



Ohio Occupational Therapy, Physical Therapy,
and Athletic Trainers Board

*Occupational Therapy Section
January 12, 2012
9:00 a.m.*

Members Present

Rebecca Finni, OTR/L, Secretary
Jean Halpin, OTR/L, Chair
Kimberly Lawler, OTR/L (arrived from OTERP @ 10:08 am)
Nanette Shoemaker, COTA/L
Mary Stover, OTR/L

Staff

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

Legal Counsel

Yvonne Tertel, AAG

Guests

Ryan Dureska, JCARR

Call to Order

Jean Halpin, Section Chair called the meeting to order at 9:23 a.m.

The Section began the meeting by reading the vision statement.

The Occupational Therapy Section is committed to proactively:

- Provide Education to the Consumers of Occupational Therapy Services;
- Enforce Practice Standards for the Protection of the Consumer of Occupational Therapy Services;
- Regulate the Profession of Occupational Therapy in an Ever-Changing Environment;
- Regulate Ethical and Multicultural Competency in the Practice of Occupational Therapy;
- Regulate the Practice of Occupational Therapy in all Current and Emerging Areas of Service Delivery.

Approval of Minutes

Action: Jean Halpin moved that the minutes from the November 17, 2011 meeting be approved as amended. Mary Stover seconded the motion. Kimberly Lawler was absent for the vote. The motion carried.

Executive Director's Report

- The Executive Director informed the Section that the new investigator assistant position description was approved and the position will be posted shortly.

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

Administrative Reports

Continuing Education Report

Action: Nanette Shoemaker moved that the Section approve 105 applications for contact hour approval. Jean Halpin seconded the motion. The motion carried.

Licensure Report

Action: Mary Stover moved that the Occupational Therapy Section ratify, as submitted, the occupational therapist and occupational therapy assistant licenses issued by examination, endorsement, reinstatement, and restoration by the Ohio Occupational Therapy, Physical Therapy, and Athletic Trainers Board from November 17, 2011 through January 12, 2012, taking into account those licenses subject to discipline, surrender, or non-renewal. Nanette Shoemaker seconded the motion. Nanette Shoemaker abstained from voting on the occupational therapy assistant examination applications for Barbara Douglas, Kelly Fitzgerald, Victoria Grecula, Chelse Helmstetter, Kathryn Shattuck, and Brenda Spicuzza. Kimberly Lawler was absent for the vote. The motion carried.

Occupational Therapist – Examination

Brulport, Sarah

Didino, Susan

Grace, Shannon

Michnicki, Michelle

Moneer, James

Safin, Monica

Occupational Therapy Assistant – Examination

Allen, Sherrie
Carsey, Heather
Eglian, Krista
Fitzgerald, Kelly
Hanley, Erica
Johnson, Jodie
Lyons, Rhonda
Mercer, Trudy
Sabo, Craig
Spicuzza, Brenda
Windon, Erin

Altherr, Peggy
Davis, Rebecca
Elliott, Matthew
Grecula, Victoria
Helmstetter, Chelse
Johnson, Sylvia
Maloney, Olivia
Minalga, Ashton
Scovell, Sarah
Tucker, Jessica

Bailey, Taryn
Douglas, Barbara
Fair, Jessica
Grizzell, Marjon
Hughes, Toni
Lemmons, Jessica
Marks, Caitlin
Murtha, Joseph
Shattuck, Kathryn
Tumbry, Melanie

Occupational Therapist – Endorsement

Anderson, Caitlin
Lantagne, Lauren
Pickels, Rebecca

Davis, Renee
Leberfinger, Kara
Sears, Heather

Gregory, Sheila
Moreau, Jessica
Yontz, Rachel

Occupational Therapy Assistant – Endorsement

Forrester, Erika

Occupational Therapist – Reinstatement

Mansfield, Susan

McGlugritch, Ellen

Schommer, Nichole

Occupational Therapy Assistant – Reinstatement

Maestas, Mary

Stradtman, Kristie

Limited License Agreements

Mary Stover reported the Section received three new limited license applications and released two individuals from their limited license agreements since the November 17, 2011 meeting. There are currently twenty-three limited license applications/agreements being monitored.

