



Ohio Occupational Therapy, Physical Therapy,
and Athletic Trainers Board

*Athletic Trainers Section
September 12, 2013
9:00 a.m.*

Members Present

Jason Dapore, DO (*left @ 12:20 pm*)
Aaron Galpert, AT, Chair
Brian Hartz, AT, PhD
Kimberly Peer, AT, EdD, Secretary
Susan Stevens, AT, EdD

Staff

H. Jeff Barker, Investigator
Lisa Ratinaud, Enforcement Division Supervisor
Jeffrey Rosa, Executive Director

Legal Counsel

Yvonne Tertel, AAG

Guest

Paul Miller

Call to Order

Aaron Galpert, Section Chair, called the meeting to order at 9:06 a.m.

Approval of Minutes

Action: Kimberly Peer moved that the minutes from the July 17, 2013, meeting be approved as submitted. Brian Hartz seconded the motion. The motion carried.

Action: Brian Hartz moved that the minutes from the August 6, 2013, meeting be approved as submitted. Susan Stevens seconded the motion. The motion carried.

Discussion of Law and Rule Changes

The Section reviewed stakeholder comments on the proposed rules. The Section will review the updated draft rules at the November Section meeting.

Special Orders

Election of Officers

Action: Brian Hartz nominated Aaron Galpert to be Section Chair for the period beginning September 12, 2013, and ending immediately following the September 2014 Section meeting. Nominations were closed. The members present unanimously voted to elect Aaron Galpert as Section Chair.

Action: Aaron Galpert nominated Kimberly Peer to be Section Secretary for the period beginning September 12, 2013, and ending immediately following the September 2014 Section meeting. Nominations were closed. The members present unanimously voted to elect Kimberly Peer as Section Secretary.

Appointment of Liaisons

The liaison appointments beginning September 12, 2013 and ending September 30, 2014 are:

Enforcement Division Liaison:	Brian Hartz
Licensure Liaison:	Aaron Galpert
Continuing Education Liaison:	Kimberly Peer
Correspondence Liaison:	Susan Stevens
Rules Liaison:	Brian Hartz

Action: Brian Hartz moved to authorize the Executive Director to accept or reject consent agreements on the Section's behalf for the period beginning September 12, 2013, and ending on September 30, 2014. Susan Stevens seconded the motion. The motion carried.

Action: Brian Hartz moved to authorize the use of signature stamps or electronic signatures by the Section

Chairperson, Section Secretary, and the Executive Director for the period beginning September 12, 2013, and ending on September 30, 2014. Kimberly Peer seconded the motion. The motion carried.

Action: Susan Stevens moved to authorize the Executive Director to make editorial changes to motions for the period beginning September 12, 2013, and ending on September 30, 2014. Brian Hartz seconded the motion. The motion carried.

Action: Kimberly Peer moved to authorize the use of hearing officers for the period beginning September 12, 2013, and ending on September 30, 2014. Brian Hartz seconded the motion. The motion carried.

Action: Brian Hartz moved to authorize the staff to issue licenses to applicants with completed applications and that the Section ratify the licenses issued by the staff at the Section meeting following issuance of license for the period beginning September 12, 2013, and ending on September 30, 2014. Jason Dapore seconded the motion. The motion carried.

Administrative Reports

Licensure Applications

Action: Brian Hartz moved that the Athletic Trainers Section ratify, as submitted, the athletic training licenses issued by examination, endorsement, and reinstatement by the Ohio Occupational Therapy, Physical Therapy, and Athletic Trainers Board from July 17, 2013, through September 12, 2013, taking into account those licenses subject to discipline, surrender, or non-renewal. Kimberly Peer seconded the motion. The motion carried.

