

The Florida Board of Occupational Therapy Practice

**Minutes
AUGUST 5, 2019**

**GENERAL BUSINESS MEETING
BY TELEPHONE CONFERENCE CALL**



James Spafford, Board Chair

MINUTES

AGENDA DEPARTMENT OF HEALTH BOARD OF OCCUPATIONAL THERAPY PRACTICE GENERAL BUSINESS MEETING BY TELEPHONE CONFERENCE CALL AUGUST 5, 2019

BY TELEPHONE CONFERENCE CALL

DIAL-IN NUMBER: 1-888-585-9008

When prompted, enter the following conference room number:

564-341-766, followed by the # sign.

Office Telephone Number: (850) 245-4373

Participants in this public meeting should be aware that these proceedings are being recorded and that an audio file of the meeting will be posted to the Board's website.

The minutes reflect the actual sequence of events rather than the original agenda order.

Call to Order

9:00 a.m. EST - Call to Order - General Business Meeting

Mr. Spafford, Board Chair, called the meeting to order at 9:00 a.m. Those present for all or part of the meeting, included the following:

MEMBERS PRESENT

James F. Spafford, Consumer Member, Chair
Tameka German, OT
Elena Vizvary, OT

Dr. Caylee Banta, OT, excused absence

ASSISTANT ATTORNEY GENERAL

Lynette Norr, Board Counsel

STAFF PRESENT

Allen Hall, Executive Director
Anna King, Program Director
Deborah Boutwell, Regulatory Specialist II

ASSISTANT GENERAL COUNSEL

Zachary Bell, Prosecuting Attorney

To accommodate individuals wishing to address the Board, the Board Chair may adjust the sequence of the agenda items. The minutes reflect the actual sequence of events rather than the original agenda order.

GENERAL BUSINESS

PROSECUTOR'S REPORT

TAB 1 Zachary Bell, Prosecuting Attorney

Mr. Bell presented the Prosecutor's Report outlining the status of 14 open/active disciplinary cases.

DOH/PROSECUTOR'S REPORT
BOARD OF OCCUPATIONAL THERAPY GENERAL BUSINESS MEETING
Meeting Date August 5, 2019

TO: Allen Hall, Executive Director
FROM: Zachary Bell, Assistant General Counsel
DATE: June 26, 2019
RE: Current Open / Pending Occupational Therapy Cases

Total Cases open/active in PSU:	26
Cases in EAU:	1
Cases under legal review:	18
Cases where PC Recommendations made:	1
Total Cases where PC has been found:	7
Cases in holding status:	0
Cases pending before DOAH:	0
Cases Agendaed for Board:	1
Cases on Appeal:	0
Year Old Cases:	14

MOTION: Mr. Spafford made a motion to allow PSU to continue to prosecute any cases noted as older than 1 year. The motion was seconded by Ms. German and carried with a 3/0 vote.

ADMINISTRATIVE PROCEEDINGS

AUDIT OF CONTINUING EDUCATION PROVIDERS

TAB 2 Home CEU Connection, CE Provider #50-8744

The Board office received a complaint from a licensed occupational therapist and Board member regarding the suitability of live webinar courses offered by Home CEU Connection. Home CEU Connection was originally approved by the Board in August of 2008. Board staff sent inquiry to Home CEU Connection requesting review and response to the key concerns expressed by the licensee. The provider's response was provided to the Board for review at the May 6, 2019 meeting of the Board. The Board moved that a Board member audit an online/webinar offering of HomeCEU to determine the suitability of their live offerings. Ms. German agreed to perform the audit on the Board's behalf. Staff included in the agenda the previously reviewed materials and follow-up with the continuing education provider, the provider's subsequent responses and an excerpt of the May 6, 2019 meeting minutes. Ms. German notified Board staff she would provide an oral report to the Board.

Mr. Shane Everett, CEO, Home CEU Connection was present on the conference call.