Mary Stover reported that Renee Delventhal and Kelly Patrick complied with all terms and conditions and were released from their limited license agreements.

Mary Stover recommended that, pursuant to rule 4755-3-01(F) of the Administrative Code, the Section offer a limited license agreement to occupational therapist endorsement applicant #5126696. **Action:** Jean Halpin moved that Section grant a limited occupational therapist license agreement to endorsement applicant #5126696. Nanette Shoemaker seconded the motion. Mary Stover abstained from voting. Kimberly Lawler was absent for the vote. The motion carried. The Section granted a limited license agreement to Jennifer Mettler.

Mary Stover recommended that, pursuant to rule 4755-3-01(F) of the Administrative Code, the Section offer a limited license agreement to occupational therapist endorsement applicant #5139461. **Action:** Jean Halpin moved that Section grant a limited occupational therapist license agreement to endorsement applicant #5139461. Nanette Shoemaker seconded the motion. Mary Stover abstained from voting. Kimberly Lawler was absent for the vote. The motion carried. The Section granted a limited license agreement to Stacy Esper.

Mary Stover recommended that, pursuant to rule 4755-3-12 (D)(2) of the Administrative Code, the Section offer a limited license agreement to occupational therapy assistant reinstatement applicant #5140743. **Action:** Jean Halpin moved that the Section grant a limited occupational therapy assistant license agreement to reinstatement applicant #5140743. Nanette Shoemaker seconded the motion. Mary Stover abstained from voting. Kimberly Lawler was absent for the vote. The motion carried. The Section granted a limited license agreement to Patrick Lavelle.

Mary Stover recommended that the Section propose to deny the occupational therapist endorsement application for file #4875425 for noncompliance with conditions, limitations, or agreements placed by the occupational therapy section on a license to practice. **Action:** Rebecca Finni moved that the Section propose to deny the occupational therapist endorsement application for file #4875425 for noncompliance with conditions, limitations, or agreements placed by the occupational therapy section on a license to practice. Jean Halpin seconded the motion. Mary Stover abstained from voting. Kimberly Lawler was absent for the vote. The motion carried.

The Section instructed the Board staff to send a file close letter for occupational therapy assistant restoration file #4972901 via certified mail.

The Section recommended that the OT Limited License Reference Guide be updated to reflect the new timelines for individuals to complete the supervised clinical practice. The Section anticipates that the new extended timeframe will minimize the number of extension requests from applicants to complete the terms of the agreement. The Executive Assistant will update the reference guide for the next Section meeting.

Assistant Attorney General's Report

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

Case Review Liaison Report

Kimberly Lawler reported that the Enforcement Division opened one case and closed three cases since the November 17, 2011 meeting. There are currently four cases open. There are two consent agreements and one adjudication order being monitored.

Enforcement Actions

Kimberly Lawler recommended that the Section issue a notice of opportunity for hearing for case OT-FY12-011 for failure to cooperate with a board investigation. **Action:** Rebecca Finni moved that the Section issue a notice of opportunity for hearing for case OT-FY12-011 for failure to cooperate with a board investigation. Mary Stover seconded the motion. Kimberly Lawler abstained from voting. The motion carried.

Kimberly Lawler recommended that the Section issue a notice of opportunity for hearing for case OT-FY12-013 for failure to respond to the 2011 continuing education audit. **Action:** Jean Halpin moved that the Section issue a notice of opportunity for hearing for case OT-FY12-013 for failure to respond to the 2011 continuing education audit. Nanette Shoemaker seconded the motion. Kimberly Lawler abstained from voting. The motion carried.

Kimberly Lawler recommended that the Section rescind the notice of opportunity for hearing for case OT LD-12-003 as the individual requested to withdraw the application. **Action:** Jean Halpin moved that the Section rescind the notice of opportunity for hearing for case OT LD-12-003 as the individual requested to withdraw the application. Rebecca Finni seconded the motion. Kimberly Lawler abstained from voting. The motion carried.