Examination Applicants

Abbott, Kara
Bennett, Jessica
Blackmore, Caitlin
Culver, Brittany
DeMatteo, Eben
Duke, Nicholas
Endres, Cherise
Ervin, Trisha
Gerber, Zachary
Harrison, Lauren
Hitchcock, Kayleigh
Howell, Amber
Johnson, Cory
Kintz, Tiffany
Luna, Garrett
McLaughlin, Mackenzie
Miller, Jordan
Nelson, Adrian
Pribulsky, Alec
Richter, Saskia
Rowing, Jacee
Scott, Roniqua
Stoller, Garrett
Trail, Joslynn

Bacon, Andrew
Bernecker, Mary
Blevings, Kyle
Danver, Erika
Dorsey, Morgan
Eley, Devon
Endress, Tessa
Estock, Marci
Goughnour, Ryan
Hawk, Jennifer
Horn, Joshua
Hunt, Joshua
Jones, Amanda
Kohn, Mallory
Malecki, Zachary
Meister, Alexis
Miller, Paul
Oldag, Adam
Pykosz, Jessica
Rieselmann, Kate
Sanderson, Tray
Snider, Dana
Thrasher, Alexis
Tsouris, Vincenzina

Barber, Aaron
Billups, Dustin
Campbell, Megan
Delehanty, Elizabeth
Downing, Ryan
Emerson, Courtney
Engelhart, Emily
Fisher, Kelsi
Grusy, Jaclyn
Heidrich, David
Horton, Elizabeth
Jedrzejek, Callie
King, Ashley
Luessen, Lauren
Marley, Laura
Metzfeld, Melissa
Moos, Sydney
O'Loughlin, Samantha
Rains, Nicholas
Roe, Lauren
Schmucker, Blake
Sommer, Michael
Tiell, Christine
Whonsetler, Kyle

Endorsement Applicants

Basye, Mary
Chou, Esther
Dolling, Kara
Gearhart, Benjamin
Janoski, Caitlin
Krauza, Margaret
Orozco, Christina

Brooks, Preston
Cordill, Lauren
Dorsey, Michelle
Hawthorne, Katelin
Kachur, Jacqueline
Maley, Cassie
Ortlieb, Tyler

Bullock, George
Descoteaux, Jillian
Estep, Amanda
Hendricks, Quinn
Kauffman, Nina
Murphy, Malachi
Rancourt, Christopher

Sebrell, Meagan
Tebbe, Keith
Yungtum, William

Snow, Michelle
Wilmes, Jennifer

Stiltner, Sara
Woody, Brianna

Reinstatement Applicants

Hay, Erin

Porterfield, Steven

Zinser, Nicholas

Continuing Education Approval

There were seven continuing education applications approved since the July 17, 2013 meeting.

Event Approval

There was one event application approved since the July 17, 2013 meeting.

Assistant Attorney General Report

Yvonne Tertel, AAG had no formal report for the Section.

Case Review Liaison Report

Brian Hartz reported that the Enforcement Division opened three new cases and closed two cases since the July 17, 2013 meeting. There are four cases currently open. There are three consent agreements being monitored.

Brian Hartz informed the Section that Robert Cornelius, Jr. complied with all terms and conditions and was released from his disciplinary consent agreement.

Affidavit Hearing

Good morning. My name is Aaron Galpert, Chairperson of the Athletic Trainers Section of the Ohio Occupational Therapy, Physical Therapy, and Athletic Trainers Board. Let the record show that these proceedings were called to order at 9:17 am on September 12, 2013, at the Vern Riffe Center, 77 S. High Street, Columbus, Ohio 43215. The Executive Director called the roll. Members of the Board present for the proceedings are:

Jason Dapore	Present
Aaron Galpert	Present
Brian Hartz	Present
Kimberly Peer	Present
Susan Stevens	Present

It will be noted for the record that a majority of the members of the board are present. There will be one adjudication proceeding today. The proceeding is in the matter of case number AT-FY13-011 Melinda K. Rober, AT, whose license is currently summarily suspended.

This proceeding shall be affidavit-based adjudication relative to the Notice of Summary Suspension and Notice of Opportunity for Hearing mailed to the respondent in the aforementioned case and believed to have been properly served according to the Administrative Procedures Act (Chapter 119. of the Ohio Revised Code).

As the respondent did not properly request a hearing in the case, this proceeding will be held before the board pursuant to *Goldman v. State Medical Board of Ohio*. The individual named does not have the ability to present written or oral testimony today, but may be present to hear the proceeding and outcome.

You have already received a sworn affidavit from the Board's Enforcement Division Supervisor, and accompanying exhibits for the Goldman Proceeding in your board packet. The affidavit contains the evidence and testimony upon which you will deliberate. Please take few moments to review the evidence and testimony.

