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COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE  
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS

**F I N A L M I N U T E S**

MEETING OF:

**STATE BOARD OF OCCUPATIONAL THERAPY  
EDUCATION AND LICENSURE**

TIME: 9:59 A.M.

PENNSYLVANIA DEPARTMENT OF STATE  
Board Room B  
One Penn Center  
2601 North Third Street  
Harrisburg, Pennsylvania 17110

March 10, 2020

1                   State Board of Occupational Therapy  
2                   Education and Licensure  
3                   March 10, 2020  
4  
5

6 BOARD MEMBERS:  
7

8 Kerri L. Hample, OTD, OTR/L, Chairperson  
9 Theodore Stauffer, Executive Assistant, Bureau of  
10 Professional and Occupational Affairs, on behalf of  
11 K. Kalonji Johnson, Acting Commissioner, Bureau of  
12 Professional and Occupational Affairs  
13 Joanne M. Baird, Ph.D., OTR/L, Vice Chair  
14 Carolyn M. Gatty, MS, OTR/L, Secretary  
15 Christine L. Hischmann, MS, OTR/L, FAOTA  
16 Edward J. Mihelcic, Ph.D., OTR/L  
17  
18

19 BUREAU PERSONNEL:  
20

21 Nicole L. VanOrder, Esquire, Board/Regulatory Counsel  
22 Paul J. Jarabeck, Esquire, Board Prosecution Liaison  
23 Christina Townley, Acting Board Administrator  
24 Cynthia K. Montgomery, Esquire, Deputy Chief  
25 Counsel/Regulatory Counsel, Department of State  
26 Marc Farrell, Deputy Policy Director, Department of  
27 State  
28 Kimberly Adams, Chief of Fiscal Management, Bureau of  
29 Finance and Operations, Department of State  
30  
31

32 ALSO PRESENT:  
33

34 Christine Daeschner, OTR/L, Legislative Chair,  
35 Pennsylvania Occupational Therapy Association (POTA)  
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2 State Board of Occupational Therapy

3 Education and Licensure

4 March 10, 2020

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6 The regularly scheduled meeting of the State  
7 Board of Occupational Therapy Education and Licensure  
8 was held on Tuesday, March 10, 2020.

9 \*\*\*

10 [Kerri L. Hample, OTD, OTR/L, Chairperson, officially  
11 called the meeting to order at 9:59 a.m.]

12 \*\*\*

13 Approval of minutes of the December 5, 2019 meeting

14 CHAIRPERSON HAMPLE:

15 We are going to go ahead and start with  
16 approval of the minutes from the  
17 December 5 meeting.

18 [The Board discussed corrections to the minutes.]

19 CHAIRPERSON HAMPLE:

20 Are there any other substance, changes?  
21 Could I have a motion to approve the  
22 minutes with the change of Christine  
23 Daeschner's credentials?

24 DR. MIHELICIC:

25 Motion to approve.

1 CHAIRPERSON HAMPLE:

2                               Second?

3 MS. HISCHMANN:

4                               Second.

5 CHAIRPERSON HAMPLE:

6                               All in favor? The motion carries with  
7                               two recusals.

8 [The motion carried. Dr. Baird and Mr. Stauffer  
9 recused themselves from deliberations and voting on  
10 the motion.]

11   \*\*\*

12 Report of Board/Regulatory Counsel

13 [Nicole L. VanOrder, Esquire, Board Counsel, noted  
14 Deputy Chief Counsel would be addressing 16A-679  
15 regarding child abuse requirements later in the  
16 meeting.]

17               Ms. VanOrder stated she would be discussing 16A-  
18 6712 regarding educational programs and 16A-XXX  
19 regarding licensure by endorsement option 1 and option  
20 2.

21               Ms. VanOrder noted items 6, 7, 8, and 9 for  
22 discussion during Executive Session.]

23   \*\*\*

24 Miscellaneous

25 [Nicole L. VanOrder, Esquire, Board Counsel, noted

1 item 10 regarding Recusal Guidelines and 11 regarding  
2 the Sunshine Act on the agenda were provided for the  
3 Board's review, and that she was available to respond  
4 to any questions on either of those documents.]

5 \*\*\*

6 Report of Board Prosecution

7 [Paul J. Jarabeck, Esquire, Board Prosecution Liaison,  
8 presented the VRP Consent Agreement for File No. 19-  
9 67-018638.]

10 \*\*\*

11 Report of Board/Regulatory Counsel

12 [Nicole L. VanOrder, Esquire, Board Counsel, referred  
13 to 16A-6712 regarding educational programs. There  
14 were three documents on the agenda. She noted the  
15 preamble, annex, and a document encapsulating her  
16 conversation with the Accreditation Council for  
17 Occupational Therapy Education (ACOTE).

18 Ms. VanOrder defined the preamble as an  
19 explanatory document, the document in which the Board  
20 speaks directly to the legislature to describe why  
21 this regulatory change is necessary. Ms. VanOrder  
22 then invited the Board's input.

23 Ms. VanOrder noted only form changes had been  
24 made to the annex since the board vote to proceed at  
25 the December 5 meeting.