Ms. German reported she attended a CEU Connection previously recorded video webinar on June 19th from 6-9pm. She stated the course offered a "live chat" with no Instructor. A Home CEU moderator said questions would be answered in a Q & A session, however, an Instructor was only available during the Q & A session after the course ended, not during the presentation.

Following discussion, the Board took the following action(s):

MOTION: After discussion, Ms. Vizvary made a motion to continue with the previous concern of the Board that the provider is not meeting the interpretation of the Rule for presenting “live” courses. The motion was seconded by Ms. German and carried with a 3/0 vote.

Mr. Everett responded he was astonished and unprepared on how to respond to the Board’s findings but was certain modifications would be made to meet the Board’s specifications.

MOTION: Ms. Vizvary made a motion to rescind the previous motion and allow Home CEU to respond to Ms. German’s report within 30 days. Ms. German rescinded her previous motion and seconded Ms. Vizvary’s new motion which carried with a 3/0 vote.

Ms. German indicated she would audit other courses for purposes of comparison.

**TAB 3 Achieve CE, CE Provider #50- 20641, Laws and Rules of Florida:
Occupational Therapy Update Course, CE Tracking #20-623309**

The Board office received a complaint from a licensed occupational therapist regarding the suitability of the Laws and Rules of Florida: Occupational Therapy Update, CE Tracking #20-623309 offered by Achieve CE. Achieve CE Connection was originally approved by the Board in July of 2018. The provider’s response was provided to the Board for review at the May 6, 2019 meeting. The Board moved to have the Board’s CE Liaison, Dr. Caylee Banta, review the updated course revisions submitted by the provider for acceptability. Dr. Banta reviewed such materials and the provider responded with revised course materials after the first publishing of this meeting’s agenda. Materials were enclosed in an addendum.

Following discussion, Mr. Spafford indicated he would like to hear regarding Dr. Banta’s review before deciding.

MOTION: Ms. Vizvary moved to table until the next meeting. The motion was seconded by Ms. German and carried with a 3/0 vote. The motion was seconded by Ms. German and carried with a 3/0 vote.

APPLICANT RATIFICATION LISTS

TAB 4 Licensed Occupational Therapists

MOTION: Mr. Spafford moved to approve the ratification list of Occupational Therapists, totaling 167 applicants for licensure. The motion was seconded by Ms. German and carried with a 3/0 vote.

ACTION TAKEN: 167 names ratified for licensure.

TAB 5 Licensed Occupational Therapy Assistants

MOTION: Mr. Spafford moved to approve the ratification list of Occupational Therapy Assistants, totaling 145 applicants for licensure. The motion was seconded by Ms. German and carried with a 3/0 vote.

ACTION TAKEN: 145 names ratified for licensure.

TAB 6 Continuing Education Provider Applications

MOTION: Mr. Spafford moved to approve the ADDENDUM/ REVISED CE LIST comprising of 15 continuing education providers, 3 Prevention of Medical Errors course providers, and 0 Florida Laws and Rules course providers. The motion was seconded by Ms. German and carried with a 3/0 vote.

RULES REVIEW AND DEVELOPMENT

TAB 7 Rule 64B11-4.001, F.A.C., Use of Prescription Devices

During the October 2018 meeting, the Board reviewed the petition and additional clarifying information submitted by Ms. Liana Valla regarding the ability to use neurofeedback in the practice of Occupational Therapy. After extensive discussion, Ms. Valla withdrew her petition, upon the Board's determination it would look into the possibility of initiating rule development.

During the February 2019 meeting, the Board discussed developing proposed rule language to address the use of neurofeedback in the practice of Occupational Therapy.

Ms. German informed the Board she would work with Ms. Norr on proposed rule text regarding the didactic and supervision training requirements and will provide additional information for the Board's consideration.

Ms. German's presented the following proposed rule language for the Board's review.

64B11-4.001 Use of Prescription Devices.

(1) Electrical Stimulation Device.

(a) Use of an electrical stimulation device for which a prescription is required by Federal law, 21 C.F.R. §801.109, is expressly prohibited by Section 468.203(4), F.S., except by an occupational therapist or an occupational therapy assistant who has received training as prescribed in this rule.

