

BOARD OF OCCUPATIONAL THERAPY MINUTES

DATE: March 17, 2016

TIME: 10:00 AM CST

LOCATION: Poplar Conference
Room
665 Mainstream Drive, 1st Floor
Nashville, TN 37243

MEMBERS PRESENT: Amy Burba, OT, Chair - Presiding Officer
Louis Tucciarone Jr.,
OT Marilyn Franklin,
OTA

MEMBERS ABSENT: William Daniel, Consumer Member
Anita Mitchell, OT

STAFF PRESENT: Michael Sobowale, Board Director
Lakita Taylor, Unit Manager
Zandra Pickett, Board Administrator
Tom Aumann, Assistant General
Counsel Nichelle Dorroh, Office of
Investigations

1. Call to Order

With a quorum of the Board present, Ms. Burba called the meeting to order at 10:02 AM. Ms. Burba conducted a roll call of all Board and Staff members.

2. Election of Officers

Ms. Franklin made a motion, seconded by Mr. Tucciarone, for Ms. Burba to continue as board chair. The motion carried.

For the position of Board Secretary, Ms. Franklin made a motion, seconded by Ms. Burba, for Mr. Tucciarone to be nominated for this position. The motion carried.

3. Minutes

The Board reviewed the minutes of the December 4, 2015 meeting. Mr. Tucciarone made a motion, seconded by Ms. Franklin, to approve the minutes as written. The motion carried.

4. Office of General Counsel Report

Mr. Aumann discussed the Conflict of Interest policy and reminded members of their obligation to share information regarding any matter in which they might have personal or financial interest in order for a decision to be made on whether a recusal is needed.

Mr. Aumann stated that there are no rules pending in Office of General Counsel, there was one

(1) open case pertaining to the Board of Occupational Therapy for litigation, and there was also one (1) Consent Order to be presented to the Board for ratification.

Consent Order – Gail Setzer, OTA License No. 209

Tom Aumann, Assistant General Counsel, presented the Consent Order for Ms. Setzer. Ms. Setzer was convicted of two (2) criminal charges of Driving under the Influence (DUI) but failed to report those convictions to the Board. Also, from January 1, 2011 to December 31, 2012, Ms. Setzer failed to obtain one (1) hour of continuing competence education in jurisprudence and one

(1) hour of ethics pursuant to board Rule 1150-02-.12(6). Furthermore, from January 1, 2013 to December 31, 2014, Ms. Setzer failed to obtain one (1) hour of continuing competence education in jurisprudence pursuant to board Rule 1150-02-.12(6).

After review, Mr. Tucciarone made a motion, seconded by Ms. Franklin, to accept the Consent Order as presented. The motion carried.

Revised Lapsed License Policy

Mr. Aumann presented a revised lapsed license policy to the Board. The revised policy allows the Board to renew the license of an applicant who has practiced on an expired license for less than six (6) months with payment of stipulated civil penalties and fulfillment of any other Board requirements for renewal. For those who have practiced on an expired license for more than six

(6) months, the matter will be referred to the Office of General counsel for an investigation and recommendation for discipline but the policy also allows the Board's administrative office to renew such license, with the approval of the board consultant, pending recommendation for discipline in the Office of Investigations.

After review, Ms. Franklin made a motion, seconded by Mr. Tucciarone, to accept the revised lapsed license policy as presented. The motion carried.

There was no Agreed Orders, Order of Compliance, contested case hearing, or request for Order of Modification to be presented.

5. Financial Report

Vanessa Crutcher, Division Financial Officer, was not present to discuss the board's financial report but the board reviewed the financial report for fiscal year ending June 30, 2015 which was the same as presented at the December 4, 2015 meeting. The Board requested the finance office to be present at the next meeting to address the Board pertaining to recommendations regarding Board's finances.

6. Applicant File Review/Interviews

Thomas Moore, OTA Applicant - Mr. Moore was seeking licensure by initial application as an occupational therapist assistant. His application was deferred from the last board meeting. Mr. Moore had marked "No" on his application to a question pertaining to a prior criminal offense and the board requested that he be present to address records showing up on his criminal background check. In 2009, Mr. Moore was convicted of the offense of Reckless Driving in Madison Co., NY. His conviction on the concurrent charge of DUI was later vacated in 2010. In addition, Mr. Moore's criminal background check revealed other criminal arrests for offenses in North Carolina, Georgia and Tennessee. Mr. Moore was present and came before the board to explain his criminal record. After interview and discussion, Mr. Tucciarone, made a motion, seconded by Ms. Franklin, to approve Mr. Moore for a license, on the condition that he undergo a TNPAP evaluation and, if a monitoring agreement is recommended, that he signs a monitoring contract and abide by all stipulated terms. A violation of the terms of the monitoring agreement or of the conditions attached to the grant of his license will be reportable to the National Practitioners Data Bank. The motion carried.

