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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: 10:32 A.M.

PENNSYLVANIA DEPARTMENT OF STATE

September 3, 2020

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

6 BOARD MEMBERS:
7

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

17 BUREAU PERSONNEL:
18

19 Nicole L. VanOrder, Esquire, Board Counsel
20 Paul J. Jarabeck, Esquire, Board Prosecution Liaison
21 Christina Townley, Board Administrator
22 Cynthia K. Montgomery, Esquire, Deputy Chief
23 Counsel/Regulatory Counsel, Department of State
24 Theodore Stauffer, Executive Secretary, Bureau of
25 Professional and Occupational Affairs
26 Marc Farrell, Deputy Policy Director, Department of
27 State
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1 State Board of Occupational Therapy

2 Education and Licensure

3 September 3, 2020

4 ***

5 [Pursuant to Section 708(a)(5) of the Sunshine Act, at
6 9:30 a.m. the Board entered into Executive Session
7 with Nicole L. VanOrder, Esquire, Board Counsel, to
8 have attorney-client consultations and for the purpose
9 of conducting quasi-judicial deliberations. The Board
10 returned to open session at 10:30 a.m.]

11 ***

12 The regularly scheduled meeting of the State
13 Board of Occupational Therapy Education and Licensure
14 was held on Thursday, September 3, 2020.

15 ***

16 [Nicole L. VanOrder, Esquire, Board Counsel, noted the
17 meeting was being recorded, and participation was
18 considered consent to being recorded.]

19 ***

20 [Kerri L. Hample, OTD, OTR/L, Chairperson, officially
21 called the meeting to order at 10:32 a.m.]

22 ***

23 Approval of minutes of the June 11, 2020 meeting

24 CHAIRPERSON HAMPLE:

25 We are going to start off with minutes

1 from the last meeting. Any discussion
2 on those minutes?

3 Could I have a motion to approve
4 the minutes of the last meeting?

5 MS. GATTY:

6 So moved.

7 CHAIRPERSON HAMPLE:

8 Second?

9 DR. BAIRD:

10 Second.

11 CHAIRPERSON HAMPLE:

12 All in favor of passing the minutes from
13 the last meeting? Anyone say no?

14 [The motion carried unanimously.]

15 ***

16 Report of Regulatory Counsel

17 [Cynthia K. Montgomery, Esquire, Deputy Chief
18 Counsel/Regulatory Counsel, Department of State,
19 referred to 16A-679, the proposed rulemaking package
20 for child abuse reporting requirements.

21 Ms. Montgomery noted the State Board of
22 Dentistry's version had been reviewed by the
23 Independent Regulatory Review Commission, House, and
24 Senate and approved in its final form. She stated the
25 regulation had been amended to conform to all of the

1 Independent Regulatory Review Commission's (IRRC)
2 comments and requirements.]

3 ***

4 MS. MONTGOMERY:

5 If there are no questions, it would be
6 appropriate for there to be a motion to
7 approve the proposed rulemaking package
8 and direct me to promulgate it through
9 the regulatory review process.

10 CHAIRPERSON HAMPLE:

11 Could I have a so moved?

12 MS. GATTY:

13 So moved.

14 CHAIRPERSON HAMPLE:

15 Second?

16 COMMISSIONER JOHNSON:

17 Second.

18 CHAIRPERSON HAMPLE:

19 All in favor?

20 [The motion carried unanimously.]

21 ***

22 Report of Board Prosecution

23 [Paul J. Jarabeck, Esquire, Board Prosecution Liaison,
24 presented the VRP Consent Agreement for Case No. 19-
25 67-008271.]

1

2 DR. BAIRD:

3

I move to adopt the Consent Agreement
and Order for Case No. 19-67-008271.

4

5 CHAIRPERSON HAMPLE:

6

Could I have a second?

7

MS. HISCHMANN:

8

Second.

9

CHAIRPERSON HAMPLE:

10

All in favor?

11

[The motion carried unanimously.]

12

13

Report of Board Chairperson

14

[Kerri L. Hample, OTD, OTR/L, Chairperson, announced

15

all of the conferences will be virtual for the

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foreseeable future. She mentioned the Pennsylvania

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Occupational Therapy Association (POTA) Conference

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will be virtual in October. She anticipates a small

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virtual business meeting, where the Board will provide

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their normal update. She also noted the American

21

Occupational Therapy Association (AOTA) Conference

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appears to be virtual this year and will await the

23

role the Board will play. She stated POTA is doing

24

more online virtual continuing education, noting the

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Board has participated with providing licensure

1 updates and material for their newsletter.

