

1 **Texas Board of Occupational Therapy Examiners**
2 **BOARD MEETING MINUTES**
3 **August 3, 2018**
4 **333 Guadalupe, Suite #2-510**
5 **Austin, TX 78701**
6 **10:00 AM**
7

8 **Members Present:** Stephanie Johnston, OTR, OTD, FAOTA, Chair
9 Todd Novosad, OTR, Vice Chair
10 DeLana Honaker, OTR, PhD, CLT, FAOTA, Secretary
11 Blanca Cardenas, Public Member
12 Amanda Jean Ellis, Public Member
13 Karen Gardner, OTR
14 Sally Harris King, COTA
15 Pamela D. Nelon, Public Member
16

17 **Members Absent:** Jennifer B. Clark, COTA
18

19 **Counsel Present:** Kara Holsinger, Assistant Attorney General
20

21 **Staff Present:** John Maline, Executive Director
22 Mark Turek, Investigator
23 Michael Briscoe, Licensing Manager
24 Lea Weiss, OT Coordinator
25

26 **Public Attendees:** William N. Hale
27 Judith Joseph, TOTA Executive Director
28 Roger Matson, Executive Council Presiding Officer
29

30 **1. Call to Order**

31 The meeting was called to order at 10:15 AM by Stephanie Johnston, Presiding Officer. She
32 called the roll and announced that a quorum existed. Stephanie Johnston introduced the newly
33 appointed Board members, Blanca Cardenas and Karen Gardner, who replace Pamela D.
34 Nelon and Stephanie Johnston, respectively, whose terms expired. She also noted that Sally
35 Harris King and DeLana Honaker had been reappointed. In addition, Stephanie Johnston noted
36 that she was appointed to replace Catherine Benavidez, who resigned from the Board, and that
37 Pamela D. Nelon was appointed to replace William N. Hale, whose term had expired.
38 Stephanie Johnston, furthermore, noted that the Governor had designated her as presiding
39 officer of the Board. The Board members next offered a brief introduction to themselves, and
40 Stephanie Johnston and the Board thanked William N. Hale for his years of service to the Board
41 and Executive Council.
42

43 **2. Discussion and possible action on excusing board member absences**

44 **Motion:** To approve the excuse of Jennifer B. Clark for the absence at the August 3,
45 2018 Board meeting

46 **Made by:** DeLana Honaker

47 **Second by: Sally Harris King**

48 **Motion passed.**

49

50 **3. Public comment**

51 Judith Joseph commented on TOTA's work on updating and improving its continuing education
52 approval program.

53

54 **4. Approval of Minutes of May 4, 2018**

55 **Motion: To approve the minutes as written**

56 **Made by: Todd Novosad**

57 **Second by: DeLana Honaker**

58 **Motion passed.**

59

60 **5. Discussion and possible action on the Executive Director's Report concerning**
61 **fiscal and budgetary matters, performance measures, ongoing projects, agency**
62 **personnel matters, Executive Council activity, upcoming legislative session, and**
63 **other agency business**

64 John Maline briefed the Board on fiscal and budgetary matters, performance measures, ongoing
65 projects, agency personnel matters, Executive Council activity, and the upcoming legislative
66 session. He also discussed issues relevant to agency business, including new correspondence
67 from the Office of the Governor to state agencies requiring the submission to that office of
68 information regarding proposed rules prior to such being submitted to the *Texas Register* for
69 publishing. The Board discussed the agenda item. No action was taken.

