



Ohio Occupational Therapy, Physical Therapy,
and Athletic Trainers Board

Occupational Therapy Section
March 7, 2013
9:00 a.m.

Members Present

Beth Ball, OTR/L
Rebecca Finni, OTR/L, Secretary
Jean Halpin, OTR/L, Chair
Mary Lavey, COTA/L
Kimberly Lawler, OTR/L

Staff

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

Legal Counsel

Yvonne Tertel, AAG

Guests

Shakeba DuBose
William Behrendt (JCARR)

Call to Order

Jean Halpin, Section Chair called the meeting to order at 9:37 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: Kimberly Lawler moved that the minutes from the January 17, 2013 meeting be approved as submitted. Rebecca Finni seconded the motion. The motion carried.

Action: Kimberly Lawler moved that the Section go into Executive Session to discuss personnel matters related to the employment of a state employee pursuant to ORC 121.22(G)(1). Rebecca Finni seconded the motion.

Jean Halpin called the roll:

Beth Ball	Yes
Rebecca Finni	Yes
Jean Halpin	Yes
Mary Lavey	Yes
Kimberly Lawler	Yes

The Section went into Executive Session at 9:14 am and came out at 9:30 am. There was no action taken.

Administrative Reports

Continuing Education Report

Action: Mary Beth Lavey moved that the Section approve 115 applications for contact hour approval. Beth Ann Ball seconded the motion. The motion carried.

Licensure Report

Action: Jean Halpin 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 January 17, 2013 through March 7, 2013, taking into account those licenses subject to discipline, surrender, or non-renewal. Beth Ann Ball seconded the motion. Kimberly Lawler abstained from voting on the occupational therapy assistant examination applications for Melanie Adams, Katarzyna Barkley, Jenny Bates, Gilbert Dodd, and Teresa King. The motion carried.

Occupational Therapist – Examination

Banna, Erin	Barden, Elliot	Brennan, Alexandra
Brewer, Melinda	Butscha, Lauren	Cannoy, Alissa
Conroy, Sarah	Counts, Leigh	Criswell, Kacey
Dalton, Molly	Davis, Jennie	Dinkelacker, Julie
Dirnberg, Jennifer	Dobell, Maria	Dodrill, Lindsay
Douglas, Amber	Dunning, Eleanor	Fariello, Victoria
Fennig, Krista	Fett, Alyssa	Fink, Jennifer
Gorenflo, Amanda	Haffner, Emily	Hake, Michael
Harman, Heather	Heinekamp, Alison	Hetrick, Chelsea
Holtsberry, Chelsea	Hupp, Ashley	Jacobs, Aaron
Jansma, Mabel	Johnson, Kevin	Kadle, Santana
Kerns, Mary	Kiser, Sarah	Knodle, Lauren
Lemmel, Kelsey	Leuenberger, Brittany	Lewis, Amanda
Liskay, Rebecca	Martin, Kristen	Meiners, Katherine
Moore, Emily	Mowery, Emily	Noss, Kara
O'Donnell, Bridget	Peak, Morgan	Pearl, Andrew
Perumal, Shannon	Petit, Audrey	Pleiman, Mallory
Porter, Rachael	Quinlan, Sarah	Rhine, Elizabeth
Roman, Lindsey	Rosenberg, Irina	Rueth, Abbie
Sauer, Julie	Scarpelli, Julie	Schempp, Rachael
Schneider, Carl	Schulze, Julie	Schwieterman, Emily
Schwinnen, Stefanie	Sexton, Scott	Short, Aimee
Silberstein, Sharon	Squires, Erica	Stevenson, Whitney
Steyer, Whitney	Strayer, Brooke	Tobias, Heather
Urban, Jesse	Waggoner, Megan	Weigel, Shawna
Welch, Kylie	Wilburn, Katherine	Williams, Faith
Yoder, Tessa	Zabudske, Donna	Zumberger, Jenna

