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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  
VIA VIDEOCONFERENCE**

TIME: 10:31 A.M.

PENNSYLVANIA DEPARTMENT OF STATE

March 3, 2022

1                   State Board of Occupational Therapy  
2                   Education and Licensure  
3                   March 3, 2022  
4  
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6 BOARD MEMBERS:  
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8 Kerri L. Hample, OTD, OTR/L, Chairperson  
9 Arion R. Claggett, Acting Commissioner, Bureau of  
10 Professional and Occupational Affairs  
11 Joanne M. Baird, Ph.D., OTR/L, Vice Chair  
12 Edward J. Mihelcic, Ph.D., OTR/L  
13 Lisa Livingston, MS, OTR/L, SCDCM, Secretary  
14  
15

16 BUREAU PERSONNEL:  
17

18 Nicole L. VanOrder, Esquire, Board Counsel  
19 Carolyn DeLaurentis, Deputy Chief Counsel, Prosecution  
20 Division  
21 Heather J. McCarthy, Esquire, Senior Board Prosecutor  
22 Kenneth J. Suter, Esquire, Board Prosecution Liaison  
23 Andrea L. Costello, Esquire, Board Prosecutor  
24 Christina Townley, Board Administrator  
25 Deena Parmelee, Legal Office Administrator 1,  
26 Department of State  
27 Marc Farrell, Deputy Director, Office of Policy,  
28 Department of State  
29  
30

31 ALSO PRESENT:  
32

33 Katie Merritt, LSW, Director of Policy and Planning,  
34 Pennsylvania Insurance Department  
35 David Buono, Deputy Insurance Commissioner, Office of  
36 Market Regulation, Pennsylvania Insurance Department  
37 Sandy Ykema, Esquire, J.D., Senior Health Insurance  
38 Counsel, Pennsylvania Insurance Department  
39 Shaun Conway, OTR, Senior Director, External and  
40 Regulatory Affairs, National Board for Certification  
41 in Occupational Therapy  
42 Jodi Schreiber, OTD, OTR/L, C/NDT, National Board for  
43 Certification in Occupational Therapy  
44 Christine Daeschner, MOT, OTR/L, President,  
45 Pennsylvania Occupational Therapy Association  
46 Jen Smeltz, Republican Executive Director, Senate  
47 Consumer Protection & Professional Licensure  
48 Committee  
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State Board of Occupational Therapy  
Education and Licensure  
March 3, 2022

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ALSO PRESENT: (cont.)

Jerry J. Livingston, Democratic Executive Director,  
Senate Consumer Protection & Professional Licensure  
Committee  
Kristen Neville, State Affairs Manager, American  
Occupational Therapy Association  
Derek Richmond

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2 State Board of Occupational Therapy

3 Education and Licensure

4 March 3, 2022

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6 [Pursuant to Section 708(a)(5) of the Sunshine Act, at  
7 9:00 a.m. the Board entered into Executive Session  
8 with Nicole L. VanOrder, Esquire, Board Counsel, to  
9 have attorney-client consultations and for the purpose  
10 of conducting quasi-judicial deliberations. The Board  
11 returned to open session at 10:31 a.m.]

12 \*\*\*

13 The regularly scheduled meeting of the State  
14 Board of Occupational Therapy Education and Licensure  
15 was held on Thursday, March 3, 2022. Kerri L. Hample,  
16 OTD, OTR/L, Chairperson, officially called the meeting  
17 to order at 10:31 a.m.

18 \*\*\*

19 Introduction of Board Members/Attendees

20 [Kerri L. Hample, OTD, OTR/L, Chairperson, requested  
21 an introduction of Board members and attendees.]

22 \*\*\*

23 Meeting Instructions

24 [Christina Townley, Board Administrator, provided  
25 instructions to be followed during the virtual Board

1 meeting.]

2

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3 [Nicole L. VanOrder, Esquire, Board Counsel, noted the  
4 Board entered into Executive Session prior to the  
5 start of the meeting to have attorney-client  
6 consultations and for the purpose of conducting quasi-  
7 judicial deliberations regarding items 6 and 8 on the  
8 agenda.]

9

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10 Adoption of Agenda

11 CHAIRPERSON HAMPLE:

12                   Could I have a motion to adopt our  
13                   agenda?

14 DR. MIHELICIC:

15                   So moved.

16 CHAIR HAMPLE:

17                   How about a second?

18 DR. BAIRD:

19                   Second.

20 CHAIRPERSON HAMPLE:

21                   All in favor? Anyone, no? The agenda  
22                   carries.

23 [The motion carried unanimously.]

24

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25 Approval of Minutes

1 CHAIRPERSON HAMPLE:

2 I'd like to start with approval of the  
3 minutes from the meeting on December 10,  
4 2021. I'd like to have a conversation  
5 about those meeting minutes, if there is  
6 any discussion or a motion to approve  
7 them?

8 DR. MIHELICIC:

9 Motion to approve.

10 CHAIRPERSON HAMPLE:

11 Second?

12 MS. LIVINGSTON:

13 Second.

14 CHAIRPERSON HAMPLE:

15 All in favor? Anybody say no to that?

16 [The motion carried unanimously.]

17 \*\*\*

18 Appointment - Pennsylvania Insurance Department - No  
19 Surprises Act

20 [Katie Merritt, LSW, Director of Policy and Planning,  
21 Pennsylvania Insurance Department (PID), informed  
22 everyone that the No Surprises Act went into effect on  
23 January 1, 2022. She stated Governor Wolf charged the  
24 Pennsylvania Insurance Department with being the lead  
25 agency in implementing the act. The Insurance

1 Department is working collaboratively with the  
2 Department of State, Department of Health, and  
3 Department of Drug and Alcohol Programs.

