

MINUTES

The Florida Board of Occupational Therapy Practice

GENERAL BUSINESS MEETING

May 16, 2022

Holiday Inn Tallahassee, East Capitol - University
2003 Apalachee Parkway
Tallahassee, FL 32301
Office Telephone Number: (850) 245-4373



James Spafford, Board Chair

**DEPARTMENT OF HEALTH
BOARD OF OCCUPATIONAL THERAPY PRACTICE
GENERAL BUSINESS MEETING
BY TELEPHONE CONFERENCE CALL
MAY 16, 2022**

MINUTES

**Holiday Inn Tallahassee, East Capitol - University
2003 Apalachee Parkway
Tallahassee, FL 32301
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.

1 **Call to Order**

2 **9:00 a.m. EST** - Call to Order - General Business Meeting

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

5 **MEMBERS PRESENT**

6 James F. Spafford, MBA, Consumer Mbr./Chair
7 Tameka German, OT, Vice-Chair
8 Elena Vizvary, OT

STAFF PRESENT

Allen Hall, Executive Director
Anna King, Program Administrator
Deborah Boutwell, Regulatory Specialist II
Ahna Chamlis, Regulatory Specialist III

10 **MEMBER ABSENT**

11 Dr. Caylee Banta, OT - Excused

12 **ASSISTANT ATTORNEY GENERAL**

13 Ronald "Tom" Jones, Board Counsel

ASSISTANT GENERAL COUNSEL

Chase Den Beste, Prosecuting Attorney

14 **COURT REPORTER**

15 For the Record Court Reporting
16 (850) 222-5491

17 **GENERAL BUSINESS**

18 **DISCIPLINARY PROCEEDINGS**

19 **SETTLEMENT AGREEMENT**

20 **TAB 1 Melinda S. Duffy, OTA14213, DOH Case # 2020-06050, File # 7238,**
21 **(PCP Hicks & Banta)**

22 Ms. Duffy was present and represented by legal counsel, Ricky Strong, Esquire.

1 Ms. Duffy's case was before the Board for an alleged violation of Section 468.217(1)(l), Florida
2 Statutes (2019), for making deceptive, untrue, or fraudulent representations in the practice of
3 occupational therapy.

4 Ms. Duffy signed a proposed Settlement Agreement with the Department of Health on October
5 1, 2021, for consideration by the Board. However, prior to the convening of the instant meeting,
6 Mr. Strong advised Mr. Den Beste and Mr. Jones that Ms. Duffy determined she would like to
7 voluntarily relinquish her license in lieu of presenting the proposed settlement to the Board.

8 During the disciplinary proceeding, Ms. Duffy was sworn in by the court reporter and agreed to
9 all terms of the voluntary relinquishment verbally presented by Mr. Den Beste, to include
10 affirming she would never apply for a Florida OTA or OT license in the future and that she
11 understood the relinquishment of licensure would constitute disciplinary action on her Florida
12 OTA license.

13 **MOTION:** Following discussion, Mr. Spafford moved to accept the Voluntary Relinquishment.
14 Ms. German seconded the motion, which carried 3/0.

15 **DETERMINATION OF WAIVERS**

16 **TAB 2 Amber M. Kinsey, OTA14379, DOH Case # 2019-12878, File #7480,**
17 **(PCP Hicks & Banta)**

18 Ms. Kinsey was not present and not represented by legal counsel.

19 Ms. Kinsey's case was before the Board for an alleged violation of Section 468.217(1)(l), Florida
20 Statutes (2018), for making deceptive, untrue, or fraudulent representations in the practice of
21 occupational therapy.

22 Mr. Den Beste presented the case to the Board.

23 **MOTION:** Mr. Spafford moved to 1) accept the Investigative Report into evidence for purposes
24 of imposing a penalty, and 2) that the Respondent was properly served and waived the right to a
25 formal hearing. Ms. German seconded the motion, which carried 3/0.

26 **MOTION:** Mr. Spafford moved to adopt the conclusions of law as set forth in the Administrative
27 Complaint, which findings constitute a violation of the Practice Act. The motion was seconded
28 by Ms. German, which carried 3/0.