Affidavit Hearing

Good afternoon. My name is Jean Halpin, Chairperson of the Occupational Therapy Section of the Ohio Occupational Therapy, Physical Therapy and Athletic Trainers Board. Let the record show that these proceedings were called to order at 1:00 pm on January 12, 2012, at the Vern Riffe Center, 77 South High Street, Columbus, Ohio, 43215. Members of the Board present for the proceedings are:

The Executive Director called roll:

Rebecca Finni	Present
Jean Halpin	Present
Kimberly Lawler	Present
Nanette Shoemaker	Present
Mary Stover	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 OT-FY12-012, Kenneth J. Peiescki, OT.

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

As the respondents 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 proceedings and outcome.

You have already received 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 a few moments to review the evidence and testimony.

In lieu of a stenographic record being made, let the minutes reflect the original sworn affidavit and exhibits shall be kept as the official record of the proceedings 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: Mary Stover moved to admit the facts and exhibits outlined in the sworn affidavit for case number OT-FY12-012, Kenneth J. Peisecki, OT. Nanette Shoemaker seconded the motion. Kimberly Lawler abstained from voting. The motion carried.

There being no further evidence to come before the board, this proceeding is now closed at 1:15 pm.

The procedural and jurisdictional matters having being satisfied, we will now continue with the proceeding by deliberation on the sworn affidavit and exhibits. A written copy of the board's decision will be mailed to the respondent.

At this time, is there a motion to go into private session for the purpose of quasi-judicial deliberation on these matters?

Action: Mary Stover moved to go into private session for the purpose of quasi-judicial deliberation on these matters. Nanette Shoemaker seconded the motion.

The Executive Director called roll:

Rebecca Finni	Yes
Jean Halpin	Yes
Kimberly Lawler	Yes
Nanette Shoemaker	Yes
Mary Stover	Yes

The Section went into private session at 1:16 p.m. and came out at 1:38 p.m. Kimberly Lawler left the room during private session and did not participate in the deliberations.

After review of the evidence the Board makes the following findings:

1. Mr. Peisecki practiced in a pattern of negligent conduct with regard to patient safety.
2. Mr. Peisecki demonstrated an inability to set up an environment to minimize patient fall potential and increase patient safety.

3. Mr. Peisecki failed to check physician orders prior to treating a patient.
4. Mr. Peisecki failed to review the patient's chart prior to treating a patient.
5. Mr. Peisecki failed to check for patient precautions prior to treating a patient.
6. Mr. Peisecki failed to recall patient histories, and their specific treatment/precautions.
7. Mr. Peisecki demonstrated an inability to appropriately deal with unexpected issues/events that transpired during treatment sessions.
8. Mr. Peisecki failed to wash hands in between patient treatments.
9. Mr. Peisecki failed to wear gloves when handling patient fluids and soiled linens.
10. Mr. Peisecki produced inaccurate and incomplete patient documentation.
11. Mr. Peisecki submitted billing that was not consistent with patient treatments.
12. Mr. Peisecki required significant coaching/assistance by supervising occupational therapist to complete procedures requiring minimal competence.

After review of the evidence, the Board makes the following conclusions of law:

Kenneth J. Peisecki violated sections 4755.11 (A)(2), (3), (5), (16), and (17) of the Ohio Revised Code and rule 47555-7-08(B)(15)(c) of the Ohio Administrative Code.

Action: Rebecca Finni moved that the license of Kenneth J. Peisecki, OT, be revoked based on the affidavit, findings, and conclusions of law before us. Mary Stover seconded the motion. Kimberly Lawler abstained from voting. The motion carried.