4 David Buono, Deputy Insurance Commissioner,  
5 Office of Market Regulation, Pennsylvania Insurance  
6 Department, informed the Board that the material  
7 presented was prepared by the Commonwealth of  
8 Pennsylvania Insurance Department based on the law,  
9 regulations, and guidance as of December 1, 2021.

10 Mr. Buono addressed the No Surprises Act (NSA),  
11 noting that the disclosure requirement applies to all  
12 health care providers, the provider directory  
13 requirement applies to all healthcare providers  
14 applicable only to providers in-network for major  
15 medical insurance policies, and the Good Faith  
16 Estimate requirement applies to all health care  
17 providers.

18 Mr. Buono commented that health plans that cover  
19 any benefits for emergency services, including air  
20 ambulance, under the No Surprises Act, requires  
21 emergency services to be covered without any prior  
22 authorization regardless of whether a provider or  
23 facility is in-network.

24 Mr. Buono also commented that if a health plan  
25 covers any benefits for nonemergency services related

1 to a visit in an in-network facility, the No Surprises  
2 Act requires patients with little or no control over  
3 who provides their care to be protected.

4 Mr. Buono stated ancillary providers, such as  
5 labs or doctors, involved in a surgery that the  
6 patient does not select may not balance bill. He  
7 noted cost-sharing for ancillary providers is treated  
8 as in-network. He commented that the No Surprises Act  
9 protects people from unexpected bills for emergency  
10 services, air ambulance services, and certain  
11 nonemergency services related to a visit to a  
12 facility.

13 Mr. Buono mentioned that emergency ground  
14 ambulance services are not included and deferred to  
15 further study at the federal level. He stated  
16 nonemergency services for some ancillary care at an  
17 in-network facility is treated as in-network in all  
18 circumstances. He reported that other nonemergency  
19 services may only be billed as out-of-network with  
20 advanced notice and consent from the patient.

21 Mr. Buono noted the No Surprises Act limits the  
22 high out-of-network cost-sharing, where patient cost-  
23 sharing, such as coinsurance or deductible, cannot be  
24 higher than if such services were provided by an in-  
25 network doctor and any coinsurance or deductible must



1 be based on in-network provider rates.

2 Mr. Buono stated No Surprises Act billing  
3 protection applies if coverage is through an employer,  
4 state-based marketplace Pennie, or directly through an  
5 individual market health insurance company. He  
6 mentioned that the act does not apply to Medicare,  
7 Medicaid, Indian Health Services, Veterans Affairs, or  
8 TRICARE.

9 Mr. Buono addressed plans that do not have the  
10 balance billing protection, including indemnity or  
11 accepted benefit plan enrollees because it is not  
12 individual market coverage and does not typically have  
13 a network. He noted short-term limited duration plan  
14 enrollees, health care sharing ministries, the Amish,  
15 or uninsured are not individual market coverage.

16 Mr. Buono addressed uninsured individuals, noting  
17 providers are required to provide a Good Faith  
18 Estimate upon request or scheduling an item or  
19 service. He stated uninsured and self-pay patients  
20 must receive a Good Faith Estimate at least 72 hours  
21 before services.

22 Mr. Buono also noted that a Good Faith Estimate  
23 must be given at least 3 hours ahead of time if a  
24 service is scheduled within three days. He noted the  
25 act does require that a Good Faith Estimate be

1 provided to a patient's plan in advance of service but  
2 stated the federal government and Pennsylvania is  
3 taking a non-enforcement approach to this provision  
4 due to the technological challenges affecting this  
5 provision.

6 Mr. Buono stated providers are encouraged to  
7 coordinate with co-providers to present a single Good  
8 Faith Estimate, but the Department of Health and Human  
9 Services (HHS) is exercising enforcement discretion  
10 and flexibility to allow for technological  
11 coordination.

12 Mr. Buono provided a summary of providers who may  
13 not balance bill. He stated providers and facilities  
14 must have a business process to give provider  
15 directory and network information to plans anytime  
16 there is a material change. He commented that  
17 providers and facilities may, by contract, impose on  
18 plans the duty to keep the directory current in the  
19 event of contract termination. He noted that the  
20 provider or facility must reimburse the patient plus  
21 interest if a provider or facility bills a patient  
22 more than the in-network cost-sharing amount and the  
23 patient pays the bill.

24 Mr. Buono addressed continuity of care, where a  
25 contract with a plan terminates and the provider or

1 facility is no longer in-network and the patient is a  
2 continuing care patient, the provider or facility must  
3 accept payment, including cost-sharing calculated on  
4 an in-network basis for the duration of the continuity  
5 of care.

6 Mr. Buono stated providers with complaints about  
7 a plan should contact the Pennsylvania Insurance  
8 Department because the department has a process to  
9 quickly review the complaint. He mentioned HHS is  
10 also establishing a complaint process with the  
11 acknowledgement of the complaint possibly taking 60  
12 days. He mentioned that providers with complaints  
13 about a patient should first make sure the patient  
14 understands the act and are encouraged to contact the  
15 Pennsylvania Insurance Department.

16 Mr. Buono noted that patients who do understand  
17 the act should be handled as before with the  
18 understanding in the case of a surprise medical bill  
19 that the provider may not collect more than the in-  
20 network cost-sharing.

21 Ms. Ykema addressed disclosure requirements,  
22 noting a one-page disclosure notice must be available  
23 to patients with the requirements and prohibitions  
24 regarding balance billing and must identify how a  
25 patient may contact the appropriate state and federal

1 agencies if the patient believes the provider or  
2 facility violated the requirements of the law.

