

The Florida Board of Occupational Therapy Practice

MINUTES

GENERAL BUSINESS MEETING

AUGUST 9, 2021

CONFERENCE CALL

1-888-585-9008

When prompted, enter the following conference code number: **564341766**, followed by the “#” sign.



James Spafford, Board Chair

MINUTES
DEPARTMENT OF HEALTH
BOARD OF OCCUPATIONAL THERAPY PRACTICE
GENERAL BUSINESS MEETING
AUGUST 9, 2021

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

Call to Order

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

Mr. Spafford, Board Chair, called the meeting to order at 9:02 a.m. Those present for all or part of the meeting, included the following:

MEMBERS PRESENT

James F. Spafford, Consumer Member, Chair
Dr. Caylee Banta, OT, Vice Chair
Tameka German, OT
Elena Vizvary, OT

STAFF PRESENT

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

ASSISTANT ATTORNEY GENERAL

Ronald "Tom" Jones, Board Counsel

PROSECUTING ATTORNEY

Chase Dan Beste, Prosecuting

Dr. Alexis Polles, Associate Medical Director,
Professionals Resource Network (PRN)

COURT REPORTER

For the Record Court Reporting
(850) 222-5491

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

DISCIPLINARY PROCEEDINGS

MOTION FOR DETERMINATION OF WAIVER AND FOR FINAL ORDER BY HEARING NOT INVOLVING DISPUTED ISSUES OF MATERIAL FACT

**TAB 1 Cynthia A. Anderson, OT, DOH Case# 2019-17956
 OT 15434, File #15031 (PCP Johnson & Banta)**

Mrs. Anderson was not present on the call and not represented by legal counsel.

*Dr. Banta was recused having participated on the Probable Cause Panel Meeting when this case was initially presented.

Mr. Dan Beste presented and summarized the case as a Determination of Waiver.

Allegation: Section 456.072(1)(hh), being terminated from an impaired practitioner program that is overseen by a consultant as described in s. 456.076, for failure to comply, without good cause, with the terms of the monitoring or participant contract entered into by the licensee, or for not successfully completing any drug treatment or alcohol treatment program.

The Disciplinary Guidelines include Rule 64B11-4.003(4)(ii), F.A.C., provides the following disciplinary guidelines for an initial violation of section 456.072(1)(hh), F.S.: "suspension until compliant with program; up to suspension until compliant with program, followed by up to 5 years' probation with conditions."

MOTION: Mr. Spafford made a motion to 1) accept the Investigative Report into evidence for purposes of imposing a penalty, and 2) that the Respondent was properly served and does not dispute the issues of material fact as set forth in the Administrative Complaint. The motion was seconded by Mrs. Vizvary and carried with a *3/0 vote.

MOTION: Mr. Spafford made a motion to adopt the conclusions of laws as set forth in the Administrative Complaint, in which findings constitute a violation of the Practice Act. The motion was seconded by Ms. German and carried with a *3/0 vote.

MOTION: Following discussion, Mr. Spafford moved to Revoke license and impose fees as stated in the amount of \$6,206.42 to be paid within one year of the filing date of the Final Order. Ms. German seconded the motion, which carried with a *3/0 vote.

MOTION TO VACATE FINAL ORDER AND ACCEPT AMENDED SETTLEMENT AGREEMENT

**TAB 2 Ajay Lakhanpal, OT, DOH Case# 2017-08582
OT12959, File # 11957 (PCP Johnson & Banta)**

Mr. Lakhanpal was not present on the call and not represented by legal counsel.

*Dr. Banta was recused having participated on the Probable Cause Panel Meeting when this case was initially presented.

Mr. Dan Beste summarized for the Board stating a final order was filed June 1, 2021 adopting a Settlement Agreement entered into by the Department and the Respondent. The current motion dated June 18, 2021 is to vacate the previous order and to accept an amended Settlement Agreement which corrects some procedural language in the original settlement agreement regarding the respondent's probationary terms.

MOTION: After discussion, Mr. Spafford made a motion to vacate the original Final Order and accept the amended agreement which carried with a *3/0 vote.

PROSECUTOR'S REPORT

TAB 3 Den Beste, Prosecuting Attorney

Mr. Den Beste presented the Prosecutor's Report outlining the status of 26 open/active disciplinary cases.