(b) For purposes of this rule, an "electrical stimulation device" is any device for which a prescription is required which employs transcutaneous electric current (direct, alternating, or pulsatile) for therapeutic purposes.

(c) The training required for students, postgraduates, and licensees to qualify for the use of an electrical stimulation device shall include didactic training of at least four (4) hours and performance of at least five (5) treatments under supervision. The required training may be obtained through educational programs, workshops, or seminars offered at a college or university approved for training of occupational therapists by the American Occupational Therapy Association or of physical therapists by the American Physical Therapy Association or at clinical facilities affiliated with such accredited colleges or universities or through educational programs offered by the American Society of Hand Therapists or Florida Occupational Therapy Association. Online courses are not approved for the didactic or performance training.

(d) Supervised treatment sessions shall be conducted under the personal supervision of licensed occupational therapists and occupational therapy assistants who have completed four hours of coursework in the use of electrical stimulation devices and five (5) supervised treatments or licensed physical therapists and physical therapist assistants trained in the use of electrical stimulation devices. Treatment supervisors must have a

minimum of 24 months prior experience in the use of electrical stimulation devices. Personal supervision means that the supervisor is in the room with the trainees and actively provides guidance and supervision of the performance treatments.

(e) The training provided which teaches the therapeutic uses of electrical stimulation devices shall provide for the following minimum competency level:

1. Standards.

- a. The expected outcome of treatments with Therapeutic Electrical Current (hereinafter T.E.C.) must be consistent with the goals of treatment.
- b. Treatment with T.E.C. must be safe, administered to the correct area, and be of proper dosage.
- c. Treatment with T.E.C. must be adequately documented.

2. Current Duration and Mode.

- a. Ability to determine the duration and mode of current appropriate to the patient's neurophysiological status while understanding Ohm's Law of electricity, physical laws related to the passage of current through various media, as well as impedance.
- b. Ability to describe normal electrophysiology of nerve and muscle; understanding generation of bioelectrical signals in nerve and muscle; recruitment of motor units in normal muscle and in response to a variety of external stimuli.
- c. Ability to describe normal and abnormal tissue responses to external electrical stimuli while understanding the differing responses to varieties of current duration, frequency and intensity of stimulation.

3. Selection of Method and Equipment.

- a. Ability to identify equipment with the capability of producing the preselected duration and mode.
- b. Ability to describe characteristics of electrotherapeutic equipment and understanding the therapeutic value of different electrotherapeutic equipment.
- c. Ability to describe safety regulations governing the use of electrotherapeutic equipment.
- d. Ability to describe principles of electrical currents.
- e. Ability to describe requirements/idiosyncrasies of body areas and pathological conditions with respect to electrotherapeutic treatment.

4. Preparation of Treatment.

Ability to prepare the patient for treatment through positioning and adequate instructions.

5. Treatment Administration.

- a. Ability to correctly operate equipment and appropriately adjust the intensity and current while understanding rate of stimulation, identification of motor points, and physiological effects desired.
- b. Ability to adjust the intensity and rate to achieve the optimal response, based on the pertinent evaluative data.

6. Documentation of Treatments.

Ability to document treatment including immediate and long-term effects of therapeutic electrical current.

(f) Any occupational therapist or occupational therapy assistant who uses such electrical stimulation device shall, upon request of the Board, or the Department, present proof that he or she has obtained the training required by this rule.

(2) Ultrasound Device.

(a) Use of an ultrasound device for which a prescription is required by Federal law, 21 C.F.R. §801.109, is expressly prohibited by Section 468.203(4), F.S., except by an

occupational therapist or occupational therapy assistant who has received training as prescribed in this rule.

(b) For purposes of this rule, an “ultrasound device” is any device intended to generate and emit ultrasonic radiation for therapeutic purposes at ultrasonic frequencies above 100 kilohertz (kHz).