Occupational Therapy Assistant – Examination

Adams, Melanie	Barkley, Katarzyna	Bates, Jenny
Blackburn, Lashay	Brisker, Jacklyn	Burlile, Kathie
Cockerham, Toni	Cordes, Leslie	DeBerry, Brent
DiVito, Danielle	Dodd, Gilbert	Erwin, Abigail
Fink, Kari	Fogelman, April	Franks, M.
Frederick, William	Fullam, Wendela	Hills, Aimee
Johnson, Heather	Kaesar, Tiffany	King, Teresa
Krause, Margaret	Lilly, Mandi	Mauger, Mandy
Meyer, Ameer	Miller, John	Mollica, Sue Ann
Phelps, Lynda	Rollins, Mary	Ross, Angela
Roth, Brittany	Royer, Kara	Schwemley, Jeremy
Shkilevich, Nicholas	Siefring, Melyssa	Slone, Megan
Smith, Bridget	Smith, Jacqueline	Stevens, Vanessa
Turton, Cynthia	Wagner, Amie	West, April
Wilms, Meghan	Workman, Jewelene	Wyatt, Lisa

Occupational Therapist – Endorsement

Abella, Maria Minerva	Anglestein, Lauren	Belickis, Veronica
Cohen, Ellie	Gallagher, Courtney	Hughes, Barry

Thornton, Jeanette

Occupational Therapy Assistant – Endorsement

Anderson, Kelly

Hauler, Gladys

Teusch, Sheila

Occupational Therapist – Reinstatement

Hunnewell, Leslie

Occupational Therapy Assistant – Reinstatement

Zellers, Sharee

Limited License Agreements

Jean Halpin reported the Section received one limited license application since the January 17, 2013 meeting. There are currently twenty limited license applications/agreements being monitored.

Jean Halpin reported that Melissa Dougherty complied with all terms and conditions and was released from her limited license agreement.

Jean Halpin 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 #5240396. **Action:** Kimberly Lawler moved that Section grant a limited occupational therapist license agreement to endorsement applicant #5240396. Beth Ann Ball seconded the motion. Jean Halpin abstained from voting. The motion carried. The Section granted a limited license agreement to Joan Mainville-Davis.

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 zero cases and closed four cases since the January 17, 2013 meeting. There are currently fifteen cases open. There is one consent agreement and two adjudication order being monitored.

Enforcement Actions

Kimberly Lawler recommended that the Section accept the surrender consent agreement for case OT-FY13-013 in lieu of going to a hearing. **Action:** Jean Halpin moved that the surrender consent agreement for case OT-FY13-013 be accepted in lieu of going to a hearing. Beth Ann Ball seconded the motion. Kimberly Lawler abstained from voting. The motion carried. The Section accepted the consent agreement for Sarah Endicott, OT, in which Ms. Endicott agrees to voluntarily surrender her license for failure to complete a drug screening on four occasions pursuant to the consent agreement she entered into with the Board on November 16, 2010 and the Section hereby simultaneously revokes her occupational therapist license.

Kimberly Lawler recommended that a notice of opportunity for hearing be issued for case OT-LD-13-001 proposing to deny the reinstatement application of the individual who is the subject of the above cited case for insufficient evidence of rehabilitation for prior disciplinary violations. **Action:** Jean Halpin moved that the Section issue a notice of opportunity for hearing for case OT-LD13-001 proposing to deny the reinstatement application of the individual who is the subject of the above cited case for insufficient evidence of rehabilitation for prior disciplinary violations. Rebecca Finni seconded the motion. Kimberly Lawler abstained from voting. The motion carried.

Correspondence

1. **Ann Ramsey, OTR/L:** Ms. Ramsey asked the Section questions regarding using telepractice to provide consultative services to clients to support their home programming. **Reply:** Telerehabilitation is an emerging area of practice. The Section suggests you review the American Occupational Therapy Association's *Position Paper: Telerehabilitation* (AOTA, 2010) for additional guidance and resources regarding process and best practice for provision of occupational therapy remotely. It is the position of the Occupational Therapy Section that an occupational therapy practitioner is required to hold a valid, current license in the State of Ohio to serve any clients residing in Ohio. Therefore, out of state occupational

therapy personnel must hold a valid Ohio license to treat clients in Ohio via telerehabilitation. If your client resides outside the state of Ohio, the Section recommends that you contact the occupational therapy board in that state to explore their specific requirements related to licensure and practice via telerehabilitation. It is not within the jurisdiction of the Occupational Therapy Section to render billing and reimbursement advice. The Section recommends that you refer to 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.