Jessica Walker, OT Applicant – Ms. Walker appeared before the Board due to record on her criminal background check showing an arrest for Driving Under the Influence (DUI) by Knox Co. Police Department. Ms. Walker pled guilty to the lesser offense of Reckless Driving and was convicted of this offense in May 2013. Ms. Walker was also issued a misdemeanor citation in 2011 for underaged consumption of alcohol which was dismissed upon completing an alcohol safety class, public service, and payment of court costs. After review and interview, Mr. Tucciarone, made a motion, seconded by Ms. Franklin, to grant Ms. Walker an initial license without any contingencies or conditions attached. The motion carried.

Denise Cutshall, OT Reinstatement – Ms. Cutshall's application was presented to the board for review. She was applying for reinstatement of her license after it was previously retired. Her application reveals a prior board action or discipline on her license in the State of Georgia. Upon a motion by Mr. Tucciarone, seconded by Ms. Franklin, the board voted to reinstate Ms. Cutshall's license without restrictions. The motion carried.

Erin Kaye Scheidt, OT – Ms. Scheidt’s application was presented to the board for review. Ms. Scheidt was applying for an Occupational Therapist license by reciprocity from Indiana. Her application shows that her license in Indiana was previously disciplined by the Indiana Professional licensing Agency, Occupational therapy Committee, due to a DUI conviction for which she was placed on probation. Ms. Scheidt successfully completed the terms of her probation in Indiana. Upon a motion by Mr. Tucciarone, seconded by Ms. Franklin, the board voted to approve Ms. Scheidt’s application for a license by reciprocity in Tennessee without any restrictions. The motion carried.

7. Investigation and Disciplinary Reports

Ms. Nichelle Dorroh, Disciplinary Coordinator, presented the report from the Office of Investigations. There are currently five (5) open complaints on occupational therapists and six (6) occupational therapy assistants’ complaints being investigated. The office is in the process of scheduling a review for these complaints the following day. Ms. Dorroh also reviewed the list of currently monitored practitioners with the Board and reported that all are currently in compliance. Gail Setzer’s name will be added to the list from today’s board meeting. Ms. Dorroh then introduced the new director for the Office of Investigations, Antoinette Welch.

8. TNPAP Report

A representative from TNPAP was not present to discuss its report at the meeting but the Board reviewed the report did not have any questions.

9. Ratifications

Mr. Tucciarone, made a motion, seconded by Mrs. Franklin, to ratify the list presented on newly- licensed occupational therapists, including occupational therapists with modalities, occupational therapist assistants, reinstatements, and closed applications. The motion carried.

10. Administrative Report

Zandra Pickett, Board Administrator, presented the Administrative report. Currently there are 2522 Occupational Therapist and 1346 Occupational Therapist Assistant active licensees as of February 29, 2016.

LICENSURE STATUS TOTALS FOR THE MONTHS OF AUGUST 18, 2015 THROUGH
NOVEMBER 18, 2015

Occupational Therapists	
New Applications Received - 83	
New Licenses Issued – 46	Renewal Total- 329
Reinstatements – 5	Online Renewals- 249
Licenses Retired – 6	Paper Renewals- 8
Failed to Renew/Expired - 23	
Occupational Therapist Assistants	
New Applications Received -39	
New Licenses Issued - 19	Renewal Total- 161
Reinstatements - 1	Online Renewals- 128
Licenses Retired - 4	Paper Renewals- 33
Failed to Renew/Expired - 16	

For this reporting period, online renewals for Occupational Therapists constituted a usage rate of 76 %. For Occupational Therapist Assistants, online renewals constituted a usage rate of 80 %.

Board Composition

A new board member has been appointed by the Governor to replace Ann Davis, the consumer member but the new board member could not be present at this meeting. Ms. Pickett reported that the new board member has indicated that he would be present at the next meeting.

2016 Conferences

2016 Annual Education Conference & Expo (AOTA) - April 7-10, 2016, McCormick Place, Chicago, IL. The Board had previously voted from the last meeting to send any board member interested to attend the AOTA conference. Ms. Pickett reported that Ms. Anita Mitchell has indicated that she would like to attend this meeting.

2016 State Regulatory Leadership Forum (NBCOT) - May 11 – 13, 2016, New Orleans, Louisiana. Upon a motion by Mr. Tucciarone, and seconded by Ms. Franklin, the board voted to approve the Board Administrative Director to attend this meeting.

2016 Annual Educational Conference (CLEAR) - Sep 15-17, 2016, Portland Marriott Downtown Waterfront, Portland, OR.

Agreed Citations

Mr. Sobowale, Board Director, presented the following Agreed Citations to the Board for approval:

Keisha Scott, OT #135

Ms. Scott agreed to pay a civil penalty in the amount of \$100.00 for failing to obtain one (1)

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hour of ethics and one (1) hour of TN Jurisprudence of continuing education. Ms. Scott must also make up the deficient hours, in addition to submitting proof of continuing education hours for the current licensure cycle. Upon a motion by Ms. Franklin, seconded by Mr. Tucciarone, the board voted to approve the Agreed Citation as presented. The motion carried.

