

GEORGIA STATE BOARD OF OCCUPATIONAL THERAPY
Board Meeting Minutes
Professional Licensing Boards
237 Coliseum Drive, Macon, GA
Friday, May 13, 2016 - 09:00 a.m.

The Georgia State Board of Occupational Therapy met on Friday, May 13, 2016.

Board Members Present

Rachele Branson, OTR/L, Chairperson
Robert McClellan, OTR/L
Rafael Salazar, OTR/L
Susan Stallings-Sahler, OTR/L (via teleconference)
Mary Louise Austin, Consumer Member

Administrative Staff Present

Adrienne Price, Executive Director
Kathy Osier, Licensing Supervisor
Tamara Elliott, Board Support Specialist

Attorney General's Office

Janet Jackson, Assistant Attorney General

Board Members Absent

Melissa Thurlow, OTR/L, Vice Chair

Visitors Present

No visitors present

Call to Order

Ms. Branson established that a quorum of the Board was present and called the meeting to order at 9:14 a.m.

OPEN SESSION

Ms. Branson welcomed the new board members to the Board.

Board Meeting Agenda

The Board accepts the agenda as presented.

Open Session Board Minutes

1) February 19, 2016 Board Meeting Minutes

Ms. Austin motioned, Mr. McClellan seconded and the Board voted unanimously in favor of the motion to accept the February 19, 2016 open session minutes as amended to correct grammatical errors and language.

2) March 28, 2016 Teleconference Minutes

Mr. McClellan motioned, Mr. Salazar seconded and the Board voted unanimously in favor of the motion to accept the March 28, 2016 open session minutes as amended to correct grammatical errors and language.

Ratification Lists

Mr. McClellan motioned, Mr. Salazar seconded and the Board voted unanimously in favor of the motion to approve the list of licenses issued from February 13 2016 – May 6, 2016, licenses issued by reinstatement, and the Physical Agent Modalities certifications and limited permits issued between Board meetings.

Correspondence – Brooke Schwoebel - Direct Access

Ms. Austin motioned, Mr. McClellan seconded and the Board voted unanimously in favor of the motion to send a no legal advice response letter, refer her to the statute, and encourage her to consult with her insurance carrier relative to their requirements.

Correspondence – Elisabeth Nye - IEP and Scope of Practice

Mr. McClellan motioned, Mr. Salazar seconded and the Board voted unanimously in favor of the motion to notify the writer that school based IEP are outside of the board's jurisdiction and refer her to the Centers for Medicare and Medicaid Services (CMS) and the statute and rules regarding the scope of practice of OTs and OTAs in the State of Georgia.

Correspondence – Lana Roe, ACP A Hanger Co - PAMS Online Education

Mr. McClellan motioned, Mr. Salazar seconded and the Board voted unanimously in favor of the motion to refer the writer back to the PAMs application and inform her that she may have up to 12 hours of online coursework.

Open Records Requests

1) Cathy Brennan, MN OT Association RE: Licensing Budget

Ms. Austin motioned, Mr. McClellan seconded and the Board voted unanimously in favor of the motion to ratify the release of the records in accordance with the Open Records Request Act, O.C.G.A. § 50-18-70.

Petition for Rule Waiver/Variance Requests

1) Deborah Jackson BR 671-3-.08 para3

Mr. McClellan motioned, Mr. Salazar seconded and the Board voted unanimously in favor of the motion to deny the petition for waiver of Board Rule 671-3-.08 due to insufficient evidence to substantiate a hardship.

Discussion – Request for Liaison Georgia Occupational Therapy Association (GOTA) Board - S. Stallings-Sahler

Ms. Branson informed the Board that the GOTA President called her because the Virginia Board's President called her and mentioned that Georgia is allowing OTs to do dry needling. The GOTA's President wanted to know where the Board stands on that issue. President of GOTA mentioned that years ago communication was better between the licensure boards and GOTA, and she is trying to identify the issues causing the communication breaks.