2. **Caitlin Clark**: Ms. Clark asked the Section questions regarding requirements for obtaining physical agent modality (PAMS) certification for occupational therapy practitioners. **Reply**: Formal certification to provide physical agent modalities is not a requirement in Ohio. However, in accordance with section 4755.04 (A)(3) of the Ohio Revised Code, it is the position of the Occupational Therapy Section that occupational therapy practitioners may use physical agent modalities in the provision of occupational therapy services provided that the occupational therapy practitioner demonstrates and documents competency in the modality, in accordance with rule 4755-7-08 of the Administrative Code, and is practicing within the occupational therapy scope of practice. If the modality will be administered by an occupational therapy assistant both the supervising occupational therapist and occupational therapy assistant must document and demonstrate competency in the techniques or modality. The Section recommends that you contact the American Occupational Therapy Association for resources related to further professional development with PAMS certification for occupational therapy practitioners.
3. **Jocelyn Metzger, OTR/L**: Ms. Metzger asked the Section questions regarding what is required of a private practice to be considered an out or network provider for Medicare. **Reply**: Your questions relate to payer policies and not to the Ohio Occupational Therapy 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.
4. **Michelle Michnicki, OTR/L**: Ms. Michnicki asked the Section for clarification on recent Medicare changes and the term skilled maintenance. **Reply**: Medicare regulations currently state that the restoration potential of a patient is not the deciding factor in determining whether skilled services are needed. Even if full recovery or medical improvement is not possible, a patient may need skilled services to prevent further deterioration or preserve current capabilities (42 C.F.R. 409.32(c)). The Medicare changes you are referring to involve a recent settlement agreement of a nationwide class-action lawsuit (*Glenda Jimmo et al vs. Kathleen Sebelius*). The settlement agreement states that skilled nursing and therapy coverage does not turn on the “presence or absence of an individual’s potential for improvement from the nursing care, but rather on the beneficiary’s need for skilled care.” Additional information about this settlement is available at <http://www.medicareadvocacy.org/hidden/highlight-improvement-standard/>. Any coverage changes from a Medicare standpoint would be considered a payer issue, not a licensure issue, and therefore outside the jurisdiction of this Board. 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. However, in response to your practice questions, several points can be made regarding the ethical provision of occupational therapy services within any practice setting. As stated in rule 4755-7-08 (C) of the Ohio Administrative Code: (1) A licensee shall adhere to the minimal standards of acceptable prevailing practice. Failure to adhere to minimal standards of practice, whether or not actual injury to a client occurred, includes, but is not limited to: (b) Providing treatment interventions that are not warranted by the client’s condition or continuing treatment beyond the point of reasonable benefit to the client. (13) A licensee shall advocate for clients to obtain needed services through available means. (16) A licensee shall safeguard the public from underutilization or overutilization of occupational therapy services. Occupational therapy services are defined within section 4755.04 of the Ohio Revised Code to include methods or strategies selected to direct the process of interventions, including, but not limited to, establishment, remediation, or restoration of a skill or ability that has not yet developed or is impaired and compensation, modification, or adaptation of activity or environment to enhance performance. Provision of services to enable a client to maintain his or her current level of function would be considered within the scope of occupational therapy practice.

5. **Renee Markiewicz, OTR/L:** Ms. Markiewicz requested guidance from the Section on occupational therapy assistants writing notes. **Reply:** As stated in rule 4755-7-02 of the Ohio Administrative Code, the roles and responsibilities of the occupational therapist and occupational therapy assistant are as follows: (A) Occupational therapist. The occupational therapist shall assume professional responsibility for the following activities, which shall not be wholly delegated, regardless of the setting in which the services are provided: (1) Interpretation of referrals or prescriptions for occupational therapy services; (2) Interpretation and analysis for evaluation purposes; (3) Development, interpretation, and modification of the treatment/intervention plan and the discharge plan. (B) Occupational therapy assistant. (1) The occupational therapy assistant may contribute to and collaborate in: (a) The evaluation process by gathering data, administering standardized tests and/or objective measurement tools, and reporting observations. (b) The preparation, implementation, and documentation of the treatment/intervention plan and the discharge plan. (c) Choosing the appropriate treatment interventions. (2) The occupational therapy assistant may independently: (a) Select the daily modality of choice according to the established treatment/intervention plan. (b) Document the progress and outcomes summary. (3) The occupational therapy assistant may not evaluate independently or initiate treatment/intervention before the supervising occupational therapist performs an evaluation. Documentation of progress would be within the scope of an occupational therapy assistant. Collaboration between the occupational therapy assistant and the occupational therapist must be reflected in the patient documentation. However, you may wish to refer to Medicare and other third party payer policies to determine what they require. Insurer policies and/or federal regulations may be more or less restrictive than the Ohio Occupational Therapy Practice Act. In any situation, licensees should follow the more restrictive policies. While the Ohio Occupational Therapy Practice Act is not specific about the components of documentation, it is the position of the Occupational Therapy Section that occupational therapy practitioners should follow the American Occupational Therapy Association's *Guidelines for Documentation of Occupational Therapy* (AOTA, 2008) when determining documentation of occupational therapy in any setting.