(c) The training required for students, postgraduates, and licensees to qualify for the use of an ultrasonic stimulation device shall include didactic training of at least four (4) hours and performance of at least five (5) treatments under supervision. The required training may be obtained through educational programs, workshops, or seminars offered at a college or university approved for training of occupational therapists by the American Occupational Therapy Association or of physical therapists by the American Physical Therapy Association or at clinical facilities affiliated with such accredited colleges or universities or educational programs offered through the American Society of Hand Therapists or Florida Occupational Therapy Association. Online courses are not approved for the didactic or performance training.

(d) Supervised treatment sessions shall be conducted under the personal supervision of licensed occupational therapists and occupational therapy assistants who have completed four hours of coursework in the use of ultrasound devices and five (5) supervised treatments or licensed physical therapists and physical therapist assistants trained in the use of ultrasound devices. Treatment supervisors must have a minimum of 24 months prior experience in the use of ultrasound devices. Personal supervision means that the supervisor is in the room with the trainees and actively provides guidance and supervision of the performance treatments.

(e) The training provided which teaches the therapeutic uses of ultrasound devices shall provide for the following minimum competency level:

1. Standards.

a. The expected outcome of treatment with ultrasound must be consistent with the goals of treatment.

b. Treatment with ultrasound must be safely administered to the correct area, and be of proper dosage.

c. Treatment with ultrasound must be adequately documented.

2. Instrumentation.

a. Ability to describe the physiological effects of pulsed versus continuous modes as well as differentiate tissue responses to the modes of application.

b. Ability to describe ultrasound absorption characteristics of various body tissues and identify sources and causes of excessive absorption in normal versus abnormal tissue.

c. Ability to determine the medium to be used and the temperature of that medium.

d. Ability to select the appropriate sound head size and contour considering the area and condition being treated.

e. Ability to describe equipment characteristics, indications and contraindications for treatment, including identifying source and mechanisms of generation of ultrasound energy and its transmission through air and physical matter.

3. Preparation for Treatment. Ability to prepare the patient for treatment through positioning and adequate instruction.

4. Determination of Dosage. Ability to determine dosage through determination of target depth, chronicity versus acuteness of the condition, and application of power/dosage calculation rules.

5. Treatment Administration. Ability to administer treatment through identification of controls, sequence of operation, correct sound head application techniques and application of all safety rules and precautions.

6. Documentation of Treatment. Ability to document treatment, including immediate and long-term effects of clinical ultrasound.

(f) Any occupational therapist or occupational therapy assistant who uses such ultrasound device shall, upon request of the Board, or the Department, present proof that he or she has obtained the training required by this rule.

(3) Neurofeedback Device.

(a) Use of a neurofeedback device for which a prescription is required by Federal law, 21 C.F.R. §801.109, is expressly prohibited by Section 468.203(4), F.S., except by an occupational therapist or occupational therapy assistant who has received training as prescribed in this rule.

(b) For purposes of this rule, a “neurofeedback device” is any device that provides immediate feedback from a computer-based program that assesses brainwave activity, and use sound and visual signals to reorganize or retrain brain signals.

(c) The training required for students, postgraduates, and licensees to qualify for the use of a neurofeedback device shall include didactic training of at least four (16) hours and performance of at least five (5) treatments under supervision. The required training may be obtained through educational programs, workshops, or seminars offered at a college or university approved for training of occupational therapists by the American Occupational Therapy Association or of physical therapists by the American Physical Therapy Association or at clinical facilities affiliated with such accredited colleges or universities or educational programs offered through the American Society of Hand Therapists or Florida Occupational Therapy Association. Online courses are not approved for the didactic or performance training.