2 Chairperson Hample addressed the fieldwork
3 crisis, especially in eastern Pennsylvania, where
4 thousands of students cannot complete fieldwork given
5 COVID-19 requirements. She expressed concern of an
6 occupational therapist staffing problem in the future.

7 Chairperson Hample discussed continuing
8 education, noting people were doing more continuing
9 education because of so much online opportunity. She
10 mentioned being grateful for making continued
11 competency so broad and not requiring in-person work
12 because everybody has the opportunity to do continuing
13 competency work more now than ever before.

14 Chairperson Hample noted changes in practice due
15 to waivers, particularly in certified occupational
16 therapy assistant (COTA) supervision. She suggested
17 the Board start thinking about those changes.

18 Chairperson Hample addressed difficulties with
19 student placement because facilities were not taking
20 students through the end of 2020 and some until April
21 2021, particularly nursing homes and long-term care
22 centers that are trying to limit exposure, which is
23 creating a backlog of students.

24 Chairperson Hample commented that the therapist
25 licensure regulation requires a certain amount of

1 fieldwork, so even if the Accreditation Council for
2 Occupational Therapy Education (ACOTE) would bend that
3 rule for the period of the pandemic, the Board's
4 practice Act still requires it.

5 Ms. Gatty suggested a waiver allowing something
6 else to suffice as the fieldwork component. She also
7 mentioned Misericordia University is utilizing
8 telehealth.

9 Chairperson Hample explained that nothing in the
10 practice act prohibiting therapists from telehealth.
11 It is simply not addressed. She commented that the
12 issue is insurance companies not reimbursing for
13 therapy services provided through telehealth.

14 Commissioner Johnson noted Governor Wolf
15 permitted telehealth in the Commonwealth because of
16 the emergency declaration. He stated there is a
17 telehealth bill pending in the legislature that
18 colleagues are working on finalizing.

19 Dr. Baird stated that supervised fieldwork
20 placements can be done via telehealth, but there are
21 not enough opportunities currently because of the
22 pandemic and the huge shift so quickly that no one had
23 caught up with yet.

24 Chairperson Hample explained that there were many
25 people choosing not to get outpatient therapy right

1 now for many reasons, and given the situation, there
2 are not enough services. She also explained that
3 school-based therapists were trying to learn
4 telehealth and learn virtual services, and it would be
5 inappropriate to take someone who is a student and put
6 them with someone who is just learning.

7 Chairperson Hample noted the importance of being
8 competent in virtual platforms and getting through the
9 curve before putting therapists with students. She
10 mentioned presently being in a place where more
11 therapists are able to take students compared to in
12 March.

13 Ms. Gatty believed there would be a permanent
14 impact, noting that people are not going into nursing
15 homes and may or may not be getting services in the
16 home, which will cause a placement issue with all of
17 the other groups of students coming next.

18 Chairperson Hample commented that ACOTE is
19 looking at the fieldwork, but many practice acts have
20 mandated fieldwork and some states specify the
21 modality. She mentioned Pennsylvania does not specify
22 the modality, so colleges in neighboring states were
23 placing their students in sites in Pennsylvania.

24 Ms. Gatty commented that 24 weeks could be
25 accepted if ACOTE redefines fieldwork, where other

1 states would need a waiver.

2 Chairperson Hample noted the practice act
3 requires 24 weeks and does not stipulate anything
4 else, which would be fine unless ACOTE changes the
5 time period.

6 Dr. Baird informed the Board of the "10 Ways to
7 Lose Your License" presentation request from the
8 Pennsylvania Occupational Therapy Association for this
9 year's conference. She accepted on behalf of the
10 Board but noted the title will be changed to "Things
11 That Keep Your Licensure Board Awake at Night."

12 Dr. Baird requested an update regarding continued
13 competency and people working at the polls as part of
14 meeting those hours.

15 Mr. Farrell explained that a waiver is being
16 worked on for certain Boards but does not include
17 occupational therapy.

18 Chairperson Hample noted that occupational
19 therapy has continued competency, not continuing
20 education and would not need a waiver because there
21 are multiple ways to meet continued competency within
22 the rules and regulations.]