DOH/PROSECUTOR'S REPORT
BOARD OF OCCUPATIONAL THERAPY MEETING
Meeting Date: August 0, 2021

TO: Allen Hall, Executive Director
FROM: Chase E. Den Beste, Assistant General Counsel
DATE: July 16, 2021
RE: Current Open / Pending Occupational Therapy Cases

| | |
|--------------------------------------|----|
| Total cases open/active in PSU: | 18 |
| Cases in EAU: | 0 |
| Cases under legal review: | 5 |
| Cases where PC Recom. made: | 4 |
| Total Cases where PC has been found: | 6 |
| Cases in holding status: | 0 |
| Cases pending before DOAH: | 0 |
| Cases Agendaed for Board: | 3 |
| Cases on Appeal: | 0 |
| Year Old Cases: | 13 |

MOTION: Mr. Spafford made a motion to allow Prosecution Services to continue prosecuting year-old cases. The motion was seconded by Ms. Vizvary and carried with a 4/0 vote.

ADMINISTRATIVE PROCEEDINGS

INDIVIDUAL CONSIDERATIONS

TAB 4 Linda P. Barnes, OT by Exam with Waiver, File #22385

Ms. Barnes was present on the call and not represented by legal counsel.
Ms. Barnes application is before the Board regarding her affirmative response to previous Discipline History.

MOTION: After discussion, Ms. Vizvary made a motion to approve licensure. The motion was seconded by Dr. Banta and carried with a 4/0 vote.

TAB 5 Cheri Dawn Haven, OT by Endorsement, File #22248

Ms. Haven was present on the call and not represented by legal counsel.

MOTION: After discussion, Mr. Spafford made a motion to approve licensure contingent upon a Professionals Resource Network evaluation. Applicant must contact PRN within 30 days, schedule an evaluation within 60 days, and comply with PRN's recommendation within 90 days. The motion was seconded by Ms. Vizvary and carried with a 4/0 vote.

Following a discussion, Ms. Haven waived the 90-day requirement for completion of licensure.

MOTION: Mr. Spafford made a motion to amend the previous motion to include the application be presented again before the Board for consideration if the applicant does not comply with the

Board's requirement, and PRN's recommendation. The motion was seconded by Dr. Banta and carried with a 4/0 vote.

Ms. Alexis Polles, PRN, addressed the Board regarding the ability for services to be provided in Ms. Haven's area and provided PRN's contact phone number: (800) 888-8776.

APPLICANT RATIFICATION LISTS

TAB 6 Licensed Occupational Therapists

MOTION: Mr. Spafford moved to approve the ratification list of 240 Occupational Therapists. The motion was seconded by Tameka German and carried with a 4/0 vote.

ACTION TAKEN: 240 Occupational Therapists ratified for licensure.

TAB 7 Licensed Occupational Therapy Assistants

MOTION: Mr. Spafford moved to approve the ratification list of 152 Occupational Therapy Assistants applicants for licensure. The motion was seconded by Dr. Banta and carried with a 4/0 vote.

ACTION TAKEN: 152 Occupational Therapy Assistants ratified for licensure.

TAB 8 Continuing Education Provider Applications

MOTION: Mr. Spafford moved to approve the list of 9 continuing education providers/courses. The motion was seconded by Tameka German and carried with a 4/0 vote.

ACTION TAKEN: 9 continuing education providers/courses ratified for licensure.

RULES REVIEW AND DEVELOPMENT

TAB 9 Rule 64B11-4.003, F.A.C., Standards of Practice; Discipline

During the 2021 legislative session passed HB 241 and SB 1934 which created additional disciplinable offenses pursuant to section 456.072.

HB 241 allows for discipline for any healthcare practitioner who fails to comply with the parental consent requirements of the newly created section 1014.06, F.S. A copy of HB 241 is attached hereto for your reference.

SB 1934 allows for discipline for any healthcare practitioner who is convicted or found guilty of, enters a plea of guilty or nolo contendere to, regardless of adjudication, or committing or attempting, soliciting, or conspiring to commit an act that would constitute a violation of any of the offenses listed in the newly created 456.074 (5) or similar offense in another jurisdiction. Please review the list of offenses in the attached SB 1934.

Provided for the Board's consideration are proposed revisions to the guidelines prepared by Mr. Jones.

MOTION: Following discussion, Mr. Spafford made a motion to approve the Rule amendments as stated in the language presented. The motion was seconded by Ms. Vizvary and carried with a 4/0 vote.

