

# STATE OF NEVADA BOARD OF OCCUPATIONAL THERAPY

## MINUTES OF PUBLIC MEETING

March 17, 2012

Reno, Nevada

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Members Present:	Elizabeth (Liz) Straughan, Eric Gerken, David Tanabe, Ronald Tulak, Allison Stephens
Members Absent:	None
Staff Present:	Loretta L. Ponton, Executive Director, Henna Rasul, Senior Deputy Attorney General
Public Present:	Paula Berkley

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The meeting was called to order at 10:20 a.m. by Liz Straughan, Chair. A roll call confirmed a quorum was present.

**Public Comment** – No Public comments were heard.

**Approval of the Agenda** – Allison made a motion, seconded by Ron to approve the agenda. The motion passed.

**Approval of the Minutes** – Liz stated page 4 with clerical corrections has been passed out. Liz asked if there were any comments or additional revisions to the minutes of the meeting of January 21, 2012. No comments or revisions were heard.

Eric made the motion, seconded by Dave to approve the minutes of the January 21, 2012 meeting. The motion passed.

**NRS Bill Draft Request** – Liz asked Paula for her comments. Paula explained the process for review of the Bill Draft and the next steps once the bill is finalized by the Board. Paula stated the BDR may be changed at several levels, LCB may have questions and make changes and the Governor may also make changes. The Bill will then be pre-filed and placed on the internet where everyone will have an opportunity to read it and comment. The bill should also be sent to the Association for their comments and also to the other Boards that may be perceived to be impacted. Scope of practice is the biggest threat to the bill; as other Boards will want to make sure there is no overlap. There will also be new legislators that will not be knowledgeable of what occupational therapy is about, so it important to have the support of other boards and the association.

Loretta explained the Bill Draft document was developed as a result of a meeting with Louis Ling, Paula and herself. The Board's priorities were identified and the language is drafted in the required format for Board's review and approval. Loretta stated the Board had discussed the staggering of terms, and language has been drafted to address that; however, Loretta commented she is concerned about addressing that issue in the BDR, this issue may be better addressed by

other means such as discussing other options with the Governor's office. The Board is not a new board and the staggering of terms language is usually included when Board's are created.

Paula commented that when the bill comes before the legislative committees, she will need to have an OT representative in attendance in order to explain any questions regarding scope of practice that may come up.

Loretta stated that pursuant to Allison's request at the last meeting, research was conducted regarding the NRS 629.031 definition of Provider of health care. The reference was found in 72 documents; however, most are not applicable to the practice of health care, and those that were the Board is already in compliance with. It was determined that it would not place any additional requirements on the Board by being included.

Loretta facilitated the review of the proposed Bill Draft. Discussion of each section was heard with revisions identified in Section 1, definition of occupational therapy; Section 5 regarding compensation of board members if performing staff functions; Section 9 to remove obsolete language and Section 10 to include NBCOT certification as a requirement for a temporary license; Section 3 is pending with the Board directing Loretta and Paula to contact the Governor's office to inquire about the possibility of staggering terms of board members without NRS revisions; and Section 14 is removed. (Exhibit A - BDR as revised)

Eric made the motion, seconded by Allison to accept the proposed NRS bill draft language as revised. The motion passed.

**Investment Options** – Loretta reported that she had several conversations with John Williams, Wells Fargo Investments regarding the status and options for the Board Investments. Loretta stated Mr. Williams recommended staying with the current investment strategy as the small increase in the rate of return would not justify the increased risk associated with investing in other than CD's. Loretta recommended staying with the current strategy of investing in structured CD's.

Loretta provided the Board's Policy 08 Investment of Funds for review, stating the policy includes the strategy of investing in CD's.

Eric stated he had contact with a Wells Fargo employee who stated there are other public entities who have investments with higher returns and that he requested additional information. Eric said if he receives the information requested, he will discuss with Loretta and if appropriate bring it back to the Board.

Loretta stated there is approximately \$125,000 available for investment which is the result of two (2) CD's maturing. Discussion of the interest rates in relation to term of CD investments was heard.