The GOTA President requested that the Board consider allowing a Board member to serve as a liaison to GOTA. Ms. Branson thought it would be a good idea to have one of the Board members attend the GOTA meetings to act as a liaison and vice versa, to have a GOTA member sit in on open session of the Board meetings, to establish a better connection between the two. Ms. Branson mentioned that she and Ms. Stallings-Sahler had this discussion before and that it would be okay with her just as long as the liaison does not give legal advice. Attorney General Janet Jackson explained that the liaison must be cognizant that they cannot speak for the whole Board unless the Board votes to nominate them to speak on behalf of the Board to this private organization and anything that's discussed in executive session cannot be revealed.

Mr. McClellan motioned, Mr. Salazar seconded and the Board voted unanimously in favor of the motion to elect Ms. Stallings-Sahler as the acting liaison to GOTA.

Executive Director's Report –A. Price

Executive Director's report presented the Board with statistical data relevant to the processing of applications, the number of licensees and complaints/compliance matters. Ms. Price presented the Board with an update on the contract NBCOT Becoming NPDB Reporting Agent which was previously discussed, C.E. Tracking System update, and a reminder that each Board Member was to meet the Annual Affidavit and Personal Financial Disclosure requirements by January 31, 2016. Ms. Price's report presented the Board with an update on the pre-filled bills that were tracked in the Georgia General Assembly that would have an effect on the work of the Board. The Board accepted the Executive Director's report as presented.

Mr. Salazar motioned, Mr. McClellan seconded and the Board voted unanimously in favor of the motion to allow Ms. Thurlow and Ms. Branson to proceed with amending the continuing education rule to include the use of an electronic continuing education tracking system for the purpose of tracking continuing education and instructed staff to contact CE Broker to make a presentation to the Board.

Board Chair's Report –R. Branson

No report presented.

Miscellaneous Discussions

1) Investigative Records Request – Georgia Board of Speech Language Pathology and Audiology

Mr. McClellan motioned, Ms. Austin seconded and the Board voted unanimously in favor of the motion to grant the release of the investigative case to the Georgia Board of Speech Language Pathology and Audiology in accordance with O.C.G.A. §§ 43-1-19 (h)(2).

2) NBCOT State Regulatory Forum Update

Ms. Price informed the Board that the regulatory update provided information which suggests that certification is being required in some other states for the maintenance of licensure, most states are now requiring jurisprudence examinations, the NBCOT will be putting a PAMs quiz on the NBCOT Navigator soon, and addressed that several states are using the AOTA Guidelines when engaging in Telehealth. The Board accepted this report as information.

3) Ms. Austin motioned, Mr. McClellan seconded and the Board voted unanimously in favor of the motion for Ms. Stallings-Sahler to ask the GA-AOTA if they have recently reviewed the practice act and if they feel that it needs to be updated or changed and, if so, in what way. The Board requests that Ms. Stallings-Sahler report the GA-AOTA's response at the next meeting.

Board Rule Hearings

Ms. Branson called Board Rule Board Rule 671-4-.02 Unprofessional Conduct Defined hearing to order at 10:31 a.m.

671-4-.02 Unprofessional Conduct Defined. Amended.

Unprofessional conduct shall include, but not be limited to, the following:

- (a) Obtaining or attempting to obtain a license by fraud, misrepresentation, or concealment of material facts;
- (b) Violating the ethics of occupational therapy as set forth by the Georgia Board of Occupational Therapy;
- (c) Being grossly negligent in the practice of occupational therapy or as an occupational therapy assistant;
- (d) Using drugs or intoxicating liquors to the extent that these effect the licensee's professional competence;
- (e) Practicing occupational therapy after being adjudged mentally incompetent by a court of competent jurisdiction;
- (f) Being convicted of a crime other than minor offenses defined as "minor misdemeanors", "violations" or "offenses" in any court if the acts for which he or she was convicted are found by the Board to have a direct bearing on whether he or she should be entrusted to serve the public in the capacity of an occupational therapist or occupational therapy assistant;
- (g) Using or holding yourself out as being able to utilize occupational therapy techniques involving physical agent modalities when not certified by the Board to use physical agent modalities;

(h) Having committed any other conduct which ordinary and reasonable individuals would consider unprofessional.

(i) Failing to adhere to the provisions of the 'Consumer Information and Awareness Act' as codified in O.C.G.A. § 43-1-33.