MOTION: Mr. Spafford moved to approve the proposed Rule amendments for Rule 64B11-4.003, F.A.C. to include three components (SERT) regarding the proposed Rule, stating approval of this rule:

- would not have an adverse impact on small business nor have an economic impact on government or any other entity in excess of \$200,000 within one year after the implementation of the Rule,
- not have an adverse impact nor increase regulatory costs in the aggregate in excess of \$1,000,000 dollars within 5 years after the implementation of the Rule and
- nor a part of the Rule, should not be designated as a minor violation.

The motion was seconded by Ms. German and carried with 4/0 vote.

REPORT OF ASSISTANT ATTORNEY GENERAL – Ronald “Tom” Jones

Tab 10 Rule Status Report:

- Rule 64B11-4.003, F.A.C., Standards of Practice; Discipline

Mr. Jones provided the Board with the latest Rules activity report per July 2021 presented as informational only.

The agenda moved out of order to TAB 16.

TAB 16 2021-22 Annual Regulatory Plan

Mr. Jones presented the Annual Regulatory Plan

Mr. Spafford moved to approve the 2021-22 Annual Regulatory Plan. The motion was seconded by Ms. Vizvary and carried with 4/0 vote.

REPORTS, IF ANY

TAB 11 Board Chair, Jim Spafford

None to report

Other Board Members

None to report

TAB 12 Executive Director

- Cash Balance Report
- Expenditures by Function Report

Presented as informational only.

NEW BUSINESS

TAB 13 Discussion: Deborah Oliveira, Florida OT Association President

- Update re: OT Practice Act 2021 Legislation Session. What's the plan for 2022?
- OT Compact

Ms. Oliveira informed the Board the OT Practice Act language was held up in the Senate, due to overlapping practice concerns with the Behavioral of Health Science board. She also stated FOTA were not likely to pursue the OT Compact legislation this year to focus more acutely on the scope of practice legislation.

TAB 14 Supervision of OT Students

A letter was presented to the Board as submitted by Ms. Linda R. Struckmeyer, PhD, OTR/L, Clinical Assistant Professor, Capstone Coordinator, Occupational Therapy University of Florida, requesting CEU's for occupational therapists supervising doctoral capstone students.

The capstone project in college is the apogee, or completion marker, of a student's coursework leading to the culmination of their program with a degree in their chosen field of study. The original definition of a capstone focuses on the actual stone placed at the top of a wall or building, marking the successful completion of the structure.

The Capstone experience is a self-contained research study carried out by a student or in a defined group, to identify the volume and depth of theoretical knowledge gained during training and evaluate the ability to apply it to practical problems. The paper deals with a specific scientific question that is new and relevant in terms of the current state of research.

After discussion, Mr. Spafford made a motion to approve Ms. Vizvary to work with Mr. Jones to draft rule language for the Board's review at the next meeting. The motion was seconded by Ms. German and carried with 4/0 vote.

TAB 15 Unlicensed Activity Presentation

Ronald J. Dilworth was present on the call and informed the Board regarding the Unlicensed Activity (ULA) Program.

The ULA program protects Florida residents and visitors from the potentially serious and dangerous consequences of receiving medical and health care services from an unlicensed person. The ULA unit investigates and refers for prosecution all unlicensed health care activity complaints and allegations.

The ULA unit works in conjunction with law enforcement and the state attorney's offices to prosecute individuals practicing without a license. In many instances, unlicensed activity is a felony level criminal offense. More importantly, receiving health care from unlicensed people is dangerous and could result in further injury, disease or even death.

Mr. Dilworth advised the Unlicensed Activity largely advertises to make the public aware of the importance of reporting questionable activity among licensed professionals. Mr. Dilworth advised the Board members to contact Ms. Lourine Phillips the ULA Marketing Administrator, for

any suggestions regarding marketing ideas. The ULA unit may be reached at: 1-888-HALT-Unlicensed Activity.

TAB 17 2021 MQA Legislation Summary Report

Mr. Hall advised the Board, noted as following the Legislative Session, no bills passed that directly related to the profession of occupational therapy.

The two bills listed below while not specific to the profession, have created new grounds for disciplinary action against licensees. The OT Board attorneys provided recommend language as part of a rule's discussion in another tab.

HB 241: Parents' Bill of Rights
SB 1934: Grounds for Discipline

OLD BUSINESS

Tab 18 May 17, 2021, General Business Meeting Minutes

MOTION: Mr. Spafford made a motion to approve the May 17, 2021 minutes as presented. The motion was seconded by Ms. German and carried with a 4/0 vote.

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

Tab 19 Staff Recognition

Provided for information purposes only.

ADJOURNMENT

There being no further business the meeting adjourned at 11:00 a.m.