23 ***

24 Report of Commissioner - No Report

25 ***

1 Report of Board Administrator - No Report

2 ***

3 Miscellaneous

4 [Nicole L. VanOrder, Esquire, Board Counsel, addressed
5 Act 53 of 2020, which is the future of how the Bureau
6 of Professional and Occupational Affairs (BPOA)
7 boards and commissions will be considering criminal
8 convictions in application cases and disciplinary
9 proceedings. She referred to the law itself and the
10 list of crimes on the agenda.

11 Ms. VanOrder stated the law sets up a rebuttable
12 presumption regarding what crimes are related to the
13 profession, where procedurally, it would look like a
14 provisional denial letter based on the crime and then
15 that individual would have an opportunity for a
16 hearing.

17 Ms. VanOrder stated the act requires the
18 commissioner of BPOA, after consultation with the
19 Boards, to publish a list of criminal offenses that
20 constitute grounds to refuse a license for each
21 profession or occupation licensed by BPOA licensing
22 boards and commissions.

23 Ms. VanOrder noted discussion with attorneys from
24 prosecution and provided a list of crimes after review
25 of Title 18 and past case results. She requested

1 Board members review the list of crimes. The Board
2 requested definitions of several acronyms.

3 Ms. VanOrder noted several suggestions by the
4 board prosecutor after reviewing older cases so that
5 all of the crimes historically designated by the board
6 as directly related would be included. She also noted
7 crimes where the Board did not have a case have a case
8 site.

9 Chairperson Hample questioned occupational
10 therapy (OT) misdemeanor language.

11 Ms. VanOrder referred to the Occupational Therapy
12 Practice Act under Section 16 regarding refusal,
13 suspension, and revocation of a license. She noted
14 (c)(1), where a person who violates a provision of
15 this act is guilty of a misdemeanor and, upon
16 conviction of thereof, shall be punished by a fine of
17 not less than \$100 nor more than \$500 or imprisonment
18 for not less than 30 days nor more than 90 days, or by
19 both such fine and imprisonment and for additional
20 offenses that the person may be subject to either a
21 fine or not less than \$500 or imprisonment of not less
22 than six months at the discretion of the Board.

23 Commissioner Johnson noted the crimes would fall
24 under the definition of "directly related" to the
25 profession. He stated the genesis of Act 53 of 2020

1 comes from the legislature's intent to clean up
2 confusion around the Criminal History Records
3 Information Act (CHRIA). He noted efforts this past
4 year to reform criminal history policies and improve
5 outcomes for individuals seeking gainful employment.

6 Commissioner Johnson stated that Act 53 provides
7 clarified instructions for licensing boards in the
8 commonwealth and provides preliminary determinations,
9 where individuals who have criminal histories and were
10 contemplating an occupational specialty can petition
11 the board or commission for a preliminary
12 determination of how their criminal history may affect
13 their suitability for licensure.

14 Commissioner Johnson noted clear instructions
15 from legislature for the department to develop a
16 specific list of offenses that either directly relates
17 to the profession that would impact suitability for
18 licensure. He stated Ms. VanOrder and Board counsel
19 compiled a master list of all of the offenses directly
20 related to the occupation that have been subject to
21 discipline. He noted the list will be presented to
22 the Board for their review and feedback.

23 Commissioner Johnson will publish the lists to
24 develop functionality within the licensing system to
25 accommodate for notification and practice guidance

1 within six months of the passage of the act for the
2 public and regulated community for a better
3 understanding of how criminal history impacts their
4 livelihood.

5 Commissioner Johnson noted the task before the
6 Board to evaluate these lists for veracity and provide
7 feedback for Commissioner Johnson to create a practice
8 guide for individuals contemplating licensure.

9 Dr. Baird questioned what in forma pauperis
10 status means and what would be on the decision tree.

11 Commissioner Johnson explained in forma pauperis
12 as a term of using the legal community to allow those
13 without financial means to engage in the process. He
14 explained that individuals who do not know if their
15 crime fits in any of the categories have the right to
16 petition the Board for \$45, where Board counsel has
17 the task of crafting the preliminary determination.
18 He stated the act is to also provide greater clarity
19 for the public with respect to how criminal history
20 affects licensure.

21 Commissioner Johnson suggested the Board review
22 the list and provide feedback to Ms. VanOrder between
23 now and the next meeting so they could further refine
24 the list as an actionable guide.