1 Ms. VanOrder explained the written account of the  
2 consultation with ACOTE. She stated the Board did not  
3 have any comments from ACOTE, and the law requires  
4 advice and consultation with professional  
5 organizations and national accrediting agencies. She  
6 commented that ACOTE generally agreed with moving  
7 forward with the regulation. She stated ACOTE  
8 highlighted the difference in fieldwork, which she  
9 explained was based upon a difference in the  
10 Pennsylvania Practice Act that could not be changed by  
11 regulation.

12 There was some confusion regarding the most  
13 current version of preamble for 16A-6712. Ms.  
14 VanOrder advised that the March 6 preamble was current  
15 version, noting a number of drafts as revisions were  
16 made in consultation with Jacqueline Wolfgang, who is  
17 very familiar with the issues, and was heavily  
18 involved with revising the preamble.

19 Dr. Baird compared the version that was posted to  
20 the version currently posted, noting the biggest  
21 change was under the background. Instead of saying  
22 Background and Purpose, the current version to be  
23 reviewed says Background and Need for the Amendments,  
24 and the Description of the Proposed Amendments section  
25 was shortened.

1 Ms. VanOrder stated some of the information was  
2 moved as Dr. Baird outlined, but the information was  
3 also updated to highlight the consultation with ACOTE  
4 and to provide a more streamlined analysis based  
5 strictly on the need as per the law, as opposed to  
6 more broadly referring to the differences in the  
7 Occupational Therapy Act and the current practices of  
8 the profession.

9 Ms. Gatty explained the fieldwork concern  
10 further. POTA asked the board to remove the minimum  
11 amount of supervised fieldwork from the regulation.  
12 However, the Board cannot change the length of the  
13 fieldwork requirement through this regulatory package  
14 (or any regulatory package) because Section 8 of the  
15 Act requires a minimum of six months of supervised  
16 fieldwork experience.

17 Chairperson Hample referred to the Background and  
18 Need for Amendments section, where the Board proposed  
19 amendments that set forth the accreditation  
20 requirements for occupational therapy (OT) educational  
21 programs. She suggested removing accreditation for it  
22 to read, "set forth the requirements for occupational  
23 therapy educational programs."

24 Ms. VanOrder noted the section to be explaining  
25 the accreditation and the need to touch on the word at

1 times but did not see any problem with removing  
2 "accreditation" from this place in the document.

3 Chairperson Hample questioned whether the board  
4 had received calls from prospective licensees or  
5 colleges and universities that are considering  
6 starting OT programs.

7 Ms. Townley commented that she had not received  
8 many calls with regard to this matter, but it was  
9 typically the applicant before enrolling in a program.

10 Ms. Townley addressed the paragraph regarding  
11 Board applications, noting that it indicated Board  
12 applications contained specific information regarding  
13 educational program requirements, including  
14 accreditation. She stated Board applications do not  
15 actually state the requirements on them and instead  
16 just state that the required information should be  
17 submitted to the Board, the required information being  
18 the form and the transcripts.

19 Ms. VanOrder stated this could be reworded to  
20 read, "Although Board requires specific information."

21 Ms. VanOrder referred to the heading Background  
22 and Need for Amendments and suggested changing the  
23 wording to read, "Although the Board requires specific  
24 information regarding the educational program  
25 requirements" to accurately reflect the requirements

1 instead of the physical application.

2 Ms. Townley commented that the physical  
3 application did state a requirement to graduate from  
4 an accredited program because there was an attestation  
5 form that the accredited program must sign. She  
6 stated it was not obvious, but it was embedded as the  
7 applications on the Pennsylvania Licensing System  
8 (PALS) indicate the need to submit the form and the  
9 transcript.

10 Chairperson Hample noted the need for the  
11 attestation form and that cannot be obtained without  
12 being an approved accredited program.

13 Chairperson Hample suggested the language read,  
14 "although the Board requires accreditation or its  
15 staff routinely receives inquiries regarding  
16 educational program requirements."

17 Ms. VanOrder proposed removing the two words  
18 "applications contain" and replacing them with  
19 "requires" and inserted "the" before Board.]

20 \*\*\*

21 MS. VANORDER:

22 Ms. VanOrder was asked to craft a  
23 motion, and asked for a motion to direct  
24 Board counsel to move forward with the  
25 current draft of the preamble and annex

1 as amended.

2 CHAIRPERSON HAMPLE:

3 Could someone say so moved?

4 MS. HISCHMANN

5 So moved.

6 CHAIRPERSON HAMPLE:

7 Could I have a second?

8 MS. GATTY:

9 I'll second.

10 CHAIRPERSON HAMPLE:

11 All in favor?

12 [The motion carried unanimously.]

13 \*\*\*

14 [Ms. VanOrder addressed 16A-XXX regarding licensure by  
15 endorsement under Act 41. She stated option 1 was a  
16 draft incorporating the boards' direction from the  
17 last meeting. She referred to § 42.9(a)(2)(ii)  
18 regarding competency and the National Board for  
19 Certification in Occupational Therapy (NBCOT)  
20 examination or an equivalent examination as approved  
21 by the Board.