29 Mr. Den Beste proposed the following penalties to the Board:

- 30 • Reprimand;
- 31 • 1 Year of Probation per the terms outlined in Board Rule 64B11-4.003(2)(b), F.A.C.;
- 32 • Practice under a mentor to include quarterly reports with 10% of records reviewed;
- 33 • Fine in the amount of \$10,000 payable within 1 year of the filing of the final order; and
- 34 • 6 Hours of Continuing Education in Ethics to be completed within 1 year of the filing of
- 35 the final order.

1 **MOTION:** Following discussion, Mr. Spafford moved to impose the penalties proposed by Mr.
2 Den Beste. Ms. Vizvary seconded the motion, which carried 3/0.

3 Mr. Den Beste presented a Motion to Assess Costs in the amount of \$932.79 payable within 1
4 year of the filing of the final order.

5 **MOTION:** Followed discussion, Mr. Spafford moved to accept the proposed costs. Ms. German
6 seconded the motion, which carried 3/0.

7 **TAB 3 Jacqueline M. Calvert, OTA16546, DOH Case # 2019-39263 File # 9827,**
8 **(PCP Hicks & Banta)**

9 Ms. Calvert was not present and not represented by legal counsel.

10 Ms. Calvert's case was before the Board for an alleged violation of Section 468.217(1)(I),
11 Florida Statutes (2018), for making deceptive, untrue, or fraudulent representations in the
12 practice of occupational therapy.

13 Mr. Den Beste presented the case to the Board.

14 **MOTION:** Mr. Spafford moved to 1) accept the Investigative Report into evidence for purposes
15 of imposing a penalty, and 2) that the Respondent was properly served and waived the right to a
16 formal hearing. Ms. German seconded the motion, which carried 3/0.

17 **MOTION:** Mr. Spafford moved to adopt the conclusions of law as set forth in the Administrative
18 Complaint, which findings constitute a violation of the Practice Act. The motion was seconded
19 by Ms. German, which carried 3/0.

20 Mr. Den Beste recommended the following penalties to the Board:

- 21 • 1 Year of Suspension;
- 22 • Fine in the amount of \$10,000 payable within 1 year of the filing of the final order; and
- 23 • 6 Hours of Continuing Education in Ethics and Laws to be completed within 1 year of the
24 filing of the final order.

25 **MOTION:** Following discussion, Mr. Spafford moved to impose the penalties proposed by Mr.
26 Den Beste. Ms. German seconded the motion, which carried 3/0.

27 Mr. Den Beste presented a Motion to Assess Costs in the amount of \$3,337.43 payable within 1
28 year of the filing of the final order.

29 **MOTION:** Following discussion, Mr. Spafford moved to accept the proposed costs. Ms. German
30 seconded the motion, which carried 3/0.

31 **TAB 4 Greesy G. Hernandez-Misuraca, OTA10851, DOH Case # 2018-09479, File**
32 **#3735, (PCP Johnson & Banta)**

33 Ms. Hernandez-Misuraca was not present and not represented by legal counsel.

1 Ms. Hernandez-Misuraca’s case was before the Board for alleged violations of the following:

- 2 • Section 456.072(1)(c), Florida Statutes (2017), for having entered a guilty plea to the
3 criminal offense of Conspiracy to Pay and Receive HealthCare kickbacks, as prohibited
4 in title 18, united states Code, Section 371, a crime related to the practice of, and/or the
5 ability to practice Respondent’s profession as an occupational therapist assistant;
- 6 • Section 456.072(1)(II), Florida Statutes (2017), for having entered a guilty plea to
7 Conspiracy to Pay and Receive Healthcare kickbacks, as prohibited in title 18, United
8 States Code, Section 371, a crime related to healthcare fraud; and
- 9 • Section 456.072(1)(x), Florida Statutes (2017), for failure to report to the Board, in
10 writing, within 30 days after pleading guilty to the criminal offense of Conspiracy to Pay
11 and Receive Healthcare kickbacks, as prohibited in title 18, United States Code, Section
12 371.

