

Oregon OT Licensing Board
PUBLIC MEETING MINUTES – Friday November 7, 2014
Portland State Office Building, Room 445, 800 NE Oregon St.

The Oregon Occupational Therapy Licensing Board meeting was held Friday, November 7, 2014 at 10 a.m. at the Portland State Office Building, Room 618, 800 NE Oregon St. in Portland, Oregon. The Board members present were: Robert Bond, B.A. Chair, public member; Linda Smith, OTR/L, Juanita Shepherd, public member, and Sybil Hedrick, OTR/L, CHT, CSCS attended by speaker phone. Mashelle Painter, COTA/L, Vice Chair; was excused. Felicia Holgate, Director was present. Nancy Schuberg, Licensing Specialist, also attended part of the meeting. With a quorum present, Robert Bond called the Friday meeting to order at 10 a.m.

1. Minutes:

The Board reviewed the minutes of the public meeting of AUGUST 29, 2014. A MOTION WAS MADE BY LINDA SMITH AND SECONDED BY ROBERT BOND TO APPROVE THE PUBLIC MEETING MINUTES. THE MOTION PASSED WITH ALL PRESENT VOTING IN FAVOR.

The Board reviewed the confidential meeting minutes of AUGUST 29, 2014. A MOTION WAS MADE BY LINDA SMITH AND SECONDED BY ROBERT BOND TO APPROVE THE CONFIDENTIAL MEETING MINUTES AND THE MOTION PASSED WITH ALL PRESENT VOTING IN FAVOR.

2. Report of the Director: Director, Felicia Holgate sends monthly reports on revenue and expenditures. We are getting ready for the 2015 legislative session to start in February and Felicia met with the DAS budget analyst. There may need to be a fee increase in the future. The state Association would support an increase if it was needed.

CURRENT 2013 – 2015 BUDGET:

2014 Revenues: July \$3,250; August, \$10,161, September \$3,725.

2014 Expenditures: July \$11,603; August \$16,671 (including \$2,430 for AG fees on legal case); **Sept. \$17,762** (with the yearly SCS costs of \$9,759 which are about \$813/month – Which comes to \$813 per month and makes this month total be **\$8,816**. We were charged extra personnel costs so those will come down. We have over \$16,500 a month to spend for the rest of the biennium, until June, 2015.

Robert Bond and Linda Smith will do a complete Board budget audit in the office in the spring to review our status and next biennium budgets. The budget analyst recommended the upgrade and increase to .50 FTE for Nancy Schuberg's position.

License Numbers: As of November 6 there were 372 OT Assistants and 1662 OTs for a total of 2034 licensees. We issued approximately 30 licenses a month.

OTAO state conference was held on Friday and Saturday October 17 – 18 in Wilsonville. The Director arranged that the same speaker, Melissa Soll, spoke on Friday on behalf of the Board. Her power point presentation will be posted on the web site. Board members Sybil Hedrick and Mashelle Painter, and Director Holgate and Licensing Specialist Nancy Schuberg attended.

NBCOT Conference: Felicia Holgate, Director attended the NBCOT conference and presented Oregon’s OT proposed rules on Telehealth. Other topics included Portability; Sunset reviews of licensing boards; Entry level Doctorate for OTs and how that affects OT Assistant education (which might increase to a BA degree in the future); aligning NBCOT requirements with state requirements; Character reviews and Health Care Reform. There was a demonstration of the online “game” of competencies. The NBCOT verifications which cost \$35 and were sent by mail are now online for free. For every applicant we require an NBCOT verification.

