

Ohio Occupational Therapy, Physical Therapy
and Athletic Trainers Board

Athletic Trainers Section Meeting
May 5, 2005
9:40 A.M.

Members Present

Jody Benda, AT
John Lombardo, M.D.
Kurt McClurg, AT
Paul Miller, AT
Vincent O'Brien, AT

Legal Counsel

Thomas Madden, Assistant Attorney General

Staff Present

Gina Longstreth, Investigator
Jeffrey Rosa, Executive Director

Guests

Tom Vignos
A. Shane Wells

Call To Order

The meeting was called to order by Section chairman Kurt McClurg at 9:40 A.M.

Approval Of Minutes

Action: Vincent O'Brien moved that the April 6, 2005 meeting minutes be approved as submitted. John Lombardo, M.D. seconded the motion. Paul Miller was absent for the vote. The motion carried.

Executive Director's Report

- The Executive Director had no formal report for the Section.

Licensure Applications

Action: Jody Benda moved that the following applications be placed on hold pending receipt of necessary documentation or paperwork. Vincent O'Brien seconded the motion. The motion carried.

Suzanne Davis

Mark Timmons

Action: Jody Benda moved that the following persons be licensed as athletic trainers pending the receipt of any necessary documentation or paperwork. Vincent O'Brien seconded the motion. The motion carried.

Deborah French

Jill Scheuer

Action: Jody Benda moved that the following persons be licensed as athletic trainers. Vincent O'Brien seconded the motion. The motion carried.

Timothy Ellis
Angela Miller

Marc Smith

Action: Jody Benda moved that the Athletic Trainers Section ratify, as submitted, the athletic training licenses issued by the Ohio Occupational Therapy, Physical Therapy, and Athletic Trainers Board from April 7, 2005 through May 4, 2005, taking into account those licenses subject to discipline, surrender, or non-renewal. Vincent O'Brien seconded the motion. The motion carried.

Timothy Dunlavy
Cynthia Klinefelter

Aaron Prentice
Tiffany Yoss

Investigative Report

The Enforcement Division has not opened any new cases since the April 6, 2005 meeting. There are currently four cases open and there were three cases closed since the April 6, 2005 meeting. There are sixteen individuals currently under consent agreement. Five inspections were conducted since the last meeting.

Action: Paul Miller moved to release Deb Torman from her consent agreement having fulfilled all conditions. John Lombardo, M.D. seconded the motion. Paul Miller abstained. The motion carried.

Action: Paul Miller moved to release Sandra Smith from her consent agreement having fulfilled all conditions. John Lombardo, M.D. seconded the motion. Paul Miller abstained. The motion carried.

Action: Paul Miller moved to release Carrie Terrell from her consent agreement having fulfilled all conditions. John Lombardo, M.D. seconded the motion. Paul Miller abstained. The motion carried.

Action: Paul Miller moved to accept the consent agreement for athletic training case number 04-026 in lieu of going to hearing. John Lombardo, M.D. seconded the motion. Paul Miller abstained. The motion carried.

- The Section accepted the consent agreement for Jeffrey Lambert-Shemo.

Adjudication

Action: Vincent O'Brien moved to go into executive session to deliberate on cases before the Board. John Lombardo, M.D., seconded the motion. The Executive Director called the roll.

Jody Benda	Present
John Lombardo, M.D.	Present
Kurt McClurg	Present
Paul Miler	Absent
Vincent O'Brien	Present

The motion carried. Kurt McClurg excused himself based on prior knowledge of the case through serving as the investigative liaison. All guests and staff were asked to leave.

The Section went into executive session at 10:00 a.m. and came out of executive session at 10:30 a.m.

Action: Jody Benda moved that the Section reconsider the motion from the April 6, 2005 meeting regarding the adjudication of the A. Shane Wells matter presented to the Section.

- On April 6, 2005, the Board reviewed and considered the transcript of the proceedings, the Report and Recommendation, written objections, and oral presentation by Mr. Wells.
- On May 5, 2005 the Board rejected, in part, the findings of fact and conclusions of law, and amended the recommendations of the Hearing Examiner.

Vincent O'Brien seconded the motion. Kurt McClurg and Paul Miller abstained from voting. The motion carried.

