

**BOARD OF OCCUPATIONAL THERAPY
MINUTES**

DATE: October 22, 2020

TIME: 9:00 AM CST

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

MEMBERS PRESENT: Amanda Newbern, President
Drew Daniel, Secretary
Anita Tisdale, Board Member
Allan Adriaanse, Board Member
Hollie Simpson, Board Member

STAFF PRESENT: Noranda French, Unit Director
Mary V. Bennett, Board Manager
Sabrina Craig-Boyd, Board Administrator
Lara Gill, Senior Associate General Counsel
Lori Leonard, Disciplinary Coordinator
Alicia Grice, Division of Health Licensure and Regulation

Administrative Court Participants: Judge Michael Begley
Court Reporter, Mr. Brandon Hobbs

DUE TO COVID-19, THIS MEETING WAS CONDUCTED VIRTUALLY THROUGH WEBEX MEETINGS.

Call to Order

Ms. Noranda French welcomed the members and guests to the meeting with an announcement regarding the electronic transmission of this Occupational Therapy Board Meeting. To ensure each participant is connected, a roll call is required. Board members present at the electronic meeting, Ms. Amanda Newbern, Ms. Anita Tisdale, Ms. Hollie Simpson, Mr. Allan Adriaanse, and Mr. Drew Daniel. Ms. Newbern called the meeting to order at 9:07am.

The Honorable Judge Michael Begley opened the hearing of Occupational Therapy Assistant, Harley K. Lambert with instructions to the board members on their role in these proceedings. The board was instructed to hear the case, as presented by Senior Associate General Counsel Lara Gill and make a ruling on findings of fact, conclusions of law, assessment of penalties, and policy reasons for their decision.

Findings of Fact

Respondent has been at all times pertinent hereto licensed by the Board as an occupational therapy assistant in the State of Tennessee, having been granted Tennessee occupational therapy assistant license number 1488 by the Board on January 14, 2013. Respondent's occupational therapy assistant license was last renewed on June 26, 2017, and expired on July 31, 2019. Respondent was disciplined by this Board for fraudulent billing and documentation while working as an OTA at Upland

Village Retirement Community in Pleasant Hills, Tennessee. Respondent's license was placed on probation. Respondent was also ordered to take additional continuing education course work and to pay fines and costs associated therein. Respondent failed to pay penalties and costs as agreed upon despite multiple reminders and notices as testified by Discipline Coordinator Lori Leonard. Mr. Daniel made motion to accept the finding of facts as presented in this order. Ms. Tisdale seconded the motion. Adriaanse, aye, Daniel, aye, Newbern, aye, Simpson, aye, Tisdale, aye. The motion passed.

Conclusion of Law

The facts alleged in this Notice of Charges and Memorandum for Assessment of Civil Penalties are sufficient to establish violations by Respondent of the following statutes and/or rules in order to discipline Respondent's occupational therapy assistant license. Specifically, Respondent has violated the following statutes or rules which are part of the Tennessee Occupational and Physical Therapy Act (TENN. CODE ANN. §63-13-101, *et seq.*) and the TENN. COMP. R. & REGS., 1150-02, *et seq.*, for which disciplinary action before and by the Board is authorized:

TENN. CODE ANN. §63-13-209(a)(1): Unprofessional, dishonorable or unethical conduct,

TENN. CODE ANN. 63-13-209(a)(2): Violation or attempted violation, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of this part or any lawful order of the board issued pursuant thereto or any criminal statute of the state of Tennessee.

TENN. CODE ANN. §63-13-209(a)(15): Violating the code of ethics adopted by the board.

TENN. CODE ANN. §63-13-209(a)(16): Any other unprofessional or unethical conduct that may be specified by the rules duly published and promulgated by the board or the violation of any provision of this part.

Ms. Tisdale made motion to accept the conclusion of law as presented in this order. Mr. Daniel seconded the motion. Adriaanse, aye, Daniel, aye, Newbern, aye, Simpson, aye, Tisdale, aye. The motion passed.

