

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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)
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50

1 ***

2 State Board of Occupational Therapy

3 Education and Licensure

4 March 10, 2020

5 ***

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.]

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.]

21 ***

22

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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		
2		
3		
4		
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
38		
39		
40		
41		
42		
43		
44		
45		
46		
47		
48		
49		
50		