O.C.G.A. §§ 43-1-19, 43-1-25, 43-28-8.1 and 43-1-33(f).

Written Comments Received

No written comments were received.

Public Comments Received

No Public comments were received or offered during the hearing.

Ms. Austin motioned, Mr. Salazar seconded and the Board voted unanimously in favor of the motion to adopt the 671-4-.02 proposed amendment as presented.

The Board discussed the economic impact of Board Rule 671-4-.02 upon the licensee. Mr. Salazar motioned, Mr. McClellan seconded and the Board voted unanimously in favor of the motion that the formulation and adoption of this rule does not impose excessive regulatory cost on any licensee and any cost to comply with the proposed rule cannot be reduced by a less expensive alternative.

Mr. Salazar motioned, Mr. McClellan seconded and the Board voted unanimously in favor of the motion that it is not legal or feasible to meet the objectives of O.C.G.A. §§ 43-1-25, 43-24A-19(2), and 43-24A-3(4) to adopt or implement differing actions for businesses as listed in O.C.G.A. § 50-13-4(3)(A), (B), (C), and (D). The formulation and adoption of these rules will impact every licensee in the same manner and each licensee is independently licensed in the field of Occupational Therapy.

The hearing adjourned at 10:35 a.m.

Board Rules Review

The Board requested the Attorney General to present in writing the difference between statute laws, board rules and board policies and the steps for adopting new rules at the next scheduled Board Meeting.

During the March 28, 2016 meeting Ms. Branson assigned each Board member a section of the rules to review and consider amendments if necessary. Based upon their assigned sections each member made the following recommendations for each section:

- 1) Melissa Thurlow – Organization, no changes

- 2) Melissa Thurlow – Definitions, no substantive changes but requested that staff notify legal services to fix a typographical error in Board Rules Chapter 671-2 in reference to O.C.G.A. Section 43-28-15 as it should be subparagraph 6 instead of b.
- 3) Susan Stallings-Sahler - License Requirements, proposed that the Board consider amending 671-3-.06 to address military spouses and transitional service members.
- 4) Mary Louise Austin - Standards of Professional Conduct, no change
- 5) Robert McClellan - Procedural Rules, no change.
- 6) Rachele Branson - Certification of PAMs, no change

Mr. McClellan motioned, Mr. Salazar seconded and the Board voted unanimously in favor of the motion to refer Board Rule 671-3-.06 to Ms. Branson and Mr. Salazar to draft amendments to address military spouses and transitioning service members to present to the Board during the next meeting.

Ms. Austin motioned, Mr. McClellan seconded, and the Board voted to enter into Executive Session in accordance with O.C.G.A. §43-1-2(k) (1) (2), O.C. G.A. §43-1-2 (k) (4), O.C.G.A. §43-1-19 (h) (2) & (4) and O.C.G.A. §50-14-2(1) to deliberate on Applications, to receive the Attorney General’s, Enforcement, and Cognizant Reports, and to conduct Applicant Interviews. Voting in favor of the motion were those present who included Board Members: Ms. Branson, Ms. Stallings-Sahler, Ms. Austin, Mr. McClellan, and Mr. Salazar.

At the conclusion of Executive Session on Friday, May 13, 2016, 2016, Ms. Branson declared the meeting to be “open” pursuant to the Open and Public Meeting Act O.C.G.A. § 50-14-1 et seq. No votes were obtained during Executive Session.

OPEN SESSION

Executive Session Board Minutes

1) February 19, 2016 Board Meeting Minutes

Ms. Austin motioned, Mr. McClellan seconded and the Board voted unanimously in favor of the motion to accept the February 19, 2016 executive session board minutes as amended to correct grammatical errors and language.

2) March 28, 2016 Teleconference Minutes

Ms. Austin motioned, Mr. McClellan seconded and the Board voted unanimously in favor of the motion to accept the March 28, 2016 executive session teleconference minutes as presented.

Attorney General’s Report

Ms. Austin motioned, Mr. Salazar seconded and the Board voted unanimously in favor of the motion to accept the Attorney General’s report as presented.

Board Rules Review:

1) 671-3-.01 vote to post as amended

Mr. Salazar motioned, Ms. Austin seconded, and the Board voted unanimously in favor of the motion to vote to post Board Rule 671-3-.01 as amended.