Eric made the motion, seconded by Allison to ratify Policy 08 Investment of Funds with no changes. The motion passed.

**Contract Amendments FY 2013** – Loretta summarized the proposed contract amendments for services during FY 2013.

Numbers Inc. – Loretta stated the bookkeeping contract is proposed to be extended through June 30, 2013 with no increase in rates.

Allison made the motion, seconded by Eric to approve the contract amendment with Numbers Inc. for bookkeeping services for FY 2013. The motion passed.

Louis Ling – Loretta stated the current contract is for legal services that may be necessary during FY 2013. The contracted services would remain at the same rate; not to exceed \$1,199.00.

Ron made the motion, seconded by Eric to approve the contract amendment with Louis Ling for legal services as needed during FY 2013. The motion passed.

**Executive Director’s Report** – Loretta directed the members to the written report in the board packet.

Licensure Statistics – Loretta stated licensure will exceed 800 this year; with anticipated 135 or more new applications being processed during the fiscal year.

Financial Reports – Loretta summarized the financial reports as of January 31, 2012; stating the increased licensing activity will generate more revenue than budgeted. Expenditures are on track to remain within budget.

Disciplinary Actions - Loretta reported she has two (2) pending complaints in process.

GL Suite Enhancements – Loretta reported new enhancements to the on-line renewal process will allow immediate printing of license ID cards upon successful renewal; a second enhancement provides the licensee an Application Summary which is a complete copy of their renewal application which they may print for their records. The summary will allow the licensees to correct any errors prior to submitting the renewal.

Dave asked about security features of the license ID cards; Ron asked if licenses will also be verifiable on the website. Loretta responded the ID cards have watermarks, are read only, cannot be saved, licensees must log-in to the site to access and print ID cards. Licenses can be verified on the website and the ID cards have wording that status can be verified on the website.

Loretta reported the majority of the programming for the enhancements has been completed and minor fixes have been identified. Testing is still in process but it is anticipated the program will be operational for this renewal period. A demo of the program will be available after the meeting.

**Board Member Recruitment** – Discussion of the recruitment process was heard. Loretta summarized the upcoming term limits and previous recruitment strategies. No action was taken.

**Report from Board Chair** – Liz stated there is a conflict with the June 23<sup>rd</sup> meeting date. Discussion of available dates was heard with a consensus that June 9th would be the next scheduled Board meeting with a possibility of holding a retreat. Loretta was instructed to pursue

availability of meeting space for the June 9<sup>th</sup> meeting at the Incline Village Library and to inquire about a presentation on the Nevada Open Meeting Law.

**Report from Legal Counsel** – Henna stated she had nothing else to report.

**Public Comment** – No public comments were made.

**Adjournment** –Dave made the motion, seconded by Allison to adjourn. The motion passed and the meeting was adjourned at 1:40 p.m.

## Exhibit A – Board Revisions

### PROPOSED BILL DRAFT LANGUAGE OF THE NEVADA STATE BOARD OF OCCUPATIONAL THERAPY

March 17, 2012

EXPLANATION – Matter in *italics* is new; matter in brackets [~~omitted material~~] is material to be omitted.

**Section 1.** NRS 640A.050 is hereby amended to read as follows:

“Occupational therapy” means the [~~application of purposeful activity in the~~] **use of** evaluation, teaching and **interventions** [~~treatment, in groups or on an individual basis, of patients who are handicapped by age, physical injury or illness, psychosocial dysfunction, developmental or learning disability, poverty or aspects of culture, to increase their independence, alleviate their disability and maintain their health.~~] **to facilitate** *everyday life activities with individuals, groups, populations, or organizations to support participation, performance and functions in roles and situations in home, school, workplace, community, and other settings. Occupational therapy services are provided for habilitation, rehabilitation and the promotion of health and wellness to those who have or are at risk for developing an illness, injury, disease, disorder, condition, impairment, disability, activity limitation or participation restriction. Occupational therapy addresses the physical, cognitive, psychosocial, sensory-perceptual and other aspects of performance in a variety of contexts and environments to support engagement in occupations that affect physical and mental health, well being and quality of life.* The term includes:

1. Teaching [~~patients~~] **clients** skills for daily living;
2. Assisting [~~patients~~] **clients** in the development of cognitive and perceptual motor skills, and in the integration of sensory functions;
3. Assisting [~~patients~~] **clients** in learning to play and to use their leisure time constructively;

4. Assisting [patients] *clients* in developing functional skills necessary to be considered for employment;
5. Assessing the need for, designing, constructing and training [patients] *clients* in the use and application of selected orthotic devices and adaptive equipment;
6. Assessing the need for prosthetic devices for the upper body and training [patients] *clients* in the functional use of prosthetic devices;
7. Teaching [patients] *clients* crafts and exercises designed to enhance their ability to function normally;
8. Administering to [patients] *clients* manual tests of their muscles and range of motion, and interpreting the results of those tests;
9. Incorporating into the treatment of [patients] *clients* the safe and appropriate use of physical [therapeutic] *agent* modalities and techniques which have been acquired through an appropriate program of education approved by the Board pursuant to subsection 2 of NRS 640A.120, or through a program of continuing education or higher education; and
10. Adapting the environment of [patients] *clients* to reduce the effects of handicaps.

**Section 2.** NRS 640A.070 is hereby amended to read as follows:

This chapter does not apply to a person:

1. Holding a current license or certificate issued pursuant to chapter 391, 630 to 637B, inclusive, 640, 640B to [641B] *641D*, inclusive, of NRS, who practices within the scope of that license or certificate.
2. Employed by the Federal Government who practices occupational therapy within the scope of that employment.
3. Enrolled in an educational program approved by the Board which is designed to lead to a

certificate or degree in occupational therapy, if the person is designated by a title which clearly indicates that he or she is a student.

4. Obtaining the supervised experience necessary to satisfy the requirements of subsection 3 of NRS 640A.120.

~~[5. Practicing occupational therapy in this State in association with an occupational therapist licensed pursuant to this chapter if the person:~~

~~—(a) Practices in this State for not more than 45 days in a calendar year;~~

~~—(b) Is licensed to practice occupational therapy in another state where the requirements for such a license are equivalent to the requirements of this chapter; and~~

~~—(c) Meets the requirements for certification as an “occupational therapist registered” or “certified occupational therapy assistant” established by the American Occupational Therapy Certification Board.]~~

**(PENDING)** Section 3. NRS 640A.080 is hereby amended to read as follows:

1. The Board of Occupational Therapy, consisting of five members appointed by the Governor, is hereby created.

2. The Governor shall appoint to the Board:

(a) One member who is a representative of the general public. This member must not be:

(1) An occupational therapist or an occupational therapy assistant; or

(2) The spouse or the parent or child, by blood, marriage or adoption, of an occupational therapist or an occupational therapy assistant.

(b) One member who is an occupational therapist or occupational therapy assistant.

(c) Three members who are occupational therapists.

3. Each member of the Board must be a resident of Nevada. An occupational therapist or occupational therapy assistant appointed to the Board must:

(a) Have practiced, taught or conducted research in occupational therapy for the 5 years immediately preceding the appointment; and

(b) Except for the initial members, hold a license issued pursuant to this chapter.

4. No member of the Board may serve more than two consecutive terms.

5. ~~[If a vacancy occurs during a member's term, the Governor shall appoint a person qualified under this chapter to replace that member for the remainder of the unexpired term.]~~ *A vacancy on the Board must be filled in the same manner as an original appointment and the person appointed for the vacancy shall serve the remainder of that Board member's term.*

***6. The members of the Board shall be appointed for terms of 3 years.***

**Section 4.** NRS 640A.090 is hereby amended to read as follows:

1. The Board shall:

(a) Hold at least two meetings a year ~~[, the first of which must be held in January. Other meetings may be held]~~ at the call of the Chair or upon the written request of two or more members.

(b) Elect a Chair at the *first* regular meeting ~~[in January]~~ of each year.

(c) Comply with the provisions of chapter 241 of NRS.