22 Ms. VanOrder noted further Board Counsel  
23 discussions and analysis and suggested moving forward  
24 with option 2. She explained that in option 2,  
25 instead of including the NBCOT certification for

1 equivalent examination as approved by the Board in  
2 competency, the NBCOT exam was instead included as  
3 part of the substantial equivalency analysis.

4 Ms. VanOrder noted the purpose of the licensure  
5 by endorsement law was to provide greater access,  
6 flexibility and movement for occupational therapy  
7 professionals in the country. She mentioned that the  
8 board did not anticipate use of this new provisions by  
9 licensees in other states, because all states require  
10 NBCOT, so there would be not need for other states'  
11 licensees to utilize the licensure by endorsement  
12 provisions.

13 Ms. VanOrder explained that this could be useful  
14 for applicants from foreign countries, where the  
15 requirements of licensure are substantially the same  
16 as the requirements in Pennsylvania. She noted this  
17 requires a comparison of the laws, and where there is  
18 not a national testing requirement substantially  
19 similar to the Pennsylvania requirement for NBCOT;  
20 then, the law would presumably not be substantially  
21 similar and such applicant(s) would not be eligible  
22 for entry under Act 41.

23 Ms. VanOrder noted that before moving to the  
24 second prong of the Act 41 analysis, which determines  
25 competency, substantial equivalency between the

1 jurisdictions must be established. If not, there is  
2 no need for an analysis regarding competency. She  
3 mentioned the importance of ensuring the applicant has  
4 maintained some skill level by being involved in the  
5 profession. Ms. VanOrder proposed including the test  
6 in the substantial equivalency bucket and removing the  
7 test from the competency bucket.

8 She addressed the boards concerns about placement  
9 in substantial equivalency rather than competency,  
10 specifically that substantial equivalency compares law  
11 rather than reviewing an individual person's  
12 credentials. She believed that would be overcome by  
13 the fact the jurisdiction was substantially equivalent  
14 and that that person had been practicing for 2 of the  
15 last 5 years.

16 Chairperson Hample questioned who decides whether  
17 a jurisdiction is substantially equivalent. Ms.  
18 VanOrder stated that decision is made by the board,  
19 but that she did not believe there would be many  
20 applications under Act 41. She provided an example,  
21 where reviewing credentials would be applicable. She  
22 noted a situation the Dental Board experienced, where  
23 an applicant from Jordan was at the top of the  
24 profession but could not be granted access to the  
25 United States.

1 Ms. VanOrder stated the burden was on the  
2 applicant, who bears the burden of proving to the  
3 Board that the licensing requirements are  
4 substantially equivalent by providing laws of the  
5 country. She mentioned that a third party credential  
6 evaluator could be utilized and that a hearing could  
7 be held before the board, where the applicant would  
8 have the opportunity to prove to the board that they  
9 have met the requirements of both substantial  
10 equivalency and competence.

11 Dr. Baird mentioned the World Federation of  
12 Occupational Therapists. She noted a concern with a  
13 description of language the Board had not yet created,  
14 where the Board may find themselves in legislative  
15 difficulty if this begins to happen often.

16 Ms. VanOrder addressed the distinction between  
17 legislation and a regulation, where legislation has  
18 passed directing the Board to follow and draft  
19 regulations. She stated the Board makes the  
20 determination on the language in the regulations to  
21 provide a greater explanation and clarity of the  
22 requirements of the act.

23 Ms. VanOrder stated NBCOT does evaluate foreign  
24 credentials for visa applicants and are the only such  
25 entity for applicants coming from another country to

1 obtain verification and their visa for the exam.

2 Ms. VanOrder noted discrepancies between the way  
3 the act is drafted and the profession as it currently  
4 exists, where the law only has a four-year degree  
5 requirement when there are no schools in the country  
6 that offer a four-year degree. She mentioned working  
7 Occupational Therapist to bridge that gap and ensuring  
8 compliance within the framework of the act.

9 Ms. VanOrder commented that very few OT  
10 applicants were expected under Act 4, as many states  
11 have the same requirements, and the applicants would  
12 come in under examination, not Act 41. She also  
13 explained that applicants with a visa would have sat  
14 for NBCOT and would also enter through examination.  
15 Ms. VanOrder explained that it was only a very small  
16 subset of people who would be licensed in another  
17 country coming to work in the United states in  
18 Pennsylvania who do not have the requirements to  
19 possess a visa.

20 Ms. VanOrder provided an example of a military  
21 spouse who received their credentials abroad, then,  
22 returned to the United States and did not require a  
23 visa because he/she was already a citizen. She again  
24 noted that the burden of proof is on the applicant to  
25 demonstrate substantially equivalency, and if that

1 burden was not met, the Board could decline to issue a  
2 license under Act 41.

3 Ms. Gatty noted a concern with the Board deciding  
4 whether someone was substantially equivalent and did  
5 not believe it was the role of the Board. She  
6 suggested having a hearing or consulting with NBCOT  
7 when making decisions.

8 Marc Farrell, Deputy Policy Director, Department  
9 of State, explained that the Board was going to  
10 require a list of all coursework taken by the  
11 individual and then decide whether it was equivalent  
12 to Pennsylvania. He stated a consult from NBCOT would  
13 be acceptable as long as it was ultimately the Board's  
14 decision.

