

**BOARD OF OCCUPATIONAL THERAPY
MINUTES**

DATE: October 23, 2008

TIME: 9:00 a.m. C.S.T.

LOCATION: Iris Conference Room
Heritage Place, Metro Center
227 French Landing, Ground Floor
Nashville, TN 37243

MEMBERS PRESENT: Janet Neely, OTA, Chair
Dr. Jeff E. Snodgrass, OT
Lisa Short, Consumer

MEMBERS ABSENT: Menoj Tendolkar, OT
Sandra Fletchall, OT

STAFF PRESENT: Marva Swann, Board Director
Tomica Walker, Board Administrator
Diona Layden, Advisory Attorney
Juanita Stone, BIV Disciplinary Coordinator
Libby Miller, HRB Director
Alison Cleaves, OGC Deputy General Counsel

GUESTS: John Williams, TOTA
Mike Harkreader, TNPAP

With a quorum being present, Ms. Neely called the meeting to order at 9:15 a.m.

Conflict of Interest

Ms. Layden presented the Conflict of Interest Policy and advised the Board members of their responsibilities under the policy.

Office of General Counsel

Ms Layden presented the following OGC report:

Rules

Rules relating to practice act revisions, supervisions, titles, conditions (07-0468; Tenn.Com.R. & Regs. 1150-2-.01, .03, .10, and .15) are under evaluation by the Office of General Counsel for

form and content. Once approved, the rules will be sent to the Attorney General's Office for final review.

At this meeting, the Board will take a roll call vote to accept the Economic Impact Statement and the Regulatory Flexibility Analysis relative to these rules.

Litigation Matters

There are five open cases in the Office of General Counsel for this Board.

Agreed Citations Relating to Lapsed Licenses

Alison Cleaves, OGC Deputy General Counsel, addressed the Board regarding agreed citations as they relate to a licensee practicing on a lapsed license

Ms. Cleaves stated that she was not asking the Board to change their current policy regarding a licensee practicing on a lapsed license, but to make it clear that if the Board were seeking civil penalties for policy violations, these would become reportable violations subject to listing on the Health Departments monthly Disciplinary Action Report (DAR). She was also asking that the Board enforce their policy by agreed citation rather than a demand letter as has been used in the past. The agreed citation is a legal document that would outline the licensee's rights and privileges under the law.

After discussion, a motion was made by Dr. Snodgrass and seconded by Ms. Neely to use the agreed citation with regard to lapsed licenses and deficient continuing education hours with the understanding that such action would be considered reportable discipline. The motion carried.

Tennessee Professional Assistance Program (TNPAP)

Mike Harkreader presented the TNPAP report for the period July 1, 2007 through June 30, 2008. There was one OTA monitored during this time. The Board referred one OT and one OTA. The OT was referred for a history of arrest—DUI and the OTA for substance abuse/dependence. The OTA signed a monitoring agreement. During this period, three OT's were discharged. Two successfully completed the program and one was discharged because monitoring was deemed unnecessary.

Investigative/Disciplinary Report

Juanita Stone, BIV Disciplinary Coordinator, presented the investigative and disciplinary reports as of September 2008. Investigations had three open complaints on OT's from December 2007. One new complaint was received in April and two in September 2008. Of these six complaints, two were closed with no action, one was closed with a letter of warning, and one was sent to OGC leaving two complaints currently open. There were three open complaints on OTA's from December 2007. One new complaint was received in March, two in May, and one in September 2008. Of these seven complaints, two were closed with no action, one with a letter of warning, and one was sent to OGC leaving three complaints currently open.

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Two OT's and one OTA are currently being monitored for disciplinary action.

Applicant Interviews/File Reviews

Abbie Brooks—appeared before the Board because of a reckless driving conviction. After discussion, Dr. Snodgrass made a motion seconded by Ms. Short to grant Ms. Brooks a license. The motion carried.

Kimberly Childers-Deaton—her file was presented to the Board for reinstatement due to her license having been expired for over three years. She is currently practicing in another state. After discussion, Dr. Snodgrass made a motion seconded by Ms. Neely to grant Ms. Childers-Deaton a license. The motion carried.

Elicia Dunn Cruz—appeared before the Board because of a prior conviction. After discussion, Dr. Snodgrass made a motion seconded by Ms. Short to grant Ms. Cruz a license. The motion carried.

Marcia Dunnivant—her file was presented to the Board due to her not being able to have submitted a transcript of her education due to the closing of the school. A letter was submitted on her behalf from the last records keeper from the institution. She has successfully passed the NBCOT examination. After discussion, Dr. Snodgrass made a motion seconded by Ms. Short to grant Ms. Dunnivant a license. The motion carried.

Lauren Howerton—appeared before the Board due to a prior conviction. After discussion, Dr. Snodgrass made a motion seconded by Ms. Short to grant Ms. Howerton an initial license. The motion carried.

Tracy Hunt—appeared before the Board because of a prior conviction. After discussion, Dr. Snodgrass made a motion seconded by Ms. Short to grant Ms. Hunt an initial license. The motion carried.