Action: Jody Benda moved to place A. Shane Wells on probation for two (2) years with the following conditions:

- Submission of a written report of evaluation by a Section-approved mental health care provider licensed by the state of Ohio stating that Mr. Wells has an understanding of sexual boundary issues. Mr. Wells shall sign a written release that authorizes the Section to have access to all treatment information and documentation;
- Completion of a Section approved course or courses addressing ethics, professionalism, sensitivity and sexual harassment. Mr. Wells must submit proof of course completion to the Section.
- Presentation of a continuing education course(s) addressing ethics, professionalism, sensitivity and sexual harassment locally, regionally, or statewide, as these topics relate to the profession of athletic training. Mr. Wells shall present on these topics at least four (4) times during the period of probation.
- Mr. Wells shall advise the Section of his current employer(s) and the name of his supervisor(s).
- Quarterly submission to the Section of notarized declarations from Mr. Wells' employer(s) indicating that Mr. Wells is practicing athletic training in accordance with the Ohio Athletic Training Practice Act.

- Attendance at a Section meeting to discuss his compliance with his probation.

Vincent O'Brien seconded the motion. Kurt McClurg and Paul Miller abstained from voting. The motion carried.

Rational: During executive session, the Section determined that Mr. Wells was not negligent of practicing outside his training and competence as a licensed athletic trainer, nor had he committed gross misconduct. The Section members disagreed with the expert witness testimony indicating that the treatment Mr. Wells performed would never be appropriate for an athletic trainer. The Section determined that the treatment Mr. Wells performed is accepted in the medical realm for shoulder and/or back problems.

The Section did determine that Mr. Wells was negligent in his judgment with regard to the sexual and personal boundaries and space of a patient of the opposite gender while practicing as a licensed athletic trainer.

The Section did not find that Mr. Wells should be removed from the practice of athletic training by indefinitely suspending his license to practice because the members of the Section did not believe Mr. Wells is or was a sexual predator and that removing him from the profession would not protect the public.

Assistant Attorney Generals Report

- Tom Madden informed the Section that Kim Hall, assistant legal counsel for the Ohio Department of Education, would attend the June 22, 2005 meeting to discuss the pupil activity validation program offered by the Ohio Department of Education (ODE).
- Mr. Rosa will send Ms. Hall a letter to ensure someone from ODE attends.

Correspondence

1. **Kimberly Mechlin:** Ms. Mechlin asked the Section if an abuse workshop and a drug and alcohol prevention conference would be applicable continuing education activities since she works in a high school setting. **Action:** After reviewing the materials provided, both programs would be applicable continuing education activities. The program, "Protecting God's Children" would be worth 4 hours of CE credit, as is stated on Ms. Mechlin's certificate of completion and the "Ohio Prevention and Education Conference" would be worth 6.5 hours, per the marked boxes of the sessions she attended.

New Business

License Issuance Procedures

- Kurt McClurg does not think that there are currently any issues with the way license applications are handled by the Section.
- Jeff Rosa asked Tom Madden if the Section needed to vote to issue the 60 day and abandonment notices.
- After discussing the issues regarding how licenses are issued, the Section tabled the item until the June 22, 2005 meeting.
- Tom Madden will give the Section a report at the June meeting to determine if there are any legal issues with the way the Section would like to issue 60 day and abandonment notices.

Ohio Athletic Trainers Association Draft Article

- Paul Miller presented the Section with an article he wrote for the OATA newsletter. The Section made minor changes and Mr. Miller will submit the article for publication in the OATA newsletter.

Discussion of Formal Committees

Action: Paul Miller moved to disband all formal committees of the Section. Vincent O'Brien seconded the motion. The motion carried.

Old Business

Renewal Report

- The renewal report is current as of April 22, 2005.
 - Number of Renewals Mailed: 776
 - Number of Licensees Renewing: 645
 - Number of Licensees Not Renewing: 35

Items For The Next Meeting

- The Section will meet with a representative from the Ohio Department of Education
- The Section will review the continuing education rule to determine if there should be a limit of hours placed on ethics continuing education.
- The Section will discuss the proposed six meeting schedule for 2006.
- The Section will review the final renewal report.

Next Meeting Date

The next meeting date of the Athletic Trainers Section will be Wednesday, June 22, 2005 at 9:30 a.m.

Adjournment

Vincent O'Brien moved that the meeting be adjourned. John Lombardo, M.D. seconded the motion. The motion carried. The meeting adjourned at 12:35 p.m.

Respectfully submitted by
Stephanie Youst

Kurt McClurg, AT, Chairman
Athletic Trainers Section

Jody Benda, AT, Secretary
Athletic Trainers Section

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

KM:jmr:sky