

## **AGENDA**

### **OCCUPATIONAL THERAPY LICENSING BOARD**

**September 17, 2013 – 9:00 a.m.**

**Room 475 – 4th Floor**

Heber M. Wells Building

160 E. 300 S. Salt Lake City, Utah

*This agenda is subject to change up to 24 hours prior to the meeting.*

#### **ADMINISTRATIVE BUSINESS:**

1. Sign Per Diem
2. Call Meeting to Order
3. Introduction of Debra Hobbins, DNP, Bureau manager
4. Administer Oath of Office to new Board members, Loriann Helgeson, Van Neilson and JoAnne Wright
5. Election of Board Chair
6. Review and approve June 26, 2012 minutes

#### **BOARD BUSINESS/DISCUSSION ITEMS:**

1. Environmental Scan -discussion of issues and updates regarding the occupational therapy profession
2. Discussion regarding OTA supervision
3. Open and Public Meetings Act Training (changes were made during the 2013 Legislative session)
4. Licensing statistics

**Next Scheduled Meeting:** To Be Determined

**Note:** In compliance with the Americans with Disabilities Act, individuals needing special accommodations (including auxiliary communicative aids and services) during this meeting should notify, Dave Taylor, ADA Coordinator, at least three working days prior to the meeting. Division of Occupational & Professional Licensing, 160 East 300 South, Salt Lake City, Utah 84115, 801-530-6628 or toll-free in Utah only 866-275-3675

# REVISED CHECKLIST FOR PUBLIC MEETINGS

(Fill in the blanks to correspond to each respective board, commission, or committee.)

I am, \_\_\_\_\_, chairperson of the Occupational Therapy Licensing Board.

I would like to call this meeting of the Occupational Therapy Licensing Board to order.

It is now (time) \_\_\_\_\_ : \_\_\_\_\_ am on September 17, 2013.

This meeting is being held in Room 475 of Heber Wells Building in Salt Lake City UT.

Notice of this meeting was provided as required under Utah's Open Meeting laws.

In compliance with Utah's Open Meetings laws, this meeting is being recorded in its entirety. The recording will be posted to the Utah Public Notice Website no later than three business days following the meeting.

In compliance with Utah's Open Meeting laws, written minutes will also be prepared of this meeting. Appropriately marked "pending approval" minutes will be available to the public no later than 30 days after the close of the meeting. "Approved" minutes will be posted to the Utah Public Notice Website no later than three business days after approval.

The following Board members are in attendance:

	YES	NO
<u>Leslie Adler</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<u>Mary Gainer</u>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<u>Loriann Helgeson</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<u>Van A. Neilson</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<u>JoAnne Wright, Ph.D.</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

The following Board members are absent: (Refer to the above list.)

The following individuals representing DOPL and the Department of Commerce are in attendance:

	YES	NO
<u>Mark B. Steinagel</u> , Division Director	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<u>Debra Hobbins</u> , Bureau Manager	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<u>Shirlene Kimball</u> , Board Secretary	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<u>BOYCE BARNES</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>

We welcome any visitors and interested persons at this time. Please be sure to sign the attendance report for the meeting and identify yourself before speaking.

As a courtesy to everyone participating in this meeting, at this time we ask for all cell phones, pagers, and other electronic devices to be turned off or changed to silent mode.

Board motions and votes will be recorded in the minutes.

Let us now proceed with the agenda.

(End of the Meeting) It is now (time) 10 : 00 (am) pm), and this meeting is adjourned.

**MINUTES**

**UTAH  
OCCUPATIONAL THERAPY  
LICENSING BOARD  
MEETING**

**June 26, 2012**

**Room 402 – 4<sup>th</sup> Floor – 1:00 P.M.  
Heber Wells Building  
160 East 300 South  
Salt Lake City, Utah**

**CONVENED:** 1:03 P.M.

**ADJOURNED:** 2:04 P.M.

**Bureau Manager:**  
**Board Secretary:**

Richard Oborn  
Lee Avery

**Board Members Present:**

Eunice Zee-Chen, Chairperson  
Shari Bloom, PA-C, participated via phone  
Christopher Noren  
Leslie Adler

Board Members Absent:

Mary Heigert-Gainer

**TOPICS FOR DISCUSSION**

**DECISIONS AND RECOMMENDATIONS**

**ADMINISTRATIVE BUSINESS:**

Read and approve the Minutes

Ms. Adler motioned to approve the minutes of September 10, 2011, seconded by Mr. Noren. The motion carried unanimously.

