

1 EXECUTIVE COUNCIL OF  
2 PHYSICAL THERAPY AND OCCUPATIONAL THERAPY EXAMINERS  
3 AGENDA  
4 QUARTERLY MEETING  
5 Board Room  
6 333 Guadalupe, Ste. 2-500  
7 Austin, TX 78701  
8 November 21, 2017 8:00 a.m.

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10 Persons Present:

11 Council Members

Roger Matson, *Presiding Officer*  
Barbara Sanders, *PT*  
Phillip Vickers, *PT Board Public Member*  
Stephanie Johnston, *OTR*  
Will Hale, *OT Board Public Member*

16  
17 Staff:

John Maline, *Executive Director*  
Lea Weiss, *OT Board Coordinator*  
Karen Gordon, *PT Board Coordinator*  
Mark Turek, *Chief Investigator*  
Randall Glines, *Staff Services Officer*  
Kara Holsinger, *AG Assigned Counsel*

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25  
26 **I. Call to order.**

27 At 8:01 a.m., Mr. Roger Matson, Presiding Officer, called the meeting to order. Mr.  
28 Matson called the roll, and a quorum was determined to exist.

29  
30 **II. Public comment.**

31 There was no public comment.

32  
33 **III. Discussion and possible action on excusing council member absences.**

34 No action taken.

35  
36 **IV. Council and board member training regarding antitrust liability for licensing  
37 boards.**

38 Ms. Holsinger, in accordance with a requirement of SB 317 of the 85<sup>th</sup> Legislative  
39 Session, presented a class to the council members on the council's responsibility  
40 regarding its understanding of potential antitrust liabilities and the steps it must  
41 take to minimize its vulnerability to same.

42  
43 **V. Approval of minutes of February 10, 2017 Executive Council meeting as found in  
44 Tab 5.**

45 The February 10, 2017 meeting minutes were approved with no changes.

46 **Made by: Stephanie Johnston**

47 **Second: William Hale**

48 **5 ayes, motion passed with no changes.**  
49

50 **VI. Discussion and possible action on Executive Council policies pursuant to SB 317**  
51 **from the 85<sup>th</sup> Regular Legislative Session.**

52 Mr. Maline presented three Executive Council policies required by SB 317 of the  
53 85<sup>th</sup> Legislative Session, specifically the delineation of responsibilities between the  
54 two boards and Executive Council, negotiated rulemaking, and alternative dispute  
55 resolution.  
56

57 **Motion: To approve the policies pursuant to SB 317 from the 85th Regular**  
58 **Legislative Session.**

59 **Made by: Philip Vickers**

60 **Second: Stephanie Johnston**

61 **5 ayes, motion passed.**  
62

63 **VII. Discussion and possible action on Executive Director's Report concerning fiscal**  
64 **and budgetary matters, performance measures, ongoing projects, agency**  
65 **personnel matters, past legislative session, and other agency business.**

66 Mr. Maline presented a report to the Executive Council on the current status of the  
67 agency, which concentrated on an update of the current fiscal year's financial  
68 status and performance measure statistics. He also discussed recent meetings  
69 with a new analyst from the Legislative Budget Board and the Governor's  
70 appointments office staff. There were related questions asked of him, all of which  
71 he answered. Mr. Maline recognized the recent "Excellence in Regulation" award  
72 presented to the PT Board by the Federation of State Boards of Physical Therapy,  
73 and received by the PT Board Presiding Officer, Harvey Aikman, at the 2017  
74 Annual Meeting & Delegate Assembly. He also recognized the "Letter of  
75 Appreciation and Service Award" recently presented to OT Coordinator Lea Weiss  
76 by the Texas Occupational Therapy Association at the 2017 TOTA Mountain  
77 Central Conference.  
78

79 **VIII. Discussion and possible action on rule amendments proposed by the Texas Board**  
80 **of Occupational Therapy Examiners as follows: amendments to §362.1, Definitions;**  
81 **§372.1, Provision of Services; §367.2, Categories of Education; and new rules**  
82 **§363.3, Negotiated Rulemaking; §363.4, Alternative Dispute Resolution, and §367.4,**  
83 **Process for Selecting a Peer Organization to Evaluate and Approve Continuing**  
84 **Education Courses.**

85 Ms. Johnston and Ms. Weiss gave a synopsis of the new rules and proposed rule  
86 amendments and the rationale used by the OT Board to make the proposed rule  
87 changes.  
88

89 **Motion: To approve publishing proposed amendments to §362.1, Definitions, in the**  
90 **form as they appear in Tab 8 of the workbook.**

91 **Made by: William Hale**

92 **Second: Barbara Sanders**

93 **5 ayes, motion passed.**  
94

95 **Motion: To approve publishing proposed amendments to §372.1, Provision of**  
96 **Services, in the form as they appear in Tab 8 of the workbook.**

97 **Made by: William Hale**

98 **Second: Phillip Vickers**

99 **5 ayes, motion passed.**

100  
101 **Motion: To approve publishing proposed amendments to Rule §367.2, Categories**  
102 **of Education, in the form as they appear in Tab 8 of the workbook.**

103 **Made by: William Hale**

104 **Second: Barbara Sanders**

105 **5 ayes, motion passed.**

106  
107 **Motion: To approve publishing proposed new §363.3, Negotiated Rulemaking; and**  
108 **new §363.4, Alternative Dispute Resolution, in the form as they appear in Tab 8 of**  
109 **the workbook.**