2. A majority of the members of the Board constitutes a quorum.

**Section 5.** NRS 640A.100 is hereby amended to read as follows:

1. The members of the Board serve without compensation, except:

***(a) If a member performs staff functions, a salary may be fixed by the Board.***

***(b) [w]*** While engaged in the business of the Board, each member is entitled to the per diem allowance and travel expenses provided for state officers and employees generally.

2. The Board may employ an Executive ~~[Secretary]~~ *Director* and any other employees it deems necessary, establish their duties and fix their salaries.

3. The expenses of the Board and members of the Board, and the salaries of its employees, must be paid from the fees received by the Board pursuant to this chapter, and no part of those expenses and salaries may be paid out of the State General Fund.

**Section 6.** NRS 640A.110 is hereby amended to read as follows:

The Board shall:

1. Enforce the provisions of this chapter *and any regulations adopted pursuant to this chapter*;
2. *Prepare and [M]maintain* a record of its proceedings *and its administrative activities*;
3. Evaluate *and determine* the qualifications of an applicant for a license as an occupational therapist or occupational therapy assistant ~~[and, upon payment of the appropriate fee, issue the appropriate license to a qualified applicant]~~;
4. Adopt regulations establishing standards of practice for persons licensed pursuant to this chapter and any other regulations necessary to carry out the provisions of this chapter; ~~[and]~~
5. ~~[Require a person licensed pursuant to this chapter to submit to the Board such documentation or perform such practical demonstrations as the Board deems necessary to determine whether the licensee has acquired the skills necessary to perform physical therapeutic modalities.]~~ *Issue, renew, reinstate, deny, and discipline licenses as appropriate;*
6. *Investigate complaints filed with the Board; and*
7. *Transact any other business necessary for the Board to carry out its duties.*

**Section 7.** NRS 640A.120 shall be amended to read as follows:

To be eligible for licensing by the Board as an occupational therapist or occupational therapy assistant, an applicant must:

1. Be a natural person of good moral character.
2. Except as otherwise provided in NRS 640A.130, have satisfied the academic requirements

of an educational program approved by the Board. The Board shall not approve an educational program designed to qualify a person to practice as:

(a) An occupational therapist unless the program is accredited by the ~~[Commission on Accreditation of Allied Health Education Programs of the American Medical Association in collaboration with]~~ *Accreditation Council for Occupational Therapy Education of the American Occupational Therapy Association, Inc. or its successor organization.*

(b) An occupational therapy assistant unless the program is *accredited* ~~[approved]~~ by the *Accreditation Council for Occupational Therapy Education of the American Occupational Therapy Association, Inc., or its successor organization.*

3. Except as otherwise provided in NRS 640A.130, have successfully completed:

(a) If the application is for licensing as an occupational therapist, 24 weeks; or

(b) If the application is for licensing as an occupational therapy assistant, ~~[8]~~ *16* weeks,

↳ of supervised *fieldwork* experience ~~[approved by the Board. The Board shall not approve any supervised experience unless the experience was]~~ sponsored by the American Occupational Therapy Association, *Inc. or its successor organization* or the educational institution at which the applicant satisfied the requirements of subsection 2.

4. Except as otherwise provided in NRS 640A.160 and 640A.170, pass an examination approved by the Board.

**Section 8.** NRS 640A.150 is hereby amended to read as follows:

1. The Board shall ~~[;~~

~~(a) Approve an examination]~~ *approve the examinations* for licensing as an occupational therapist and ~~[an examination]~~ for licensing as an occupational therapy assistant ~~[;~~

~~—(b) Establish the requirements to pass each examination;~~

~~—(c) Offer each examination at least twice each year at such places and under such conditions~~

as it determines; and

~~—(d) Provide reasonable public notice of the time and place of each examination] .~~

2. Each examination must be in writing and be designed to test an applicant's knowledge of:

(a) The basic and clinical sciences relating to occupational therapy;

(b) The techniques and methods of occupational therapy; and

(c) Any other subjects the Board requires to determine the fitness of an applicant to practice occupational therapy.

