

DRAFT MINUTES

**The Florida
Board of Occupational Therapy Practice**

GENERAL BUSINESS MEETING DRAFT

November 8, 2021

CONFERENCE CALL

1-888-585-9008

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



James Spafford, Board Chair

**DEPARTMENT OF HEALTH
BOARD OF OCCUPATIONAL THERAPY PRACTICE
GENERAL BUSINESS MEETING
BY TELEPHONE CONFERENCE CALL
November 8, 2021**

DRAFT MINUTES

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.

Call to Order

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

Mr. Spafford, Chair, called the general business meeting to order at approximately 9:03 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

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

VOLUNTARY RELINQUISHMENT

**TAB 1 Llundaisy Acanda, OTA11809, DOH Case # 2019-05923
 File #4635 (PCP Hicks & Banta)**

Ms. Acanda 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 presented.

Mr. Beste presented and summarized the case stating Respondent had 3 counts and chose to resolve the case by submitting a Voluntary Relinquishment.

In Count I Respondent entered a guilty plea Section 456.072(1)(c) to the criminal offense of Conspiracy to Pay and Receive HealthCare kickbacks, as prohibited in title 18, United States Code, Section 371, a crime related to the practice of, and/or the ability to practice Respondents profession as an occupational therapist assistant. In Count II: Section 456.072(1)(II) Respondent entered a guilty plea to Conspiracy to Pay and Receive Healthcare kickbacks, as prohibited in title 18, United States Code, Section 371, a crime related to healthcare fraud. In Count III: Section 456.072(1)(x) Respondent failed to report to the Board, in writing, within 30 days after pleading guilty to a criminal offense.

MOTION: Following discussion, James Spafford made a motion to accept the Voluntary Relinquishment. Mrs. Vizvary seconded the motion, which carried *3/0 vote.

PROSECUTOR'S REPORT

TAB 2 Den Beste, Prosecuting Attorney

Mr. Den Beste presented the Prosecutor's Report outlining the status of 18 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 Recommendations 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 moved to allow Prosecution Services to continue prosecuting year-old cases. Ms. German seconded the motion, which carried 4/0 vote.

Mr. Den Beste spoke to the Board regarding 5 specific cases currently on hold due to an obligatory requirement per Florida Statute 456 for face-to-face hearings as related to standard of care, sexual misconduct, fraud, and felony convictions. Mr. Beste stated due to Dr. Banta's participation on the Probable Cause Panel meetings for all 5 cases, she must be recused,

therefore, requiring the attendance of all remaining active Board members to obtain a quorum, at the next scheduled meeting on February 28, 2022. Mr. Hall verified face-to-face meetings have been convened for other professions and advised there should be no problem with scheduling the same for the OT Board's next meeting. Dr. Banta advised because of her expected due date for delivery of her baby, she would not be able to be in attendance. Mr. Spafford stated, due to her required recusal, her absence would not affect the quorum required to review the cases.

Mr. Hall advised staff has not received any recommendations from the Governor's office related to the current Board vacancies and advised all members and those present to encourage any potential members to visit the Governor's Appointments Office online to retrieve an application and apply. There are currently 3 vacant memberships, 1 for an Occupational Therapist, 1 for an Occupational Therapy Assistant and 1 Consumer member.

Ms. Struckmeyer asked if faculty in an educational occupational therapy department, that are not licensed therapists, be a Consumer member? Mr. Hall responded 468.205 (2) states, "Two members shall be consumers who are residents of the state *who are not connected* with the practice of occupational therapy".

ADMINISTRATIVE PROCEEDINGS

INDIVIDUAL CONSIDERATIONS

TAB 3 Anmarie Cottone, File #12002, OTA by Endorsement

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

Ms. Cottone's application for Occupational Therapy Assistant Licensure by Endorsement was presented before the Board for consideration.

MOTION: Following discussion, Mrs. Vizvary moved to approve for licensure. Dr. Banta seconded the motion, which carried 4/0 vote.

TAB 4 Patrick Crisler, File #8704, OTA by Endorsement

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

Mr. Crisler's application for Occupational Therapy Assistant Licensure by Endorsement was presented before the Board for consideration.