13 Mr. Den Beste presented the case to the Board.

14 **MOTION:** Mr. Spafford moved to 1) accept the Investigative Report into evidence for purposes
15 of imposing a penalty, and 2) that the Respondent was properly served and waived the right to a
16 formal hearing. Ms. German seconded the motion, which carried 3/0.

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

20 Mr. Den Beste proposed the following penalties to the Board:

- 21 • Revocation of License; and
- 22 • Fine in the amount of \$10,000 payable within 1 year of the filing of the final order.

23 **MOTION:** Mr. Spafford moved to impose the penalties proposed by Mr. Den Beste.
24 Ms. German seconded the motion, which carried 3/0.

25 Mr. Den Beste presented a Motion to Assess Costs in the amount of \$1,152.09 payable within 1
26 year of the filing of the final order.

27 **MOTION:** Mr. Spafford moved to accept the proposed costs. Ms. German seconded the
28 motion, which carried 3/0.

29 **PROSECUTOR’S REPORT**

30 **TAB 5 Den Beste, Prosecuting Attorney**

31 Mr. Den Beste presented the following Prosecutor’s Report

<u>Case Status</u>	<u>Report</u> Date 8/9/2021	<u>Report</u> Date 11/08/2021	<u>Report</u> Date 5/16/2022
Total cases open/active in Prosecution Services:	18	13	14
Cases in Emergency Action Unit:	0	0	2
Cases under legal review:	5	1	2
Cases awaiting supplemental investigation/expert opinion:	n/a	0	2
Cases with PCP recommendation:	4	6	3
Cases where probable cause has been found:	6	3	0
Cases where DOAH has been requested:	n/a	1	0
Cases pending before DOAH:	0	0	0
Cases on Board meeting agendas:	3	2	7
Cases on appeal:	0	0	0
Cases older than one year: *	13	9	0

* Does not include cases already agenda'd for final action by the Board.

1 **MOTION:** Mr. Spafford moved to allow Prosecution Services to continue prosecuting
2 year-old cases. Ms. Vizvary seconded the motion, which carried 3/0.

3 **ADMINISTRATIVE PROCEEDINGS**

4 **INDIVIDUAL CONSIDERATIONS**

5 **TAB 6 Traci Lyn Morse, File #23555, OT by Endorsement**

6 Ms. Morse was present at the meeting and sworn in by the court reporter.

7 Ms. Morse's application for Occupational Therapist Licensure by Endorsement was presented to
8 the Board for consideration.

9 **MOTION:** Following discussion, Ms. German moved to approve for licensure. Mr. Spafford
10 seconded the motion, which carried 3/0.

11 **TAB 7 Holly Whitt, File # 21151, OT by Endorsement**

12 Ms. Whitt was present at the meeting and sworn in by the court reporter.

13 Ms. Whitt's application for Occupational Therapist Licensure by Endorsement was presented to
14 the Board for consideration.

15 **MOTION:** Following discussion, Ms. Vizvary moved to accept the occupational therapy services
16 provided overseas as proof of active practice within the last five (5) years and approve for
17 licensure. Mr. Spafford seconded the motion, which carried 3/0.

18 **TAB 8 Christina Diana Cook, File # 23646, OT by Endorsement**

1 Ms. Cook was not present at the meeting and not represented by legal counsel.

2 Ms. Cook's application for Occupational Therapist Licensure by Endorsement was presented to
3 the Board for consideration.

4 **MOTION:** Following discussion, Ms. Vizvary moved to approve for licensure. Ms. German
5 seconded the motion, which carried 3/0.

6 **TAB 9 Sadhan Mahanta, File # 23634, OT by Endorsement**

7
8 Mr. Mahanta was not present on the call and not represented by legal counsel.

9 Mr. Mahanta's application for Occupational Therapist Licensure by Endorsement was presented
10 to the Board for consideration.

11 **MOTION:** Following discussion, Ms. German moved to approve for licensure. Ms. Vizvary
12 seconded the motion, which carried 3/0.

13 **APPLICANT RATIFICATION LISTS**

14 **TAB 10 Licensed Occupational Therapists**

15 **MOTION:** Mr. Spafford moved to approve the ratification list of **315** Occupational Therapists.
16 Ms. German seconded the motion, which carried 3/0.