3. Disciplinary/Investigations/Complaints: In accordance with ORS 192.660, which allows the Board to meet in Executive Session on matters to consider information obtained as part of investigations of licensees, the following cases were considered:

- **OT 2013 – 05:** Continued
- **OT 2013 – 08:** Continued
- **OT 2013 – 12:** Continued
- **OT 2013 – 15:** To be Closed
- **OT 2014 – 09:** Continued
- **OT 2014 – 10:** Closed
- **OT 2014 – 11:** To be Closed
- **OT 2014 – 12:** To be Closed
- **OT 2014 -13:** To be Closed
- **OT 2014 – 14:** Closed
- **OT 2014 – 16:** Application

4. Ratify List of Licensees: A MOTION WAS MADE BY JUANITA SHEPHERD AND SECONDED BY ROBERT BOND TO RATIFY THE LIST OF LICENSEES ISSUED SINCE THE MAY BOARD MEETING. THE MOTION PASSED WITH ALL PRESENT.

Lunch was provided as the Board continued working.

5. Administrative rules on Telehealth and NBCOT for CE compliance

Telehealth rule: Nancy Schuberg and Felicia continued working on the issues brought out by the national groups. Concerns included requiring informed consent, whether an in-person evaluation is necessary, considerations to use before deciding whether Telehealth is appropriate, and language about having an adequately trained person. There was language added about Telehealth including Telepractice, Teletherapy and Telerehab within its definition.

In a meeting with staff of the Department of Education, the Director found out that for Medicaid payments for using Telepractice with students the language needs to include “Telepractice” and that the fact that Telehealth will be used as a mode of delivery must be in writing, and included in the IEP or IFSP documents. The Oregon Dept of Education is writing rules on this now.

Felicia Holgate presented the Oregon draft of Telehealth rules at the NBCOT panel on Telehealth and after working with Nancy Schuberg and members of the workgroup, a few additional amendments were recommended:

- Amending language to say the therapist must make every attempt to ensure that an onsite therapists is available if it is determined that is necessary
- Add language to say that telehealth includes telepractice, telerehab and teletherapy.
- Delete language about having an adequately trained person.

The Board amended language of the proposed rule and voted to adopt the final Telehealth rule at the November 7th board meeting. It will now be filed with the Secretary of State’s office.

The new Telehealth rule:

OAR 339 – 010 – 0006 Standards of Practice for Telehealth

(1) "Telehealth" is defined as the use of interactive audio and video, in real time telecommunication technology or store-and-forward technology, to deliver health care services when the occupational therapist and patient/client are not at the same physical location. Its uses include diagnosis, consultation, treatment, prevention, transfer of health or medical data, and continuing education.

(2) Telehealth is considered the same as Telepractice for Occupational Therapists working in education settings; and Teletherapy and Telerehab in other settings.

(3) In order to provide occupational therapy services via telehealth **to a patient/client in Oregon**, the occupational therapist providing services to a patient/client must have a valid and current license issued by the Oregon OT Licensing Board. Oregon licensed Occupational Therapists using telehealth technology with a **patient/client in another state** may also be required to be licensed in the state in which the patient/client receives those services and must adhere to those state licensure laws.

(4) Occupational therapists shall obtain informed consent of the delivery of service via telehealth from the patient/client prior to initiation of occupational therapy services via telehealth and maintain documentation in the patient's or client's health record.

(5) Occupational therapists shall secure and maintain the confidentiality of medical information of the patient/client as required by HIPAA and state and federal law.

(6) When providing occupational therapy services via telehealth, an occupational therapist shall determine whether an **in-person evaluation** is necessary and make every attempt to ensure that a therapist is available if an on-site visit is required.

(a) If it is determined **in-person interventions** are necessary, every attempt must be made to ensure that an on-site occupational therapist or occupational therapy assistant shall provide the appropriate interventions.

(b) The obligation of the occupational therapist to determine whether an in-person re-evaluation or intervention is necessary continues during the course of treatment.

(7) In making the determination whether an in-person evaluation or intervention are necessary, an occupational therapist shall consider at a minimum:

(a) the complexity of the patient's/client's condition;

(b) his or her own knowledge skills and abilities;

(c) the patient's/client's context and environment;

(d) the nature and complexity of the intervention;

(e) the pragmatic requirements of the practice setting; and

(f) the capacity and quality of the technological interface.