15 Dr. Baird questioned whether her interpretation  
16 was correct, where it would be the responsibility of  
17 the individual seeking licensure to take their  
18 transcript and have it transferred to an equivalency,  
19 including their course description, and not  
20 necessarily be beholden upon the Board to perform that  
21 legwork.

22 Mr. Farrell noted Dr. Baird's statement to be  
23 correct, stating that many Boards are going through  
24 the exact same thought processes.

25 Dr. Baird questioned whether other Boards

1 discussed supervised practice under the provisional  
2 license. She had a great deal of exposure to  
3 education of international students in post  
4 professional degrees. She questioned whether  
5 other Boards discussed part of the provisional  
6 licensing including that the individual must practice  
7 in a supervised setting or something along those  
8 lines.

9 Dr. Baird stated her job is to protect the  
10 consumer, and she believed it was an issue when an  
11 individual is not familiar with the United States  
12 healthcare setting regardless of their training or  
13 their practice experience.

14 Mr. Farrell commented, if the supervision was  
15 part of the licensure requirements here and if the  
16 equivalent-type supervision had not taken place,  
17 building that into a provisional condition would be  
18 reasonable. He stated, if it were something in  
19 addition or on top of what another licensee coming in  
20 through normal means would have to prove or show, then  
21 it probably could not be customized.

22 Chairperson Hample stated supervision is required  
23 as part of an individual's education and part of that  
24 is exposure to the healthcare system in the United  
25 States. She commented that individuals may not have

1 had that opportunity, but it is not explicitly written  
2 as such or may be written due to the fieldwork  
3 component.

4 Ms. VanOrder commented that the fieldwork  
5 component was actually a requirement of the act that  
6 would be compared in the substantial equivalency  
7 evaluation.

8 Mr. Farrell provided a scenario where the Board  
9 may require 1000 hours of supervision, but abroad,  
10 they only require 800, where the Board would decide  
11 whether 800 was equivalent to 1000, everything else  
12 being equal.

13 Ms. VanOrder mentioned that a provisional license  
14 could also be issued in that situation, allowing the  
15 individual would need to make up the 200-hour  
16 difference.

17 Ms. Hischmann mentioned her concerns where it  
18 reads, "equivalent program, master's or certificate  
19 program in occupational therapy." She commented that  
20 most internationally educated therapists receive a  
21 bachelor's degree. She mentioned having an issue with  
22 NBCOT just deciding because they may completely  
23 disenfranchise a whole lot of people.

24 Ms. VanOrder explained that with NBCOT  
25 requirements or an equivalent exam being in the

1 substantial equivalency bucket, when comparing the  
2 law, the law actually notes a four-year degree. She  
3 stated it would not necessarily throw the individual  
4 out, but the individual would also need to have passed  
5 an examination that is substantially equivalent to  
6 NBCOT. She stated the applicant will need to provide  
7 the information necessary to meet the burden.

8 Chairperson Hample questioned what the  
9 differences are between option 1 and option 2.

10 Ms. VanOrder commented that the basic difference  
11 between option 1 and option 2 was that option 1 has  
12 the language requiring the exam or it is equivalent in  
13 competency. She stated option 2 moves test into the  
14 substantial equivalency analysis instead of the  
15 competency analysis.

16 Ms. VanOrder further explained that in option 1,  
17 competency requires 2 of 5 years and the test. She  
18 stated in option 2, the test would be evaluated by  
19 comparing the laws to determine substantial  
20 equivalency, but it would not be required again under  
21 competency.

22 Ms. VanOrder explained that with option 1, the  
23 test requirement is in substantial equivalency and  
24 again under competency.

25 Mr. Farrell noted that the Governor's Office

1 probably would not accept option 1 unless there would  
2 be some compelling reason to require the test as part  
3 of competency.]

4 \*\*\*

5 MS. GATTY:

6 I make the motion to move forward with  
7 proposed annex 16A-XXX regarding  
8 licensure by endorsement option 2 as  
9 discussed in the meeting here today.

10 CHAIRPERSON HAMPLE:

11 Okay, so moved. Second?

12 MS. HISCHMANN:

13 Second.

14 CHAIRPERSON HAMPLE:

15 All in favor?

16 [The motion carried unanimously.]

17 \*\*\*

18 Appointment - Bureau of Finance and Operations 2020

19 Budget Presentation

20 [Kimberly Adams, Chief of Fiscal Management, Bureau of  
21 Finance and Operations, Department of State, addressed  
22 licensee population from a revenue standpoint. She  
23 noted 12,599 licensees in FY 2019-2020, 11,197 in FY  
24 2015-2016, and 11,654 in FY 2017-2018. She mentioned  
25 another 53 licensees as of this morning, bringing the

1 total licensee population to 12,652.

2 Ms. Adams reviewed the biennial total revenue by  
3 source. She reviewed categories and actual revenue  
4 for FY 2017-2018 and FY 2018-2019, as well as the  
5 biennial total. She stated 94.8 percent of the  
6 revenue was from renewals and applications.