3 Ms. Ykema stated the information must be publicly  
4 available from the provider and facility as well as  
5 being posted. She mentioned the Pennsylvania  
6 Insurance Department has a model notice and  
7 information on their website, along with the federal  
8 government website at [www.cms.gov/nosurprises](http://www.cms.gov/nosurprises)  
9 containing NSA information.

10 Ms. Ykema addressed notice and consent, which  
11 allows a provider to balance bill if notice is given  
12 and a written consent is received from the patient at  
13 least 3 days before the service, no later than 1  
14 business day after scheduling, or 3 business days in  
15 advance if the service is scheduled 10 days in  
16 advance. She noted it may not be used in an emergency  
17 situation. She explained that the notice and consent  
18 has to be on a separate form, signed, retained for  
19 seven years, and a copy given to the patient.

20 Ms. Ykema explained that the notice and consent  
21 must provide notice that the provider does not  
22 participate in the consumer's health insurance plan,  
23 have a Good Faith Estimate amount that the provider  
24 may charge for all of the services, explain that there  
25 may need to be prior authorization or other approval,

1 and be clear that a person does not have to consent to  
2 an out-of-network provider.

3 Ms. Ykema emphasized that a person must be able  
4 to obtain services from an available in-network  
5 provider, but if there were no available in-network  
6 provider, then notice and consent may not be used to  
7 allow the provider to balance bill.

8 Ms. Ykema addressed payment, where the provider  
9 will need to confirm the patient's coverage. She  
10 explained that an out-of-network provider who  
11 furnished a surprise medical service may collect cost-  
12 sharing from the patient at the in-network level and  
13 then the provider may bill the patient's plan directly  
14 for all remaining charges.

15 Ms. Ykema noted a provider and plan may negotiate  
16 if the provider is not satisfied with the amount  
17 directly and then through a federally administered  
18 Independent Dispute Resolution process. She mentioned  
19 there is litigation on the qualifying payment amount  
20 and the Independent Dispute Resolution process at the  
21 federal level.

22 Ms. Ykema addressed disputes with uninsured and  
23 self-pay individuals, where the provider may bill the  
24 patient. She stated the patient may access the  
25 Patient-Provider Dispute Resolution process if there

1 is a difference in the Good Faith Estimate of at least  
2 \$400. She noted that the patient must start the  
3 process within 120 days and pay a small administrative  
4 fee to start the process but will recoup that if the  
5 patient prevails.

6 Ms. Ykema addressed enforcement, again noting  
7 that the Pennsylvania Insurance Department was tasked  
8 with being the lead Commonwealth of Pennsylvania  
9 agency coordinating implementation and enforcement  
10 with all of the state agencies. She mentioned that  
11 the Pennsylvania Insurance Department has oversight  
12 over insurance companies, and the other agencies have  
13 oversight over providers and facilities. She noted  
14 working collaboratively with the other agencies in  
15 implementing the new law.

16 Ms. Ykema noted that the state law applies unless  
17 it prevents the application of the federal law. She  
18 mentioned that the Pennsylvania Insurance Department  
19 will use the insurance laws, and the Department of  
20 State, Department of Health, and Drug and Alcohol  
21 Programs will use both professional conduct and  
22 licensure laws. She explained that state agencies  
23 that receive a call related to balance billing and the  
24 No Surprises Act can go to the Pennsylvania Insurance  
25 Department's web page for guidance.

1 Ms. Ykema stated complaints are assigned to a  
2 consumer services representative after a complaint is  
3 received to work with the patient, provider, or health  
4 plan and with other state agencies and collaborate  
5 with the federal agency if the issue cannot be  
6 addressed.

7 Ms. Ykema noted the Department of Health and  
8 Human Services has oversight over the insurance plans,  
9 providers, and facilities; Department of Labor has  
10 oversight over self-funded plans; and the Office of  
11 Personnel Management has oversight over the Federal  
12 Employees Health Benefits (FEHB) program. She stated  
13 the Pennsylvania Insurance Department is prepared to  
14 enter into collaborative enforcement agreements with  
15 any of those agencies as needed to address concerns.

16 Ms. Ykema encouraged everyone to visit the  
17 Pennsylvania Insurance Department at  
18 [www.insurance.pa.gov/nosurprises](http://www.insurance.pa.gov/nosurprises) for more information.

19 Dr. Baird commented that there are situations  
20 where consumers are receiving services from  
21 practitioners who practice independently and set their  
22 own fee schedules and is where this would be the most  
23 applicable. She also mentioned there are certain rare  
24 occurrences where services from their profession are  
25 sought on an emergent basis.

1           Dr. Baird asked what the burden is from a  
2 practitioner's standpoint to report or be involved in  
3 the process knowing that most of the time the  
4 practitioners are not aware of the billing charges.  
5 She assumed the burden would not fall on an  
6 independent practitioner unless specifically being  
7 called upon to participate.

8           Ms. Ykema explained that the regulations have not  
9 spoken to bundle billing, noting the regulations have  
10 spoken to bundling claims for negotiation but not for  
11 billing. She mentioned the importance of paying  
12 attention to the disclosure requirement and the Good  
13 Faith Estimate to be included in that.

14           Ms. Ykema stated individuals out of network but  
15 providing services in a hospital setting should get  
16 the notice and consent, because it will protect the  
17 patient if the bundle service is not a service the  
18 health plan is prepared to pay if the provider is out  
19 of network.

20           Chair Hample asked Ms. Ykema who is responsible  
21 for cuing the therapist of the protocol if they are  
22 not privy to network and insurance information.