17 **ACTION TAKEN:** **315** Occupational Therapists ratified for licensure.

18 **TAB 11 Licensed Occupational Therapy Assistants**

19 **MOTION:** Mr. Spafford moved to approve the ratification list of **143** Occupational Therapy
20 Assistants applicants for licensure. Ms. German seconded the motion, which carried 3/0.

21 **ACTION TAKEN:** **143** Occupational Therapy Assistants ratified for licensure.

22 **TAB 12 Continuing Education Provider Applications**

23 **MOTION:** Mr. Spafford moved to approve the list of **11** continuing education providers/courses.
24 Ms. German seconded the motion, which carried 3/0.

25 **ACTION TAKEN:** **11** continuing education providers/courses ratified for licensure.

26 **RULES REVIEW AND DEVELOPMENT**

27 **TAB 13 Rule 64B11-5.001, F.A.C., Requirements for License Renewal of an Active**
28 **License; Continuing Education**

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

1 Vizvary and Dr. Struckmeyer worked with Mr. Jones to draft rule language that was approved by
2 the Board at the November 2021 meeting.

3 Following the meeting, Mr. Jones received a letter from the Joint Administrative Procedures
4 Committee (JAPC) regarding defining the Capstone experience. Mr. Jones provided draft rule
5 language to include defining the Capstone experience, for the Board's consideration.

6 During the March 28, 2022, Board meeting, the Board determined to table this item to the May
7 2022 meeting, to allow Mr. Jones, Ms. Vizvary and Dr. Struckmeyer to review and bring
8 additional proposed suggestions for the Board's consideration.

9 Mr. Jones presented the following proposed language agreed upon by the group:

10 **64B11-5.001(11), F.A.C., Requirements for License Renewal of an Active License; Continuing Education.**
11 (11) Fieldwork or Doctoral Capstone Experience – A licensee may earn up to six (6) continuing education hours per
12 biennium for supervision of a Level II Occupational Therapy or Occupational Therapy Assistant fieldwork or entry
13 level doctoral capstone student at the rate of no more than three (3) hours per student. To be eligible for the credit,
14 the licensee must participate as the primary clinical fieldwork educator or site mentor for the student.
15 Documentation shall include verification provided by the school to the fieldwork educator or site mentor with the
16 name of the student, school, and dates of fieldwork or doctoral capstone experience or the signature page of the
17 completed student evaluation form. Evaluation scores and comments shall be deleted or blocked out. The doctoral
18 capstone is an in-depth exposure to one or more of the following: clinical practice skills, research skills,
19 administration, leadership, program and policy development, advocacy, education, and theory development.

20 **MOTION:** Following discussion, Mr. Spafford moved to approve the rule amendments as stated
21 in the language presented. Ms. German seconded the motion, which carried 3/0.

22 **MOTION:** Mr. Spafford moved the proposed amendments would 1) not have an adverse impact
23 on small business nor have an economic impact on government or any other entity in excess of
24 \$200,000 within one year after the implementation of the rule; 2) that the proposed amendments
25 should not be designated as a minor violation; and 3) that there should not be a sunseting
26 provision. Ms. German seconded the motion, which carried 3/0.

27 **TAB 14 Rule 64B11-4.001, F.A.C., Use of Prescription Devices**

28 During the March 2022 Board meeting, Board staff informed of the receipt of inquiries regarding
29 the lack of availability of Prescription Device Certification courses in light of the rule's restriction
30 on neither the didactic nor the supervised practical portions of the course being able to be
31 completed online. The Board was provided with a few of the inquires received for reference
32 during the discussion.

33 Following the discussion, the Board determined to table this item to the May 2022 meeting
34 agenda to allow Mr. Jones and Ms. Vizvary the opportunity to work on proposed language for
35 the Board's review.

36 The Board was provided with the following proposed amendment submitted by Ms. Vizvary:

37 Didactic or performance training may be in person or from interactive, real-time courses. An
38 interactive, real-time course may be a web-based, satellite transmitted, ~~telephone~~ or video
39 conference, or online instruction program that allows or requires the licensee to interact in real
40 time, including live chat, with the instructor during the presentation of the program ~~or in a~~
41 question and answer session upon completion of the program.