7 Ms. Adams referred to the last renewal fee  
8 increase in 1985, noting occupational therapists at  
9 \$55 and occupational therapy assistants at \$45  
10 biennially.

11 Ms. Adams provided a definition for Professional  
12 Health Monitoring Programs (PHMP) because it was  
13 omitted on the cost category definitions page.

14 Ms. Adams provided a categorical breakdown of  
15 expenses for FY 2017-2018 and FY 2018-2019 with a  
16 current budget for FY 2019-2020 and the expenses as of  
17 February 24, 2020. She noted a recent increase. She  
18 mentioned expenses incur from direct-based charges,  
19 timesheet-based charges, and licensee-based charges.  
20 She stated the current budget would sufficient for the  
21 year.

22 Dr. Baird noted a big difference in some of the  
23 categories, especially legal costs, which had been  
24 under \$10,000 the last couple of years but already  
25 over \$10,000, as well as the budgeted amount.

1 Chairperson Hample commented that it is because of  
2 all the time counsel is spending on regulations.

3 Dr. Baird questioned why departmental services  
4 were decreasing when everything else was increasing in  
5 expenses. She mentioned the need for additional  
6 support in terms of auditing the practice. She also  
7 mentioned license processing time has almost tripled,  
8 where employers are waiting over 40 days for someone  
9 to be licensed.

10 Ms. Adams explained that departmental services are  
11 time-sheet based and was cost set for other offices.

12 Chairperson Hample stated the Board requested more  
13 money be allocated for Board administration prior to  
14 the budgeting process.

15 Ms. Adams reviewed revenues and expenses, showing  
16 the bottom-line FY 2019-2020 budget figure. She noted  
17 expenses are starting to outweigh revenues but noted  
18 growth from licensee counts to balance that out. She  
19 noted the Board had a healthy balance but it would  
20 continue to be monitored.

21 Ms. Hischmann questioned why Ms. Townley would not  
22 be able to hire somebody to help when there was money  
23 in the remaining balance. She also questioned whether  
24 continuing education was being audited, noting that it  
25 was one of the main items passed in the act for

1 competency. She noted finding it difficult to  
2 understand why there was the balance and the Board  
3 could not hire or move another person to assist.

4 Mr. Stauffer offered to obtain guidance from the  
5 Commissioner and provide an answer at the next Board  
6 meeting. He mentioned complement issues in terms of  
7 the complement of the Bureau of Professional and  
8 Occupational Affairs (BPOA) as a whole and the number  
9 of individuals permitted, which is a Governor's Office  
10 issue they are working to solve.

11 Mr. Stauffer addressed vacancies, noting that he  
12 was working with human relations to fill those  
13 positions. He will provide more information regarding  
14 more staff at the next Board meeting.

15 Ms. Hischmann questioned whether the Board could  
16 hire temporary people to help with the crisis and  
17 emphasized the need for some movement forward. Mr.  
18 Stauffer noted the hiring of five temporary clerical  
19 pool staff to assist various Boards with backlog, but  
20 he was not sure of their assignments as yet.

21 Ms. Adams reviewed Board member expenses, noting  
22 the current budget for FY 2019-2020, which is  
23 adequate, which would carry over to the FY 2020-2021  
24 budget. She stated any excess not used stays in the  
25 restricted account for the Board's use.]

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1  
2 Report of Regulatory Board Counsel (Continued)  
3 [Cynthia K. Montgomery, Esquire, Deputy Chief  
4 Counsel/Regulatory Counsel, Department of State,  
5 addressed 16A-679 regarding the child abuse reporting  
6 requirement updates. She noted the decision was made  
7 at the department level to wait for one package to go  
8 all the way through the process to analyze the  
9 Independent Regulatory Review Commission and various  
10 reviewers' comments. She noted this to be the State  
11 Board of Dentistry's regulation, which had been  
12 approved by the Office of General Counsel (OGC),  
13 budget, and policy, and was on the agenda for the next  
14 Independent Regulatory Review Commission Meeting.

15 Ms. Montgomery noted updating the Board's  
16 regulatory package to include all of the comments  
17 received from the Independent Regulatory Review  
18 Commission. She stated the Child Protective Services  
19 Law had been amended three times.

20 Ms. Montgomery presented the Board with the  
21 preamble, which is the explanatory document that  
22 explains all of the changes in the regulation and  
23 amendments to the existing regulations on the child  
24 abuse reporting requirements to comport with  
25 amendments made in the Child Protective Services Law

1 starting in 2014 through the most recent amendment,  
2 which was just made last year on November 26, 2019.

3 Ms. Montgomery referred to § 42.13 regarding the  
4 application for licensure, which was being amended to  
5 include the requirement for the 3 hours of training in  
6 child abuse recognition and reporting. She referred  
7 to § 42.14 for foreign applicants, which is the same.

8

9 Ms. Montgomery referred to § 42.41 regarding  
10 child abuse reporting requirements, which had been  
11 amended to update the definitions to mirror those that  
12 are in the Child Protective Services Law. She  
13 mentioned the definition of child abuse had been  
14 updated substantially over the years.