23           Ms. Ykema mentioned the importance of being aware  
24 of the law, disclosure, and notice requirements, where  
25 those who are in-network at any hospital takes care of



1 the problem but those out-of-network would need a  
2 notice and consent.

3 Dr. Baird addressed large organizations, where a  
4 client or patient is presented and services are  
5 provided regardless of the payment. She stated it is  
6 someone else's responsibility in a large organization  
7 because they have individuals devoted to billing,  
8 financial consent, and negotiation.

9 Dr. Baird commented that their role as Board  
10 members is client advocacy, noting the Board would be  
11 happy to distribute the information because there  
12 should not be any surprise about a bill. She noted it  
13 could be difficult to ascertain whether information  
14 about a person is absolutely in its entirety correct  
15 when providing services.

16 Ms. Ykema suggested finding out how the process  
17 works by talking to the administration of the facility  
18 where the service is performed to make sure the  
19 facility is in-network and they are also in-network  
20 when providing services.

21 Chair Hample addressed the code of ethics, which  
22 is to provide therapy to whoever presents without  
23 judgment of their ability to pay, where it is a  
24 professional responsibility to provide therapy,  
25 especially in an emergent situation. She noted

1 occupational therapists are being pulled into more  
2 emergent situations in regards to mental health.

3 Ms. Ykema noted expecting to see more guidance  
4 from the federal government. She commented that in an  
5 emergency situation someone would not be able to  
6 balance bill at all under this law but provided the  
7 services because that is a code of ethics. She noted  
8 that in a non-emergent situation in an out-of-network  
9 situation is where someone would have the opportunity  
10 to get the notice and consent so they can balance  
11 bill.

12 Mr. Buono stated that, as the regulator who will  
13 be overseeing the enforcement of the act, he hoped all  
14 understood that there would not be a heavy hand, where  
15 the Insurance Department would speak to the plans and  
16 the providers and work together from there.

17 Mr. Buono stated the goal is to work together to  
18 educate everyone and make everyone aware of the act.  
19 He also encouraged everyone to speak to the  
20 administration in their facilities to ensure all are  
21 aware of the No Surprises Act and understand the  
22 steps.

23 Chair O'Neill thanked the Pennsylvania Insurance  
24 Department for their presentation.]

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1 Appointment - Prosecution Division Annual Report  
2 Presentation

3 [Carolyn A. DeLaurentis, Esquire, Deputy Chief  
4 Counsel, Prosecution Division, provided a summary of  
5 the prosecution division's caseload during 2021.

6 Ms. DeLaurentis informed the Board that 26 cases  
7 were opened in 2021, which is a decrease from 2020 at  
8 35 for the State Board of Occupational Therapy  
9 Education and Licensure. She reported closing 33  
10 cases in 2021 and 79 in 2020.

11 Ms. DeLaurentis noted 30 cases remained open for  
12 the Board as of January 1, 2022, which could be  
13 spanning different years and could be in various  
14 stages.

15 Ms. DeLaurentis addressed enforcement actions,  
16 noting 1 case resulted in discipline in 2021 with a  
17 fine. She also reported 21 warning letters in 2021  
18 and was consistent with 23 in 2020.

19 Ms. DeLaurentis addressed COVID-related cases,  
20 noting that one complaint may result in more than one  
21 case being opened. She reported 1,223 cases were  
22 opened regarding COVID complaints in 2020 with only 1  
23 case for the State Board of Occupational Therapy  
24 Education and Licensure. She also reported a  
25 significant decrease in COVID-related complaints in

1 2021, mostly for business-related boards but an  
2 increase in healthcare-related boards with 543 COVID-  
3 related cases with none of those complaints for the  
4 Board.

5 Ms. DeLaurentis noted a record number of cases  
6 opened last year and thanked the administrative  
7 assistants for processing so many files. She reported  
8 18,363 cases were opened in 2021, which is an increase  
9 from 2020 at 13,394.

10 Ms. DeLaurentis reported 15,994 cases were closed  
11 in 2021 and 13,274 in 2020. She thanked prosecution,  
12 counsel, and all of the boards for their collaborative  
13 efforts. She noted 15,141 open cases as of January 1,  
14 2022.

15 Ms. DeLaurentis offered to return to the Board to  
16 answer any prosecution questions the Board may have  
17 throughout the year.

18 Chair O'Neill thanked Ms. DeLaurentis for her  
19 presentation.]

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21 Appointment - National Board for Certification in  
22 Occupational Therapy Presentation (NBCOT)  
23 [Shaun Conway, OTR, Senior Director, External and  
24 Regulatory Affairs, National Board for Certification  
25 in Occupational Therapy, presented to the Board to

1 discuss the current national certification programs  
2 and services to help the Board make the most informed  
3 and educated decisions based on current information.

4 Mr. Conway addressed the current NBCOT Mission  
5 Statement, which was revised last year to include  
6 diversity, equity, and inclusion. He stated NBCOT  
7 released a new justice, equity, diversity, and  
8 inclusion (JEDI) initiative yesterday. It noted JEDI  
9 to be an online self-reflection tool being made not  
10 only to the occupational therapy community but the  
11 public at large.

12 Mr. Conway stated NBCOT is accredited by the  
13 American National Standards Institute (ANSI) and the  
14 National Commission for Certifying Agencies (NCCA) and  
15 is held accountable to two separate accreditation set  
16 of standards.

17 Mr. Conway noted that NBCOT has a board of  
18 directors consisting of occupational therapist  
19 registered, certified occupational therapy assistants,  
20 and public members. He highlighted the role of the  
21 public members, noting a majority vote of public  
22 members for policy change is required concerning  
23 initial certification eligibility, certification exam  
24 policies, certification renewal, and standard setting  
25 recommendations related to the examination because the

1 mission of the organization is to serve public  
2 interest.

