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STATE OF NEVADA BOARD OF OCCUPATIONAL THERAPY

MINUTES OF PUBLIC MEETING

August 12, 2017

Members Present: Linda Frasier, Elizabeth Straughan, Allison Stone, Stacey Henderson, Sol Magpantay

Members Absent: None

Staff Present: Loretta L. Ponton, Executive Director,
Asheesh Bhella, Sr. Deputy Attorney General, Board Counsel
Sophia Long, Deputy Attorney General, Prosecuting Counsel

Public Present: Paula Berkley, Paula Cook, Belinda Garey, Allen Espelita

Linda Frasier, Chair, called the meeting to order at 10:00 a.m. A roll call confirmed a quorum was present.

Ms. Frasier asked the individuals present to introduce themselves and welcomed everyone.

Public Comments – No public comments were made at this time.

Public Workshop

Loretta Ponton explained the purpose of the workshop is to solicit comments on the proposed regulations. The proposed regulation adds definitions for “primary supervisor” and “treating occupational therapist” and revises the definition of “Active” license by changing the license type to “Standard” license to clarify the difference between a status of active or inactive. The regulation also adds provisions regarding license by endorsement; establishes a reduced fee for active members of the armed forces, veterans and their family members. The regulations adds a provision pertaining to professional responsibilities to address frequency of direct client contact. Language has been added to clarify the duties of a primary supervisor and treating occupational therapists; establishes limitations regarding supervision of occupational therapy assistants and provisional licensees; and clarifies what duties may be delegated to an occupational therapy aide or technician. In conformance with state law, the regulation also removes a private reprimand as an allowable disciplinary.

Ms. Ponton stated that public comments would be heard in an open forum as each section of the proposed regulation is considered.

Ms. Ponton summarized each section of the regulation with discussions on each section. Ms. Ponton stated that two written comments were received. Ms. Heather Gaylord requested consideration of adding “gender identity or gender expression” following paragraph (h) to Section 640A.220 paragraph 2. Which reads:

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A licensee: 2. Shall not practice, condone, facilitate or collaborate in any type of discrimination toward a patient based on the patient's: (h) sexual orientation.

Public comments received indicated this request would be appropriate to be added to the regulation.

Kittima Conrad submitted a written comment stating, "I think to have a supervisor in the facility that both OT/OTA are working together; rather than having supervision of an OTA at another facility." Public comments were made indicating this request would not be appropriate for all practice settings.

Upon conclusion of the public comments and discussion, there was consensus to make the following revisions and clarifications:

- Remove reference to jurisprudence exam in the License by endorsement requirements;
- Add jurisprudence exam to eligibility criteria for all license types and for reinstatement;
- Add jurisprudence exam as required for continuing education every 5 years;
- Clarify in the fees descriptions the "standard" license and "status" of active;
- Incorporate the additional references to gender identity or gender expression, to NAC 640A.220.

Hearing no further comments, the Public Workshop was closed at 10:58 a.m.

Board Meeting

Linda Frasier stated the next item to be considered will be the Disciplinary Hearing which will be taken out of order.

Disciplinary Hearing - Complaint No. C17-01, Santilla Terry OTR, License No. 16-0743

Linda Frasier recused herself from the Hearing, turning the Hearing over to Elizabeth Straughan, Vice Chair to preside.

Sofia Long introduced herself stating she will be prosecuting the case before the Board. Ms. Long called Loretta Ponton, Executive Director who was sworn in to provide testimony to the facts in the case.

Ms. Long introduced Exhibit 1, Complaint and Notice of Hearing noting a clerical error in the date in paragraph 2 a. that should read December 10, 2002. Ms. Long stated Ms. Terry was provided notice of the complaint and hearing, no response was received from Ms. Terry.

Allison Stone made the motion, seconded by Sol Magpantay that Notice Proper had been given and Exhibit 1 was to be entered into the record. The motion passed.

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Ms. Ponton testified to the accuracy of the facts contained in the Complaint and Notice of Hearing.

Ms. Long submitted Exhibit 2, License Application of Santila Terry. Elizabeth Straughan accepted Exhibit 2 to enter as evidence in the case.

Ms. Ponton testified Exhibit 2 was a copy of the original application submitted by Ms. Terry and to the information contained on the application, including professional licensing history and certification of Ms. Terry by notarized signature to be true, accurate and complete.