Mr. Crisler remains on the Office of Inspector General's, U.S. Department of Health & Human Services Exclusions list, which prohibits the Board from issuing a license based on Florida Statute 456.0635.

Mr. Crisler requested the Board to withdraw his application based on the relevant restrictions as stated by the Board of his current ineligibility for licensure.

MOTION: Following discussion, Mr. Spafford moved to accept Mr. Crisler's withdrawal of his application. Mrs. German seconded the motion, which carried 4/0 vote.

TAB 5 Angela Matthiessen, File # 22751, OT by Endorsement

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

Ms. Matthiessen’s application for Occupational Therapist Licensure by Endorsement was presented before the Board for consideration.

MOTION: Following discussion, Mrs. Vizvary moved to approve for licensure. Dr. Banta seconded the motion, which carried 4/0 vote.

APPLICANT RATIFICATION LISTS

TAB 6 Licensed Occupational Therapists

MOTION: Mr. Spafford moved to approve the ratification list of **317** Occupational Therapists. r. German seconded the motion, which carried 4/0 vote.

ACTION TAKEN: **317** Occupational Therapists ratified for licensure.

TAB 7 Licensed Occupational Therapy Assistants

MOTION: Mr. Spafford moved to approve the ratification list of **179** Occupational Therapy Assistants applicants for licensure. Dr. Banta seconded the motion, which carried 4/0 vote.

ACTION TAKEN: **179** Occupational Therapy Assistants ratified for licensure.

TAB 8 Continuing Education Provider Applications

MOTION: Mr. Spafford moved to approve the list of **10** continuing education providers/courses. Dr. Banta seconded the motion, which carried 4/0 vote.

ACTION TAKEN: **10** continuing education providers/courses ratified for licensure.

▶ Board Name	Florida Board of Occupational Therapy
▶ From	07/22/2021 to 10/19/2021
▶ Routed to Committee prior to approval	<input checked="" type="checkbox"/>

Course List

Educational Provider Name	CE Broker Tracking #	Course Name	Course Tracking #	Status	Date Approved
WILD IRIS MEDICAL EDUCATION, INC.	50-2174	Florida Occupational Therapy Laws and Rules	20-842603	Approved	07/23/2021
OCCUPATIONALTHERAPY.COM	50-14558	Medical Errors and Occupational Therapy Practice: How to Avoid Errors and Improve Practice	20-800523	Approved	07/23/2021
OCCUPATIONALTHERAPY.COM	50-14558	Occupational Therapy Laws and Rules for Florida	20-800527	Approved	07/23/2021

#1 PREMIERE CONTINUING EDUCATION	50-23363	Medical Error Prevention	20-843612	Approved	07/23/2021
WILD IRIS MEDICAL EDUCATION, INC.	50-2174	Prevention of Medical Errors for Florida Occupational Therapy	20-843789	Approved	07/23/2021
WHITE RAVEN HEALING & WELLNESS	50-32076	Reiki Level I Training*	20-873434	Approved	08/25/2021
#1 PREMIERE CONTINUING EDUCATION	50-23363	Prevencion de Errores Medicos	20-872796	Approved	07/23/2021
#1 PREMIERE CONTINUING EDUCATION	50-23363	Capacitacion sobre trata de personas para profesionales de la salud de Florida	20-820534	Approved	07/23/2021
SHANDS REHAB HOSPITAL	50-30067	Special Considerations and Medical Emergencies in Rehabilitation of Cancer Patients	20-793743	Approved	08/25/2021
STIMDESIGNS LLC	50-30395	Introduction: The Scientific Foundation of Whole Body Vibration as a Therapeutic Modality in Pediatrics	20-842153	Approved	08/25/2021

RULES REVIEW AND DEVELOPMENT

Tab 9 Rule 64B11-5.001, F.A.C., Requirements for License Renewal of an Active License; Continuing Education

During the August 9, 2021 meeting, the Board discussed an inquiry regarding continuing education credit for Occupational Therapists who supervise OT Doctoral Capstone residency students. The inquiry was received from Dr. Linda Struckmeyer, Clinical Assistant Professor and Capstone Coordinator, for the University of Florida's Occupational Therapy Program.