3       Mr. Conway addressed NBCOT's interface with the  
4 student population. He mentioned the importance of  
5 all occupational therapy state licensing boards to  
6 understand that NBCOT has examination blueprints known  
7 as exam content outline for the occupational therapist  
8 registered (OTR) exams and a separate outline for the  
9 certified occupational therapy assistant (COTA) exam.  
10 He noted the OTR exam blueprint has four domains on  
11 the exam and very high level primary areas of  
12 competency pertaining to the examination.

13       Mr. Conway stated there is a practice analysis  
14 study done for the OTR Exam and COTA Exam conducted  
15 every five years to collect evidentiary data on entry-  
16 level practice and to provide content validity that  
17 the exams have knowledge for job-related activities  
18 required for entry-level OTR and COTA practice.

19       Mr. Conway stated the underpinnings of the  
20 practice analysis studies is to gather data from  
21 entry-level practitioners from all over the country to  
22 serve as a foundation for developing and preparing the  
23 next certification examination. He informed everyone  
24 that a current study is underway, and an updated  
25 outline will be available in the spring of 2023 for

1 OTR and COTA Certification Examinations that will be  
2 administered in January 2024.

3 Mr. Conway addressed NBCOT's Scoring Calendar for  
4 candidates considering scheduling and taking their  
5 examination, which can be used by regulatory board  
6 administrators within the state agency in  
7 Pennsylvania. He noted the Scoring Calendar typically  
8 goes out about six months in advance.

9 Mr. Conway addressed a disturbing trend over the  
10 last couple of years that NBCOT noticed regarding  
11 students and exam candidates sharing items taken from  
12 study tools and exam candidates recalling exam items  
13 and reflecting those on various social media  
14 platforms.

15 Mr. Conway stated NBCOT decided to educate  
16 students about copyright infringement and provided  
17 examples of postings on social media platforms and a  
18 video as an educational tool to help students  
19 understand the importance of those issues. He noted  
20 that the video was disseminated to all occupational  
21 therapy educational programs and is accessible 24  
22 hours a day to the public on NBCOT's website. He  
23 mentioned that the video is also a requirement for  
24 every exam candidate when completing their examination  
25 application.

1           Mr. Conway addressed the transition from a  
2 student to a practitioner and confirmation of the exam  
3 score and whether the individual passed their national  
4 certification examination. He noted the total  
5 national number of score transfers issued by NBCOT in  
6 2022. He mentioned that some states require  
7 confirmation of exam eligibility notices and those are  
8 typically required in states that have a stipulation  
9 around a temporary or limited permit or license.

10           Mr. Conway stated NBCOT generates an eligibility  
11 confirmation notice in those states, which confirms  
12 for the licensing boards that the applicants have  
13 applied to take their national certification  
14 examination and have been eligible to take their  
15 national examination.

16           Mr. Conway addressed certification programs that  
17 are more aligned specifically to individuals who have  
18 already passed their national certification  
19 examination. He noted that the code of ethics is  
20 paramount to exam candidates and individuals certified  
21 with NBCOT and is part of the application processes  
22 for exam candidates and those applying for renewal,  
23 which is part of a contract applicants have with NBCOT  
24 similar to content licensing boards are responsible  
25 for enforcing.



1           Mr. Conway discussed NBCOT's role as a national  
2 certification entity and issuing national  
3 certification in terms of certification and benefit of  
4 renewal, especially when moving from one state to  
5 another.

6           Mr. Conway stated individuals who are currently  
7 certified have access to numerous self-assessment  
8 tools housed on NBCOT's website and available 24 hours  
9 a day and encouraged OTR and COTA certificants to take  
10 advantage of the tools, which are designed to help  
11 individuals identify strengths and where they need  
12 additional work.

13           Mr. Conway addressed OTR and COTA digital badges  
14 as part of their electronic signature block that  
15 demonstrates to the public that an individual is  
16 currently certified.

17           Mr. Conway provided an update on the NBCOT  
18 Navigator and current tools developed and added to the  
19 online continuing competency assessment platform. He  
20 stated the Navigator is imbedded in the evidence  
21 around a certification renewal practice analysis  
22 study, and the certification renewal practice analysis  
23 study looks at seasoned practitioners. He noted that  
24 the average number of years certified with the first  
25 certification renewal practice analysis study in 2012

1 of the thousands of OTRs and COTAs who participated in  
2 the national practice analysis was 12 years.

3 Mr. Conway also addressed a second practice  
4 analysis study in 2019 around certification renewal to  
5 identify major areas of responsibility and job tasks  
6 that characterize the practice of occupational therapy  
7 at the point of certification renewal.

8 Mr. Conway stated the Navigator is an added  
9 benefit for all currently certified OTR and COTA  
10 certificants who choose to use the tool. He mentioned  
11 that those who do use it can earn competency  
12 assessment units toward renewing their NBCOT  
13 certification and apply units toward meeting their  
14 continuing education requirements for a vast majority  
15 of states around the country.

16 Mr. Conway noted that 44 states, in addition to  
17 the District of Columbia, have acknowledged and  
18 recognized the Navigator as an optional type of  
19 professional development. He also noted that the  
20 Navigator received national recognition with the most  
21 recent in 2018 looking at the fact that this  
22 initiative took a certification renewal practice  
23 analysis study, took all of the evidence that came out  
24 of that study and essentially married it up with an  
25 online gaming platform to create the Navigator.