15 Ms. Montgomery noted the original intent to take  
16 out the term "perpetrator," which was one of the  
17 comments received from the Independent Regulatory  
18 Review Commission, but because the word was used  
19 elsewhere in the regulations one time, it was put back  
20 in the Child Protective Services Law.

21 Ms. Montgomery commented that this was not to  
22 imply that it was incumbent upon mandated reporters to  
23 make the determination as to whether somebody who is  
24 suspected of child abuse is, in fact, a perpetrator  
25 under the law but up to the Department of Human

1 Services to make that determination and not licensees  
2 of this Board.

3 Ms. Montgomery stated the rest of the definitions  
4 were literally straight out of the Child Protective  
5 Services Law, and the only things added were a  
6 definition of "Bureau," so the term bureau could be  
7 used but does not have to say the Bureau of  
8 Professional and Occupational Affairs all throughout  
9 the regulation and "mandated reporter" to make it easy  
10 to refer to licensees.

11 Ms. Montgomery referred to § 42.42, which sets  
12 forth the mandated reporting requirements, which is an  
13 existing section of the regulations being amended to  
14 reflect the changes in the Child Protective Services  
15 Law. She stated in the past, you only had a duty to  
16 report if you came into contact with a child during  
17 the course of your employment or practicing your  
18 profession. She stated there are now four  
19 circumstances under which licensees of this Board,  
20 when mandated reporters are required to report child  
21 abuse, which is set forth in subsection (a).

22 Ms. Montgomery referred to § 42.42(b) regarding  
23 the revised language from the Child Protective  
24 Services Law about making a report being in the  
25 capacity as a member of staff of a facility,

1 institution, school, or agency. She stated the old  
2 rule was an individual must inform their agency in  
3 order to make the report. She noted the new rule was  
4 to report the issue and then provide notification of  
5 the reporting.

6 Ms. Montgomery referred to § 42.42(c) regarding  
7 the reporting procedure as set forth in the Child  
8 Protective Services Law. She stated as a mandated  
9 reporter, there is the availability of the electronic  
10 reporting system, and the Department of Human Services  
11 has the Child Welfare Information Solution self-  
12 service portal.

13 Ms. Montgomery referred to § 42.43 regarding the  
14 existing section of the regulations that was amended  
15 to comply with the Child Protective Services Law that  
16 requires any additional materials, photographs, etc.,  
17 to be submitted within 48 hours after making an  
18 electronic report.

19 Ms. Montgomery referred to § 42.44 regarding the  
20 suspected death of a child as a result of child abuse,  
21 noting the only change in the Child Protective  
22 Services Law was to add the term coroner or medical  
23 examiner.

24 Ms. Montgomery noted the prior version of the  
25 regulation had a new section § 42.44(a), which was

1 mandatory reporting of a child under 1 year of age  
2 that was born addicted or with fetal alcohol syndrome.

3 She stated the Child Protective Services Law was  
4 recently amended to remove that as a mandated report.

5 Ms. Montgomery referred to § 42.45 regarding the  
6 rules on immunity from liability. She stated those  
7 who make a good faith report or refer someone for  
8 general protective services are immune from civil  
9 liability and criminal liability, and the Board will  
10 also uphold the same good faith presumption in any  
11 disciplinary procedures, any actions you may have  
12 taken under the Child Protective Services Law.

13 Ms. Montgomery referred to § 42.46 regarding  
14 confidentiality, which is the general rule that says  
15 that your duty to report suspected child abuse trumps  
16 any ethical duty of confidentiality or any rule or  
17 regulation to the contrary.

18 Ms. Montgomery referred to § 42.47(a) regarding  
19 potential penalties for noncompliance, where the  
20 licensee who fails to comply with the requirements  
21 could be disciplined. She also noted § 42.47(b)  
22 regarding criminal penalties for failing to comply.  
23 She stated this section had been amended twice,  
24 recently to increase the criminal penalties for  
25 willfully failing to report suspected child abuse.

1 Ms. Montgomery referred to § 42.48 regarding  
2 mandatory training requirements with Act 31 of 2014.  
3 She noted 3 hours to obtain licensure and at least 2  
4 hours of continuing education (CE) biennially. She  
5 stated it also sets forth the exemptions that are  
6 provided for in the Child Protective Services Law  
7 (CPSL), so if somebody has taken similar training  
8 under a Public School Code as a foster parent or  
9 otherwise under the Child Protective Services Law,  
10 they do not have to do it again for licensure  
11 purposes.

12 Ms. Montgomery mentioned an exemption, where the  
13 applicant or licensee basically convinces you that  
14 they should not have to do this training. She  
15 provided an example from the Social Work Board, where  
16 exemptions are granted because people who work in the  
17 child abuse field and live this daily.

18 Ms. Montgomery referred to § 42.49 regarding the  
19 administrative process developed between the Bureau of  
20 Professional and Occupational Affairs and the  
21 Department of Human Services for courses to be  
22 approved to provide this training.

23 Ms. Montgomery mentioned the continued competency  
24 section was updated because the Board amended it since  
25 it was last presented, which included the 2 hours of

1 training in child abuse recognition and reporting for  
2 both occupational therapists and occupational therapy  
3 assistants.