Assessment of Civil Penalty

With respect to any person required to be licensed, permitted or authorized by any board, commission or agency attached to the division of health related boards, each respective board, commission or agency may assess a civil penalty against such person in an amount not to exceed one thousand dollars (\$1,000) for *each* separate violation of statute, rule or order pertaining to such board, commission or agency. Each board, commission or agency shall by rule establish a schedule designating the minimum and maximum civil penalties that may be assessed under this section. Civil penalties may be initiated and assessed by the Board during consideration of any Notice of Charges. In addition, the Board may, upon good cause shown, assess a type and amount of civil penalty which was not recommended by the Division. **TENN. COMP. R. & REGS. 1150-02-.15(5)**. Ms. Tisdale made motion to accept the assessment of civil penalties as presented in this order. Mr. Adriaanse seconded the motion. Adriaanse, aye, Daniel, aye, Newbern, aye, Simpson, aye, Tisdale, aye. The motion passed.

Policy Reasons

Mr. Adriaanse made motion to accept the named policies in the final order, (**TENN. CODE ANN. §63-13-209(a)(1)**, **TENN. CODE ANN. 63-13-209(a)(2)**, **TENN. CODE ANN. §63-13-209(a)(15)**, **TENN. CODE ANN. §63-13-209(a)(16)**) as valid and true reasons for this Board's decision. Ms. Simpson seconded the motion. Adriaanse, aye, Daniel, aye, Newbern, aye, Simpson, aye, Tisdale, aye. The motion passed.

With no further decision to be made regarding this case, the hearing concluded at 10:55 a.m. Judge Begley expressed his gratitude to the board for their service and participation in this matter.

Minutes

After a review of the minutes of the July 30, 2020 meeting, Mr. Adriaanse made motion to accept the board meeting minutes as presented. Mr. Daniel seconded the motion. Adriaanse, aye, Tisdale, aye, Newbern, aye, Simpson, aye, Daniel, aye. The motion passed.

Office of General Counsel Report

Senior Associate General Counsel, Lara Gill presented the Office of General Counsel report. Ms. Gill began her report with the Conflict of Interest Statement. If you have a personal or financial interest in the outcome of any issue or matter before this committee which may suggest a bias on your part, you are asked to state that interest on the record so that a determination can be made as to whether there exists a need for recusal. This is true whether the matter relates to a contested case, a rulemaking decision, an application or any other matter before the Committee. You are reminded that it is the duty of this board to protect the health, safety and welfare of the citizens of Tennessee and the administration of this solemn responsibility is dependent upon avoiding even the appearance of impropriety.

Appeals

At this time there are no pending appeals from the Board disciplinary action.

Civil Suits

At this time there are no pending civil suits.

Pending Complaints in OGC

As of October 7, 2020, there are four (4) outstanding disciplinary complaints involving one (1) occupational therapy assistant and three (3) who are occupational therapists. One (1) of the complaints is currently set to be heard as a contested case at the October 22, 2020 meeting.

Rules

Rule changes have been submitted for internal review at OGC. Currently Ms. Gill is reviewing and comparing the rule changes to OT rules of other states. Once the analysis is done, the rule changes will be subject to another internal review before the rulemaking hearing is set.

Discussion

TENN. CODE ANN. § 63-1-155 was amended, and the definition of health care provider expanded. This particular expansion permits OTs/OTAs to practice telehealth until April 1, 2022:

(a) For the purposes of this section: (1) "Healthcare provider" means: (A) An individual acting within the scope of a valid license issued pursuant to this title; (B) Any state-contracted crisis service provider that is employed by a facility licensed under title 33; or (C) Any alcohol and drug abuse counselor licensed under title 68, chapter 24, part 6; and (2) Notwithstanding any restriction imposed by §§ 56-7-1002 and 56-7-1003, "telehealth," "telemedicine," and "provider-based telemedicine" mean the use of real time audio, video, or other electronic media and telecommunication technology that enables interaction between a healthcare provider and a patient, or also store-and-forward telemedicine services as defined in § 56-7-1002, for the purpose of diagnosis, consultation, or treatment of a patient at a distant site - 14 - 019079 where there may be no in-person exchange between a healthcare provider and a patient. (b) For the purposes of this section, a healthcare provider-patient relationship with respect to telemedicine or telehealth is created by mutual consent and mutual communication, except in an emergency, between the patient and the provider. The consent by the patient may be expressed or implied consent; however, the provider patient relationship is not created simply by the receipt of patient health information by a provider unless a prior provider-patient relationship exists. The duties and obligations created by the relationship do not arise until the healthcare provider: (1) Affirmatively undertakes to diagnose or treat the patient; or (2) Affirmatively participates in the diagnosis or treatment. (c) (1) (A) A healthcare provider who delivers services through the use of telehealth is held to the same standard of professional practice as a similar licensee of the same practice area or specialty that is providing the same healthcare services through in-person encounters, and nothing in this section is intended to create any new standards of care. (B) Notwithstanding subdivision (c)(1)(A), telehealth services must be provided in compliance with the guidelines created pursuant to part 4 of this chapter. (2) The board or licensing entity governing any healthcare provider covered by this section shall not establish a more restrictive standard of professional practice for the practice of telehealth than that specifically - 15 - 019079 authorized by the provider's practice act or other specifically