1 **MOTION:** Following further discussion, Ms. Vizvary moved to approve the proposed
 2 amendments in the language presented, for inclusion in all applicable sections of the rule. Ms.
 3 German seconded the motion, which carried 3/0.

4 **MOTION:** Mr. Spafford moved the proposed amendments would 1) not have an adverse impact
 5 on small business nor have an economic impact on government or any other entity in excess of
 6 \$200,000 within one year after the implementation of the rule; 2) that the proposed amendments
 7 should not be designated as a minor violation; and 3) that there should not be a sunseting
 8 provision. Ms. German seconded the motion, which carried 3/0.

9 **REPORT OF ASSISTANT ATTORNEY GENERAL – Ronald “Tom” Jones**

10 **TAB 15 Rule Status Report:**

11 Mr. Jones presented the status of Board rules currently under development per April 2022
 12 report.

Rule Number	Rule Title	Date Rule Language Approved by Board	Date Sent to OFARR	Rule Development Published	Notice Published	Adopted	Effective
64B11-5.001	Requirements for License Renewal of an Active License; Continuing Education	11/08/2021	11/15/2021	11/23/2021	12/08/2021(RN) 12/09/2021 JAPC ltr 12/09/2021 Attorney Response 12/09/2021 TOLLED		

13 **TAB 16 Board Chair, Jim Spafford**

14 **Other Board Members**

15 Informational Item

16 **TAB 17 Executive Director**

- 17 • Cash Balance Report
- 18 • Expenditures by Function Report

19 Mr. Hall presented the quarterly cash balance and expenditures by function reports.

20 **NEW BUSINESS**

21
 22 **TAB 18 National Board for Certification in Occupational Therapy (NBCOT)**
 23 **Presentation: Dr. Barbara Williams, NBCOT Associate Director, External &**
 24 **Regulatory Affairs and Mr. Shirish Lala, NBCOT Ambassador for Florida**

25 Dr. Williams and Mr. Lala presented the following NBCOT information and updates to the Board.

- 26 • Provided a reminder that the NBCOT’s State Regulatory Leadership Forum is scheduled
 27 to take place virtually, September 13-14, 2022, and that all Board members and staff
 28 may attend.

- 1 • JEDI (*Justice, Equity, Diversity & Inclusion*) Reflection Tool – Open for use at
2 <https://jedireflectionpoints.com/>.
- 3 • Discussed the exam development and practice analysis process, which is viewable on
4 the NBCOT’s website at <https://www.nbcot.org/Educators/Home> under Educator
5 Resources.

6 **TAB 19 Update on CS/SB 632 and HB 847, Occupational Therapy Practice Act,**
7 **Debora Oliveira Ph.D., OTR/L, President, Florida Occupational Therapy**
8 **Association (FOTA)**

9 Dr. Oliveira presented updates regarding the OT compact and informed that *FOTA* (Florida
10 Occupational Therapy Association) *Connect* has a continuing education course for licensees
11 interested in learning more about that process. Ms. Oliveira also provided the FOTA’s survey
12 statistics regarding the compact. It should be noted that Florida is not currently part of the
13 compact.

14 **OLD BUSINESS**

15 **TAB 20 March 28, 2022, General Business Meeting Minutes**

16 Mr. Spafford moved to approve the March 28, 2022, minutes as presented. Ms. Vizvary seconded
17 the motion, which carried 3/0.

18 **OTHER BUSINESS AND INFORMATION**

19 **TAB 21 Implementation of SB 632 (2022): Application & Rule for Registration of OT**
20 **Doctoral Capstone Experience**

21 The Department of Health has developed a simple registration application for students seeking
22 an exemption from licensure to complete an OT Doctoral Capstone Experience. Once the
23 required process to incorporate the application into the Department’s rule is complete, the form
24 will be made available through the OT Board’s website.

25 **TAB 22 Florida Prescription Drug Monitoring Program (PDMP) Monthly Report**

26 Informational only.

27 **TAB 23 Staff Recognition**

28 Informational only.

29 **ADJOURNMENT**

30 There being no further business the meeting adjourned at 10:53 a.m.