



Ohio Occupational Therapy, Physical Therapy,
and Athletic Trainers Board

Athletic Trainers Section
July 9, 2014
9:00 a.m.

Members Present

Jason Dapore, DO (left @ 1:38 pm)
Aaron Galpert, AT, Chair
Brian Hertz, AT, PhD (arrived from ATERP @ 9:49
am)
Kimberly Peer, AT, EdD, Secretary
Susan Stevens, AT, EdD
Trevor Vessels, Public Member (left @ 11:16 am)

Legal Counsel

Yvonne Tertel, AAG

Staff

H. Jeffery Barker, Investigator
Diane Moore, Executive Assistant
Lisa Ratinaud, Enforcement Division Supervisor
Jeffrey Rosa, Executive Director

Guests

Siobhan Fagan, OATA
Greg Fouche, JCARR
Jason Nutter
Kylene Nutter
Vincent O'Brien

Call to Order

Aaron Galpert, Chair, called the meeting to order at 9:45 a.m.

Approval of Minutes

Action: Jason Dapore moved that the minutes from the May 7, 2014, meeting be approved as submitted. Susan Stevens seconded the motion. Brian Hertz was absent due to enforcement review panel. The motion carried.

Executive Director's Report

- The Executive Director informed that Section FY 2014 spending was very close to the appropriation authority amounts.
- The Executive Director informed that Section that the Athletic Training renewals are scheduled to be mailed next week.
- The Executive Director informed the Section there has been progress on the new licensing system, however, the implementation date has been pushed to mid-November 2014.
- The Executive Director informed the Section that the legislature formed a study committee to establish guidelines on the appropriate education needed to return a student athlete with a suspected concussion to participation.

The formal Executive Director's report is attached to the minutes for reference.

Discussion of Law and Rule Changes

There were no items discussed.

Administrative Reports

Licensure Applications

Action: Brian Hertz 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 May 7, 2014, through July 9, 2014, taking into account those licenses subject to discipline, surrender, or non-renewal. Jason Dapore seconded the motion. The motion carried.

Examination Applicants

Bane, Megan
Camp, Brianna

Bashioum, Catherine
Carmosino, Gina

Betz, Caleb
Ciminello, Paige

Cline, Aimee
Dykyj, Christopher
Glonek, Keeley
Huber, Kelly
Johnson, Michael
Lapso, Steven
Metz, Rebecca
Morris, Kevin
Perry, Robert
Ramey, Lauren
Saunders, Callan
Scott, Kelleen
Stammen, Kari
Tran, Bryan
Wiehe, Craig
Yamaguchi, Moegi

Coppes, Danielle
Eads, Nichole
Gray, Taylor
Imerman, Iliniza
Kaiser, Kelsey
Lent, Olivia
Miller, Bethany
Novotny, Jordan
Polley, Lucas
Rosenberger, Jordan
Saunders, Megan
Smith, Alyson
Stanford, Meredith
Wacker, Stephen
Williams, Rebecca
Ziats, Lisa

Craine, David
Ellis, Alexandra
Grospitch, William
Jacoby, Chelsea
Kelley, Erinn
Lucas, Cody
Mishler, Benjamin
Patrick, Kyle
Puthoff, Rachael
Russo, Joel
Schaffner, Logan
Spencer, Erik
Stotter, William
White, Ashley
Wuest, Kayla

Endorsement Applicants

Baumann, Erin
Claprood, Ashley
Dietrick, Michelle
Glover, Kenton
Klugh, Jessica
Nowak, Daniel
Sanders, Erik
Wright, Rachel

Bohn, Joshua
Custar, Nicholas
Fleming, Brittany
Grove, Samantha
Mukaihara, Yuya
Sakamoto, Takamasa
Strube, Eileen

Castillo, Alfred
Diamond, Adam
Giovannucci, Jeffrey
Kiessling, Matthew
Notley, Amanda
Saliaris, Ariana
Travoli, Eric

Reinstatement Applicants

Jameyson, David

Martini, John

Suon, Carolin

Continuing Education Approval

Brian Hartz reported that seven continuing education applications were approved since the May 7, 2014 meeting.