4 Chairperson Hample noted the need to change her  
5 credentials from OTC to OTD in the Child Abuse  
6 Reporting Requirements report.

7 Ms. Montgomery requested the Board vote on the  
8 proposed rulemaking.]

9 \*\*\*

10 CHAIRPERSON HAMPLE:

11 Can I have a motion?

12 DR. BAIRD

13 I move.

14 MS. HISCHMANN:

15 Second.

16 CHAIRPERSON HAMPLE:

17 All in favor?

18 [The motion carried unanimously.]

19 \*\*\*

20 Report of Board/Regulatory Counsel

21 [Nicole L. VanOrder, Esquire, Board Counsel, noted  
22 items 7, 8, and 9 would be discussed during Executive  
23 Session. She noted two documents regarding agenda  
24 item 6, including the current docket sheet and last  
25 filing in the case. She stated February 7 was the

1 date that the case was submitted on brief, which means  
2 the court has all of the documents and just waiting  
3 for the judge to make a decision. She noted the  
4 petitioner's brief was submitted on December 16, 2019.

5 She mentioned that this could take a number of months  
6 depending on how long the judge takes to write the  
7 opinion.

8 Dr. Baird stated this affects her personally in  
9 every aspect of her working world. She commented that  
10 she tried to do a thorough read of the report, which  
11 became difficult because of the terminology and the  
12 way the document was organized. She also mentioned  
13 that it seemed like the judge changed halfway through  
14 the whole process.

15 Ms. Montgomery explained that there was a  
16 decision by Judge Brobson that was favorable to the  
17 Board but then a reconsideration and an opportunity to  
18 file an amended complaint was filed and granted. She  
19 explained, once an amended complaint is received,  
20 everything that happened before that would start over  
21 again.

22 Ms. Montgomery stated it had been submitted on  
23 briefs to the court as a whole and would be assigned  
24 to a particular judge to write the opinion, but it  
25 would be circulated among all of the judges and a

1 certain percentage must sign off for it to be the  
2 opinion of the court.

3 Ms. Montgomery noted that the current decision  
4 was being made on preliminary objections, and if the  
5 Board loses, the case would go to trial. She stated,  
6 if the Board wins, the licensee could appeal it to a  
7 higher court, but the case with the Commonwealth Court  
8 would be concluded.]

9

\*\*\*

10 [Pursuant to Section 708(a)(5) of the Sunshine Act, at  
11 11:33 a.m. the Board entered into Executive Session  
12 with Nicole L. VanOrder, Esquire, Board Counsel, to  
13 have attorney-client consultations and for the purpose  
14 of conducting quasi-judicial deliberations. The Board  
15 returned to open session at 12:49 p.m.]

16

\*\*\*

17 MOTIONS

18 MS. VANORDER:

19 Pursuant to Section 708(a)(5) of the  
20 Sunshine Act, the Board entered into  
21 Executive Session with Board counsel to  
22 have attorney-client consultations and  
23 for the purpose of conducting  
24 quasi-judicial deliberations regarding  
25 items 7, 8, and 9 on the agenda.

1 DR. BAIRD:

2 I move to adopt the Consent Agreement  
3 and Order negotiated by the  
4 Commonwealth's prosecuting attorney in  
5 settlement of the following matter:  
6 Commonwealth of Pennsylvania Bureau of  
7 Professional and Occupational Affairs v.  
8 Case No. 19-67-018638.

9 CHAIRPERSON HAMPLE:

10 Second?

11 MS. HISCHMANN:

12 Second.

13 CHAIRPERSON HAMPLE:

14 All in favor?

15 [The motion carried unanimously.]

16 \*\*\*

17 DR. BAIRD:

18 I move that the Board grant the  
19 Application of Autumnrose Kulbitsky  
20 pending successful completion of a  
21 personal interview.

22 CHAIRPERSON HAMPLE:

23 Second?

24 MS. GATTY:

25 Second.

1 CHAIRPERSON HAMPLE:

2 All in favor?

3 [The motion carried unanimously.]

4 \*\*\*

5 Report of Board Chairperson

6 [Kerri L. Hample, OTD, OTR/L, Chairperson, announced  
7 Dr. Baird and Ms. Hischmann would be attending and  
8 representing Pennsylvania at the American Occupational  
9 Therapy Association (AOTA) Conference.

10 Chairperson Hample stated AOTA has the compact on  
11 their agenda and were in the beginning phases of  
12 creating a compact for OT. She noted that  
13 Pennsylvania has not fully implemented any compacts to  
14 date, and has struggled with integrating the federal  
15 and state legal requirements regarding the required  
16 finger printing.

17 Chairperson Hample stated several other  
18 professional licensure boards are updating their Act  
19 and Regulations. She noted that athletic trainers  
20 have some changes to their language that overlap with  
21 the occupational therapy scope of practice. She noted  
22 a concerns with their removal of the word "athlete"  
23 from their scope of practice as well as their  
24 insertion the word "invasive procedure."

25 Chairperson Hample mentioned that recreational

1 art therapists are seeking licensure; both of which  
2 would also have overlapping scope.