Following discussion, the Board determined to have Ms. Vizvary and Dr. Struckmeyer work with Mr. Jones to draft rule language for the Board's review at this meeting.

Provided for the Board's consideration is draft rule language prepared by Mr. Jones.

MOTION: Following discussion, Mr. Spafford moved to approve the Rule amendments as stated in the language presented. Mrs. German seconded the motion, which carried 4/0 vote.

MOTION: Mr. Spafford moved to approve the proposed Rule amendments for Rule 64B11-4.003, F.A.C. to include four SERT components regarding the proposed Rule.

The 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.
- would not require a Sunset provision.

Dr. Banta seconded the motion, which carried 4/0 vote.

RULE DRAFT:

64B11-5.001 Requirements for License Renewal of an Active License; Continuing Education.

Continuing education includes attendance and participation as required at approved live or interactive presentations such as workshop, seminar, conference, webinar, or in-service educational programs. It may also include participation in other approved professional activities, such as pro bono and expert witness services, or those that require a formal assessment of learning, such as formalized self-study courses and other non-interactive learning programs. An active license shall be renewed upon demonstration that the licensee has paid the renewal fee set forth in Rule 64B11-2.009, F.A.C., and has complied with the following requirements:

(1) As a condition to the renewal of an active license, an occupational therapist must complete twenty-six (26) hours of approved continuing education per biennium.

(2) As a condition to the renewal of an active license, an occupational therapy assistant must complete twenty-six (26) hours of approved continuing education per biennium.

(3) At least fourteen (14) of the required hours per biennium must be in person or from interactive, real-time courses. An interactive, real-time course may be a web-based, satellite transmitted, telephone or video conference, or online instruction program that allows or requires the licensee to interact in real time, including live chat, with the instructor during the presentation of the program or in a question and answer session upon completion of the program.

(4) Home Study – A licensee may receive continuing education credit for no more than twelve (12) hours of home study education per biennium. Home study education is a self-paced, non-interactive independent study that requires a certificate of completion. Taking a computerized exam at the end of the study, or being able to email the instructor with a question, does not qualify home study as a live or interactive course. Consistent with Section 456.013(8), F.S., continuing education credit for video presentations is limited to five (5) credits per subject. At the time of course presentation, rental, or sale, the course vendor, in lieu of the certificate of completion, shall provide the licensee with a signed course validation form. The licensee shall sign this form on the date that the course is actually taken or viewed indicating full attendance and successful completion. It shall be retained by the licensee for four (4) years.

(5) HIV/AIDS – The licensee shall complete one (1) hour of HIV/AIDS education as set forth in Section 456.033, F.S., no later than upon first renewal. HIV/AIDS courses approved by any Board within the Division of Medical Quality Assurance of the Department of Health pursuant to Section 456.033, F.S., are approved by this Board. A licensee is not required to complete an HIV/AIDS course for each subsequent renewal biennium.

(6) Medical Errors – Each licensee shall attend and certify attending a Board-approved 2-hour continuing education course relating to the prevention of medical errors. The 2-hour course shall count toward the total number of continuing education hours required for licensure renewal. The course shall include a study of root-cause analysis, error reduction and prevention, and patient safety, and must also include contraindications and indications specific to occupational therapy management including medication and side effects.

(7) Laws and Rules – As part of the twenty-six (26) hours of continuing education required herein for licensure renewal, each licensee shall attend a two (2) hour Board approved course on laws and rules covering Chapters 456 and 468, Part III, F.S., and Division 64B11, F.A.C.

(8) Exemption – Those persons certified for licensure in the second half of the biennium are exempt from the continuing education requirements for that biennium, except for the two (2) hour prevention of medical errors course requirement referenced above and required by Section 456.013, F.S., and the one (1) hour of HIV/AIDS education required no later than upon first renewal, as set forth in Section 456.033, F.S.

(9) Changes of Status – Active status licensees may apply to the Board for inactive license status at any time by paying a \$50.00 fee to change licensure status. Additionally, the licensee shall pay any applicable inactive status renewal fee or delinquent fee.