(8) An occupational therapist or occupational therapy assistant providing occupational therapy services via telehealth must:

(a) Exercise the same standard of care when providing occupational therapy services via telehealth as with any other mode of delivery of occupational therapy services;

(b) Provide services consistent the AOTA Code of Ethics and Ethical Standards of Practice; and comply with provisions of the Occupational Therapy Practice Act and its regulations.

(9) Supervision of Occupational Therapy Assistant under 339-010-0035 for routine and general supervision, can be done through telehealth, but cannot be done when close supervision as defined in 339-010-0005 is required. The same considerations in (7) (A) through (F) must be considered in determining whether telehealth should be used.

(10) An Occupational Therapist who is supervising a fieldwork student must follow the ACOTE standards and other accreditation requirements.

(11) Failure to comply with these regulations shall be considered unprofessional conduct under OAR 339-010-0020.

CE and NBCOT changes proposed:

A proposed rule was considered from the last meeting to allow therapists to comply with Oregon CE renewal requirements IF they are currently NBCOT certified by the Board. This is one way the Board can help promote OT professionalism. Many places of work and insurance require certification. NBCOT notified the Director that they are delighted with our move to accept NBCOT certification as an option for completion of CE and they would like to issue a joint statement.

After renewals were completed in June 2014, NBCOT checked and found that 75% of Oregon licensees are currently NBCOT certified. NBCOT will be willing to do a CE Audit of 5% of Oregon renewal licensees. Usually they audit 5% of all nationally but since we are a small number this would make a higher percentage audits done for Oregon.

The Board considered the following draft rule changes:

339-020-0010 CE Requirements for Current Licensees

(1) All current licensees shall obtain a minimum of 30 points of CE from Board approved categories during the two years immediately preceding the date of the license renewal; **or -**

(2) The Board recognizes the maintenance of current NBCOT Certification (National Board of Certification in Occupational Therapy) as fulfilling the requirements for CE under (1).

~~(23)~~ Exceptions:

(a) Current licensees who have their first NBCOT certification do not need CE for their first year.

(b) Current licensee who have their second year of NBCOT certification had their licenses for less than two full years, but more than one year, shall obtain a minimum of 15 points of CE from Board approved categories during the year immediately preceding the date of the for their license renewal.

LINDA SMITH MADE A MOTION WHICH WAS SECONDED BY JUANITA SMITH TO ADOPT THE PROPOSED TELEHEALTH RULE AS AMENDED. IT PASSED WITH ALL PRESENT.

The proposed rule will now be posted and to get comments for the next Board meeting.

6. OTs in Education workload: There are many concerns about caseload and workloads and use of aides to do occupational therapy and loss of OT Assistants in the schools. Mashelle Painter met with the Director and Chrissy Van Osdol who is working on a questionnaire for her doctorate program at Pacific. Then the Workgroup met about the concerns and a meeting was set up with Dr. Nancy Golden, The Governor's Chief Education Office.

The Director now has a new appointment with Dr. Nancy Golden, to meet with Mashelle Painter, and representatives from the Association, and schools of OT and OTA about OTs in school and

caseload and other issues. The workgroup in their first meeting discussed some of the issues and come up with some solutions.

7. New Business

OT Policy on bathing patient: A question came up about an OT who was being asked about a new facility requirement in Policy that the OT bath patients. They wrote a policy that if there are no more than six patients, the facility will not have any CNA's those days and want the OTs to fill in for the CNA and do bathing of patients.

The Board pointed out that this is not an OT evaluation or skilled services being provide so it is not OT treatment and not within the scope of the OT. This cannot be billed as OT services and the minutes cannot count toward the OT's productivity minutes.

Confirm Dates for 2015 Board meetings:

Friday Feb. 13, 2015 - 2nd Friday due to winter weather

Friday May 1, 2015

Friday Aug. 7, 2014 – perhaps at the coast with strategic planning

Friday Nov. 6, 2014

The Board adjourned its meeting at 12:40p.m.

Drafted by Director, Felicia Holgate November 14, 2014