~~—[3. A person who has satisfied the requirements of NRS 640A.140 may take the appropriate examination for licensing. An applicant who fails the examination may retake the examination no more than twice.]~~

**Section 9.** NRS 640A.160 shall be amended to read as follows:

The Board may issue, without examination, a license as an occupational therapist or occupational therapy assistant to a person who has the qualifications required pursuant to subsections 1, 2 and 3 of NRS 640A.120 and who is ~~f~~:

~~—1. Certified] *certified* [after June 18, 1991, by the American Occupational Therapy Certification Board] *by the National Board for Certification in Occupational Therapy, or its successor organization.* [~~f~~, if the Board of Occupational Therapy determines that the requirements to obtain that certification are equivalent to the requirements for licensing pursuant to this chapter.~~

~~2. Licensed as an occupational therapist or occupational therapy assistant in another state or territory of the United States, if the Board determines that the requirements to obtain that license are equivalent to the requirements for licensing pursuant to this chapter.]~~

**Section 10.** NRS 640A.170 shall be amended to read as follows:

1. The Board may issue, without examination, a temporary license to a person who has the

qualifications required pursuant to subsections 1, 2 and 3 of NRS 640A.120 [~~—A temporary license:~~

~~—(a) Authorizes the person to whom it is issued to practice occupational therapy only under the general supervision of an occupational therapist licensed pursuant to this chapter; and~~

~~—(b) Is] and who:~~

*(a) Is certified by the National Board for Certification in Occupational Therapy or its successor organization; and*

*(b) Is licensed and in good standing as an occupational therapist or occupational therapy assistant in another state or territory of the United States; or*

*(c) Has completed the educational requirements pursuant to NRS 640A.120 but has not achieved a passing score on the examination required by NRS 640A.150. A person who receives a temporary license pursuant to this subsection may only practice occupational therapy under the general supervision of an occupational therapist licensed pursuant to this chapter.*

*2. A temporary license issued pursuant to this section is* valid for 6 months or until the person to whom it is issued otherwise obtains a license pursuant to this chapter, whichever occurs first.

~~[2.]~~ **3.** The Board may renew a temporary license no more than once and may revoke a temporary license for any of the grounds set forth in NRS 640A.200.

**Section 11.** NRS. 640A.180 shall be amended to read as follows:

1. Except as otherwise provided in NRS 640A.170, a license issued pursuant to this chapter expires *not less than* annually unless renewed in the manner established pursuant to the regulations of the Board, which may include requirements for continuing education.

2. The Board may adopt regulations providing for the late renewal of a license *and*

*reinstatement of an expired license*, except that the Board may not *reinstate* ~~[renew]~~ a license if 5 years have passed since its expiration.

3. The Board may, at the request of a person licensed pursuant to this chapter, place the license on inactive status if the person:

(a) Does not practice occupational therapy, or represent that the person is authorized to practice occupational therapy, in this State; and

(b) Satisfies any requirements for continuing education established by the Board.

**Section 12.** NRS 640A.230 is hereby amended to read as follows:

1. Except as otherwise provided in NRS 629.091, a person shall not practice occupational therapy, or represent that he or she is authorized to practice occupational therapy, in this state unless he or she holds a current license issued pursuant to this chapter.

2. ~~[A licensed occupational therapist shall directly supervise the work of any person who assists him or her as an aide or technician.]~~

~~3.]~~ A person who violates any provision of this section is guilty of a misdemeanor.

**Section 13.** NRS 629.031 is hereby amended to read as follows:

Except as otherwise provided by a specific statute:

1. “Provider of health care” means a physician licensed pursuant to chapter 630, 630A or 633 of NRS, physician assistant, dentist, licensed nurse, dispensing optician, optometrist, practitioner of respiratory care, registered physical therapist, *occupational therapist*, podiatric physician, licensed psychologist, licensed marriage and family therapist, licensed clinical professional counselor, music therapist, chiropractor, athletic trainer, perfusionist, doctor of Oriental medicine in any form, medical laboratory director or technician, pharmacist, licensed dietitian or a licensed hospital as the employer of any such person.

2. For the purposes of NRS 629.051, 629.061, 629.065 and 629.077, the term includes a facility that maintains the health care records of patients.

**REMOVED SECTION 14.**