(10) Course Presentation and Attendance at Board Meetings – A maximum of eight (8) contact hours may be awarded per biennium for the following professional activities:

(a) The presentation of a continuing education course or program, academic course, peer-reviewed or non peer-reviewed workshop, seminar, in-service, electronic or web-based course that is directly related to the practice

of occupational therapy as either the lecturer of the course or program or as the author of the course materials. Each licensee who is participating as either a lecturer or author of a continuing education course or program may receive credit for the portion of the offering he/she presented or authored up to the total hours awarded for the offering.

1. Continuing education credit may be awarded to a lecturer or author for the initial presentation of each course or program only; except in the case of the medical errors and laws and rules courses, repeat presentations of the same continuing education course or program shall not be granted credit. Continuing education credit for presentations of either medical errors or laws and rules courses is limited to four (4) credits per biennium.

2. In order for a continuing education credit to be awarded to each licensee participating as either lecturer or author, the format of the continuing education course or program must conform with all applicable sections of this rule chapter.

3. Documentation shall include a copy of the official program/schedule/syllabus including presentation title, date, hours of presentation, and type of audience or verification of such signed by the sponsor.

4. The number of contact hours to be awarded to each licensee who participates in a continuing education course or program as either a lecturer or author is based on the 50 minute contact hour employed within this rule chapter.

5. Continuing education credit for the development and teaching of postsecondary academic courses shall be one (1) continuing education credit per academic course credit.

(b) Attendance at Florida Board of Occupational Therapy Practice meetings. Each licensee who attends a Florida Board of Occupational Therapy Practice meeting where disciplinary cases are being heard, if the licensee is not on the agenda or appearing for another purpose, may receive continuing education credit. Active Board and Probable Cause Panel members who are licensed occupational therapists or occupational therapy assistants are eligible to receive continuing education credits for their service, except that a current Board member may not receive credit for serving as a probable cause panel member. The number of contact hours awarded for such attendance or service is based on the definition of a contact hour as set forth in paragraph 64B11-6.001(5)(d), F.A.C.

(11) **Fieldwork or Doctoral Capstone Experience** – A licensee may earn up to six (6) continuing education hours per biennium for supervision of a Level II Occupational Therapy or Occupational Therapy Assistant fieldwork or entry level doctoral capstone student at the rate of no more than three (3) hours per student. To be eligible for the credit, the licensee must participate as the primary clinical fieldwork educator or site mentor for the student. Documentation shall include verification provided by the school to the fieldwork educator or site mentor with the name of the student, school, and dates of fieldwork or doctoral capstone experience or the signature page of the completed student evaluation form. Evaluation scores and comments shall be deleted or blocked out.

(12) **Publications** – A licensee may earn the following continuing education credit for publication of a peer-reviewed or non peer-reviewed book, chapter, or article directly related to the practice of occupational therapy:

- (a) 10 hours as the author of a book;
- (b) 5 hours as author of a chapter;
- (c) 3 hours as author of a peer-reviewed article;
- (d) 1 hour as author of a non peer-reviewed article; and,

(e) 5 hours as an editor of a book; Documentation shall consist of a full reference for the publication including title, author, editor, and date of publication.

(13) **Research** – A licensee may earn one (1) hour of continuing education credit for each ten (10) hours spent in development of or participation in a research project specific to and directly related to the practice of occupational therapy, up to a limit of five (5) hours of credit per biennium. Documentation shall include verification from the primary investigator indicating the name of the research project, dates of participation, major hypotheses or objectives of the project, and the licensee's role in the project.

(14) **Volunteer Expert Witness** – Any volunteer expert witness who is providing expert witness opinions for cases being reviewed pursuant to Chapter 468, Part III, F.S., the Occupational Therapy Practice Act, shall receive

three (3) hours of credit for each case reviewed. A volunteer expert witness may not accrue in excess of six (6) credit hours per biennium pursuant to this subsection.