1           Mr. Conway stated the Navigator helps the OTR and  
2 COTA bridge the knowledge gap when thinking of  
3 transitioning into a new practice setting or working  
4 with a new patient or client population. He noted  
5 that it provides the user with a self-assessment tool  
6 to identify their baseline of understanding and  
7 provides options for pursuing how they might enhance  
8 their knowledge in that given area.

9           Mr. Conway mentioned that there are over 100  
10 different tools on the Navigator platform and a  
11 development team working on new tools every single day  
12 and provided a list of different types of tools  
13 available.

14           Mr. Conway addressed new tools, including an  
15 ethics simulation tool designed for OTR and COTA  
16 certificants. He noted other tools made available in  
17 2021 for the OTR population are on the public health  
18 crisis, middle schools, pediatric mental health, and  
19 low vision. He also noted a new tools launched for  
20 COTA certificants are case simulation tools in low  
21 vision and ethics. He mentioned that all of the  
22 simulation tools are animated characters based on  
23 problem solving.

24           Mr. Conway mentioned a new series of practice  
25 assessment tools that became available in 2021 that

1 are unique and specific to certain areas of practice.  
2 He noted three new practice assessments for OTR and  
3 COTA cohorts, which are available free of charge and  
4 support ongoing continuing competence. He noted over  
5 155,000 certificants have been issued continuing  
6 competency assessment units for using different tools  
7 on the Navigator platform and over 622,000 tools have  
8 been placed.

9 Mr. Conway referred to states that have agreed to  
10 accept the Navigator, including Pennsylvania. He  
11 mentioned jurisdictions, including Pennsylvania, that  
12 agreed to do this stipulated to accept this as an  
13 optional type of professional development as long as  
14 OTR or COTA clearly understood that it is incumbent  
15 upon them to ensure all other regulatory requirements  
16 are met as well.

17 Mr. Conway addressed regulatory cohorts, noting  
18 that each of the OT state licensure board  
19 administrators had been assigned a unique user name  
20 and password by NBCOT to be able to access their  
21 respective administrator's portal, so board  
22 administrators have a one-stop shop for anything  
23 related to an individual's licensure application that  
24 also interfaces with NBCOT certification. He provided  
25 a summary of services available.

1 Mr. Conway addressed the OT action exchange  
2 database, which is available 24 hours a day, and is a  
3 complementary national repository of disciplinary  
4 actions and actions that states like Pennsylvania and  
5 others all over the country contribute to and send  
6 NBCOT copies of their final disciplinary orders.

7 Mr. Conway stated NBCOT then enters that action  
8 into the national repository database, noting NBCOT  
9 also includes its own disciplinary actions and is  
10 unique and specific to occupational therapy  
11 discipline. He provided a summary of what a board  
12 administrator may find. He noted the service is  
13 available 24 hours a day through the portal and  
14 available on NBCOT's website to all members of the  
15 public at no fee.

16 Mr. Conway mentioned that there are currently 10  
17 states that accept current national certification  
18 status with NBCOT as an option for licensure renewal,  
19 noting it also allows as an alternate pathway for  
20 verification of current NBCOT certification status.

21 Mr. Conway discussed the Occupational Therapy  
22 Licensure Compact, noting NBCOT and the American  
23 Occupational Therapy Association (AOTA) are working  
24 collaboratively on this joint initiative and working  
25 closely with the Council of State Governments who have

1 done a wonderful job of facilitating this initiative.

2 Mr. Conway stated bills were introduced in 2021  
3 in 16 different jurisdictions, 9 of which passed  
4 legislation, along with Wisconsin passing the bill in  
5 January. He noted the licensure compact legislation  
6 stipulates that a minimum of 10 states must enact the  
7 bill, so NBCOT is now able to move forward with  
8 working toward implementing the commission compact.

9 Mr. Conway informed everyone that legislation was  
10 introduced in the 2022 legislative session in 13  
11 different jurisdictions, and 3 of those states landed  
12 the bill on their governor's desk for signature. He  
13 provided a map of jurisdictions where legislation was  
14 introduced in 2022.

15 Mr. Conway referred to the CE Broker presentation  
16 at the NBCOT State Regulatory Leadership Forum last  
17 year. He stated NBCOT entered into an affiliation  
18 with CE Broker to create a seamless experience for  
19 continuing education compliance for the occupational  
20 therapists and occupational therapy assistants. He  
21 explained that it is a way for OT practitioners to  
22 bank their professional development and have that then  
23 be accessible for any of the state licensing boards  
24 that choose to participate with the platform, which is  
25 expected to be rolled out even further at a later

1 point this year.

2 Mr. Conway noted the 2022 State Regulatory  
3 Leadership Forum will be held September 13-14 but  
4 whether it will be in person or virtual will be  
5 determined at a later time.

6 Mr. Conway mentioned that the State Regulatory  
7 Leadership Forum is a national platform that NBCOT has  
8 hosted for 27 years to provide regulators from all  
9 over the country with a platform to create greater  
10 awareness and understanding of current and emerging  
11 issues and trends in occupational regulation and  
12 certification. He also commented that it is designed  
13 for the occupational therapy regulatory community to  
14 come together to dialogue and ultimately learn from  
15 each other.

16 Mr. Conway addressed the new NBCOT Ambassador  
17 Program that started in 2020 to strengthen the  
18 relationship NBCOT has with various stakeholders and  
19 increase the presence of NBCOT. He mentioned that the  
20 idea was to enhance access to NBCOT certification-  
21 related information and services by having an  
22 ambassador in each jurisdiction to have someone more  
23 local to turn to for initial questions and concerns.