In lieu of a stenographic record being made, let the minutes reflect that the original sworn affidavit and exhibits shall be kept as the official record of the proceeding in the aforementioned matter in the Board office.

I will now recognize Assistant Attorney General, Yvonne Tertel, for the purpose of providing a brief synopsis of the case.

Ms. Tertel reviewed the case for the Board.

Having heard Ms. Tertel's synopsis, may I now have motion to admit the facts and exhibits outlined in the sworn affidavit in the aforementioned case into evidence?

Action: Kimberly Peer moved to accept the facts and exhibits outlined in the affidavit for Melina K Rober, case AT-13-011. Jason Dapore seconded the motion. Brian Hertz abstained from voting. The motion carried.

There being no further evidence to come before the board, this proceeding is now closed at 9:32 am.

The procedural and jurisdictional matters having been satisfied, we will now continue with the proceeding by deliberation on the sworn affidavit and exhibits.

At this time, is there a motion to recess the meeting in order to go into private session for the purpose of entering into quasi-judicial deliberation on case number AT-FY13-011 Melinda K. Rober, AT (License currently summarily suspended), and to reconvene the meeting after deliberations are complete.

Action: Susan Stevens moved to recess the meeting to go into private session for the purpose of quasi-judicial deliberation on case number AT-FY13-011 Melinda K. Rober, AT (License currently summarily suspended) and to reconvene the meeting after deliberations are complete. Jason Dapore seconded the motion.

The Executive Director called roll:

Jason Dapore	Yes
Aaron Galpert	Yes
Brian Hertz	Abstained
Kimberly Peer	Yes
Susan Stevens	Yes

The Section went into private session at 9:33 am for the purpose of quasi-judicial deliberation. The Section came out of private session and reconvened the meeting at 9:55 am. Brian Hertz left the room during private session and did not participate in the deliberations.

In the matter of case number AT-FY13-011 Melinda K. Rober, AT (License currently summarily suspended), after review of the evidence, the Board makes the following findings of fact:

1. The Board became aware of media reports from April 22 and 23, 2013, alleging Ms. Rober, an athletic trainer for Clay High School, was under criminal investigation and facing sexual battery charges of two minor students from the high school. In addition, on April 23, 2013, the Board received a written complaint and copies of police reports from ProMedica Bay Park Hospital, Ms. Rober's former employer.
2. Based on the evidence provided, on May 8, 2013, the Board summarily suspended Ms. Rober's license to practice as an athletic trainer in the state of Ohio for engaging in inappropriate sexual contact with student athletes.
3. On May 9, 2013, the Board sent an Entry of Order and a "Notice of Summary Suspension And Notice of Opportunity for Hearing" (hereinafter Notice) to Ms. Rober via certified mail, pursuant to Ohio Revised Code section 119.07. The certified mailing was returned to the Board office on June 4, 2013, labeled as "return to sender, unclaimed, unable to forward". On June 7, 2013, pursuant to R.C. 119.07, the Board sent the Entry of Order, Notice of Summary Suspension and Notice of Opportunity for Hearing to Ms. Rober by ordinary mail with a certificate of mailing. The Entry of Order, Notice of Summary Suspension and Notice of Opportunity for Hearing were not returned to the Board office by postal authorities. The Entry of Order and Notice informed Ms. Rober that her license was summarily suspended and of the Board's intent to take disciplinary action against her license as an athletic trainer in the state of Ohio, respectively.
4. Ms. Rober did not request a hearing on the charges outlined in the Notice.
5. The Case came before the Board for an evidentiary review hearing on September 12, 2013.

6. Based upon the evidence presented at the evidentiary review hearing, the Board finds that Ms. Rober's engaged in inappropriate sexual contact with student athletes.

Action: Kimberly Peer moved to accept the Section's findings of fact in the matter of Melinda K. Rober, case number AT-FY13-011, as written above. Jason Dapore seconded the motion. Brian Hertz abstained from voting. The motion carried.

In the matter of case number AT-FY13-011 Melinda K. Rober, AT (License currently summarily suspended), after review of the evidence, the Board makes the following conclusions of law:

1. Rober was properly served with the Entry of Order and Notice of Summary Suspension And Notice of Opportunity for Hearing pursuant to Revised Code section 119.07.
2. Ms. Rober violated Ohio Revised Code sections 4755.64(A)(2),(4), and (5), and Ohio Administrative Code rules 4755-41-01 (E)(4) as incorporated by Revised Code section 4755.64(A)(5).