3 Chairperson Hample stated applied behavior  
4 analysts were looking to change their licensure in  
5 order to move away from the Medical Board and be  
6 separate. She mentioned a significant overlap in  
7 their scope as well.

8 Chairperson Hample welcomed Christine Daeschner  
9 from the Pennsylvania Occupational Therapy Association  
10 (POTA).

11 Chairperson Hample noted the Board will meet in  
12 June after the American Occupational Therapy  
13 Association (AOTA) Conference. She also mentioned the  
14 2020 Pennsylvania Occupational Therapy Association  
15 Conference October 9-10, 2020, in Lancaster and  
16 requested volunteers to attend.

17 Chairperson Hample stated the Board had been  
18 blessed for a long time to have vague language in  
19 their scope that has allowed them to do a tremendous  
20 amount of work with different populations of people.

21 Chairperson Hample commented that the Board was  
22 in a place where some of their ambiguity had started  
23 to cause some trouble with the payer sources, where  
24 specific language may be absent in their practice act  
25 and giving insurance companies the ability to not

1 necessarily pay for the work that occupational  
2 therapists have been doing, particularly with physical  
3 agent modalities (PAMs).

4 Chairperson Hample mentioned that there were  
5 growing concerns with the age of the Act and that it  
6 may need updating.

7 Chairperson Hample requested to go on record  
8 advocating for additional board staff to reduce  
9 processing times and ease the burdens on existing  
10 board staff. There was a discussion regarding  
11 anticipated temporary employees and the status of  
12 hiring additional staff, including a current hiring  
13 freeze.

14 Chairperson Hample stated the Board would go on  
15 record saying it would like one of the anticipated  
16 temporary employees to be assigned to the OT board to  
17 help get applications back to normal. She also  
18 mentioned that there are employers complaining about  
19 their inability to get therapists at the rate needed.

20 Dr. Baird noted receiving an invitation to attend  
21 the National Board for Certification in Occupational  
22 Therapy Regulatory Conference in Atlanta, Georgia, May  
23 12-13, 2020.

24 Chairperson Hample stated the Board would need to  
25 be approved to attend, because it is NBCOT and

1 considered a gift.

2 Ms. VanOrder noted that accepting a gift is a  
3 violation of the Governor's Gift Ban Policy. She  
4 commented that the Board would need to pay to attend  
5 and go through the approval process procedure. She  
6 suggested the Board vote now to attend pending  
7 approval.]

8 \*\*\*

9 MS. HISCHMANN:

10 I move that the Board approve attendance  
11 at the NBCOT Workshop in Atlanta for our  
12 chair, Kerri Hample, and our counsel,  
13 Nicole VanOrder, with the backup being  
14 Joanne Baird and Christine Hischmann as  
15 a backup-backup.

16 CHAIRPERSON HAMPLE:

17 Could I have a second?

18 MS. GATTY:

19 Second.

20 CHAIRPERSON HAMPLE:

21 All in favor?

22 [The motion carried unanimously.]

23 \*\*\*

24 Report of Acting Commissioner - No Report

25 \*\*\*

1 Report of Board Administrator - No Report

2 \*\*\*

3 2020 Meeting Dates

4 [Kerri L. Hample, OTD, OTR/L, Chairperson, noted the  
5 next scheduled Board meeting date on June 11, 2020.

6 \*\*\*

7 Adjournment

8 CHAIRPERSON HAMPLE:

9 Motion to adjourn.

10 MS. HISCHMANN:

11 So moved.

12 MS. GATTY:

13 Second.

14 CHAIRPERSON HAMPLE:

15 All in favor?

16 [The motion carried unanimously.]

17 \*\*\*

18 [There being no further business, the State Board of  
19 Occupational Therapy Education and Licensure Meeting  
20 adjourned at 1:04 p.m.]

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CERTIFICATE

I hereby certify that the foregoing summary minutes of the State Board of Occupational Therapy Licensure and Education Meeting, was reduced to writing by me or under my supervision, and that the minutes accurately summarize the substance of the State Board of Occupational Therapy Licensure and Education Meeting.

  
\_\_\_\_\_  
Hyun Soo Lee,  
Minute Clerk  
Sargent's Court Reporting  
Service, Inc.

STATE BOARD OF OCCUPATIONAL THERAPY  
EDUCATION AND LICENSURE  
REFERENCE INDEX

March 10, 2020

	TIME	AGENDA
1		
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5		
6		
7		
8		
9		
10	9:59	Official Call to Order
11		
12	9:59	Approval of Minutes
13		
14	10:00	Report of Board/Regulatory Counsel
15		
16	10:03	Miscellaneous
17		
18	10:03	Report of Board Prosecution
19		
20	10:04	Report of Board/Regulatory Counsel
21		
22	10:56	Appointment - Kimberly Adams, Chief of
23		Fiscal Management, Bureau of Finance
24		and Operations Annual Budget
25		Presentation
26		
27	11:14	Report of Board/Regulatory
28		Counsel (Continued)
29		
30	11:33	Executive Session
31	12:49	Return to Open Session
32		
33	12:49	Motions
34		
35	12:51	Report of Board Chairperson
36		
37	1:04	Adjournment
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