24 Mr. Conway noted it was initially launched as a  
25 pilot program but transitioned out of the pilot this

1 year and into a full-fledged initiative. He mentioned  
2 having 50 ambassadors selected for each jurisdiction  
3 and introduced Jodi Schreiber as the ambassador for  
4 Pennsylvania.

5 Jodi Schreiber, OTD, OTR/L, C/NDT, National Board  
6 for Certification in Occupational Therapy, took the  
7 position because most of OT certificants and COTAs do  
8 not realize that they are board-certified individuals.  
9 She noted discussion of past recent history of dual  
10 entry into their program and talking about having a  
11 seat at the table, noting certification provided that  
12 seat at the table. She stated that is not just about  
13 the exam and offers so much more information.

14 Ms. Schreiber addressed orientation in Atlanta  
15 and meeting other ambassadors. She mentioned that OT  
16 is about 96 percent white females and was happy to see  
17 the room of ambassadors was very colorful with  
18 representatives of a lot of different people from  
19 different background and wanted to publicly applaud  
20 Mr. Conway and NBCOT. She mentioned that she would be  
21 at the Pennsylvania Occupational Therapy Association  
22 (POTA) Conference at the end of September in her NBCOT  
23 role. She noted the ambassador position is a volunteer  
24 position and being happy to be in that role.

25 Ms. Schreiber informed the Board that she will be



1 attending another Board meeting at some point to make  
2 sure the information is getting to everyone, noting  
3 the purpose of the Board is to protect the public and  
4 NBCOT is looking to serve the public.

5 Mr. Conway shared data regarding NBCOT's  
6 disciplinary action program, noting the actions are  
7 coming in from regulatory boards and actions that  
8 NBCOT has taken from all over the country. He  
9 mentioned utilization of a flowchart and the code of  
10 conduct in addition to enforcement procedures that is  
11 available on NBCOT's website 24 hours a day.

12 Mr. Conway stated NBCOT's procedures have built  
13 in the significant requirement of due process and  
14 burden of proof, which is clear and convincing and  
15 quite significant in terms of the level of evidence  
16 required before any kind of disciplinary action is  
17 ever taken.

18 Mr. Conway noted NBCOT sanctions include  
19 ineligibility, reprimand, censure, probation,  
20 suspension, and revocation. He noted NBCOT has the  
21 option of voluntary surrender, but individuals need to  
22 understand that the investigation would resume if they  
23 request reinstatement of their national certification  
24 in the future.

25 Mr. Conway addressed failure to respond, where an

1 individual's national certification will automatically  
2 be suspended up to a period of three years and may be  
3 revoked if they continue not to respond.

4 Mr. Conway addressed the sanction agreement  
5 letter, which is similar to documents the Board  
6 prepares when involved in disciplinary proceedings.  
7 He noted NBCOT's procedures always stipulate the  
8 option for a hearing and later an appeal if someone  
9 does not agree with the outcome of a hearing.

10 Mr. Conway noted that individuals would have the  
11 final option of filing a lawsuit against NBCOT if they  
12 still did not agree with the outcome of the appeal but  
13 that NBCOT has always been able to reach a  
14 determination at the initial level.

15 Mr. Conway stated sanctions are available  
16 publicly on the OT exchange database, and the action  
17 is also published on NBCOT's website. He noted that  
18 the majority of cases NBCOT receives is coming from  
19 state regulatory boards, so when an action has been  
20 taken, those final consent orders are typically sent  
21 by a board administrator to NBCOT.

22 Mr. Conway addressed early determination review  
23 available to individuals interested in getting into an  
24 OT program but have a felony-related matter in their  
25 background and want to know whether or not there is a

1 reason for NBCOT to disqualify them from being able to  
2 take the exam.

3       Mr. Conway addressed cases by type of behavior  
4 related to exam applicants who respond affirmatively  
5 to one or more questions on the exam applications. He  
6 noted that the majority are related to felony  
7 convictions but there are also others related to  
8 misdemeanors, inappropriate use of intellectual  
9 property, cheating on the exam, misconduct with harm  
10 to others, and substance abuse.

11       Mr. Conway reported that the majority of  
12 complaints NBCOT receives against occupational  
13 therapists are cases related to documentation  
14 problems, misdemeanor convictions, lack of continuing  
15 education, practicing with an expired license, and  
16 substance abuse.

17       Mr. Conway commented that the types of behavior  
18 seen involving complaints against occupational therapy  
19 assistants are similar to that of the types of  
20 behaviors seen against occupational therapists. He  
21 also noted a fair number of fraudulent billing cases  
22 against OT assistants. He provided an overview of  
23 sanctions during 2019, 2020, and 2021.

24       Mr. Conway stated the efforts to serve the public  
25 interest are stronger because of the existing

1 partnership between occupational therapy licensure  
2 boards and the NBCOT.

3 Mr. Conway thanked the Board for their time and  
4 allowing NBCOT to provide their annual update.

5 Dr. Baird asked how many responses NBCOT had for  
6 the surveys. She also asked whether the Leadership  
7 Forum would be open to all Board members.

8 Mr. Conway explained that the initial survey had  
9 over 2,500 responses that included OTRs and COTAs. He  
10 commented that all regulators and all of the  
11 regulatory agency staff are invited if the meeting is  
12 held virtually. He stated that funding would be  
13 available for two representatives from each licensing  
14 board if the meeting is in person.

15 Dr. Baird commented that there are some  
16 regulations within the state that may prevent them  
17 from taking full advantage of that.

18 Chair Hample explained that it has to do with the  
19 continuing education status. She noted NBCOT is a  
20 continuing education provider in the state of  
21 Pennsylvania, where it technically would be taking a  
22 gift from a provider.