**APPOINTMENTS:**

Deb Bielek, request for approval to supervise 2 COTAs

Ms. Bielek participated via phone. Mr. Oborn reviewed the request for additional supervisees from Jason Henrie. The Board reviewed his resume. The Board expressed concern regarding the length of time Mr. Henrie has held his license and the amount of hours he is currently working. Mr. Henrie was issued his license June 23, 2010. The Board noted that the statute means a supervisor can supervise 2 supervisees at a time. It does not matter if the supervisees are at different locations and employers. The Board advised Ms. Bielek that if Mr. Henrie does not supervise

COTAs within the facility then he can supervise two COTAs in the home health environment. If the facility wants him to supervise two COTAs within the facility, then he cannot, by statute, supervise two COTAs in the home health environment. The Board noted that he could work in other areas of occupational therapy; however, he cannot supervise more than two COTAs. Ms. Adler motioned to deny Ms. Bielek's request because the Board feels Mr. Henrie's experience is not sufficient and he is still in the learning curve of a new licensee, seconded by Mr. Noren. The motion carried unanimously.

### **DISCUSSION ITEMS:**

1. Review of form to be used for requests to supervise additional COTAs

The Board reviewed a proposed form that would be used by an OT when requesting Board approval to supervise additional COTAs. Mr. Oborn stated that with Board approval, the Division will post this on the DOPL website. The Board expressed its approval for the Division to use this form.

Mr. Oborn reviewed statistics regarding other states supervisor requirements. Some states do not have a limit. Other states have a specific standard. The Board noted that the average is two to three COTAs to one OT.

2. Election of new Board chairperson

Mr. Oborn noted that Ms. Chen's term on the Board expires June 30, 2012. She completed the last year of another Board member's term plus one full term. The Board thanked Ms. Chen for her dedication and service to the Board and industry. Mr. Oborn noted that Ms. Bloom's term on the Board will end June 30, 2012. The Board thanked Ms. Bloom for her dedication and service to the Board and industry. The Board decided to not elect a new chair at this Board meeting.

3. Licensing statistics

Mr. Oborn advised the Board that currently there are 593 licensed OTs and 328 licensed COTAs.

4. Annual Open and Public Meetings Act training

Mr. Oborn reviewed the Open and Public Meetings Act training with the Board.

5. OTA supervision

Discussed above.



**REQUEST FOR AN OCCUPATIONAL THERAPIST (OT) TO SUPERVISE  
MORE THAN 2 OCCUPATIONAL THERAPIST ASSISTANTS (OTAs)**

The State of Utah's Occupational Therapy Licensing Act, 58-42a-306, Supervision Requirements, reads as follows:

*"The supervising OT shall perform the following functions:*

- (1) Write or contribute to an individual treatment plan;*
- (2) Approve and co-sign on all modifications to the treatment plan;*
- (3) Perform an assessment of the patient before referring the patient to a supervised OTA for treatment;*
- (4) Meet face-to-face with the supervised OTA as often as necessary but at least once every 2 weeks, to adequately provide consultation, advice, training, and direction;*
- (5) Meet with each patient who has been referred to a supervised OTA at least once each month, unless otherwise approved by the Division in collaboration with the Board, to further assess the patient, evaluate the treatment, and modify the individual's treatment plan;*
- (6) **Limit supervision to not more than 2 OTAs unless otherwise approved by the Division in collaboration with the Board;** and*
- (7) Remain responsible for patient treatment provided by the occupational therapist assistant."*

- Applicant Name: \_\_\_\_\_
- Applicant Utah License Number: \_\_\_\_\_
- All other states the Applicant is licensed in as an OT: \_\_\_\_\_  
\_\_\_\_\_
- Total years Applicant has been licensed as an OT (in any state): \_\_\_\_\_
- Summary of the education, employment history, etc. (attach résumé if desired): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- Summary of the experience supervising COTAs in the past (if any); please specify the practice area and setting, the length of supervision, and the location(s) in which the supervision took place: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

• Summary of the current responsibilities beyond supervision of COTAs: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

• Name of each COTA that the you are proposing to supervise, their license numbers, the number of years each of them has been licensed in Utah, and the location(s) of supervision for each: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

• Description of the work each COTA will be doing under supervision and the number of hours each of them will work per week: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

• Description of the level of supervision that you will provide to the COTAs, and the number of hours that the you will do on-site supervision vs. off-site consulting: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I certify that to the best of my knowledge, the information contained in this request is free of fraud, forgery, misrepresentation, and omission of material fact; is truthful, correct, and complete; discloses all relevant material facts; and that I will update or correct the information, as necessary, before any action is taken regarding my request.