(15) Performance of Pro Bono Services – A licensee may receive up to six (6) hours per biennium of continuing education credit through the performance of pro bono services to the indigent as provided in Section 456.013(9), F.S., or to underserved populations, or in areas of critical need within the state where the licensee practices. In order to receive credit under this rule, licensees must make a written request to the Board and receive approval prior to performing pro bono services in advance. One (1) hour credit shall be given for each two (2) hours worked. In the written request, licensees shall disclose the type, nature and extent of services to be rendered, the facility where the services will be rendered, the number of patients expected to be serviced, and a statement indicating that the patients to be served are indigent. If the licensee intends to provide services in underserved or critical need areas, the written request shall provide a brief explanation as to those facts.

Rulemaking Authority 456.013, 468.204, 468.219 FS. Law Implemented 456.013, 456.033, 456.036, 468.219 FS. History– New 4-17-95, Amended 10-30-95, 3-11-96, Formerly 59R-64.060, Amended 9-23-99, 10-18-01, 6-25-02, 5-7-03, 3-28-04, 10-24-04, 8-30-06, 10-15-06, 6-6-07, 7-27-08, 7-27-14, 11-10-15, 4-24-17, 8-31-20.

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 presented the status of Board rules currently under development per October 2021 Report.

Rule Number	Rule Title	Date Rule Language Approved by Board	Date Sent to OFARR	Rule Development Published	Notice Published	Adopted	Effective
64B11-4.003	Standards of Practice; Discipline	05/12/2021	06/09/2021	07/14/2020	06/16/2021	07/30/2021 1	08/19/2021 1
64B11-4.003	Standards of Practice; Discipline	08/09/2021	09/16/2021	09/24/2021			

TAB 11 Board Chair, Jim Spafford

Mr. Spafford noted receipt of 2020 Data Book from NBCOT, and stated he continues to be amazed with our Florida stats. Florida ranks #5 in the nation with 7190 OT licensees and #2 with 4570 COTA’s licensees. Mr. Spafford continued with his pride and commendation to the Board Staff and the Board that provides such exceptional services to process and regulate such vast statistics.

Other Board Members

None to report

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

Informational only.

NEW BUSINESS

TAB 13 Financial Reports

Informational only.

TAB 14 Discussion of Temporary License as a doctoral student

The Board office received inquiry regarding the issuance of a temporary license to a doctoral level OT student based on Chapter 468.209(4) Requirements for licensure. The statute refers to a master's level OT student.

468.209 Requirements for licensure.

(4) If the board determines that the applicant has not passed an examination, which examination is recognized by the board, to determine competence to practice occupational therapy and is not qualified to be licensed by endorsement, but has otherwise met all the requirements of this section and has made application for the next scheduled examination, the board may issue the applicant a temporary permit allowing her or him to practice occupational therapy under the supervision of a licensed occupational therapist until notification of the results of the examination. An individual who has passed the examination may continue to practice occupational therapy under her or his temporary permit until the next meeting of the board. An individual who has failed the examination shall not continue to practice occupational therapy under her or his temporary permit; and such permit shall be deemed revoked upon notification to the board of the examination results and the subsequent, immediate notification by the board to the applicant of the revocation. Only one temporary permit by examination shall be issued to an applicant, and it shall not be renewable. **However, applicants enrolled in a full-time advanced master's occupational therapy education program who have completed all requirements for licensure except examination shall, upon written request, be granted a temporary permit valid for 6 months even if that period extends beyond the next examination, provided the applicant has not failed the examination. This permit shall remain valid only while the applicant remains a full-time student and, upon written request, shall be renewed once for an additional 6 months.**

The Board discussion concluded this is written in statute and they could not amend as such with a Rule change. Board Counsel advised a student could formally file a Petition for a Declaratory Statement to the Board.

OLD BUSINESS

Tab 15 August 9, 2021 General Business Meeting Minutes

MOTION: Mr. Spafford moved to approve the August 9, 2021 minutes as presented.

Mrs. German seconded the motion, which carried 4/0 vote.

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

Tab 16 Florida Prescription Drug Monitoring Program (PDMP) Monthly Report

Informational only.

Tab 17 Staff Recognition

Informational only.

ADJOURNMENT

There being no further business the meeting adjourned at 10:17 a.m.