Ms. Long submitted Exhibit 3, Illinois Department of Financial and Professional Registration, Lookup Detail View of the status of Santila Latoi Terry occupational therapy license. Elizabeth Straughan accepted Exhibit 3 to enter into evidence in the case.

Ms. Ponton testified that the Illinois license information was not disclosed on the original application for licensure in Nevada, the Illinois license Lookup indicates Santila Terry's occupational license was suspended 06/24/16, prior to the date of application to Nevada.

Ms. Long concluded testimony in the case and submitted the case to the Board for deliberation.

Allison Stone made the motion to accept that all six (6) allegations and violations of law as true. Sol Magpantay seconded the motion. The motion passed.

Allison Stone made the motion, seconded by Sol Magpantay to revoke Santilla Terry's occupational therapy license, license number 16-0743 for twelve (12) years, two years for each of six counts. The motion passed.

Elizabeth Straughan returned the meeting back to Linda Frasier, Chair.

Linda Frasier adjourned the meeting for a break at 11:20 a.m., the meeting resumed at 11:27 a.m. A quorum was confirmed present.

Approval of Minutes - Linda Frasier asked if there were any comments or revisions to the minutes of the meeting of April 8, 2017. One clerical correction was requested on page 1, Legislative Report. Hearing no other comments, Linda Frasier called for a motion.

Elizabeth Straughan made the motion, seconded by Allison Stone to approve the minutes of April 8, 2017. The motion passed.

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Disciplinary Actions - Linda Frasier asked Loretta Ponton to facilitate.

Ms. Ponton stated Case C17-02 is presented for consideration of formal dismissal. After review of all documentation received, it was determined there is insufficient evidence to establish a violation of Chapter 640A of the Nevada Revised Statutes and the Nevada Administrative Code.

Linda Frasier called for a motion on Case No. C17-02.

Allison Stone made the motion, seconded by Elizabeth Straughan to dismiss Case No. C17-02. The motion passed.

Legislative Report - Linda Frasier called on Paula Berkley to provide her legislative report. Paula Berkley provided a written summary of the 2017 Legislative Session bills that were tracked and those that were passed.

Ms. Berkley highlighted the bills and issues that will affect the Board, both administratively and in the future. Additional reporting requirements include more information on veterans in two bills, AB19 and SB 137; AB 403 allows the Legislative Commission to suspend or nullify regulations that are no longer being administered or interpreted in a manner consistent with the stated intention when adopted; and SB507 revised the structure of interim legislative committees to align with legislative committees.

Board bills included the attempt to consolidate the four (4) behavioral health boards, which was not successful; however, additional very stringent reporting requirements were imposed on those boards. The Massage Therapy Board added reflexology and structural integration as new license types. Oriental Medicine Board was restructured, increasing the number of Board members. Physical Therapy and Chiropractic Boards both had bills that died due to contention between the Boards; the Physical Therapy Board ultimately was able to incorporate their revisions into the PT Association bill that passed. The Dental Board bill added administrative and fiscal accountability measures including adding an intermediary panel to review investigations.

Ms. Berkley concluded her report stating the Legislative Session was very volatile with a lot of dissention, which makes it difficult to move bills forward as politics take hold. There were over a thousand bills to be heard in a 90-day period.

Linda Frasier adjourned the meeting for lunch at 12:32 p.m.; the meeting resumed at 1:02 p.m. A quorum was confirmed present.

Executive Director Performance Review - Linda Frasier stated that each member was provided the evaluation review forms, the review would be conducted orally. Each member was called upon to give their assessment of the performance of Executive Director, Loretta Ponton, with a consensus that the Executive Director's performance continues to be outstanding.

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Linda Frasier stated that Ms. Ponton is requesting a change in salary and benefits and asked Loretta to explain.

Loretta Ponton stated the 2017 Legislature provided a 3% increase to state employees for FY 18 and FY 19. The Office of the Governor in 2010 directed that the salaries of Board staff be

equivalent to that of similar positions within the state. The Board in 2014 established staff positions and wage ranges utilizing the state classification and compensation schedules.

Ms. Ponton requested the Board approve an increase of 3% for FY 18 and FY 19 commensurate with the increases for state employees.

