational therapist should review the intervention on an ongoing basis and dependent on the child's response, modify as needed.

(3) Delegation of therapeutic activities:

(a) The occupational therapist **practitioner** may instruct others, such as educational or daycare staff, to carry out a specific activity or technique designed to support the child's performance.

(b) The designated person must be able to demonstrate the technique as instructed, recount the restrictions, safety factors and precautions.

(c) The occupational therapist **practitioner** is responsible for ongoing monitoring of the trained person and modifying the procedures based on outcomes and other changes.

(d) When considering the delegation of techniques the child's health and safety must be maintained at all times.

(4) Documentation:

(a) The occupational therapist **practitioner** must document evaluation, goals, interventions and outcomes if they are not included in the service plan.

(b) Documentation should reflect the child's current status, progress towards goals, response to interventions, and strategies that were promising or ineffective.

(c) The occupational therapist should utilize a method of data collection that allows for concise and accurate recording of intervention and progress.

(d) The occupational therapist **practitioner** is responsible for the analysis of data collected to verify progress and the documentation of their own activities to accomplish the goals.

The rule change came from **Guidelines: Resource for interpretation: Occupational Therapy Services for Children and Youth under IDEA, 3rd:**

The other three proposed rules on Pain CE, not requiring notarization of Statement of Supervision and non-refund of Renewal fees had no comments submitted.

The board had a working lunch provided. During this time there were three OT Assistants attending the Board meeting. Adriane Klaus, Mashelle Painter, and Michelle Saindon-Moffet. Those interested in the board should meet with and talk to the Director about what the board members role and responsibilities included, attend a board meeting, be recommended by OTAO and talk to the Joyce

Browne, the current OT Assistant member of the Board. Genevieve deRenne noted that though only one will be appointed, we hope to have others participate through committee or other Board work. Members also are appointed for geographical diversity and kinds of experience they offer the board (hands, peds).

7. KEY Performance Measures

The Board reviewed the history of performance measures. When performance measures were first started, the former Director and Board had three measures to follow:

- % of OT and Assistants update their professional skills each licensing period: 100%
- % of licenses issued within three days of receipt of all required documentation: 90%
- % of complaints/investigations completed or referred within 1 year: 90%

These measures gradually changed to the following and two more were added:

1. How long it takes to issue a license
2. How many licensees complied with CE requirements determined by random audits
3. Compliant resolution: How many board decisions are resolved other than Hearing.
4. Customer satisfaction; and
5. Board Best Practices.

In the 2005 session, the OT board was told to delete the first measure on how long it takes to issue a license and keep that internally, which has been done. Since the last session the legislative fiscal office has been given the responsibility to review all measures. They have been comparing the differences in what health boards measure and want to make it uniform, and to have the measures be effective ways of measuring how board are doing. The Fiscal Office has been charged with the duty to come up with a Pilot group of health boards with uniform measures. The OT board was asked to be one of six boards in a pilot projected to have common measures. It appears that the measure will be:

1. How long it takes to issue licenses once all application material has been received
2. How long it takes to review complaints by the board
3. Customer satisfaction
4. Board Best Practices

Performance Measures are always part of the budget process and sent in to the DAS, the legislature and the Legislative Fiscal Office. This is the current status of performance measures. No action is needed.

8. Best Practices The director updated the criteria for the board to consider and each member filled out their analysis of how well they were fulfilling their responsibilities. Those responses collected at the board meeting showed that the Board does follow all criteria for best practices. The results of these best practices will be reported under Key Performance Measure of all boards.

9. Pain Management: Several questions came up about what Pain Management will be accepted and what other boards accept and what the Pain Commission advised. The rule does not specify what CE Pain classes will count. The Director has been saying that anything on the Pain Commission web site or done by OTA/O are fine. The issue is whether to count classes on pain treatment and modalities.

The PT board rule does allow CE pain classes “relative to the evaluation, diagnosis or treatment”. The proposed rule does not require Assistants to finish the Pain Management CE, though this will be reviewed at their Board meeting next week. Other boards refer people to the criteria given by the Pain Commission, which was reviewed. Jennifer Wagner from the Pain Commission said they do preview classes put on their site. It is fine that boards deal with it differently. If the class is pertinent to their clinical practice it should be approved. If “pain” is not in title, or it’s a yoga class it would not count. But talking about how yoga can help pain would be approved. Bio feedback might IF it was specifically for treatment of pain. The position of the Pain commission is that CE for pain classes should count as long as the course teaches components of pain in their printed curriculum.

Two specific questions about whether the Pain CE requirement is met were discussed:

- A 2 day Kinesiotaping workshop
- A 20 hour “Upper Body – Brachial and Cervical Plexus” class taught by a chiropractor for MyoKinesthetic System

After discussion the Board said that the licensee can compare the Pain curriculum and the class curriculum and if the syllabus satisfied the curriculum it can count for the Pain Management CE. The outline for the class should cover specifically the pain management topics in the approved curriculum.

10. New Business:

OTAO conference: Board members Genevieve de Renne, Alan King and the Director were available during the conference to answer licensee questions and talk to them about what the board was doing. The most questions were on the new CE pain requirements.

CE for Fieldwork Supervision and Re-Entry: The current rules on student Supervision and Re-entry do not need to be changed. The board can clean up the language on student fieldwork since there is no difference offered for different fieldwork categories next time a change is required in the CE categories.

Licensure for OT working at VA: The VA is going to start requiring that OTs working at the VA must be licensing in a state. Oregon law is that OTs working for the federal government do not have to be licensed. An OT who has worked at the VA for many years and has good CE is applying to obtain an Oregon license. Although the person has not been “licensed” in any state for more than 3 years, the Board will consider the NBCOT verification, the CE received, and the work performance from the supervisor at the VA. The Board will ask for a letter of recommendation from the supervisor and whether there have been any complaints filed against the Occupational therapist.

OT working with student not identified under IFSP: The Board discussed the need for an OT to work with students who are identified and on an education plan (IFSP). If the student is not identified, they can be referred outside the school system for OT services. The team should be approached on having the student identified.

Online Transcripts: The Director advised the board that online U. of S. California school transcripts were received by e-mail. A separate e-mail gave a code to be put into a secure web site for the Board to access the transcripts.

Changes to PT rules were reviewed. OTA0 is working with Pacific, AOTA, the national PT association to provide testimony and suggested changes to the PT proposed rules. The OT Licensing Board will sign on to the letter of agreement to the proposed changes and several OTs will appear at the Friday Nov. 14, 2008 PT Board administrative hearing.

Upcoming meeting proposed for 2009 meeting dates.

OT Day at the Legislature: Thursday, January 29, 2009, Salem Food might be provided.

Meetings in 2009: **Friday, Feb. 6, 2009** in Portland; **Friday, April 3** at Pacific University; **Friday, July 17** in Medford. The October meeting was not yet been set.

Genevieve DeRenne adjourned the meeting at 2:05 p.m.
Felicia Holgate, Director **Nov. 10, 2008**