(d) Supervised treatment sessions shall be conducted under the personal supervision of licensed occupational therapists and occupational therapy assistants who have completed sixteen hours of coursework in the use of neurofeedback devices and five (5) supervised treatments, licensed physical therapists and physical therapist assistants who has completed sixteen hours of coursework in the use of neurofeedback devices and (5) supervised treatments, medical doctors trained in the use of neurofeedback devices, psychologists trained in the use of neurofeedback devices, or other licensed healthcare professionals trained in the use of neurofeedback devices. Treatment supervisors must have a minimum of 24 months prior experience in the use of neurofeedback devices. Personal supervision means that the supervisor is in the room with the trainees and actively provides guidance and supervision of the performance treatments.

(e) The training provided which teaches the therapeutic uses of neurofeedback devices shall provide for the following minimum competency level:

1. Standards.

a. The expected outcome of treatment with neurofeedback devices must be consistent with the goals of treatment.

b. Treatment with neurofeedback devices must be safely administered to the scalp and be of proper dosage.

c. Treatment with neurofeedback devices must be adequately documented.

2. Instrumentation.

a. Ability to describe core concepts, methods, and equipment of neurofeedback

- b. Ability to interpret the EEG (electrocephalogram)
- c. Ability to describe and understand frequencies and amplitude
- d. Ability to create, adjust and adapt treatment protocols based on the EEG and clinical observation
- e. Ability to describe equipment characteristics, indications and contraindications for treatment

3. Preparation for Treatment. Ability to prepare the patient for treatment through positioning and adequate instruction.

4. Determination of Dosage.

5. Treatment Administration. Ability to administer treatment through identification of controls, sequence of operation, and application of all safety rules and precautions.

6. Documentation of Treatment. Ability to document treatment, including immediate and long-term effects of clinical neurofeedback treatments.

(f) Any occupational therapist or occupational therapy assistant who uses such neurofeedback device shall, upon request of the Board, or the Department, present proof that he or she has obtained the training required by this rule.

Rulemaking Authority 468.203(4), 468.204 FS. Law Implemented 468.203(4) FS. History--New 1-1-88, Formerly 21M-15.001, 61F6-15.001, Amended 12-4-95, Formerly 59R-63.001, Amended 8-9-99, 7-2-00, 4-1-13.

The Board discussed a correction in the language that (3) (c) should be “sixteen (16) hours” and Ms. German stated she needed to do more research as more information is needed regarding dosage in (3)(e)4.

MOTION: After discussion, Ms. German made a motion continue until the next Board meeting in November for further revision. The motion was seconded by Ms. Vizvary and carried with a 3/0 vote.

RULES STATUS REPORT

TAB 8 Assistant Attorney General, Lynette Norr

- 64B11-2.003, F.A.C., Fees; Application
- 64B11-4.001, F.A.C., Use of Prescription Devices

Ms. Norr presented the following August 2019 report on the status of rules in process for the Board.

Rule Number	Rule Title	Date Rule Language Approved by Board	Date Sent to OFARR	Rule Development Published	Proposed Rule Notice Published, JAPC Letters, Notices of Change, etc.	Certified for Adoption	Effective 20 days after Certification
64B11-2.003	Fees; Application This rule amendment amends the application personal history questions.	02/25/2019	(D) 10/30/2018 (N) 03/27/2019	11/07/2018	04/04/2019	05/10/2019	05/30/2019

64B11-4.001	Use of Prescription Devices This rule amendment addresses use of Neurofeedback Devices.		(D) 10/30/2018	11/07/2018			
64B11-5.003	Requirements for Reactivation of an Inactive License This rule amendment deletes reference to a repealed rule.	05/06/2019	July 15, 2019	July 23, 2019	Mid-August		

NEW BUSINESS

TAB 9 2019 Legislation

- HB 23, Telehealth
- HB 7067, Registration Fees
- HB 851, Human Trafficking

Bills Passed by the Legislature:

Mr. Hall provided a legislative update on the outcome of bills of interest and expounded upon CS/CS/ HB 451 (2019), signed by the Governor, that lists Occupational Therapy as a non-opioid alternative. Mr. Hall stated a brochure was produced by the Department which was previously sent out to members with specific weblinks to such information.

