



Ohio Occupational Therapy, Physical Therapy,  
and Athletic Trainers Board

*Athletic Trainers Section*  
*November 15, 2006*  
*9:35 a.m.*

**Members Present**

Thomas Best, M.D.  
Jody Benda, AT  
Kurt McClurg, AT  
Vincent O'Brien, AT

**Staff Present**

Lisa Foor, Enforcement Division Supervisor  
Joseph Kirk Executive Assistant  
Jeffrey Rosa, Executive Director  
Andrew Snouffer, Investigator

**Member Absent**

Paul Miller, AT

**Legal Counsel**

Todd Newkirk, Assistant Attorney General

**Call to Order**

The meeting was called to order by Section chairperson, Kurt McClurg, at 9:35 a.m.

The Section formally welcomed new physician member, Dr. Thomas Best.

**Approval of Minutes**

**Action:** Jody Benda moved that the September 21, 2006 meeting minutes be approved as submitted. Vincent O'Brien seconded the motion. The motion carried.

**Executive Director's Report**

- The Executive Director informed the Section that many individuals were asking how the election results would potentially affect the Board.
  - Mr. Rosa stated that the results should not affect the Board significantly since the Governor cannot remove board members without cause. However, as terms expire, members of the board who are registered Republicans may find it slightly more difficult being re-appointed.
- The budget request for fiscal years 2008 and 2009 has been submitted to the Office of Budget and Management. Although the request that was submitted may change to reflect the priorities of the new administration, the Executive Director does not believe that the requests submitted by small, self-sustaining boards will be changed a great deal.
- One particular legislative concern may be Senate Bill 387. The bill would require prosecuting attorneys to notify occupational licensing boards when the prosecuting attorney discovers that a person who has applied for or who holds an occupational or professional license if the person has been charged with or indicted for an alleged felony sex offense. The bill also requires the board to begin an investigation into the matter upon notification from the prosecuting attorney. The bill's sponsor, Senator Mark Dann, was elected as Attorney General and therefore may be able to push for action on the bill in the future.
- The written Executive Director's report is attached to the minute for reference.

**Special Orders**

**Action:** Vincent O'Brien moved to authorize the use of signature stamps or electronic signatures by the Section Chairperson, Section Secretary, and the Executive Director for the period beginning January 1, 2007 and ending December 31, 2007. Jody Benda seconded the motion. The motion carried.

**Action:** Vincent O'Brien moved to authorize the Executive Director to make editorial changes to motions for the period beginning January 1, 2007 and ending December 31, 2007. Jody Benda seconded the motion. The motion carried.

**Action:** Vincent O'Brien moved to authorize the use of hearing officers for the period beginning January 1, 2007 and ending December 31, 2007. Jody Benda seconded the motion. The motion carried.



**Action:** Jody Benda moved to accept the consent agreement for Ruth Ann Hiney. Vincent O'Brien seconded the motion. The motion carried. Ms. Hiney is voluntarily surrendering her license due to failure to obtain the required number of continuing education hours.

### **Correspondence**

1. **Jennifer Zimmerman:** Ms. Zimmerman asked the Section if a Christian Ethics course would meet the ethics requirement listed rule 4755-45-01 and requested a waiver of continuing education. **Action:** The Section believes that the Christian Ethics class meets the requirements of rule 4755-45-01 of the Ohio Administrative Code; therefore it may be used for Ms. Zimmerman's next renewal. The Section is currently considering giving Ms. Zimmerman an extension to complete her continuing education after she completes her religious order formation. However, the Section needs more information on the length of Ms. Zimmerman's formation. The Section requested that Ms. Zimmerman submit information to the Section regarding the length of her formation no later than December 31, 2006. The next Section meeting is January 11, 2007, and her waiver request will be re-reviewed at that time.
2. **Terri Angelo:** Ms. Angelo asked the Section a question regarding an athletic trainer performing a functional capacity evaluation. **Action:** There is nothing in the Ohio Athletic Training Practice Act that prohibits an Ohio licensed athletic trainer from performing a functional capacity evaluation (FCE). Under section 4755.64 (A)(7) of the Revised Code and rule 4755-41-01 (C)(2) of the Administrative Code, it is the responsibility of the athletic trainer to determine whether a referral is within the athletic trainer's scope of practice, level of competence, and experience. In the event that an inappropriate referral is received, the athletic trainer should contact the referring practitioner and discuss how to proceed. The letter sent to Kari Eicens dated June 19, 2006 was only on behalf of the Physical Therapy Section of the Board and stated that functional capacity evaluations are evaluative in nature and may only be performed by a physical therapist in the **practice of physical therapy**. Therefore the athletic trainer may not perform an FCE functioning as other assistive personnel under the supervision of a physical therapist. The response from the Physical Therapy Section was solely based on the Ohio Physical Therapy Practice Act. Under the Ohio Athletic Training Practice Act, an athletic trainer may perform an FCE in the practice of athletic training with the appropriate referral. The Section will be sending a letter of clarification on this issue to the Ohio Bureau of Workers' Compensation.
3. **Michelle Kramer:** Ms Kramer asked if athletic trainers may perform therapeutic exercises. **Action:** There is nothing in the Ohio Athletic Training Practice Act to prevent an athletic trainer from directing a patient to perform therapeutic exercises. The billing for these procedures is not within the Section's jurisdiction. Nothing in the Ohio Athletic Training Practice Act prevents athletic trainers from billing for services. The Athletic Trainers Section suggests you contact the Ohio Athletic Trainers Association or the National Athletic Trainers Association or refer to CPT codes listed under physical medicine. Treatment consists of the techniques and procedures used in giving care in situations where assistance is required or requested. Such actions should be reasonable and prudent within the scope of practice of athletic training. A progression of categories is listed as a guideline for your use. **First Aid:** Basic, immediate care given on site to stabilize and prepare for evacuation and referral as needed. **Routine:** Maintenance and preventative measures commonly used by athletes and athletic trainers, such as pre-event warm-up and post-event cool-down procedures. The sole intent of treatments used is to maintain normal function during participation and daily living. **Standard Operating Procedure (SOP):** A protocol set forth by team physicians and athletic trainers for treatment or various injuries prior to evaluation by a physician. Such procedures should be followed as outlined with eventual referral. This protocol must be documented and on file in the setting where used. **Restorative:** Patient/athlete specific instructions for use with a diagnosed injury or as prescribed by the referral source. All treatment should be rendered in accordance with any established protocol for the venue. Physician directives should be followed at all times. Permission to treat should be obtained. Athletic trainers should not attempt any treatment measure unfamiliar to them. Some variance may be seen in treatment, depending upon educational background, facility or setting limitations, and patient response.