Kimberly Peer recommended that the Section grant the CE extension request for athletic training file #5295057 based on the documentation provided. **Action:** Brian Hartz moved that the Section grant the CE extension request for athletic training file #5295057 based on the documentation provided. Jason Dapore seconded the motion. Kimberly Peer abstained from voting. The motion carried. The Section granted a three month extension for Alisa Sheldon, AT.

Event Approval

None

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 one new case and closed two cases since the May 7, 2014 meeting. There are four cases currently open.

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 10:16 am on July 9, 2014, 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-LD-14-001 Jason D. Nutter.

This proceeding shall be affidavit-based adjudication relative to the 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 was 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: Susan Stevens moved to accept the facts and exhibits outlined in the affidavit for Jason D. Nutter, case AT-LD-14-001. Jason Dapore seconded the motion. Brian Hartz abstained from voting. The motion carried.

There being no further evidence to come before the board, this proceeding is now closed at 10:27 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-LD-14-001 Jason D. Nutter (License currently summarily suspended), and to reconvene the meeting after deliberations are complete.

Action: Jason Dapore moved to recess the meeting to go into private session for the purpose of quasi-judicial deliberation on case number AT-LD-14-001 Jason D. Nutter and to reconvene the meeting after deliberations are complete. Kimberly Peer seconded the motion.

The Executive Director called roll:

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

The Section recessed the meeting at 10:28 am to enter private session for the purpose of quasi-judicial deliberation. The Section came out of private session and reconvened the meeting at 11:09 am. Brian Hartz left the room during private session and did not participate in the deliberations.

Kimberly Peer reported that in the matter of case number AT-LD-14-001 Jason D. Nutter, AT Reinstatement Applicant, after review of the evidence, the Board accepts the following findings of fact:

1. Nutter's license to practice as an athletic trainer in the state of Ohio was revoked on September 6, 2012.
2. Nutter submitted an application to have his athletic trainers license reinstated in the state of Ohio on December 10, 2013.
3. Nutter was sent a Notice via certified mail on May 14, 2014. This mailing was signed for by Kylene R. Nutter on May 19, 2014. Nutter was required to request a hearing within thirty (30) days of the mailing date of the notice. Nutter failed to request a hearing within the thirty (30) day time period.
4. The Notice informed Nutter of the Board's intent to deny his application to have his license to practice as an athletic trainer reinstated in the state of Ohio for the following reasons:

Section 4755.64(A) of the Ohio Revised Code authorizes the Board to suspend, revoke, or refuse to issue or renew an athletic trainers license, or reprimand, fine, or place a licensee on probation, for any of the following:

- (12) Denial, revocation, suspension, or restriction of authority to practice a health care occupation, including athletic training, for any reason other than a failure to renew, in Ohio or another state or jurisdiction.

Section 4755.64(C) authorizes the Board to accept or refuse an application for reinstatement. When a license is revoked under this section, application for reinstatement may not be made sooner than one year after the date of revocation.

Ohio Administrative Code rule 4755-43-10(B) authorizes the Board to consider the following when evaluating an application for reinstatement of a license:

- (1) The nature and severity of the acts that resulted in revocation or denial of license;
- (2) The time elapsed since the commission of the acts;
- (3) Possible additional violations occurring after the revocation or denial;
- (4) Compliance with previous orders of the athletic trainers section; and
- (5) Any evidence of rehabilitation that the applicant may submit to the section.