Mr. Hall also stated HB 851 (listed below) created section 456.0341, F.S., requires “each occupational therapy licensee” to comply with the completion of a one-hour continuing education course on human trafficking by January 1, 2021. Mr. Hall noted he was not certain if this would have any effect regarding the normal OT renewal deadline of February 28, 2021.

HB 23: (Approved by Governor)

HB 23 created section 456.47, F.S., which provides for the use of telehealth by multiple Florida professions and registered out of state providers.

Subsection 456.47(1), F.S., was created which defines the following terms:

- Telehealth; and
- Telehealth provider.

Subsection 456.47(2), F.S., was created which provides practice standards for telehealth.

Subsection 456.47(3), F.S., was created which provides standards for telehealth records. Telehealth records must meet the same standards as in-person services.

Subsection 456.47(4), F.S., was created which provides for registration of out of state telehealth providers.

Subsection 456.47(5), F.S., was created which provides that the venue for the delivery of telehealth services is the place where the patient is located at the time the act is performed or in the patient’s county of residence.

Subsection 456.47(6), F.S., was created which provides an exemption, in two specific circumstances, to the registration requirement, for a health care professional, not licensed in Florida who holds an active license in another state or jurisdiction.

Subsection 456.47(7), F.S., was created which provides rulemaking authority to administer this section to the applicable board or the department.

HB 7067: (Vetoed by Governor)

HB 7067 created subsection 456.47(4)(i), F.S., which provides for a \$150.00 registration and renewal fee for out of state telehealth providers.

HB 851: (Approved by Governor)

HB 851 created section 456.0341, F.S., which requires “each licensee” in the professions of physical therapy, respiratory therapy, occupational therapy and dietetics, among others to comply with the completion of a one-hour continuing education course on human trafficking by January 1, 2021. The legislation also requires these licensees to post a sign, meeting specific requirements and accessible to employees, with information about human trafficking.

OLD BUSINESS

TAB 10 May 6, 2019 General Business Meeting Minutes

MOTION: Mr. Spafford made a motion to approve the May 6, 2019 minutes as presented. The motion was seconded by Ms. German and carried with a 3/0 vote.

Annual 2020 Regulatory Plan

Ms. Norr discussed preparing the Annual 2020 Regulatory plan required by statute to be submitted by the Board’s attorney before the October 31st deadline. Ms. Norr stated the report is the Board’s fiscal report regarding any Rules for amending, due to 1) any New legislation, 2) new Rules the Board would like to address, and 3) any updates or revisions from last year’s Report.

MOTION: After discussion, Mr. Spafford moved to approve Ms. Norr to work with Mr. Hall to prepare and submit the plan and present to the Board for ratification at the November Board meeting. The motion was seconded and carried with a 3/0 vote.

REPORTS, IF ANY

TAB 11 Board Chair, Jim Spafford

Mr. Spafford stated his planned attendance at the Board Chair and Vice Chair Annual Long-Range Planning meeting scheduled for October 18th in Tallahassee.

- **Other Board Members**
 - **Ms. Vizvary and FOTA Representation**

Ms. Vizvary informed the Board of her scheduled participation as an Exhibitor at the Florida Occupational Therapy Association Annual Conference, November 16-17, 2019 in Orlando, FL, representing the Florida Board of Occupational Therapy Practice. She stated her goals in attending the conference as an "Exhibitor" will be to 1. Offer an opportunity for attendees to interact with an OT Practice Board member and to 2. Help recruit for unfilled Board positions. She included a handout of Board information she plans to distribute.

MOTION: After discussion, Mr. Spafford moved to approve and encourage Ms. Vizvary's attendance and representation at the FOTA conference in November. The motion was seconded by Ms. German.

- TAB 12 Executive Director**
- **Cash Balance Report**
 - **Expenditures by Function**

These reports were provided for informational purposes.

OTHER BUSINESS AND INFORMATION *(items that do not require Board action)*

- TAB 13 Staff Recognition**

Presented as informational items.

ADJOURNMENT

There being no further business, the meeting adjourned at: 10:02 a.m.