

MINUTES
DEPARTMENT OF HEALTH
BOARD OF OCCUPATIONAL THERAPY PRACTICE
GENERAL BUSINESS MEETING
GENERAL RULES REVIEW
DECEMBER 8, 2008
AGENDA

4042 Bald Cypress Way, Conference Room 301
Tallahassee, FL 32399-3255
Office Telephone Number: (850) 245-4373

Call to Order

Ms. Garcia, 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

Laura Garcia, OT, Chair
Shelley Isenberg Hickman, OT
Lisa McIntosh, OTA
Rodney Phillip Scott, Consumer Member

STAFF PRESENT

Allen Hall, Executive Director
Anna Hart King, Program Administrator
Deborah Boutwell, Regulatory Specialist II
Greg Ramer, Regulatory Specialist II

MEMBERS ABSENT

Linda Shaub, Consumer Member

ASSISTANT ATTORNEY GENERAL

Donna McNulty

PROSECUTING ATTORNEY

Sam Diconcilio
Don Hyman

COURT REPORTER

Suzette Bragg Peterson
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Crawfordville, FL 32327
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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.

1 **DISCIPLINARY PROCEEDINGS**

2 **TAB 1 MOTION FOR DETERMINATION OF WAIVER**

3 Margarita James Vagnier, OTA 9513, DOH Case# 2008-03388

4 Mr. Scott was recused due to participation on the probable cause panel. Ms. Vagnier was not
5 present for the meeting.

6 **MOTION:** Ms. McIntosh moved that the Administrative Complaint was properly served without
7 response by respondent. Ms. Hickman seconded the motion which carried 3/0.

8 **MOTION:** Ms. Hickman moved to adopt the allegations of fact in the Administrative Complaint
9 as the findings of fact of the Board. Ms. McIntosh seconded the motion, which carried 3/0.

1 Ms. Vagnier was charged with violating Section 468.217(1)(h), F.S. for failing to perform any
2 statutory or legal obligation placed upon a licensed occupational therapist or occupational
3 therapy assistant. Ms. Vagnier failed to timely provide proof of documentation of completion of
4 twenty-six hours of continuing education courses for the March 1, 2005 – February 28, 2007
5 licensure biennium, as required in Rule 6411-5.001, F.A.C. for renewal of an active license
6 when requested by a Department audit. On February 1, 2008 the Department sent a letter and
7 citation to Ms. Vagnier for failing to complete the required continuing education hours and on
8 February 27, 2008, and Ms. Vagnier disputed the citation and admitted that she did not
9 complete the required continuing education hours. As of April 30, 2008 Ms. Vagnier has not
10 submitted any of the required continuing education hours.

11 **MOTION:** Ms. Hickman moved to find Ms. Vagnier in violation of the Florida Statutes as
12 charged in the Administrative Complaint, and moved to accept the following penalties in this
13 case:

- 14 • Payment of fine in the amount of \$100 within 60 months of the filing of the final order;
- 15 • Issuance of a Letter of Guidance, and
- 16 • Compliance of the twenty-six (26) hours of continuing education as required for the
17 2005-07 licensure biennium within 90 days.

18 Ms. McIntosh seconded the motion, which carried 3/0.

19 **MOTION:** Ms. Hickman moved to accept the Department's Motion to Assess Costs, in the
20 amount of \$905.76, to be paid within one (1) year of the issuance of the final order. Ms.
21 McIntosh seconded the motion, which carried 3/0.

22

23 **TAB 2 Hearing Not Involving Disputed Issues of Material Fact**
24 **Betsey Enid Colon-Holmes, OTA 9331, DOH Case # 2006-43903**

25 Mr. Scott was recused due to participation on the probable cause panel. Ms. Colon-Holmes
26 was not present for the meeting.

27 **MOTION:** Ms. McIntosh moved to adopt the allegations of fact in the Administrative Complaint
28 as the findings of fact of the Board. Ms. Hickman seconded the motion, which carried 3/0.

29 Ms. Colon-Holmes was charged with violating Section 468.217(1)(c), F.S., for being convicted
30 or found guilty of, or entering a plea of guilty nolo contendere to, regardless of adjudication, a
31 crime in any jurisdiction which relates to the practice of, or the ability to practice occupational
32 therapy, and Section 468.217(1)(c), F.S. Ms. Colon-Holmes, entered a guilty plea to a crime
33 which relates to the practice of occupational therapy, when Ms. Colon-Holmes pled guilty to the
34 crime of Grand Theft. Ms. Colon-Holmes made deceptive, untrue, or fraudulent representations
35 in the practice of occupational therapy when she prepared fraudulent treatment notes and
36 evaluations that purported to memorialize occupational therapy that was never provided to
37 patients.

38 **MOTION:** McIntosh moved to revoke Ms. Colon-Holmes occupational therapy assistant license
39 and imposed a \$100 fine to be paid within six (6) months. Ms. Hickman seconded the motion,
40 which carried 3/0.

41 **MOTION:** Ms. McIntosh moved to accept the Department's Motion to Assess Costs, in the
42 amount of \$2,117.91, to be paid within one (1) year of the issuance of the final order. Ms.
43 Hickman seconded the motion, which carried 3/0.