Rule 671-3-.01. Application. Amended

(1) Any occupational therapist or occupational therapy assistant who plans to practice as a licensed occupational therapist or licensed occupational therapy assistant in the State of Georgia shall apply for licensure to the Board, on forms provided by the Board.

[\(2\) In order to meet the Georgia requirements for licensure, an applicant must submit an affidavit stating that the applicant is a U.S. citizen or an affidavit stating that the applicant is lawfully present in the U.S. under federal immigration law and O.C.G.A. § 50-36-1\(f\)\(1\).](#)

[\(3\) Lawful presence in the U.S. must be documented by:](#)

[\(a\) submitting an identification document listed as a secure and verifiable document on the list maintained by the Office of the Georgia Attorney General under O.C.G.A. § 50-36-1; and,](#)

[\(b\) an affidavit of citizenship that complies with the provisions of federal immigration law and O.C.G.A. § 50-36-1\(f\)\(1\)\(B\).](#)

(4) Both the secure and verifiable document and affidavit of citizenship must be submitted to the Board to complete the licensure application.

(5) Applicants for occupational therapy or occupational therapy assistant licensure in Georgia must meet all requirements for licensure as defined within the statute and Board Rules prior to issuance of a license.

Authority: O.C.G.A. §§ 43-1-3, 43-1-19, 43-1-25, 43-28-7, 43-28-8, 43-28-9, 43-28-10, 43-28-11 and 50-36-1.

The Board discussed the economic impact of Board Rule 671-3-.01 upon licensees. Mr. Salazar motioned, Ms. Austin seconded, and the Board voted unanimously in favor of the motion that the formulation and adoption of this rule does not impose excessive regulatory cost on any licensee and any cost to comply with the proposed rule cannot be reduced by a less expensive alternative.

Mr. Salazar motioned, Ms. Austin seconded, and the Board voted unanimously in favor of the motion that it is not legal or feasible to meet the objectives of O.C.G.A. §§ 43-1-25, 43-24A-19(2), and 43-24A-3(4) to adopt or implement differing actions for businesses as listed in O.C.G.A. § 50-13-4(3)(A), (B), (C), and (D). The formulation and adoption of these rules will impact every licensee in the same manner and each licensee is independently licensed in the field of Occupational Therapy.

Rule 671-3-.02. References. Amended

Three references will be required on forms provided by the Board from individuals who have knowledge of the applicant's professional training or experience within the last five years. ~~two~~ At least one professional reference of which must be from certified or licensed occupational therapy practitioners. ~~or~~ The second professional reference may be from another certified or licensed occupational therapy practitioner or any other licensed healthcare professional, ~~who have knowledge of the applicant's professional training or experience during the last five years.~~ The third and final reference must be a personal reference.

Authority: O.C.G.A. §§ 43-1-3, 43-1-19, 43-1-25, 43-28-7, 43-28-9 and 43-28-10.

The Board discussed the economic impact of Board Rule 671-3-.02 upon licensees. Mr. Salazar motioned, Ms. Austin seconded, and the Board voted unanimously in favor of the motion that the formulation and adoption of this rule does not impose excessive regulatory cost on any licensee and any cost to comply with the proposed rule cannot be reduced by a less expensive alternative.

Mr. Salazar motioned, Ms. Austin seconded, and the Board voted unanimously in favor of the motion that it is not legal or feasible to meet the objectives of O.C.G.A. §§ 43-1-25, 43-24A-19(2), and 43-24A-3(4) to adopt or implement differing actions for businesses as listed in O.C.G.A. § 50-13-4(3)(A), (B), (C), and (D). The formulation and adoption of these rules will impact every licensee in the same manner and each licensee is independently licensed in the field of Occupational Therapy.

671-3-.02 vote to post as amended

Mr. Salazar motioned, Ms. Austin seconded, and the Board voted unanimously in favor of the motion to vote to post Board Rule 671-3-.02 as amended.