Kari Browning, OTA #1988

Ms. Browning agreed to pay a civil penalty in the amount of \$100.00 for failing to obtain Eight

(8) hours of continuing education, including one (1) hour of ethics and one (1) hour of TN Jurisprudence. Ms. Browning must also make up the deficient hours, in addition to submitting proof of continuing education hours for the current licensure cycle. Upon a motion by Mr. Tucciarone, seconded by Ms. Franklin, the board voted to approve the Agreed Citation as presented. The motion carried.

William Hinson, OT #3083

Mr. Hinson agreed to pay a civil penalty in the amount of \$100.00 for failing to obtain twenty one (21) hours of continuing education, including one (1) hour of ethics and one (1) hour of TN Jurisprudence. Mr. Hinson must also make up the deficient hours, in addition to submitting proof of continuing education hours for the current licensure cycle. Upon a motion by Ms. Franklin, seconded by Mr. Tucciarone, the board voted to approve the Agreed Citation as presented. The motion carried.

Carrisa Seay, OT #4358

Ms. Seay agreed to pay a civil penalty in the amount of \$100.00 for failing to obtain Twelve (12) hours of continuing education, including one (1) hour of ethics and one (1) hour of TN Jurisprudence. Ms. Seay must also make up the deficient hours, in addition to submitting proof of continuing education hours for the current licensure cycle. Upon a motion by Mr. Tucciarone, seconded by Ms. Franklin, the board voted to approve the Agreed Citation as presented. The motion carried.

Allison Collins, OTA #1479

Ms. Collins agreed to pay a civil penalty in the amount of \$100.00 for failing to obtain three (3) hours of continuing education, including one (1) hour of ethics and one (1) hour of TN Jurisprudence. Ms. Collins must also make up the deficient hours, in addition to submitting proof of continuing education hours for the current licensure cycle. Upon a motion by Ms. Franklin, seconded by Mr. Tucciarone, the board voted to approve the Agreed Citation as presented. The motion carried.

Tennessee Nurses Foundation (TNF) Contract

Mr. Sobowale presented an amendment to the current board contract with Tennessee Nurses Foundation for services rendered through TNPAP for evaluation and monitoring of its licensees. The amended contract extends the term of the contract for an additional year until June 30, 2017. Upon a motion made by Mr. Tucciarone, and seconded by Ms. Franklin, the board voted for its contract with TNF to be extended for an additional year. The motion was approved.

10. Correspondence

A. Request for approval to perform mock iontophoresis treatments

Mr. Joseph Uecker requested board approval to be allowed to perform mock iontophoresis treatments. After review and discussion, the Board stated that, pursuant to

its rules, this procedure has to be performed on an actual patient in an actual treatment situation. The board stated that due to the risk of inherent injury present in employing this treatment technique, it would not be in the board's best interest to allow mock treatments when using this procedure. Upon a motion by Mr. Tucciarone, and seconded by Ms. Franklin, the board directed the board's advisory attorney to respond back to Mr. Uecker and refer him to the rules in his response. The motion carried.

B. Discussion on credit for continuing education courses completed through Tennessee Physical Therapy Association Courses

The board discussed correspondence received from the board chair, Ms. Burba, pursuant to inquiries received on whether continuing competence courses and activities completed by occupational therapists and occupational therapists assistants through courses offered by the Tennessee Physical Therapy Association (TPTA) are acceptable by the board for credit. Upon a motion by Ms. Franklin, and seconded by Mr. Tucciarone, the board voted for the board administrator to refer such submissions to the board consultant to make a determination on whether they are relevant to the practice of occupational therapy and/or in compliance with the board's list of approved continuing competence activities. The motion carried.

11. New Legislation

Mr. Aumann discussed House Bill 2317/Senate Bill 2372, Suicide Prevention Training Act, which was introduced in the General Assembly. Mr. John Williams, advocate for the Tennessee Occupational Therapy Association (TOTA) reported that due to opposition from TOTA, this bill will not likely get passed in the legislature.

12. Other Board Business

Task Force

Mr. Aumann advised that the Board should ensure that any future meetings set by the task force recommended by the board to look into its rules should be published for public notice, in accordance with the state's sunshine law.

Mr. John Williams reported that a committee of TOTA is looking into various areas of the Occupational Therapy rules and this committee will be meeting next on April 17, 2016. He advised that an update on this committee's recommendations or findings will be

provided at the next board meeting.

13. Adjournment

There being no other business or further discussion, and upon a motion by Mr. Tucciarone, Jr., and seconded by Ms. Franklin, the board voted to adjourn the meeting at 12:33 PM.

These minutes were ratified by the Board at the June 16, 2016 meeting.