Action: Kimberly Peer moved to accept the Section's conclusions of law in the matter of Melinda K. Rober, case number AT-FY13-011, as written above. Susan Stevens seconded the motion. Brian Hertz abstained from voting. The motion carried.

The Board makes the following disposition of the case:

Action: Kimberly Peer moved to permanently revoke the license of Melinda K. Rober, AT (License currently summarily suspended) in accordance with Ohio Revised Code section 4755.64 (D) since Rober did not request a hearing pursuant to the Notice of Summary Suspension. Jason Dapore seconded the motion.

The Executive Director called roll:

Jason Dapore	Yes
Aaron Galpert	Yes
Brian Hertz	Abstained
Kimberly Peer	Yes
Susan Stevens	Yes

The motion carried. The license of Melinda K. Rober, AT, is hereby permanently revoked effective immediately.

Action: Kimberly Peer moved that the Section seal the Police Records found in Exhibit #3 and the Clay Confessions Twitter Feeds found in Exhibit #6 in the matter of case number AT-FY13-011, Melinda K. Rober. Susan Stevens seconded the motion. Brian Hertz abstained from voting. The motion carried.

The Executive Director is hereby instructed to prepare an adjudication order to carry out the mandate of this Board and serve the order on AT-FY13-011 Melinda K. Rober, AT (License currently summarily suspended), in the manner prescribed by law.

This concludes the matter of AT-FY13-011 Melinda K. Rober, AT.

Old Business

Five Year Rule Review

The Section reviewed the rules up for five year review in at the Section retreat in August. There were no recommended changes.

Use of Technology in AT Practice

This discussion was tabled until the November meeting.

New Business

Review Jurisprudence Examination

The Section reviewed the report on the jurisprudence examination and recommended no changes to the exam.

Correspondence

1. **Keith Wood, AT:** Mr. Wood asked the Section questions regarding referral requirements and the provision of athletic training on a cash for service basis. **Reply:** *In response to your first question*, pursuant to section 4755.60 (A) of the Revised Code and rule 4755-42-02 of the Administrative Code, athletic trainers must practice upon the referral of an individual licensed in Ohio to practice medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, chiropractic, dentistry, or physical therapy. Athletic trainers may not accept direct referrals from physician assistants or practitioners of the limited branches of medicine. A referral relationship between a team physician and an athletic trainer should be one consisting of a protocol of care communicated between a team physician and the athletic trainer. This agreement should include procedures for prevention, recognition, assessment, management and treatment of athletic injuries. Under an athletic training referral, the athletic trainer functions independently and is responsible for documentation. Pursuant to rule 4755-46-01 of the Administrative Code, unlicensed individuals functioning under the supervision of a licensed athletic trainer may perform designated routine tasks related to the operation of athletic training provided that the supervising athletic trainer is on-site to supervise the delegated tasks. *In response to your second question*, a self-employed athletic trainer is still considered an athletic trainer and must adhere to the Ohio Athletic Training Practice Act. *In response to your last question*, there is nothing in the Ohio Athletic Training Practice Act that limits athletic trainers from providing cash based services. However, rule 4755-41-01 (D) of the Ohio Administrative Code states: (5) Athletic trainers shall only seek compensation that is reasonable for the athletic training services delivered. Athletic trainers, regardless of the practice setting, shall safeguard the public from unethical and unlawful business practices. (6) Athletic trainers shall not intentionally or knowingly offer to pay or agree to accept any compensation, directly or indirectly, overtly or covertly, in cash or in kind, to or from any person or entity for receiving or soliciting patients or patronage, regardless of the course of the compensation.”