In addition, Ms. Ponton stated she is requesting an increase of 5 hours per month in personal time off, from 240 hours per year (6 weeks) to 300 hours per year (7.5 weeks); and an equivalent increase in maximum number of hours payable upon separation.

After discussion, Linda Frasier called for a motion on the increase in salary.

Elizabeth Straughan made the motion, seconded by Allison Stone to approve a 3% salary increase for both FY 18 and FY 19. The motion passed.

Linda Frasier called for a motion on benefits.

Allison Stone made the motion, seconded by Elizabeth Straughan to approve an increase in personal time off (PTO) of 5 hours per month for a total of 300 hours per year and increase the maximum number of hours payable upon separation to 300 hours. The motion passed.

Personnel Policies and Procedures - Linda Frasier asked Loretta Ponton to present.

Ms. Ponton stated that the Licensing Specialist position is currently vacant. The position duties and responsibilities have been analyzed based upon the current and future needs of the Board; and have been revised to address the need for more administrative duties and responsibilities in addition to licensing functions. The salary range has also been revised comparable to an Administrative Assistant II in state employment, as established for FY 2018.

As previously mentioned, the State salary ranges will be adjusted again in FY 19 pursuant to Legislative action.

Ms. Ponton stated she is requesting the Board to approve the new job specification and salary range and additional salary range adjustment for FY 19.

Linda Frasier called for a motion.

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Allison Stone made the motion, seconded by Elizabeth Straughan to approve the revised licensing specialist position specification. The motion passed.

Elizabeth Straughan made the motion, seconded by Allison Stone to approve the salary range adjustment for FY 18 and FY 19. The motion passed.

Fiscal Year 2018 Budget - Loretta Ponton reported that GL Solutions will be raising the cost for the licensing system by 175%; and that the vendor continues to be difficult to work with. Based on previous issues and the upcoming increase in cost, it is time to move forward with a new vendor.

An informal solicitation was issued July 17, 2017. A proposal has been received from Albertson Consulting, Inc. with a proposed timeline for full implementation of six (6) months. The program has been previewed through an on-line demonstration and Albertson Consulting has provided outstanding references from similar licensing Boards. The annual licensing support cost would be at a reduced cost of \$7,200 per year for five years; effective after full implementation.

Ms. Ponton stated she is requesting the Board to approve moving forward with a contract with Albertson Consulting.

Elizabeth Straughan made the motion, seconded by Allison Stone, to approve the Executive Director to execute a contract with Albertson Consulting, Inc., not to exceed \$24,500 for the development and implementation of a COTS regulatory licensing system. The motion passed.

Loretta Ponton continued with presentation of the proposed FY 2018 Budget. Ms. Ponton reported revenue projects an 11% increase over FY 17 with operating expenses increased by 6%, which includes the staffing costs and licensing system costs approved earlier and answered questions on specific line items.

Linda Frasier called for a motion.

Sol Magpantay made the motion to approve the Fiscal Year 2018 Budget as presented. Allison Stone seconded the motion. The motion passed.

Executive Director's Report - Loretta Ponton directed the members to the written report, summarizing licensure statistics, and stated the financial reports as of June 30, 2017 are unaudited.

Financial Reports - Ms. Ponton reported revenue for FY 17 is at 100% of budget with expenses at 94.12%. Net income after all expenses and unrealized investment loss is \$11,105.44. Cash assets have increased to \$850,715.

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Seminars - Ms. Ponton stated the seminars will be held October 11 and 12; with Deborah Slater of AOTA as the featured presenter. The seminar title will be “Hot Topics in Ethics: Telehealth, Productivity and More! The seminars will be from 1:00 - 5:00 p.m. in both Reno and Las Vegas.

Complaints - Ms. Ponton reported that one complaint is in the investigative process.

Report from Board Chair - Linda Frasier set the next meeting date as October 28th in Reno.

Future agenda items will be a Hearing and possible adoption of the proposed regulations.

Legal Report - Asheesh Bhella stated there was nothing to report.

Public Comments – There were no public in attendance at this time.

Adjournment – Linda Frasier called for a motion to adjourn. Allison Stone made the motion, seconded by Liz Straughan to adjourn. The motion passed.

The meeting adjourned at 1:48 p.m.