Correspondence

1. **Tracy Kirtley:** Ms. Kirtley asked the Section questions regarding whether an occupational therapy assistant can update/rewrite goals. **Reply:** It is the position of the Occupational Therapy Section that the initial plan, long-term goals, and initial short-term goals must be written by the occupational therapist. The occupational therapist may collaborate with the occupational therapy assistant in the development of these items. Once the initial plan of care and goals are established, the occupational therapy assistant may update short-term goals in collaboration with the occupational therapist. Please review rule 4755-7-02 of the Administrative Code for additional information on the roles and responsibilities of the occupational therapist and occupational therapy assistant.
2. **Ann Hoffman-Ruffner:** Ms. Hoffman-Ruffner asked the Section questions regarding the use occupational therapy practitioners in the scenario described. (*Initially reviewed in Nov 2011, Corr#16*) **Reply:** It is the opinion of the Occupational Therapy Section that collaborative teamwork, including multidisciplinary, interdisciplinary, and transdisciplinary approaches are appropriate forms of service delivery in the psychiatric setting. As in any work setting, an occupational therapist would be required to assume the professional responsibilities outlined in rule 4755-7-02 (A) of the Ohio Administrative Code. For example, as a part of the transdisciplinary team, the occupational therapist performs evaluations and analysis of the client and environment; identifies issues and inputs into the development of goals and objectives; plans appropriate interventions; and assesses outcomes. The occupational therapist determines the aspects of the occupational therapy intervention plan that may be carried out by other team members. Instructing team and family members on ways to implement appropriate activities may be part of the intervention plan. Only services provided by an occupational therapist or occupational therapy assistant may be called occupational therapy. If the occupational therapist determines that services require the skills of an occupational therapist or occupational therapy assistant, then those interventions cannot be delegated to other providers. The occupational therapy practitioner must use professional judgment to determine when training is not adequate to provide requested interventions.
3. **Candace White:** Ms. White asked the Section whether occupational therapy practitioners should use their legal name or nickname when signing occupational therapy documentation. **Reply:** While laws and rules do not specify what constitutes a signature for documentation, it is the position of the Occupational Therapy Section that therapy notes and other documentation are legal documents and the signature needs to be able to be tracked to a specific individual and identifiable as the licensee as designated in the licensing

database. The Occupational Therapy Section also recommends that you determine if there are any facility or payer policies that relate to what constitutes a valid signature.

4. **Jaimie McKinnon:** Ms. McKinnon asked the Section clarification on when providing occupational therapy as a group, are occupational therapists expected to assess and evaluate each possible attendee for group therapy prior to treating the individual in the group. **Reply:** Under current Ohio law, an occupational therapy practitioner providing fitness or wellness services to individual clients or groups must follow regulations for occupational therapy practice if the services are represented as occupational therapy. Therefore, the occupational therapist must perform the evaluation and establish the plan of care prior to treating the client in the group therapy session. If group activities are not represented as occupational therapy, they do not fall under the jurisdiction of the Occupational Therapy Practice Act. The Occupational Therapy Section recommends that the practitioner ensures that appropriate medical screenings and disclosure are in place to ensure the safety of the participants.
5. **Denece Burton:** Ms. Burton asked the Section whether an Ohio licensed occupational therapist is required to obtain licensure in another state in order to provide a home assessment for a client being treated in an Ohio facility but resides in another state. **Reply:** The Section recommends that you contact the West Virginia Board of Occupational Therapy, the state where the client resides, to explore the requirements for practicing in that state. The West Virginia Board can be reached at (304) 285-3150 or help@wvbot.org.
6. **Julie Gerback:** Ms. Gerback asked the Section questions regarding supervisory ratios for PRN occupational therapy practitioners. **Reply:** Under the Ohio Occupational Therapy Practice Act, the occupational therapist is ultimately responsible for all clients served by an occupational therapy assistant. The occupational therapy assistant does not maintain a caseload that is separate from the occupational therapist. The occupational therapist must provide appropriate supervision and assure that treatments are rendered according to safe and ethical standards and in compliance with rule 4755-7-04 of the Administrative Code, which states that “the supervising occupational therapist is ultimately responsible for all clients and is accountable and responsible at all times for the actions of persons supervised, including the occupational therapy assistant, student occupational therapist, student occupational therapy assistant and unlicensed personnel.” Pursuant to rule 4755-7-04 (B)(1) - (3) of the Administrative Code, when maintaining a separate caseload, a full-time equivalent occupational therapist may supervise no more than four full-time equivalent occupational therapy assistants. If there are occupational therapy assistants working part-time or PRN, their hours need to be accounted for as part of this four full-time equivalent maximum. If the occupational therapist is only providing client evaluations and supervision and does not have a separate caseload, the occupational therapist may supervise six full-time equivalent occupational therapy assistants. The number of occupational therapy assistants that a part-time or PRN occupational therapist may supervise is proportionate to the number of hours worked by the part-time or PRN occupational therapist. Pursuant to rule 4755-7-04 (F) of the Administrative Code, the supervising occupational therapist must determine that the occupational therapy assistant possesses a current license to practice occupational therapy prior to allowing him or her to practice. Supervision requires initial directions and periodic inspection of the service delivery and relevant in-service training. The supervising licensed occupational therapist need not be on-site, but must be available for consultation with the occupational therapy assistant at all times. Supervision is an interactive process; simply co-signing client documentation does not meet the minimum level of supervision. Supervision must include a review of the client assessment, reassessment, treatment plan, intervention, and the discontinuation of the intervention. The occupational therapy assistant may not initiate or modify a client’s treatment plan without first consulting with the supervising occupational therapist. The supervising occupational therapist must provide supervision at least once per week for all occupational therapy assistants who are in their first year of practice. Occupational therapy assistants beyond their first year of practice must be supervised at least once per month. Evidence must be established, either in the client records or in a separate document (e.g.: collaboration log), that the supervision took place.