Joint Correspondence

- JB1. Beth Brooks, PT:** Ms. Brooks asked the Physical Therapy and Athletic Trainers Sections questions regarding whether there is a specific timeframe for the supervising physical therapist to co-sign the athletic trainers’ documentation. **Reply:** The Physical Therapy Practice Act does not specify when the athletic trainer’s documentation needs to be co-signed. However, this should be done in a timely fashion. Rule 4755-27-01 (C) of the Ohio Administrative Code defines “other licensed personnel” as “any person holding an Ohio license to practice as a health care practitioner in a profession other than physical therapy . . . who is working under the **direct** supervision of a physical therapist or physical therapist assistant, as delegated by the physical therapist, and is performing tasks and duties related to the delivery of physical therapy.” When acting under the direction of a physical therapist, licensed athletic trainers are considered other licensed personnel. In accordance with rule 4755-27-04 of the Administrative Code, the supervising physical therapist or physical therapist assistant is accountable and responsible at all times for the direction of the actions of the persons supervised, including other licensed personnel. A physical therapist assistant can provide direct supervision of other licensed personnel even if the physical therapist is not on-site but is available by telecommunication at all times and able to respond appropriately to the needs of the patient. However, only a physical therapist can determine that a patient may be delegated to other licensed personnel. **Other licensed personnel cannot be assigned their own physical therapy caseload** without the supervising physical therapist or physical therapist assistant having direct contact with each patient during each visit. It is the responsibility of the physical therapist to determine and document the extent of contact necessary to assure safe patient care. Pursuant to rule 4755-27-03 (F) of the Ohio Administrative Code, “Delegation of tasks related to the operation and delivery of physical therapy to other licensed personnel must be done in accordance with the scope of practice of the other licensed personnel’s professional license, education and training, the level of competence as determined by the supervising physical therapist, and in consideration of the patient’s overall needs and medical status.” The patient contact by the delegating physical therapist or supervising physical therapist assistant may be to provide portions of treatment or to assess the patient’s progress within the existing plan of care. When needed, only the physical therapist may make adjustments to the plan of care. The Physical Therapy Section does not dictate the format of clinical notes. As long as the documentation by other licensed personnel is restricted to an accounting of the activities provided, descriptions of those activities and the patient’s comments may be in various sections of the documentation. The remainder of the documentation is the responsibility of the supervising physical therapist or supervising physical therapist assistant. The rule limiting the documentation by other licensed personnel to “an accounting of the activities provided” is intended to

include patient comments during those activities and a description of the patient's response or ability/inability to perform specific components of the program. The signature of other licensed personnel may reflect their training or credentials, but must be countersigned by the supervising physical therapist. The countersignature must indicate that the supervising physical therapist reviewed the written note. Only a hand written or electronic signature is acceptable. Please refer to Medicare rules or other payer policies about reimbursement for treatment by other licensed personnel since some insurers do not cover services other than those provided by a physical therapist or physical therapist assistant. You may also get information from the Reimbursement Department or Ohio chapter of the APTA.