70

71 **6. Investigation Committee Report**

72 **A. Review and possible action on Agreed Orders for Case #s: 18-053; 18-096;**
73 **18-114; 18-125; 18-131; 18-132; 18-133 and 18-138**

74 Mark Turek presented agreed orders for the following case numbers: 18-131; 18-132; 18-133;
75 18-053; and 18-114.

76

77 The Board reviewed and ratified the agreed orders for case numbers: 18-131; 18-132; 18-133;
78 18-053; and 18-114.

79

80 **Motion: For case number 18-125, the Investigation Committee proposes the**
81 **immediate emergency suspension of the OTR's license to practice under**
82 **454.305 of the Act as "the continued practice by the licensee constitutes a**
83 **continuing or imminent threat to the public health or welfare."**

84 **Made by: Investigation Committee**

85 **Second by: None required.**

86 **Motion passed.**

87

88 The remaining cases were not presented to the Board at this time.

89

90 **B. Discussion and possible action on the Investigation Committee meeting of**
91 **July 6, 2018**

92 Mark Turek reported that sixty eight cases were reviewed at the July 6, 2018 meeting, resulting
93 in the Investigation Committee's issuance of eight Agreed Orders. One informal conference
94 was held.

95

96 **C. Discussion and possible action on investigative activities to date**

97 Mark Turek reported on performance measures and on-site investigations since the last Board
98 meeting, in addition to continuing work regarding the implementation of fingerprint-based
99 criminal history background checks of applicants and licensees with an anticipated rollout date
100 of January 1, 2019 for renewals and new license issuance.

101

102 **7. Rules Committee Report**

103 **Discussion and possible action on recommendations from the Rules Committee**
104 **including the following items:**

105 **A. Discussion and possible action on SB 317 from the 85th Regular Legislative**
106 **session and proposing rule amendments, including amendments regarding**
107 **fingerprint-based criminal background checks, to the following rules:**

108 **1. Chapter 364, Requirements for Licensure**

109 **2. Chapter 370, License Renewal**

110 **3. Chapter 371, Inactive and Retired Status**

111

112 By request from the Rules Committee Chair, DeLana Honaker, Lea Weiss delivered the Rules
113 Committee Report and noted the following:

114

115 The Rules Committee recommended amendments to §364.1, Requirements for Licensure;
116 §370.1, License Renewal; §370.3, Restoration of a Texas License; §371.1, Inactive Status; and
117 §371.2, Retired Status, regarding adding provisions requiring an applicant's or licensee's
118 submission of fingerprints. Such changes are recommended pursuant to the addition to the Act
119 of §454.217 and §454.255, adopted by the 85th Legislature, requiring an applicant or licensee
120 to submit fingerprints to the Department of Public Safety for the purpose of the Board obtaining
121 criminal history record information from the Department of Public Safety and the Federal Bureau
122 of Investigation.

123

124 The Rules Committee, in addition, discussed recommending to the Board amendments to
125 §364.1, §370.1, §370.3, §371.1, and §371.2 to cleanup and clarify the sections.

126

127 Recommended cleanups and clarifications to §364.1 pertain to provisions regarding application
128 requirements for initial Texas licensure. Provisions concerning educational requirements have
129 been revised in the recommended amendments in accordance with changes to the Practice Act
130 pursuant to SB 317 from the 85th Legislative Session (Regular). In the recommended
131 amendments, language referring to specified weeks of field work has been removed and
132 replaced with a provision that refers to the relevant section of the Act, as the Act no longer
133 specifies the number of weeks of field work. In addition, language referring to the completion of
134 an accredited OT/OTA program in §364.1 has been replaced with language referring to
135 academic requirements for applicants as specified in §454.203 of the Act. Language has also
136 been added referencing §454.205 of the Act, wherein academic and supervised field work
137 requirements for foreign-trained applicants are described.

138

139 Further cleanups in the recommended amendments to §364.1 include removing provisions that
140 appear elsewhere in the OT Rules from the section and replacing such with a provision noting
141 that “Applicants and new licensees shall refer to Chapter 369 of this title for provisions regarding
142 information changes and verification of temporary or regular license issuance and current
143 licensure.”

144

145 Cleanups and clarifications to §370.1 and §370.3 pertain to provisions regarding application
146 requirements for the renewal of a Texas occupational therapy license. Such changes include
147 removing “online” from provisions in the sections concerning the jurisprudence examination, as
148 such is defined in §362.1 of the OT Rules, concerning definitions, as an online examination. In
149 the recommended amendments to §370.1, references to a paper or online application have also
150 been replaced with language referring to an application form as prescribed by the Board and
151 with references to further requirements licensees must meet in additional sections of the OT
152 Rules.