applicable statute, including this chapter or title 53, chapter 10 or 11. (3) This section does not apply to pain management clinics, as defined in § 63-1-301, chronic nonmalignant pain treatment, or those individuals licensed pursuant to chapter 12 of this title. (d) Section 63-6-231 and subdivision 63-6- 214(b)(21) do not apply to the practice of telemedicine under this section. (e) This section does not apply to or restrict the requirements of § 63-6-241. (f) Section 63-6-204(a) also applies to telemedicine. (g) (1) Except as provided in subdivision (g)(2), to practice under this section a healthcare provider must be licensed to practice in this state under this title. (2) A physician must be licensed to practice under chapter 6 or 9 of this title in order to practice telemedicine pursuant to § 63- 6-209(b), except as otherwise authorized by law or rule. (h) (1) Notwithstanding subsection (a), for the purposes of this section "healthcare provider" means: (A) Any provider licensed under this title; or (B) Any state-contracted crisis service provider that is employed by a facility licensed under title 33. (2) This subsection (h) is repealed on April 1, 2022

The Board may wish to adopt a position statement on the practice of telehealth under the amended version of § 63-1-155. If it is the Board's desire, the Office of General Counsel is happy to prepare one for approval for the next meeting.

Investigative and Disciplinary Reports

Lori Leonard, Disciplinary Coordinator in the Office of Investigations began her report with the Board Statistical Complaint Report.

For occupational therapists there were a total of seven (7) new complaints opened. One (1)-falsification of records, three (3) for unprofessional conduct, one (1) for violation of order, and two (2) for practice beyond the scope. There were a total of four (4) closed complaints. One (1) for insufficient evidence, one (1) closed and sent to investigations, one (1) was closed with a letter of concern and one (1) with a letter of warning. For occupational therapy assistants, there were seven (7) new complaints opened. One (1) for abuse or neglect, one (1) for falsification of records, one (1) for unprofessional conduct, three (3) for violation of order, one (1) for lapsed license. There was only one (1) complaint closed with a letter of warning. Summary of Currently Monitored practitioners- OT- six (6) under reprimand, two (2) on probation, one (1) on suspension, one (1) revoked/surrendered. For OTA- one (1) under reprimand, three (3) on probation, one (1) on suspension and two (2) revoked/surrendered.

Division of Health Licensure and Regulations

Ms. Alicia Grice presented the board with the year-end fiscal report.

Description	FY2020	FY2019	FY2018
Salaries/Wages	72,203	44,000	37,428
Emp Benefits	<u>22,458</u>	<u>16,784</u>	<u>15,449</u>
Payroll Expenditures	94,662	60,785	52,877
Travel	4,642	9,111	10,367
Communications	3,162	2,768	5,004
Prof Svs & Dues	5,818	6,057	8,502
Supplies & Materials	1,409		
Rentals & Insurance	266		
Grants & Subsidies	14,724	16,141	9,962
Training of State Emp		1,503	1,650
Computer Related	<u>23</u>	<u>115</u>	<u>92</u>
Total Other Exp	35,995	40,602	40,569