Signature of Applicant: \_\_\_\_\_ Date of Signature: \_\_\_ / \_\_\_ / \_\_\_

**R156. Commerce, Occupational and Professional Licensing.**

**R156-42a. Occupational Therapy Practice Act Rule.**

**R156-42a-101. Title.**

This rule is known as the "Occupational Therapy Practice Act Rule".

**R156-42a-102. Definitions.**

In addition to the definitions in Title 58, Chapters 1 and 42a, as used in Title 58, Chapters 1 and 42a, or this rule:

(1) "General supervision", as used in Section 58-42a-304 and Subsection R156-42a-302b(2), means the supervising occupational therapist is:

(a) present in the area where the person supervised is performing services; and  
(b) immediately available to assist the person being supervised in the services being performed.

(2) "Consult with the attending physician", as used in Subsection 58-42a-501(6), means that the occupational therapist will consult with the attending physician when an acute change of patient condition affects the occupational therapy services being performed.

(3) "Physical agent modalities", as used in Subsection 58-42a-102(9)(g), means specialized treatment procedures that produce a response in soft tissue through the use of light, water, temperature, sound or electricity such as hot packs, ice, paraffin, and electrical or sound currents.

(4) "Unprofessional conduct" as defined in Title 58, Chapters 1 and 42a, is further defined, in accordance with Subsection 58-1-203(1)(e), in Section R156-42a-502.

**R156-42a-103. Authority - Purpose.**

This rule is adopted by the Division under the authority of Subsection 58-1-106(1)(a) to enable the Division to administer Title 58, Chapter 42a.

**R156-42a-104. Organization - Relationship to Rule 156-1.**

The organization of this rule and its relationship to Rule R156-1 is as described in Section R156-1-107.

**R156-42a-303. Renewal Cycle - Procedures.**

(1) In accordance with Subsection 58-1-308(1), the renewal date for the two-year renewal cycle applicable to licenses under Title 58, Chapter 42a is established by rule in R156-1-308a.

(2) Renewal procedures shall be in accordance with Section R156-1-308c.

**R156-42a-502. Unprofessional Conduct.**

"Unprofessional conduct" includes:

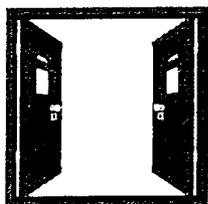
(1) delegating supervision, or occupational therapy services, care or responsibilities not authorized under Title 58, Chapter 42a or this rule;

(2) engaging in or attempting to engage in the use of physical agent modalities when not competent to do so by education, training, or experience;

(3) failing to provide general supervision as set forth in Title 58, Chapter 42a and this rule; and

(4) violating any provision of the American Occupational Therapy Association Code of Ethics, last amended April 2005, which is hereby adopted and incorporated by reference.

## Open and Public Meetings Act Training



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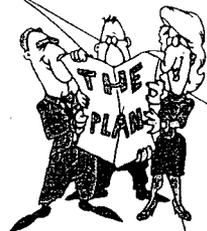
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## Training Outline

- Background
- Public Policy
- Definitions
- General Rule
- Notice Requirements
- Minutes of Open Meetings
- Closing a Meeting
- Record of Closed Meetings
- Electronic Meetings
- Disruptive Behavior
- Litigation and Enforcement



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## Background - Training Requirement- §52-4-104

The presiding officer of each public body is responsible to ensure that all members of the public body are provided with annual training on the Open and Public Meetings Act.



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### Definitions - §52-4-103(7)

"Public body" means any administrative, advisory, executive, or legislative body of the state or its subdivisions that:

1. is created by the Utah Constitution, a statute, rule, ordinance, or resolution;
2. consists of two or more persons;
3. expends, disburses or is supported in whole or part by tax revenue; and
4. is vested with the authority to make decisions regarding the public's business.

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### Definitions - §52-4-103(9)(a)

"Quorum" means a simple majority of membership of a public body, unless otherwise defined by applicable law.



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### Definitions - §52-4-103(8)

- "Public statement" means a statement made in the ordinary course of business of the public body with the intent that all other members of the public body receive it.