In accordance with Chapter 119 and section 4755.64 of the Ohio Revised Code, you are hereby notified that on May 7, 2014, the Athletic Trainers Section of the Ohio Occupational Therapy, Physical Therapy, and Athletic Trainers Board (hereinafter, "Board") voted to refuse (thereby denying) your application to reinstate your license to practice as an athletic trainer in the State of Ohio due to insufficient evidence of rehabilitation for the following prior disciplinary violations:

Count 1

On September 6, 2012, Nutter entered into a Consent Agreement with the Athletic Trainers Section of the Ohio Occupational Therapy, Physical Therapy and Athletic Trainers Board, in which Nutter agreed to voluntarily surrender and the Board simultaneously revoked his license to practice as an athletic trainer in the State of Ohio for engaging in an inappropriate relationship with a minor child/student at Indian Valley High School from on or about April 2012 to on or about May, 2012. Said conduct constituted a violation of Ohio Revised Code sections 4755.64(A)(2), (4) & (5), and Ohio Administrative Code rule 4755-41-01.

5. Nutter did not request a hearing on the aforementioned charges.
6. The Case came before the Board for an evidentiary review hearing on July 9, 2014.

7. Nutter's certification through the National Athletic Trainers' Association Board of Certification, Inc. remains suspended.
8. Nutter did not provide evidence of remorse, responsibility, or evidence of rehabilitation for his actions in his reinstatement letter.
9. Nutter did not provide any evidence from counselors, therapists, or psychologists documenting duration or detail regarding his rehabilitation plan or progress.

Kimberly Peer reported that, in the matter of case number AT-LD-14-001 Jason Nutter, AT Reinstatement Applicant after review of the evidence, the Board accepts the following conclusions of law:

1. Nutter was properly served with the Notice of Opportunity for Hearing pursuant to Revised Code section 119.07.
2. Nutter provided insufficient evidence of rehabilitation for prior disciplinary action.
3. Nutter violated Ohio Revised Code sections 4755.64(A)(2),(4), and (5), and Ohio Administrative Code rules 4755-41-01.

The Board makes the following disposition of the case:

Action: Kimberly Peer moved to deny the reinstatement application of Jason D. Nutter. 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 reinstatement application of Jason D. Nutter is hereby denied.

Action: Kimberly Peer moved that the Section seal Exhibit #2G in the matter of case number AT-LD-14-001, Jason D. Nutter. Jason Dapore 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 case number AT-LD-14-001, Jason D. Nutter in the manner prescribed by law.

This concludes the matter of case number AT-LD-14-001, Jason D. Nutter.

Old Business

Scope of Practice Review Guidance

The Executive Director will post the scope of practice review guidance document on the Board's website. The Executive Director forwarded a copy of the document to BOC for consideration at the 2015 BOC Regulatory Conference.

New Business

Rules Hearing

The Section held a public rules hearing from 9:51 am to 9:58 am.

Correspondence

1. **David Stover, AT:** Mr. Stover asked the Section if athletic trainers can perform dry needling. **Reply:** There is nothing in the Ohio Athletic Trainers Practice Act that prohibits an athletic trainer from performing dry needling as part of the athletic training plan of care. However, the athletic trainer must produce evidence of appropriate training and demonstrate knowledge and competency in administering the dry needling prior to treating a client.

2. **Kara Dolling, AT:** Ms. Dolling asked the Section for clarification on the use of over the counter medication in athletic training practice. **Reply:** The Section recommends that you review the NATA's *Consensus Statement: Managing Prescriptions and Non-Prescription Medication in the Athletic Training Facility (January 2009, <http://www.nata.org/sites/default/files/ManagingMedication.pdf>.)* The Section also recommends that you refer to the pharmacy laws governed by the Ohio State Board of Pharmacy for clarification on the appropriate use and storage of non-prescription medications and how those provisions apply to the practice of athletic training.