OT/PT Joint Correspondence

- JB1. Debbie Ellis, OTR/L:** Ms. Ellis asked the Occupational and Physical Therapy Sections whether it is necessary for occupational and physical therapists to transfer patient care if the therapist is out on maternity leave. **Reply:** Yes, the maternity situation requires a transfer of care as you described in your letter.

- JB2. Rushina Patel, PT, DPT:** Dr. Patel asked the Occupational and Physical Therapy Sections questions regarding appropriate credentials to use in documentation and assisting with non-therapy services in a SNF setting. **Reply:** In response to your first question, it is the opinion of the Occupational Therapy Section that collaborative teamwork, including multidisciplinary, interdisciplinary, and transdisciplinary approaches are appropriate forms of service delivery. A client transferring from one position to another is not exclusive to occupational therapy. If the client is not on the current occupational therapy case load, the occupational therapy practitioner must use professional judgment to determine when training is not adequate to provide requested assistance. As in any work setting, an occupational therapist working in a skilled nursing facility would be required to assume the professional responsibilities outlined in rule 4755-7-02 (A) of the Ohio Administrative Code. For example, as a part of the transdisciplinary team, the occupational therapist performs evaluations and analysis of the client and environment; identifies issues and inputs into the development of goals and objectives; plans appropriate interventions; and assesses outcomes. While there are times as a team member you may choose to assist another team member (aide or nurse) with a difficult transfer, what you describe is not a physical therapy task and may not be represented as physical therapy. It is important that you discuss with your administration the Ohio Physical Therapy Practice Act. In addition, if your facility does not use Safe Patient Handling equipment, you may want to take the lead in moving your facility in this direction. In response to your second question, it is the position of the Occupational Therapy Section that licensure designation be documented at a minimum by the appropriate regulatory credential. The therapist's signature sequence should be the therapist's name, followed by the regulatory professional credential that allows the therapist to practice occupational therapy. For example: Jane Doe, OT/L. The Ohio Occupational Therapy Practice Act is silent on the education credential and the order in which it is placed. In addition, there is nothing in the Occupational Therapy Practice Act that requires a licensee to include the licensee's license number as part of the signature. In accordance with rule 4755-7-10 of the Administrative Code, occupational therapy practitioners who do not maintain NBCOT certification should use the following credentials: OT/L for occupational therapists and OTA/L for occupational therapy assistants. Regarding your second question, the Physical Therapy Section is working to educate physical therapists and physical therapist assistants in the correct credentials to use in professional signatures. Since PT or PTA is the regulatory designation allowing practice, rule 4755-27-07 of the Administrative Code requires that only those letters should immediately follow the person's name. Academic degrees may then follow the regulatory credential. For example, a nametag or signature might read Pat Doe, PT, MS, OCS. "L" should not be used in front of "PT" or "PTA" since no one may use the "PT" or "PTA" credential in Ohio without a valid license. However, the Sections recommend that you review your facility policies and procedures. In addition, payers may have requirements that are more restrictive than the Ohio Occupational and Physical Therapy Practice Acts.
- JB3. Kathy Armentrout, PT:** Ms. Armentrout asked the Occupational and Physical Therapy Sections if physical therapists can treat clients based on the occupational therapy plan of care. **Reply:** The physical therapist and physical therapist assistant may only treat pursuant to the physical therapy evaluation and plan of care and the occupational therapist and occupational therapy assistant may only treat pursuant to the occupational therapy evaluation and plan of care. Occupational therapy and physical therapy practitioners may not treat pursuant to an evaluation and plan of care established by the other discipline. In response to your question, physical therapists cannot work under the plan of care of an occupational therapist. If another occupational therapy practitioner who demonstrates and documents competency in the treatment of lymphedema cannot be identified to assume the care of the client, the occupational therapist would have to discharge the client and the client would need to be evaluated by the physical therapist, who must establish a separate physical therapy plan of care.
- JB4. Debra Farley:** Ms. Farley asked the Occupational and Physical Therapy Sections questions regarding coding for occupational and physical therapy services to special needs children in an independent practice setting. **Reply:** It is the position of the Physical Therapy Section that any service should be billed under the most descriptive intervention and diagnostic codes available. Please check with Medicare, third-party payers and, and insurance policies to address your specific questions. You may also get information from the Reimbursement Department or Ohio chapter of the American Physical Therapy Association. Your questions relate to payer policies and not to the Ohio Occupational Practice Act. The Section recommends that you refer to Medicare, Medicaid, and/or payer policies for any specific billing and reimbursement requirements in your setting. You might also contact the Ohio Occupational Therapy Association, or the Reimbursement Department of the American Occupational Therapy Association.