23 Mr. Suter mentioned wanting to discuss some  
24 follow-up questions with Mr. Conway, and Mr. Conway  
25 provided his email address and offered his assistance.

1 Chair Hample thanked Mr. Conway for the  
2 presentation.]

3 \*\*\*

4 Report of Board Prosecution

5 [Andrea L. Costello, Esquire, Board Prosecutor,  
6 presented the VRP Consent Agreement for Case No. 21-  
7 67-016745.]

8 MS. VANORDER:

9 Is there a motion to approve the Consent  
10 Agreement and Order in Case No. 21-67-  
11 016745?

12 DR. BAIRD:

13 So moved.

14 CHAIRPERSON HAMPLE:

15 Could I have a second?

16 MS. LIVINGSTON:

17 I'll second.

18 CHAIRPERSON HAMPLE:

19 All in favor? Anyone no?

20 [The motion carried unanimously.]

21 \*\*\*

22 Report of Board Counsel - Regulations

23 [Nicole L. VanOrder, Esquire, Board Counsel, provided  
24 a Regulatory Status Report for the Board's review.

25 Ms. VanOrder noted 16A-6712 regarding educational

1 programs was published as final and 16A-6713 regarding  
2 licensure by endorsement was published as proposed.]

3 \*\*\*

4 Report of Board Counsel - Other

5 [Nicole L. VanOrder, Esquire, Board Counsel, provided  
6 an update on Custer v. BPOA. She also included the  
7 Sunshine Act and Recusal Guidelines for the Board's  
8 review.]

9 \*\*\*

10 Report of Board Chairperson

11 [Kerri L. Hample, OTD, OTR/L, Chairperson, encouraged  
12 those who would be representing the Board at the  
13 American Occupational Therapy Association Conference  
14 to be prepared to share what they learned as it  
15 relates to regulation at the June 2, 2022 Board  
16 meeting.]

17 Chair Hample thanked POTA for affording the Board  
18 a platform but not expecting the Board to act on  
19 matters it cannot.

20 Chair Hample asked whether any Board members  
21 wished to attend the 2022 Pennsylvania Occupational  
22 Therapy Association Conference in September.

23 Acting Commissioner Claggett noted the Board  
24 could allow more than two members to attend.]

25 \*\*\*

1 MS. VANORDER:

2                   Is there a motion to approve four Board  
3                   members to attend the POTA Conference  
4                   with specifics to follow?

5 DR. MIHELICIC:

6                   So moved.

7 CHAIRPERSON HAMPLE:

8                   How about a second?

9 DR. BAIRD:

10                   I second.

11 CHAIRPERSON HAMPLE:

12                   All in favor? Anybody say no?

13 [The motion carried unanimously.]

14   \*\*\*

15 Report of Acting Commissioner

16 [Arion R. Claggett, Acting Commissioner, Bureau of  
17 Professional and Occupational Affairs, informed  
18 everyone that all Board meetings going forward would  
19 be offered in a hybrid format, where everyone would  
20 have the option of attending in person or virtually.

21           Acting Commissioner Claggett noted masks are  
22 encouraged for anyone attending in person but not  
23 required. Ms. Townley and he will be attending the  
24 meetings in person.]

25   \*\*\*

1 Report of Board Administrator - No Report

2 \*\*\*

3 Miscellaneous

4 [Christina Townley, Board Administrator, noted the  
5 proposed 2023 Board meeting dates are March 8, June 1,  
6 September 21, and December 1.]

7 \*\*\*

8 [Kerri L. Hample, OTD, OTR/L, Chairperson, noted the  
9 remaining 2022 Board meeting dates are September 1 and  
10 December 8.]

11 \*\*\*

12 Adjournment

13 CHAIRPERSON HAMPLE:

14 I am going to ask for the final motion  
15 of the day to adjourn.

16 DR. MIHELICIC:

17 Motion to adjourn.

18 CHAIRPERSON HAMPLE:

19 How about a second?

20 DR. BAIRD:

21 I second.

22 CHAIRPERSON HAMPLE:

23 All in favor?

24 [The motion carried unanimously.]

25 \*\*\*



1 [There being no further business, the State Board of  
2 Occupational Therapy Education and Licensure Meeting  
3 adjourned at 12:55 p.m.]

4 \*\*\*

5  
6 CERTIFICATE

7  
8 I hereby certify that the foregoing summary  
9 minutes of the State Board of Occupational Therapy  
10 Licensure and Education Meeting, was reduced to  
11 writing by me or under my supervision, and that the  
12 minutes accurately summarize the substance of the  
13 State Board of Occupational Therapy Licensure and  
14 Education Meeting.

15  
16 

17 Derek Richmond,  
18 Minute Clerk  
19 Sargent's Court Reporting  
20 Service, Inc.

21  
22  
23  
24  
25  
26

STATE BOARD OF OCCUPATIONAL THERAPY  
EDUCATION AND LICENSURE  
REFERENCE INDEX

March 3, 2022

TIME	AGENDA
9:00	Executive Session
10:30	Open Session
10:31	Official Call to Order
10:31	Introduction of Board Members/Attendees
10:39	Adoption of Agenda
10:39	Approval of Minutes
10:40	Appointment - Pennsylvania Insurance Department Presentation
11:18	Appointment - Carolyn A. DeLaurentis, Esquire, Deputy Chief Counsel, Prosecution Division Annual Report Presentation
11:28	Appointment - National Board for Certification in Occupational Therapy Presentation
12:44	Report of Board Prosecution
12:46	Report of Board Counsel
12:47	Report of Board Chairperson
12:51	Report of Acting Commissioner
12:53	Miscellaneous
12:55	Adjournment