	FY2020	FY2019	FY2018
Total Direct Expd.	130,657	101,387	40,569
Allocated Expd.			
Administration	40,976	36,776	36,222
Investigations	34,361	28,124	3,746
Legal	47,021	32,184	25,615
Cash Office	<u>1,351</u>	<u>2,302</u>	<u>2,872</u>
Total Alloc Expd.	123,710	99,387	68,456
Total Expd.	254,367	200,775	161,903
Board Fee Revenue	230,139	218,669	258,634
Current Year Net	(24,228)	17,894	96,731
Total Tech. Impvmt.	39,065	8,128	23,931
Cumulative Carryover	403,030	466,324	456,558

Applicant Interview/File Review

- A. Jacob Golembeski- Mr. Goelmebseki appears before the board today due to adverse action on his background check. After review of his application and supporting documents, Mr. Adriaanse made motion to approved Mr. Golembeski's application with an unrestricted license. Ms. Simpson seconded the motion. Adriaanse, aye, Daniel, aye, Newbern, aye, Simpson, aye, Tisdale, aye. The motion passed.

TNPAP

Ms. Teresa Phillips with TNPAP presented the TNPAP Activity Report for July 1, 2020 through September 30, 2020. Currently TNPAP is monitoring one (1) OTA. No other action at this time.

Ratification List

July 7, 2020 through October 12, 2020

Newly Licensed

Occupational Therapist

July 7, 2020 – October 12, 2020

Akana, Alexa	Lannom, Ali	Van Haeck Irene
Aushman, Alison	Lelyveld, Sara	Wasiluk Kelsie
Banay, Camille	Lin, Angelica	Watts Kandice
Bartle, Amber	Lobo, Eryn	Wehner Kaylie
Beddingfield, Laura	Maginn, Joseph	White April

Benjamin, Amanda
Bethel, Alanna
Boehm, Ashley
Boyer, Andrea
Bride, Kelli
Burtnett, Courtney
Campbell, Chassidy
Campbell, Madison
Campbell, Stephanie
Cannon, Nicols
Cave, Allison
Clark, Laken
Compton, Laura
Couch, Jamie
Couch, Jeffrey
Courts, Amanda
Craig, Morgan
Crowder, Lauren
Deckbar, Abigail
Eubank, Emily
Evans, Allison
Francher, Emily
Fisher, Gabrielle
Fortner, Tori
Fowler, Kalyn
Francis, Savannah
Gardiner, Anne
Goard, Nicole
Granner, Ashten
Hale, Alexandra
Hale, Kristen
Hamrick, Andrew
Hill, Julia
Hodson, Hustyn
Hoffman, Ali
Holtsclaw, Emily
Kiso, Amanda
Koch, Jessica
Kutler, Joel

Newly Licensed

Occupational Therapy Assistants

July 7, 2020- October 12, 2020

Alabi Phrisiah
Alexander Mary
Argo Paige
Cobble Alyssa
Collard Haley
Curry Ashley
Duke Natalie
Fisher Desaray

Mallicoat, Claire
Malmgren, Tauni
Mapes, Amanda
Mcalister, Martha
Mclaughlin, Christina
Medina, Emily
Melillo, Fallon
Mills, Sarah
Moody, Megan
Muldoon, Timothy
Murnan, Jennifer
Myers, Ann
Nyswaner, Meghan
Odom, Vanessa
Olguin, Jocelyne
Peters, Shanel
Pinkelman, Lauren
Quas, Brittany
Quinn, Joseph
Ryan, Kristina
Samples, Marlee
Sawyer, Erica
Smith, Rebecca
Spain, Rachel
Stacy, Kirsten
Stahler, Sarah
Stromer, Meagan
Sullivan Ashley
Sweigart, Katherine
Tanner Desiree
Terry Anna
Terry Brittany
Thomas Sarah
Thompson Toni
Trick Heather
Triggs Autumn
Truhitt Amber
Urbina Yoland
Uy Charmaine

Wilson Melissa
Woodward Colton
Wright Cassandra
Yentes Angela
Zavetz Jenna
Oland Amber
Stark, Sarah
Whalen Donna

Reinstated

Occupational Therapist

Arnold, Caren
Carter, Amanda
Christianson Martha
Cossar Kimberly
Eppler, Kelly
Hefner Michelle
Howard Karli
Linder Lisa
McPhee Scott
Shaw Lindsay
Smith Trista

