BEFORE THE PERSONNEL APPEALS BOARD

STATE OF WASHINGTON

DEPARTMENT OF SOCIAL AND HEALTH SERVICES, Appellant, v. HASLEM et al., Respondents.	Case No. ALLO-01-0029 ORDER OF THE BOARD FOLLOWING HEARING ON EXCEPTIONS TO THE DETERMINATION OF THE DIRECTOR

Hearing on Exceptions. This appeal came on for hearing before the Personnel Appeals Board, WALTER T. HUBBARD, Chair, and RENÉ EWING, Member, on the Department of Social and Health Services' exceptions to the Director's determination dated October 22, 2001. The hearing was held at the office of the Personnel Appeals Board in Olympia, Washington, on April 10, 2002. GERALD L. MORGEN, Vice Chair, did not participate in the hearing or in the decision in this matter.

Appearances. Jesse Powell, Classification and Compensation Manager, represented Appellant Department of Social and Health Services. Laura Saint, Area Representative for the Washington Federation of State Employees, represented respondent employees Lisa Haslam, Gary Snyder, Carla Erlandson, Susan McKinney and Fran Chmielewski.

Background. Employees Haslam, Snyder, Erlandson, McKinney and Chmielewski requested reallocation of their Therapy Assistant positions to the classification of Occupational Therapist 1. After conducting a review, Mary Jo Hagen, Human Resources Manager at Western State Hospital, informed the employees that their positions were properly allocated, and she denied their request for reallocation.

By letter dated June 21, 2001, the employees appealed this determination to the director of the Department of Personnel. On October 8, 2001, Paul Peterson, Personnel Hearings Officer, conducted an allocation review and by letter dated October 22, 2001, he informed the employees that their positions should to be reallocated to the class of Occupational Therapist 1. On November 19, 2001, the Department of Social and Health Services (DSHS) filed exceptions with the Personnel Appeals Board to the determination of the Department of Personnel.

Summary of Appellant DSHS' Argument. DSHS asserts that the licenses held by the employees has restrictions which allows them to work only at the Therapy Assistant (TA) level as covered in the standards of practice as well as the law on licensure. DSHS asserts that a different license is required to perform the full and broad range of responsibilities and work performed at the Occupational Therapist (OT) 1 level. Therefore, DSHS asserts that the employees cannot be assigned OT 1 duties. DSHS further asserts that the license granted to the occupational therapy assistant requires that they perform their duties under the supervision of a higher-level OT. DSHS asserts that at Western State Hospital, a registered OT 1 supervises the TAs. DSHS asserts that while both the OT 1 and the TA work together in a collaborative manner to meet the needs of the client, it is the registered OT, however, that is ultimately responsible and accountable for the delivery of occupational therapy services. DSHS further contends that the higher level occupational therapy duties are assigned to the OT 1 and not to the TA based on the higher level of education and clinical understanding of the OT 1, who holds at least a bachelor degree, while the TA earns a two year associate degree as a therapy assistant. DSHS asserts that the employees should be allocated to the Therapy Assistant class.

Summary of Respondent's Argument. The employees argue that they perform the duties of an OT. They further argue that they should be reallocated to the higher-level classification because they perform OT duties and are licensed to practice occupational therapy in the state of Washington. The employees assert that as certified occupational therapy assistants they are indeed occupational therapy

practitioners as defined by the standards of practice for occupational therapy and as defined in the RCW 18.59. The employees argue that they perform their duties independently and with little supervision and only meet with an OT 1 for a total of 15 minutes per month. The employees assert that they are more appropriately allocated at the OT 1 level and that the determination of the DOP Hearings Officer should be affirmed.

Primary Issue. Whether the director's determination that the employees' positions are properly allocated to the Occupational Therapy Assistant classification should be affirmed.

Relevant Classifications. Therapy Assistant, class code 57150 and Occupational Therapist 1, class code 57200.

Decision of the Board. The purpose of a position review is to determine which classification best describes the overall duties and responsibilities of a position. A position review is neither a measurement of the volume of work performed, nor an evaluation of the expertise with which that work is performed. Also, a position review is not a comparison of work performed by employees in similar positions. A position review is a comparison of the duties and responsibilities of a particular position to the available classification specifications. This review results in a determination of the class that best describes the overall duties and responsibilities of the position. Liddle-Stamper v. Washington State University, PAB Case No. 3722-A2 (1994).

There is no dispute as to the responsibilities and tasks performed by the employees here. The employees design and implement occupational therapy activities on a daily basis and they meet with medical staff to determine individual patient needs with the goal of modifying behavior to teach skills necessary to the activity." The employees initiate requisitions for occupational therapy materials needed for the groups and they distribute the materials to the residents in order to teach skills, modify behaviors

and increase patient independence. The employees are also responsible for charting patient progress on a weekly basis. There is also little dispute that the employees work independently and receive little supervision.

The definition in the Occupational Therapist (OT) 1 specification states that the incumbent "[p]erforms professional therapeutic work in instructing, evaluating, and supervising patients in occupational therapy activities. The typical work of an OT 1 includes conferring with medical and other staff members to determine occupational therapy programs for individual patients; selecting situations or activities which will require desired motion or actions or help modify behavior and which teaches the skills necessary to the activity. The incumbent must have a valid license to practice Occupational Therapy in the state of Washington.

The definition of a Therapy Assistant states, "under the supervision of a licensed Occupational/Physical Therapist, or Physician, assists in evaluation, design and implementation of therapy services and treatments to patients with multiple or acute diagnoses; may instruct and evaluate/supervise Therapy Aides, students and/or volunteers." Typical work includes completing data collection through interview and evaluation of clients; performing treatments for patients; maintaining progress notes and reports; and tracking need for reassessment and reporting changes. The incumbent must possess a certification as an Occupational Therapy Assistant by the American Occupational Therapy Association and licensed by the state of Washington as an Occupational Therapy Assistant.

According to Carol Neva, a Program Manager for the Occupational Therapy Practice Board under the Department of Health, occupational therapists and occupational therapy assistant are regulated under the Division of Health Professional Quality Assurance. Under RCW 18.59, both must have a valid license to provide therapy services in the state of Washington. Prior to being licensed, occupational therapists and occupational therapy assistants must provide evidence of having met the educational requirements

established under RCW 18.59 and WAC 246-847 in addition to having successfully passed the National Board for Certification in Occupational Therapy examination. She verified that the employees concerned here all hold professional licenses as occupational therapy assistants and are **authorized to provide occupational therapy services in Washington State**. (emphasis added).

It is clear here that the employees are performing duties and responsibilities that go beyond assisting and that they clearly perform professional therapeutic work in providing patients with occupational therapy activities. Furthermore, they work independently and receive minimal supervision from a higher-level occupational therapist. Therefore, we conclude that the employees are properly allocated to the Occupational Therapist 1 class.

Conclusion. The appeal on exceptions by the Department of Social and Health Services should be denied and the Director's determination dated October 22, 2001, should be affirmed and adopted.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that the appeal on exceptions by the Department of Social and Health Services is denied and the Director's determination dated October 22, 2001, is affirmed and adopted.

DATED this _____ day of _____, 2002.

WASHINGTON STATE PERSONNEL APPEALS BOARD

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Walter T. Hubbard, Chair

_____
René Ewing, Member

Personnel Appeals Board
2828 Capitol Boulevard
Olympia, Washington 98504