25 Commissioner Johnson noted Act 53 passed and is

1 law to provide clarity for the individuals who may
2 have committed one of these offenses regarding
3 licensure and what that particular offense or
4 violation meant for others in the past.

5 Ms. VanOrder explained the list would create a
6 rebuttable presumption, which could be where an
7 individual can provide sufficient evidence of their
8 suitability for licensure. She also envisioned the
9 list to be a basis for a provisional denial letter, if
10 warranted, where the individual would have an
11 opportunity to appeal and provide more information at
12 a hearing.

13 Commissioner Johnson stated Act 53 was designed
14 to create a more equitable feel for potential
15 licensees and for the public in general and is not
16 changing the Board's authority or taking away the
17 Board's discretion to determine matters.

18 Commissioner Johnson noted the importance of the
19 Board having a significant role in shaping the guides
20 and expects all Board members to review the lists
21 within the next 30-45 days and add commentary.

22 Commissioner Johnson mentioned the real
23 accomplishment of Act 53 is the connection with the
24 public regarding crimes that are imminently dangerous
25 to society and those that directly implicate the

1 profession, which are the concern of the Board.

2 Chairperson Hample approved the list of crimes as
3 written but requested any substantive additions be
4 presented to the Board first.]

5 ***

6 MS. VANORDER:

7 I believe it would be appropriate to
8 make a motion to proceed with the list
9 as drafted with obvious deletion of the
10 citation to the other two boards, such
11 as we discussed in Section 16,
12 violations of the OT Act.

13 Proceed with the regulatory process
14 and provide any substantive update to
15 the Board for further review.

16 CHAIRPERSON HAMPLE:

17 Could I get a motion? I see a motion.

18 MS. HISCHMANN:

19 So moved.

20 CHAIRPERSON HAMPLE:

21 Second?

22 DR. BAIRD:

23 Second.

24 CHAIRPERSON HAMPLE:

25 Joanne seconded. All in favor?

1 [The motion carried unanimously.]

2

3 [Joanne M. Baird, Ph.D., OTR/L, Vice Chair, questioned
4 whether funds are available for registration fees
5 since everything is virtual.

6 Commissioner Johnson explained that the only cost
7 is the registration fee for virtual conferences, and
8 he would take requests for approval as long as funds
9 are available and it meets guidelines. He noted
10 utilizing primarily online submission for the requests
11 through an online portal. He suggested everyone work
12 with Ms. Townley and information technology (IT) if
13 there are any issues setting up portal access.

14 Chairperson Hample questioned whether anyone
15 going to the Pennsylvania Occupational Therapy
16 Association Conference would like to have their
17 registration covered by the Board. She noted
18 conference dates are in October and November.]

19

20 MS. VANORDER:

21 May I have a motion that all Board
22 members be approved to attend the
23 Pennsylvania Occupational Therapy
24 Association Conference that choose to do
25 so in October 2020.

1 COMMISSIONER JOHNSON:

2 So moved.

3 CHAIRPERSON HAMPLE:

4 Second?

5 MS. GATTY:

6 Second.

7 CHAIRPERSON HAMPLE:

8 All in favor?

9 [The motion carried unanimously.]

10 ***

11 [Christina Townley, Board Administrator, will notify
12 the Board and provide necessary information regarding
13 submitting requests through Ms. Townley or the new
14 portal.]

15 ***

16 [Kerri L. Hample, OTD, OTR/L, Chairperson, noted the
17 next scheduled Board meeting date is December 10,
18 2020.]

19 ***

20 Adjournment

21 CHAIRPERSON HAMPLE:

22 Motion to adjourn.

23 MS. HISCHMANN:

24 So moved.

25 MS. GATTY:

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Second.

CHAIRPERSON HAMPLE:

All in favor?

[The motion carried unanimously.]

[There being no further business, the State Board of Occupational Therapy Education and Licensure Meeting adjourned at 12:14 p.m.]

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.



Kelly Gallick,

Minute Clerk

Sargent's Court Reporting Service, Inc.

STATE BOARD OF OCCUPATIONAL THERAPY
EDUCATION AND LICENSURE
REFERENCE INDEX

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TIME	AGENDA
9:30	Executive Session
10:30	Return to Open Session
10:32	Official Call to Order
10:33	Approval of Minutes
10:34	Report of Regulatory Counsel
10:40	Report of Board Prosecution
10:43	Report of Board Chairperson
11:12	Miscellaneous
12:14	Adjournment