OT/PT Joint Correspondence

- JB1.** **Julie Bellucci:** Ms. Bellucci asked the Occupational and Physical Therapy Sections if assistants can write a telephone order from their supervising therapist after physician approval. **Reply:** Occupational therapists are not required to have a referral and/or prescription to evaluate or treat patients in the State of Ohio. The decision whether an occupational therapy assistant or occupational therapist is permitted to write orders related to occupational therapy in patient charts is based on facility policy. Accrediting bodies and/or reimbursement agencies may have other requirements and guidelines, including requiring a physician's referral and/or prescription, which need to be met for accreditation and/or reimbursement of occupational therapy services. Please note that any documentation by an occupational therapist assistant must be co-signed by the supervising occupational therapist. The occupational therapist is ultimately responsible for all documentation and care provided to the client. It is the position of the Physical Therapy Section that physical therapy services may be initiated by a telephone referral, electronic mail, or verbal order. Individuals other than physical therapists are not prohibited from receiving verbal or telephone orders for physical therapy. All verbal or telephone orders, prescriptions, or referrals must be followed up in writing with the referring practitioner's signature for inclusion in the patient's official record. Ultimately the physical therapist is the individual responsible for receiving, interpreting, and accepting the directive or order as part of the care of the patient.
- JB2.** **James Kelser, OTR/L:** Mr. Kelser asked the Occupational and Physical Therapy Sections if a physician order is required to discontinue occupational and physical therapy in an acute hospital setting based on the description provided. **Reply:** Occupational and physical therapists are not required to have a referral and/or prescription to evaluate, treat and/or discharge clients in the State of Ohio. However, hospital or facility policies, accrediting bodies, and/or reimbursement agencies may be more restrictive than the Ohio Occupational and Physical Therapy Practice Acts. They may have other requirements and guidelines, including requiring a physician's order to discontinue services, which need to be met for accreditation and/or reimbursement of occupational and physical therapy services. In any situation, licensees should follow the more restrictive policies. The discharge summary would document final discharge date and disposition, as well as the reason for discharge.

Old Business

OT/OTA Supervision Ratio Update

There are no new updates on the supervision ratios.

New Business

Public Rules Hearing

The Section held a public rules hearing from 9:45 am to 9:53 am.

Jimmo v. Sebelius

Medicare regulations currently state that the restoration potential of a patient is not the deciding factor in determining whether skilled services are needed. Even if full recovery or medical improvement is not possible, a patient may need skilled services to prevent further deterioration or preserve current capabilities (42 C.F.R. 409.32(c)). The Medicare changes referred to involve a recent settlement agreement of a nationwide class-action lawsuit (*Glenda Jimmo et al vs. Kathleen Sebelius*). The settlement agreement states that skilled nursing and therapy coverage does not turn on the “presence or absence of an individual’s potential for improvement from the nursing care, but rather on the beneficiary’s need for skilled care.” The Section recommends that individuals refer to Medicare, Medicaid, and/or payer policies for any specific billing and reimbursement requirements in your setting. Individuals might also contact the Ohio Occupational Therapy Association, or the Reimbursement Department of the American Occupational Therapy Association. Additional information about this settlement is available at <http://www.medicareadvocacy.org/hidden/highlight-improvement-standard>. The Section’s full response on this topic is listed above in correspondence number four.

Retreat Planning

The Section identified the following topics for discussion at the strategic planning retreat: consultative roles in occupational therapy practice, telerehabilitation and tele-supervision, proof of active practice, and rules renumbering.

Open Forum

Rebecca Finni requested a copy of the Section’s consumer education document. Ms. Finni will review the document for potential updates.

Ohio Occupational Therapy Association (OOTA) Report

There was no formal report.

Items for Next Meeting

- Retreat Planning

Next Meeting Date

The next regular meeting date of the Occupational Therapy Section is scheduled for Thursday, May 16, 2013.

Action: Rebecca Finni moved to adjourn the meeting. Kimberly Lawler seconded the motion. The motion carried. The meeting adjourned at 12:45 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