Joint Correspondence

JB1. Patricia Trela, OTA/L: Ms. Trela asked the Occupational Therapy and Athletic Trainers Sections questions regarding whether athletic trainers are allowed to work under the supervision of an occupational therapist/occupational therapy assistants. **Reply:** According to the Ohio Athletic Training Practice Act, 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. As a result, an occupational therapist cannot legally refer a client to an athletic trainer. Professionals holding a license other than an occupational therapy license are considered unlicensed personnel in the provision of occupational therapy services. There is nothing in the Ohio Occupational Therapy Practice Act that states that a private practitioner cannot employ "other licensed personnel." It is acceptable for a private practice occupational therapist to employ other licensed personnel if those individuals are practicing and billing in accordance with the rules and regulations governing their professional license. In accordance with rule 4755-7-03 (D) of the Ohio Administrative Code, licensed occupational therapy practitioners may delegate non-treatment tasks to unlicensed personnel. Occupational therapy practitioners may not delegate tasks listed in paragraph (2) below to these individuals, who may include licensed nurses, physical therapists, physical therapist assistants, athletic trainers, etc. Some examples of allowable delegation include department maintenance, transport of clients, and preparation of work area, assisting with client's personal needs during treatment, assisting in the construction of adaptive equipment and splints, and other clerical or administrative functions. (1) Unlicensed personnel may only perform specific tasks which are neither evaluative, task selective, nor recommending in nature. The occupational therapist, occupational therapy assistant, student occupational therapist, or student occupational therapy assistant may delegate such tasks only after ensuring that the unlicensed personnel has been appropriately trained for the performance of the tasks. (2) The occupational therapist, occupational therapy assistant, student occupational therapist, and student occupational therapy assistant shall not delegate the following to unlicensed personnel: (a) Performance of occupational therapy evaluative services; (b) Initiation, planning, adjustment, modification, or performance of occupational therapy services; (c) Making occupational therapy entries directly in the client's official records; and (d) Acting on behalf of the occupational therapist, occupational therapy assistant, student occupational therapist, or student occupational therapy assistant in any matter related to occupational therapy treatment that requires decision making. Pursuant to section 4755.11 (A)(11) of the Revised Code, a licensed occupational therapist may face disciplinary action if he/she delegates the tasks indicated in rule 4755-7-03 (D)(2) of the Ohio Administrative Code to unlicensed personnel.

Ohio Athletic Trainers Association (OATA)

Siobhan Fagan asked the Section if there is any information the Section would like to post in the upcoming newsletter. Ms. Fagan stated that OATA will post information about the upcoming licensure renewal and post a statement regarding the mandatory reporting of ethical violations.

Open Forum

The Section discussed increasing licensee's awareness on how to report potential violations to the Section for further investigations. Also, the Section discussed reviewing the disciplinary actions at the Section retreat.

Section Retreat

The Section Retreat was held at the Ohio State University, Schottenstein Center, in the Fred Taylor Room, located at 555 Borror Drive, Columbus, Ohio 43210.

Mock Exercise – Adjudication

Yvonne Tertel, Assistant Attorney General, conducted four mock adjudication exercises for the Section. Ms. Tertel provided sample motions for each exercise.

AT Section Strategic Plan

The Section reviewed the Strategic Planning Schedule. The Section updated the Strategic Planning Schedule for 2014-2015. The Strategic Planning Schedule is attached to the minutes for reference.

Technology Summary

Brian Hartz will forward the draft to the Executive Director for further review and editing.

Review of Rules Scheduled for 5 Year Review in 2015

The Section reviewed the rules up for five year review. The Section discussed potential changes to the continuing education rule pertaining to the five hours in-person requirement. In addition, the Section discussed allowing approximately 2 hours of continuing education credit for evidence based practice activities completed in the CE reporting period.

The Section will look for potential gaps in the athletic training laws and rules based on contemporary cases coming through adjudication, such as ethics, management of concussion relative to return to play and documenting verbal communications.

The Section discussed creating a document to address best practices in documenting verbal interactions between the athletic trainers and physicians in regards to concussion management. The Section discussed writing a scenario to post in the OATA newsletter. Kimberly Peer volunteered to work on this project.

Items for the Next Meeting

- Elections
- Technology Summary

Next Meeting Date

The next regular meeting date of the Athletic Trainers Section is scheduled for Thursday, September 11, 2014.

Adjournment

Action: Kimberly Peer moved that the meeting be adjourned. Brian Hartz seconded the motion. The motion carried. The meeting adjourned at 2:05 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