Rule 671-3-.10 Foreign Applicant, Amended

(1) An applicant for licensure through examination who has graduated from an occupational therapy course or school taught or situated in a foreign country may be admitted to the examination by demonstrating to the satisfaction of the Board that his/her course of training was as high as the standards maintained in Georgia. In ascertaining whether such an applicant meets such standards, the Board shall consider whether the school or course of training has been approved by the American Occupational Therapy Certification Board and whether the applicant's credentials have been evaluated and accepted by the American Occupational Therapy Certification Board.

(2) The Board requires that foreign trained applicants must successfully complete the foreign trained occupational therapy practitioner's process as is required to take the board approved examination. The Board approved examination is administered by the NBCOT. ~~The Board requires that foreign trained applicants must have successfully completed the foreign trained occupational practitioners' process as is required to take the Board approved examination.~~

Cite as Ga. Comp. R. & Regs. R. 671-3-.10

Authority: Ga. L. 1976, pp. 993, 997 (Ga. Code Ann., Sec. 84-7105). O.C.G.A. Secs. 43-28-7; 43-28-14.

History. Original Rule entitled "Foreign Applicant" was filed on July 15, 1977; effective August 4, 1977.

BR 671-3-.02 References

The Board discussed the economic impact of Board Rule 671-3-.10 upon licensees. Mr. McClellan motioned, Ms. Austin seconded, and the Board voted unanimously in favor of the motion that the formulation and adoption of this rule does not impose excessive regulatory cost on any licensee and any cost to comply with the proposed rule cannot be reduced by a less expensive alternative.

Mr. McClellan motioned, Ms. Austin seconded, and the Board voted unanimously in favor of the motion that it is not legal or feasible to meet the objectives of O.C.G.A. §§ 43-1-25, 43-24A-19(2), and 43-24A-3(4) to adopt or implement differing actions for businesses as listed in O.C.G.A. § 50-13-4(3)(A), (B), (C), and (D). The formulation and adoption of these rules will impact every licensee in the same manner and each licensee is independently licensed in the field of Occupational Therapy.

671-3-.10 vote to post as amended

Mr. McClellan motioned, Ms. Austin seconded, and the Board voted unanimously in favor of the motion to vote to post Board Rule 671-3-.10 as amended.

Cognizant's Report

Ms. Stallings-Sahler motioned, Ms. Austin seconded and the Board voted unanimously in favor of the motion to accept the following recommendations made in Executive Session.

- 1) OT160011 Close case with no action.
- 2) OT160012 Close case with no action.
- 3) OT160008 Mr. McClellan motioned, Mr. Salazar seconded, and the Board voted unanimously in favor of the motion to rescind the previous motion, lift the suspension and restore the license to an active status.

Board Order Ratification List

Mr. McClellan motioned, Ms. Austin seconded, and the Board voted unanimously in favor of the motion to ratify the list of Consent Agreements issued in accordance with Board rules and policies between meetings as presented

Executive Discussions

Mr. Salazar motioned, Mr. McClellan seconded and the Board voted unanimously in favor of the motion to accept the following recommendations made in Executive Session.

- 1) D.J. Refer to the Attorney General's office for hearing or Public Consent Order for Renewal of Licensure to include a fine of \$250 and must submit proof of having satisfied the C.E. requirements of the past biennial within 90 days of the docket date of the order. C.E.s used to satisfy the terms of the order may not be used for the current biennial. Flag for C.E. Audit. If applicant does not agree to the terms of the order, proceed with hearing to deny renewal of licensure.

Applications

- 1) Applicant 2613053 Mr. Salazar motioned, Mr. McClellan seconded and the Board voted unanimously in favor of the motion to refer to Legal Services for a Public Consent Agreement for reinstatement of licensure with a fine of \$2,200 for unlicensed practice from April 1, 2014 to March 28, 2016. Ms. Stallings-Sahler abstained from voting.

Adjournment No further business was discussed and the meeting adjournment at 1:44 p.m.

Minutes recorded by: Tamara Elliott, Board Support Specialist
Minutes reviewed and edited by: Kathy Osier, Licensing Supervisor & Adrienne Price, Executive Director
Minutes approved on: August 12, 2016

RACHELE BRANSON
BOARD CHAIR

ADRIENNE PRICE
EXECUTIVE DIRECTOR