- JB2. Brett Sulonen, AT:** Mr. Sulonen asked the Physical Therapy and Athletic Trainers Sections questions regarding athletic trainers' documentation and billing practices while working in a hospital rehab clinic. **Reply:** *According to the Athletic Trainers Section*, under section 4755.60 (A) of the Revised Code and rule 4755-42-02 of the Administrative Code, athletic trainers must practice upon the referral of an individual licensed in Ohio to practice medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, chiropractic, dentistry, or physical therapy. Athletic trainers may not accept direct referrals from physician assistants or practitioners of the limited branches of medicine. A referral relationship between a team physician and an athletic trainer should be one consisting of a protocol of care communicated between a team physician and the athletic trainer. This agreement should include procedures for prevention, recognition, assessment, management and treatment of athletic injuries. Clinic-based athletic trainers may provide athletic training services upon physician referral for athletic training evaluation and treatment. The prescription by the referring medical practitioner must state the referral is for athletic training. Under an athletic training referral, the athletic trainer functions independently and is responsible for documentation. Pursuant to rule 4755-46-01 of the Administrative Code, unlicensed individuals functioning under the supervision of a licensed athletic trainer may perform designated routine tasks related to the operation of athletic training provided that the supervising athletic trainer is on-site to supervise the delegated tasks. If the patient receives a prescription for physical therapy and during care the physical therapist determines he/she may benefit from athletic training services, i.e. a patient's condition is an athletic injury, then, the physical therapist may refer that particular patient to an athletic trainer. This transfer of care from a physical therapist must be documented in the patient's medical record. In addition, the athletic trainer must now obtain physician approval and prescription for an athletic training evaluation and treatment as described above. If this procedure is followed, the athletic trainer must perform an injury assessment and determine the athletic training plan of care. The patient is no longer under the care of the physical therapist. The physical therapist may also refer the patient to the care of the athletic trainer but have the patient still remain under the care of the physical therapist. In this non-transfer scenario, a physician prescription for athletic training is not required. Nothing in the Ohio Athletic Training Practice Act prevents athletic trainers from billing for services. However, employers may restrict your practice due to billing or other protocol issues. The Athletic Trainers Section suggests you contact the Ohio Athletic Trainers Association or the National Athletic Trainers Association or refer to CPT codes listed under physical medicine. *According to the Physical Therapy Section*, rule 4755-27-01 (C) of the Ohio Administrative Code defines "other licensed personnel" as "any person holding an Ohio license to practice as a health care practitioner in a profession other than physical therapy . . . who is working under the direct supervision of a physical therapist or physical therapist assistant, as delegated by the physical therapist, and is performing tasks and duties related to the delivery of physical therapy." When acting under the direction of a physical therapist, licensed athletic trainers are considered other licensed personnel. In accordance with rule 4755-27-04 of the Administrative Code, the supervising physical therapist or physical therapist assistant is accountable and responsible at all times for the direction of the actions of the persons supervised, including other licensed personnel. A physical therapist assistant can provide direct supervision of other licensed personnel even if the physical therapist is not on-site but is available by telecommunication at all times and able to respond appropriately to the needs of the patient. However, only a physical therapist can determine that a patient may be delegated to other licensed personnel. Other licensed personnel cannot be assigned their own physical therapy caseload without the supervising physical therapist or physical therapist assistant having direct contact with each patient during each visit. It is the responsibility of the physical therapist to determine and document the extent of contact necessary to assure safe patient care. Pursuant to rule 4755-27-03 (F) of the Ohio Administrative Code, "Delegation of tasks related to the operation and delivery of physical therapy to other licensed personnel must be done in accordance with the scope of practice of the other licensed personnel's professional license, education and

training, the level of competence as determined by the supervising physical therapist, and in consideration of the patient's overall needs and medical status." The patient contact by the delegating physical therapist or supervising physical therapist assistant may be to provide portions of treatment or to assess the patient's progress within the existing plan of care. When needed, only the physical therapist may make adjustments to the plan of care. Please refer to Medicare rules or other payer policies about reimbursement for treatment by other licensed personnel since some insurers do not cover services other than those provided by a physical therapist or physical therapist assistant. You may also get information from the Reimbursement Department or Ohio chapter of the APTA. It is the position of the Physical Therapy Section that when a patient presents with a prescription or referral for both physical therapy and athletic training, each professional shall complete their own evaluation. In addition, each professional should make every reasonable attempt to consult with the other and thereby coordinate the treatment program for the benefit of the patient. In accordance with rule 4755-27-03 (D) of the Ohio Administrative Code, a physical therapist may choose to refer a patient to another discipline, including physicians, for services. This referral shall be documented by the physical therapist in the medical record to clearly demonstrate a referral for that service. Such referral will not be a delegation of tasks or duties of physical therapy.

Ohio Athletic Trainers Association (OATA)

Paul Miller reported that Jeff Szypanski will no longer serve on the OATA Executive Committee. Therefore, Sioban Fagan or Paul Miller will attend the Section meetings as representatives of OATA. Mr. Miller further reported that Kurt McClurg's term as OATA President will begin in December 2013.

Open Forum

None

Items for the Next Meeting

- Use of Technology in AT Practice
- Discussion regarding Art Therapy

Next Meeting Date

The next meeting date of the Athletic Trainers Section will be Wednesday, November 6, 2013, at 9:30 am.

Adjournment

Action: Kimberly Peer moved that the meeting be adjourned. Brian Hertz seconded the motion. The motion carried. The meeting adjourned at 12:34 pm.

Respectfully submitted,
Diane Moore

Aaron Galpert, AT, Chair
Ohio Occupational Therapy, Physical Therapy, and
Athletic Trainers Board, Athletic Trainers Section

Kimberly Peer, AT, Secretary
Ohio Occupational Therapy, Physical Therapy, and
Athletic Trainers Board, Athletic Trainers Section

Jeffrey M. Rosa, Executive Director
Ohio Occupational Therapy, Physical Therapy, and
Athletic Trainers Board

KP:jmr:dm