Closed OT Applications

Humphrey Katherine
King Matthew
Lawson Emily
Smith Cierra
Taylor Brenna

Taylor Brenna
Tesina Charmaine
Todd Denise
Tolley Daniel
Townsel Joseph
Waters Baileigh
Williams Alyssa
Zimprich Kelly

Francescon Mary
 Gore Dalton
 Gorman Jill
 Greene Jonah
 Henry Neely
 Hicks Delisha
 Holt Maggie
 Hopkins Danielle
 Horner Samantha
 Johnston Emily

Reinstated

Occupational Therapy Assistants

Chaney Saran
 Pulling Karri
 Snyder Mary

Kaiser Lauren
 King Matthew
 Lawler Summer
 Long Shelby
 Mathiews Haley
 McNamara Tanya
 Mountjoy Madison
 Musolino Ariana
 Nafie Jennison
 Osborne Alisha
 Owens Marquisha
 Pate Chentel
 Patterson Raelyn
 Peterson Cindy
 Pruitt James
 Reed Macy
 Reeves Allyson

Modality

OT Bush Cheryl	CHT
OT Cline Aleise	ESTEM/THER
OT Esterle Shelby	ESTEM/THER
OT Fortner Tori OT	ESTEM/THER
OT Hamrick Andrew	THER
OT Harris Devin	THER
OT Hill Julia	THER
OT Lumpkin Hayley	ESTEM/THER
OT Pizzolato Nicole	CHT
OT Tate Katherine	ESTEM/THER
OT Williams Lindsay	ESTEM/THER
OT Yengo Caitlin	ESTEM/THER
OTA Greene Jonah	ESTEM/THER
OTA Lee Carly	ESTEM/THER
OTA Nop Billy	ESTEM/THER

Limited Permit

Canfield, Stephanie

Reyes Guadalupe
 Robinson Rita
 Rollins Mishaela
 Sellers Haley
 Sellner Cassidy
 Spence Savannah
 Stevens Haylea
 Stewart Kacey
 Sweney Jay

Closed Applications

Greene Jonah
 Humphrey Katherine
 King Matthew
 Lawson Emily
 Smith Cierra
 Taylor Brenna

Ms. Tisdale made motion to accept the newly licensed Occupational Therapist. Mr. Daniel seconded the motion. Adriaanse, aye, Daniel, aye, Newbern, aye, Simpson, aye, Tidsale, aye. The motion passed.

Mr. Adriaanse made motion to accept the newly licensed Occupational Therapy Assistants. Ms. Simpson seconded the motion. . Adriaanse, aye, Daniel, aye, Newbern, aye, Simpson, aye, Tidsale, aye. The motion passed.

Mr. Adriaanse made motion to accept the reinstated Occupational Therapist. Mr. Daniel seconded the motion. . Adriaanse, aye, Daniel, aye, Newbern, aye, Simpson, aye, Tidsale, aye. The motion passed.

Mr. Adriaanse made motion to accept the reinstated Occupational Therapy Assistants. Ms. Tisdale seconded the motion. . Adriaanse, aye, Daniel, aye, Newbern, aye, Simpson, aye, Tidsale, aye. The motion passed.

Mr. Adriaanse made motion to accept the Modalty credential for Occupational Therapist and Occupational Therapy Assistants. Mr. Daniel seconded the motion. . Adriaanse, aye, Daniel, aye, Newbern, aye, Simpson, aye, Tidsale, aye. The motion passed.

Ms. Tisdale made motion to accept the Temporary Permits issued. Ms. Simpson seconded the motion. . Adriaanse, aye, Daniel, aye, Newbern, aye, Simpson, aye, Tidsale, aye. The motion passed.

Mr. Adriaanse made motion to accept the closed Occupational Therapy applications. Ms. Tisdale seconded the motion. . Adriaanse, aye, Daniel, aye, Newbern, aye, Simpson, aye, Tidsale, aye. The motion passed.

Ms. Simpson made motion to accept the closed Occupational Therapy Assistant applications. Mr. Daniel seconded the motion. Adriaanse, aye, Daniel, aye, Newbern, aye, Simpson, aye, Tidsale, aye. The motion passed.

Administrative Report

Ms. Sabrina Craig-Boyd presented the Administrative Report for July 7, 2020 through October 12, 2020.