Lavy Little—appeared before the Board due to a prior conviction. Ms. Little was seeking a temporary permit. In the interim between the last board meeting and the current meeting, she took the NBCOT exam and was not successful in passing it. She can no longer be eligible for a temporary permit to practice. After discussion, Dr. Snodgrass made a motion seconded by Ms. Neely to grant Ms. Lavy a license pending her successful passing of the NBCOT examination. The motion carried.

Melanie McClure—appeared before the Board due to a prior conviction. After discussion, Dr. Snodgrass made a motion seconded by Ms. Neely to grant Ms. McClure a license by reciprocity. The motion carried.

Caleb Templeton—appeared before the Board due to a prior conviction. After discussion, Dr. Snodgrass made a motion seconded by Ms. Short to grant Mr. Templeton an initial license. The motion carried.

Continuing Education Activity Table and Guidelines

The Board discussed and decided to make the continuing education activity table and guidelines more accessible to licensees by adding a link to them directly on the board's website.

The Board would like to discuss drafting a policy regarding continuing education deficiencies at its next meeting.

Board Reports

Administrative

Ms. Walker presented the board's administrative report. There are currently 1755 active OT's and 879 active OTA's.

Licensure status totals since the last board meeting for the months of March through September are as follows:

OT	OTA
New Licenses—94	New Licenses—43
Reinstatements—6	Reinstatements—4
Retired—20	Retired—6

Board Members

Ms. Sandra Fletchall, OT joins the board as its newest member. All positions are currently filled.

Financial

The financial statement was presented. There were no changes since the last meeting in March 2008. Due to the large surplus, the Board wanted to explore the possibility of lowering fees at its next meeting.

Ratifications

Ms. Walker presented the lists of new licenses, reinstated licenses and modality certified licenses authorized to begin practice pending approval by the Board. Dr. Snodgrass made a motion seconded by Ms. Short to approve the lists of new licenses, reinstated licenses, and modality certified licenses. The motion carried.

File Review Process

Pursuant to rule 1150-2-.07 (3) initial review of all applications to determine whether or not the application file is complete may be delegated to the Board's administrator provided that final approval of the application is made and ratified by the Board. In no event may an application be approved or denied without prior review by a member of the Board. After discussion, Dr. Snodgrass made a motion seconded by Ms. Short for the Board administrator to continue to send authorization to work letters and that any problem files are to be reviewed by a Board member either over the phone or in person prior to the sending of the authorization letter. The motion carried.

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Dr. Snodgrass made a motion seconded by Ms. Neely to approve the minutes of the March 14, 2008 meeting. The motion carried.

Supervision

The Board clarified whether an OT not certified in a particular treatment intervention such as thermal modalities could directly supervise and sign off on an OTA who does have that particular certification and is providing that treatment intervention. The Board's response was that the OT providing direct supervision must have the treatment certification to be able to supervise the OTA providing the treatment.

Reinstatement of Licensees Currently Practicing In Another State

The Board discussed rules 1150-2-.09 (2) and 1150-2-.12 (13) (a) (b) as they relate to reinstatement of licensure for licensees practicing in another state who have allowed their licenses to lapse for three years or greater. The Board directed the administrative staff to issue a "go to work" letter to any reinstatement applicant currently practicing with an unencumbered license in another state that has statutes and rules comparable to those of Tennessee.

Correspondence

Expansion of Rule 1150-2-.12 Relating to Continuing Education—The Board received a letter from Dr. Ruth Ford, Associate Dean and Chair, of the School of Occupational Therapy at Belmont College regarding expanding rule 1150-2-.12 to include supervision of fieldwork I for continuing education. The Board would like to sunshine this as a topic for a rulemaking hearing discussion at its next meeting.

Approval of Continuing Education Courses—The Board specified that it does not pre-approve continuing education courses with the exception of physical modality agent (PAM) courses. Pursuant to rule 1150-2-.12 (10) the licensee must use his/her professional judgment in determining whether or not the activities are applicable and appropriate to his/her professional development and meet the standards specified in these rules.

Roll Call Vote on Rules

Ms. Layden presented for a roll call vote the rules from the rulemaking hearing of October 17, 2007 relating to:

- A. Use of Titles
- B. Disciplinary Conditions
- C. Revision of Supervision Requirements
- D. Adoption of National Guidelines
- E. Economic Impact Statement
- F. Regulatory Flexibility Analysis of Impact to Small Businesses as it relates to this rule

Dr. Snodgrass made a motion seconded by Lisa Short to approve the rules presented at the October 17, 2007 rulemaking hearing, the attached Economic Impact Statement, and the Regulatory Flexibility Analysis of Impact to Small Businesses. The motion carried with all members voting to approve. The rules will be sent to the Attorney General's Office for final review.

Criminal Convictions Policy

Ms. Layden presented a draft of a policy regarding applicants with felony convictions that occurred ten (10) or more years prior to applying for licensure and misdemeanor convictions that occurred five (5) or more years prior to applying for licensure. The Board authorized the Board's administrator in consultation with a Board member or the Board's consultant pursuant to TCA 63-1-142 to determine whether the applicant needs to appear before the Board before a license can be issued.

After discussion, Ms. Neely made a motion seconded by Dr. Snodgrass to approve the Criminal Convictions Policy as presented. The motion carried.

With there being no further business, the meeting was adjourned at 11:40 p.m.

These minutes were ratified at the March 12, 2009 meeting.