New Business

Public Rules Hearing

The Section held a public rules hearing from 11:00 am to 11:09 am.

Formalize Strategic Planning

The Section retreat topics identified in November 2011 are: supervisor ratios, cultural diversity awareness, review emerging areas of practice and core areas of the AOTA Practice Framework to see how it relates to the Ohio Occupational Therapy Practice Act.

The Section discussed limiting the retreat topics to: *OT/OTA supervisory issues* and *cultural diversity awareness*. Nanette Shoemaker and Kimberly Lawler will lead the discussions regarding implementing cultural diversity awareness from a regulation perspective.

New Liaison Position

The Section discussed assigning a Board member to serve as a Rules Liaison to work with the Executive Director on any interactions with stakeholders regarding input on potential rules changes. The Section agreed that the Section Chair should be the Rules Liaison. Therefore, Jean Halpin will serve as the Rules Liaison for the Occupational Therapy Section.

Open Forum

There were no items discussed.

Ohio Occupational Therapy Association (OOTA) Report

There was no formal report.

Items for Next Meeting

- Strategic Planning Update
- Rules Liaison Update

Next Meeting Date

The next regular meeting date of the Occupational Therapy Section is scheduled for Thursday, March 8, 2012.

Action: Kimberly Lawler moved to adjourn the meeting. Nanette Shoemaker seconded the motion. The motion carried. The meeting adjourned at 1:45 p.m.

Respectfully submitted,
Diane Moore

Jean Halpin, OTR/L, Chairperson
Ohio Occupational Therapy, Physical Therapy,
and Athletic Trainers Board, OT Section

Rebecca Finni, OTR/L, Secretary
Ohio Occupational Therapy, Physical Therapy,
and Athletic Trainers Board, OT Section

Jeffrey M. Rosa, Executive Director
Ohio Occupational Therapy, Physical Therapy,
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RF:jmr:dm