**BOARD OF OCCUPATIONAL THERAPIST
ADMINISTRATOR REPORT
October 22, 2020**

This is an administrative report from Sabrina Craig-Boyd, Board Administrator. The information contained in this report will keep the Board aware of all essential activities pertaining to licensure for Occupational Therapist.

STATISTICAL DATA

As of October 12, 2020, the Board of Occupational Therapy has **3166** active Occupational Therapist and **1726** Occupational Therapy Assistants

**LICENSURE STATUS TOTALS FROM THE MONTHS OF
July 7, 2020 through October 12, 2020**

OCCUPATIONAL THERAPIST	
New applications received – 478	
New licenses issued – 101	Renewal Total – 368
Reinstatements – 11	Online Renewals – 318
Limited Permit – (1 temp to license)	Paper Renewals – 50
Licenses Retired – 7	
Failed to Renew/Expired Licensees – 71	
OCCUPATIONAL THERAPY ASSISTANT	
New applications received – 302	
New licenses issued – 54	Renewal Total – 212
Reinstatements – 3	Online Renewals – 192
Limited Permit – 1 (4 temp to license)	Paper Renewals – 20
License Retired- 3	
Failed to Renew/Expired Licensees –52	

For this reporting period, the usage rate for utilizing the online renewal portal for Occupational Therapist is 86%; Occupational Therapy Assistants, 90%

Upcoming Board Meeting Dates

January 14, 2021
April 29, 2021
July 29, 2021
October 7, 2021

The Board's internet website is an excellent location to find valuable board information for licensees and applicants. Please visit the site at <http://tn.gov/health/topic/Chiro-board>. Should you have any suggestions or comments, please feel free to contact the Board at 615.741.3807.

Legislation

recent changes in legislation in regards to telehealth for the Occupational Therapist in TN. Ms. Gill reiterated to the board that this legislative change will be in effect until it is repealed on April 1, 2022.

A short recess was taken at 12:15pm. Mr. Daniel made motion to recess. Mr. Adriaanse seconded the motion. Adriaanse, aye, Daniel, aye, Newbern, aye, Simpson, aye, Tidsale, aye. The motion passed.
Roll Call Return at 12:28pm. All board members returned.

Discuss Commissioners Policy on Continuing Education-

Approved by: Lisa Piercey, MD, MBA, FAAP

Policy Number: 20-1
Effective Date 7/2/2020

**CONTINUING EDUCATION AUDIT OF IN-PERSON/LIVE HOURS
SUSPENDED THROUGH DECEMBER 2020**

PURPOSE: The provision of Tennessee Code Annotated, Titles 63 and 68, and related rules require health care practitioners to complete or submit proof of completing continuing education requirements or otherwise demonstrate continuing competence as a condition of reinstating a license, certification, or registration.

The Department of Health understands that the effects of COVID-19 have resulted in the cancellation of in-person/live continuing education courses, resulting in the inability of health care practitioners to obtain the requisite number of in-person/live continuing education credits/hours. The Commissioner of Health deems the suspension of in-person/live continuing education credits/hours to be a necessary response to the difficulties encountered by health care practitioners as a result of COVID-19.

Policy: The Commissioner has been designated the authority through Executive Order 50 to waive the in-person/live continuing education requirements from March 12, 2020 through 11:59 p.m., Central Daylight Time, until August 29, 2020. For the Commissioner's audit of continuing education credits/hours required to be obtained in any period that encompasses the calendar year of 2020, all continuing education credits/hours that are obtained through non in-person/live

methods will be accepted as proof of completing any continuing education requirements that are a condition of renewing and reinstating a license, certification or registration. The Commissioner will not audit the in-person or live event component for hours obtained during this time. The audit process will otherwise remain unchanged.

Ms. French will work with Ms. Gill on drafting a policy regarding 100% compliance with the use of CE Broker for all Tennessee licensed Occupational Therapist and Occupational Therapy Assistants to be presented to the board at the January 2021 meeting.

With no further board business to discuss, Mr. Daniel made motion to adjourn at 12:47pm. Ms. Tisdale seconded the motion. Adriaanse, aye, Daniel, aye, Newbern, aye, Simpson, aye, Tidsale, aye. The motion passed.

THESE MINUTES WERE RATIFIED AT THE JANUARY 14, 2021 BOARD MEETING.