110 **Made by: William Hale**

111 **Second: Phillip Vickers**

112 **5 ayes, motion passed.**

113  
114 **Motion: To approve publishing new §367.4, Process for Selecting a Peer**  
115 **Organization to Evaluate and Approve Continuing Education Courses, in the form**  
116 **as it appears in Tab 8 of the workbook.**

117 **Made by: William Hale**

118 **Second: Phillip Vickers**

119 **5 ayes, motion passed.**

- 120  
121 **IX. Discussion and possible action on rule amendments proposed by the Texas Board**  
122 **of Physical Therapy Examiners as follows: Chapter 323, Powers and Duties of the**  
123 **Board; §325.7, Board Member Terms; §325.1. Elections; §343.35, Complaint**  
124 **Investigation; §322.4, Practicing in a Manner Detrimental to the Public Health and**  
125 **Welfare; §329.2, Licensure by Examination; and §341.2, Continuing Competence.**

126 **Mr. Vickers gave a synopsis of the proposed amendments and the rationale used**  
127 **by the PT Board to make the proposed rule changes.**

128  
129 **Motion: To approve publishing proposed §323.5 and §323.6, Powers and Duties of**  
130 **the Board, in the form as they appear in Tab 9 of the workbook.**

131 **Made by: Stephanie Johnston**

132 **Second: Barbara Sanders**

133 **5 ayes, motion passed.**

134  
135 **Motion: To approve publishing proposed §343.35, Complaint Investigation, in the**  
136 **form as it appears in Tab 9 of the workbook.**

137 **Made by: Stephanie Johnston**

138 **Second: William Hale**

139 **5 ayes, motion passed.**

140

141 **Motion: To approve publishing proposed §322.4, Practicing in a Manner**  
142 **Detrimental to the Public Health and Welfare, in the form as it appears in Tab 9 of**  
143 **the workbook.**

144 **Made by: Barbara Sanders**  
145 **Second: Stephanie Johnston**  
146 **5 ayes, motion passed.**

147  
148 **Motion: To approve publishing proposed §325.1. Elections, in the form as it**  
149 **appears in Tab 9 of the workbook.**

150 **Made by: Stephanie Johnston**  
151 **Second: Barbara Sanders**  
152 **5 ayes, motion passed.**

153  
154 **Motion: To approve publishing proposed §329.2. Licensure by Examination, in the**  
155 **form as it appears in Tab 9 of the workbook.**

156 **Made by: Stephanie Johnston**  
157 **Second: Barbara Sanders**  
158 **5 ayes, motion passed.**

159  
160 At 9:07 a.m., Mr. Roger Matson, Presiding Officer, called for a five minute break.

161  
162 At 9:12 a.m., Mr. Roger Matson, Presiding Officer, called the meeting back to  
163 order.

164  
165 **Motion: To approve publishing proposed §341.2, Continuing Competence, in the**  
166 **form as it appears in Tab 9 of the workbook.**

167 **Made by: Stephanie Johnston**  
168 **Second: Barbara Sanders**  
169 **5 ayes, motion passed.**

170  
171 **Motion: To approve publishing proposed §325.7, Board Member Terms, in the form**  
172 **as it appears in Tab 9 of the workbook.**

173 **Made by: Stephanie Johnston**  
174 **Second: Barbara Sanders**  
175 **5 ayes, motion passed.**

176  
177 **X. Discussion and possible action on an amendment recommended by the Texas**  
178 **Board of Physical Therapy Examiners to Executive Council rule §651.2, Physical**  
179 **Therapy Board Fees, which will create a new Physical Therapy Licensure Compact**  
180 **privilege fee.**

181 Mr. Vickers and Mr. Maline gave a synopsis of the proposed amendment and the  
182 rationale used by the PT Board to make the recommended change to the  
183 Executive Council rules.

184  
185 **Motion: To approve the forwarding of the proposed amendment to §651.2, Physical**  
186 **Therapy Board Fees, in the form as it appears in Tab 10 of the workbook.**

187 **Made by: Stephanie Johnston**  
188 **Second: Philip Vickers**  
189 **5 ayes, motion passed.**  
190

191 **XI. Executive Session pursuant to §551.074 of the Government Code, regarding the**  
192 **appointment, employment, evaluation, reassignment, duties, discipline, or**  
193 **dismissal of the Executive Director of the Executive Council of Physical Therapy**  
194 **and Occupational Therapy Examiners.**

195 The Executive Council went into Executive Session at 9:25 a.m., and  
196 returned to open session at 9:35 a.m.  
197

198 **XII. Return to open meeting for discussion and possible action regarding the**  
199 **appointment, employment, evaluation, reassignment, duties, discipline, or**  
200 **dismissal of the Executive Director of the Executive Council of Physical**  
201 **Therapy and Occupational Therapy Examiners.**

202 The Executive Council recommended that Mr. Maline's salary be raised to  
203 the recommended amount for the Executive Director listed in the Executive  
204 Council section of the FY2018/2019 Appropriations Act. That amount is  
205 \$104,990. Mr. Maline stated that he needed to study the agency salary  
206 structure first as there are other employees in the agency concurrently  
207 deserving of a raise.  
208

209 **XIII. Presiding Officer's Report.**

210 There was no Presiding Officer's report  
211

212 **XIV. Discussion and possible action on scheduling future Executive Council meeting**  
213 **dates, and items for future consideration.**

214 The next Executive Council Meeting is scheduled for Friday, February 9, 2018,  
215 8:30 a.m., in Austin, TX.  
216

217 **XV. Adjournment.**

218 The meeting was adjourned at 9:42 a.m.  
219

220 **DATE REVIEWED BY THE COUNCIL: February 9, 2018**

221 **ACTION TAKEN BY THE COUNCIL: Approved as written**  
222