### **Assistant Attorney General Report**

Todd Newkirk, AAG had no report for the Section.

### **New Business**

#### **Rule Changes**

- The Section reviewed the proposed rule changes submitted by the staff.

- The Section made revisions to the proposed rules 4755-43-04 and 4755-45-01.
  - Rule 4755-43-04 will now state that an applicant for applying for licensure graduating after July 1, 2004 must be a graduate of an athletic training program curriculum approved by a Section approved accrediting body, as the name of the organization in charge of accrediting may change again in the future.
  - Rule 4755-45-01 will allow a maximum of forty hours of “Self Study” instead of thirty hours.

**Action:** Jody Benda moved to file rules 4755-43-04, 4755-43-06, 4755-43-08, and 4755-45-01. Vincent O’Brien seconded the motion. The motion carried.

The rules will be filed in early December and the public rules hearing will be held on January 11, 2007.

**Action:** Jody Benda moved to file rules 4755-40-01, 4755-40-02, 4755-41-01, 4755-41-02, 4755-42-01, 4755-42-02, 4755-43-05, 4755-43-10, 4755-46-01 and 4755-48-01 as no change rules. Vincent O’Brien seconded the motion. The motion carried.

#### Functional Capacity Evaluation

The Section discussed an e-mail received by Paul Miller regarding a Bureau of Workers’ Compensation (BWC) statement on functional capacity evaluations (FCE). Based on the materials submitted, it appeared that BWC misinterpreted a response sent by the Physical Therapy Section.

- In that response, the PT Section stated that under the Ohio Physical Therapy Practice Act an athletic trainer could not perform an FCE since athletic trainers are considered unlicensed personnel under the Ohio Physical Therapy Practice Act.
- Under the Ohio Athletic Training Practice Act an athletic trainer may perform a functional capacity evaluation provided there is a physician order.
- The Section discussed the response written by the staff to address Terri Angelo’s concerns. A letter will also be sent to BWC to clarify the difference between the different Sections of the Board and the differences in the practice acts.

#### Orthotic Fittings

The Section reviewed an e-mail received from the Orthotics, Prosthetics and Pedorthics Board asking if the athletic training scope of practice includes the fitting of orthotics.

- The Section considers the fitting of orthotics to be within the scope of practice of athletic training and therefore believe the exemption contained in section 4779.02 of the Revised Code applies to the practice of athletic training.

#### Old Business

##### ODE Update

- The office received no response back from the Ohio Department of Education (ODE) regarding the definition of “athletic trainer” in ODE rules.

**Items for the Next Meeting**

- Public hearing for administrative rule changes.
- Discuss the issues related to Ohio Department of Education's first aid curriculum for high school coaches.
- Discuss pending legislation.

**Next Meeting Date**

The next meeting date of the Athletic Trainers Section will be Thursday, January 11, 2006.

**Adjournment**

Jody Benda moved that the meeting be adjourned. Vincent O'Brien seconded the motion. The motion carried. The meeting adjourned at 11:00 a.m.

Respectfully submitted,  
Joseph A. Kirk

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Kurt McClurg, AT, Chairman  
Athletic Trainers Section

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Jody Benda, AT, Secretary  
Athletic Trainers Section

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Jeffrey M. Rosa, Executive Director  
Ohio Occupational Therapy, Physical Therapy  
and Athletic Trainers Board

**JB;jmr:jak**