1 **TAB 3 Hearing Not Involving Disputed Issues of Material Fact**
2 Michael Juzwa, OT 9265, Department of Health Case# 2006-13849

3 Mr. Scott was recused due to participation on the probable cause panel. Mr. Juzwa was not
4 present for the meeting.

5 Mr. Juzwa was charged with violating Section 468.217(1)(h) and (v), Florida Statutes, for failing
6 to perform statutory or legal obligations placed upon his license, by failing to submit to the
7 Board, a curriculum vitae of his proposed monitor by May 11, 2006, as required in Final Order
8 Number DOH-06-0607-S; and/or by continuing to practice occupational therapy without a Board
9 approved monitor in violation of Final Order Number DOH-06-0607-S.

10
11 **MOTION:** Following a discussion by the Board, Ms. Hickman moved to dismiss the
12 Administrative Complaint because of a previous final order issued December 10, 2007. The
13 previous order stated, after the Board's complete review of Mr. Juzwa's record in this matter,
14 including consideration of testimony by Mr. Juzwa, the testimony of Mr. Juzwa's monitor, the
15 Board determined Mr. Juzwa had complied with the terms and conditions of his previous
16 probation. Ms. McIntosh seconded the motion, which carried 3/0.

17 **PROSECUTOR'S REPORT**

18 **TAB 4 Assistant General Counsel**

19 Ms. Diconcilio presented the prosecutor's report outlining the current status of the thirty-three
20 (33) open disciplinary cases, as of November 21, 2008.

21 Under legal review	12
22 Probable cause found	5

23 **MOTION:** Ms. Hickman made a motion to accept the prosecutor's report. Ms. McIntosh
24 seconded the motion, which carried 4/0.

25 **ADMINISTRATIVE PROCEEDINGS**

26 **PERSONAL APPEARANCE PURSUANT TO §456.013(3)(c), F.S.**

27 **TAB 5 Cynthia Wiggins, OTA by Examination File # 3700**

28 Ms. Wiggins was present for the meeting and was sworn in by the Court Reporter.

29 Ms. Wiggins was requested to make a Board appearance due to yes answer on her application
30 regarding a personal history question.

31 **MOTION:** After discussion, Ms. Hickman moved to approve for licensure. Ms. McIntosh
32 seconded the motion which carried, 4/0.

33 **CERTIFICATION OF APPLICATIONS**

1 **TAB 6 Endorsement Candidates: Occupational Therapists & Assistants**

2 **MOTION:** Ms. McIntosh moved to approve the list of applicants for licensure, totaling 35
3 names, including 4 names on an addendum list. Ms. Hickman seconded the motion, which
4 carried 4/0.

5 **ACTION TAKEN:** 39 names ratified for licensure.

6 **TAB 7 Examination Candidates: Occupational Therapists & Assistants**

7 **MOTION:** Ms. McIntosh moved to ratify for licensure pending the successful passage of the
8 NBCOT examination the list of applicants for licensure as noted, totaling 52 names, including 1
9 name on an addendum list. Ms. Hickman seconded the motion, which carried 4/0.

10 **ACTION TAKEN:** 53 names approved for licensure pending successful exam results.

11 **TAB 8 Examination With Waiver Candidates: Occupational Therapists & Assistants**

12 **MOTION:** Ms. Hickman moved to approve the list of applicants for licensure, totaling 6 names.
13 Ms. McIntosh seconded the motion, which carried 4/0.

14 **ACTION TAKEN:** 6 names ratified for licensure.

15 **TAB 9 Continuing Education Provider Applications**

16 PROVIDER NAMES	CE PROVIDER / TRACKING NUMBERS
17 1. BROWARD HEALTH	50-1443

18 **MOTION:** Ms. McIntosh moved to approve the 1 continuing education provider listed on an
19 addendum. Ms. Hickman seconded the motion, which carried 4/0.

20 **ACTION TAKEN:** 1 continuing education provider applications approved, there were no
21 medical errors course(s) and laws and rules course(s) submitted for approval.

22 **RULE STATUS REPORT**

23 **TAB 10 Donna McNulty, Assistant Attorney General**

- 24
- 25 • Rule 64B11-2.003, F.A.C., Application/Fees
 - 26 • Rule 64B11-3.001, F.A.C., Application/Fees
 - 27 • Rule 64B11-4.005, F.A.C., Citations

28 **REPORTS, IF ANY**

29 **TAB 11 Board Chair**

30 Ms. Garcia stated she was unable to attend the recent MQA Board Chair meeting and offered
31 materials from the meeting to other board members if they were interested in reviewing.
32 even though she was unable to attend the meeting, is available

1 **TAB 12 Executive Director**

2 Report topics

- 3 • Expenditures by Function

4 Informational Item.

- 5 • Cash Balance Report

6 Informational Item.

7 **NEW BUSINESS**

8 **TAB 13 Letter from Tamara Pinchevsky-Font, re: Proposed Journal Club for**
9 **Continuing Education Credit**

10 Following discussion, the Board stated the continuing education rules do not allow continuing
11 education credit to be obtained by means of a Journaling Club, and the Board does not wish to
12 establish any rule changes pertaining to Journal Clubs. The Board requested staff to send a
13 letter to Ms. Pinchevsky-Font directing her, or her Department, to apply for licensure as a
14 continuing education provider through CE Broker, and to include a copy of the continuing
15 education Rules.

16 **TAB 14 September 22, 2008 General Business Meeting**

17 There was one noted correction.

18 Page 1 Correct heading for Absent Members, listed as Present Members.

19 **MOTION:** Ms. McIntosh moved to accept the minutes noting the correction. Mr. Scott
20 seconded the motion, which carried 4/0.

21 **OTHER BUSINESS AND INFORMATION**

22 **TAB 15 PRN Monthly Report**

23 Informational Item.

24 **TAB 16 Staff Recognition**

25 Informational Item.