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### **Agenda Requirements - §52-4-202(6)**

- A public notice that is required to include an agenda must be specific enough to notify the public as to the topics to be considered at a meeting.
- Except for emergency meetings, a public body may not consider a topic that is not listed under a properly noticed agenda.
- A topic not included on an agenda that is raised by the public during an open meeting may be discussed but no final action may be taken at that meeting.

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### **Minutes and Recordings of Open Meetings - §52-4-203**

- Except for site visits and field tours, written minutes and recordings must be kept of all open meetings.
- The minutes and recordings are public records, but minutes are the official record of action taken.
- Anyone in attendance can make their own recording unless it interferes with the conduct of the meeting.



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### **Minutes and Recordings of Open Meetings - §52-4-203(2)**

Written minutes and recordings must include:

- the date, time and place of the meeting;
- the names of members present and absent;
- the substance of all matters proposed, discussed, or decided, which may include a summary of comments made by members of the public body;
- a record by individual member, of votes taken;

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### Closing a Meeting - §52-4-204

Closed meetings are never required, but may be held provided:

- a. a quorum is present;
- b. two-thirds of the members in a properly noticed open meeting vote to close the meeting;
- c. the only matters discussed in the closed meeting are those permitted in Section 52-4-205; and
- d. no ordinance, resolution, rule regulation, contract or appointment is approved in the closed meeting.



NO ADMITTANCE

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### Closing a Meeting - §52-4-204(4)

The following must be publicly announced and entered on the minutes of the open meeting:

- the reason or reasons for holding a closed meeting;
- the location where the closed meeting will be held; and
- the vote by name, of each member of the public body, either for or against the motion to hold a closed meeting.



NO ADMITTANCE

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### Closing a Meeting - §52-4-205

The purposes for closing a meeting include:

- discussion of the character, professional competence, or physical or mental health of an individual;
- strategy sessions to discuss pending or reasonably imminent litigation;
- deployment of security personnel, devices, or systems; and
- investigative proceedings regarding allegations of criminal misconduct.



NO ADMITTANCE

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### Electronic Meetings - §52-4-207(2)

A public body may not hold an electronic meeting unless it has adopted a resolution, rule, or ordinance governing the use of electronic meetings. Commerce R151-1-2 provides:



- Such meetings are permitted but may be limited based on budget, public policy, or logistical considerations
- A director or designee may establish such meetings on his or her own initiative or acting upon a timely request from a board member.
- A quorum of a board is not required to be present at a single anchor location.
- Any number of separate connections are permitted unless limited based upon available equipment, etc.

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### Electronic Meetings - §52-4-207(3)

A public body convening or conducting an electronic meeting must:

- give public notice under Section 52-4-202;
- post written notice at the anchor location(s);
- provide at least 24-hour notice to the public body, including how members will be connected, so members may participate in and be counted as present for all purposes;
- establish one or more anchor locations, at least one of which must be in the normal meeting location; and
- provide space and facilities at the anchor location so interested persons and the public can attend, monitor and participate.

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### Definitions - §52-4-103

- "Electronic meeting" means a public meeting convened or conducted by means of a conference using electronic communications.
- "Anchor location" means the physical location from which an electronic meeting originates or the participants are connected.
- "Participate" means the ability to communicate with all of the members of a public body, either verbally or electronically, so that each member of the public body can hear or observe the communication.

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## Criminal Penalty for Improperly Maintaining Records - §63A-12-105

Intentionally mutilating, destroying, or otherwise damaging or disposing of the record-copy of a record knowing it is in violation of the laws governing retention of the record is a class B misdemeanor and the employee involved may also be subject to disciplinary action.



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## Enforcement of Open and Public Meetings Act - §52-4-303

- The attorney general and county attorneys are responsible for enforcement of the Open and Public Meetings Act.
- The attorney general is required on at least a yearly basis to provide notice to all public bodies of any material changes to the Open and Public Meetings Act.
- A person denied any right under the Act may bring suit to compel compliance with or enjoin violations or determine the applicability of the Act, and may be awarded attorney fees and court costs if successful.

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## Action Challenging Closed Meeting - §52-4-304

- In a lawsuit brought to challenge the legality of a closed meeting a court is required to review the recording or written minutes of the closed meeting in camera, and decide the legality of the closed meeting.
- If the court determines that the public body did not violate the Act regarding closed meetings, it must dismiss the case without disclosing or revealing the information from the recording or minutes of the closed meeting.
- If the court determines the public body did violate the Act regarding closed meetings, it must publicly disclose or reveal from the recording or minutes all information about the portion of the meeting that was illegally closed.

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