153

154 Cleanups and clarifications to §371.1 and §371.2 also pertain to removing “online” from
155 provisions concerning the jurisprudence examination. Further clarifications and cleanups
156 appear in the recommendations regarding those sections, including removing a reference in
157 §371.2 to verification of current licensure, as provisions concerning verification of current
158 licensure already appear elsewhere in the OT Rules.

159

160 Further cleanups and clarifications appear in the recommended amendments to §364.1, §370.1,
161 §370.3, §371.1, and §371.2.

162

163 **Motion: To propose and publish the amendments to §364.1, Requirements for**
164 **License; §370.1, License Renewal; §370.3, Restoration of a Texas**
165 **License; §371.1, Inactive Status; and §371.2, Retired Status**

166 **Made by: Rules Committee**

167 **Second by: None required.**

168 **Motion passed.**

169

170 **B. Discussion and possible action on SB 317 from the 85th Regular Legislative**
171 **Session and proposing rule amendments to §374.1, Disciplinary Actions,**
172 **regarding a schedule of sanctions**

173 The Rules Committee recommended amendments to §374.1, Disciplinary Actions, to add
174 information concerning a schedule of sanctions to the chapter in order to comply with a recent
175 statutory amendment to the Occupational Therapy Practice Act, Tex. Occ. Code Chapter 454.

176

177 The recommended amendments would add a schedule of sanctions to the section and
178 information regarding factors considered in conjunction with the schedule of sanctions when
179 determining the appropriate penalty/sanction in disciplinary matters. The amendments are
180 recommended pursuant to the addition to the Act of §454.3025, adopted by the 85th Legislature,
181 requiring the Board to adopt a schedule of sanctions.

182

183 **Motion: To propose and publish the amendments to §374.1, Disciplinary Actions**

184 **Made by: Rules Committee**
185 **Second by: None required.**
186 **Motion passed.**

187

188 **C. Discussion and possible action on questions received by the Texas Board**
189 **of Occupational Therapy Examiners related to the OT Practice Act and**
190 **Board Rules**

191 Lea Weiss noted that there were no questions discussed and no action was taken.

192

193 **8. Discussion on practice by OTs and OTAs in non-traditional, community, and/or**
194 **wellness-based roles or settings**

195 The Board discussed practice by OTs and OTAs in non-traditional, community, and wellness-
196 based roles or settings and the OT Rules. The Board discussed returning to this issue at a later
197 Board and/or Rules Committee meeting, including at the next set of meetings in November. No
198 action was taken on the agenda item.

199

200 **9. Discussion and possible action on the OT Coordinator's Report. The**
201 **Coordinator's Report may concern any items listed on the agenda and events that**
202 **have occurred between this meeting and the Board's last meeting.**

203 Lea Weiss discussed recent activities at the Board, updates regarding the licensing system
204 database and website, and information regarding Board licensing statistics. No action was
205 taken on the agenda item.

206

207 **10. Discussion and possible action on the Presiding Officer's Report. The Presiding**
208 **Officer's Report may concern any items listed on the agenda and events that have**
209 **occurred between this meeting and the Board's last meeting.**

210 Stephanie Johnston thanked the public for attending. No action was taken on the agenda item.

211

212 **11. Discussion and possible action on scheduling future Board meeting dates and**
213 **agenda items for future consideration**

214 Stephanie Johnston noted that Board meetings have been scheduled for November 16 and 17,
215 2018, as part of the off-site Board conference; February 1, 2019; May 3, 2019; and August 2,
216 2019; with possible committee meetings to be held November 16 and 17, 2018; January 31 and
217 February 1, 2019; May 2 and 3, 2019; and August 1 and 2, 2019.

218

219 The Board discussed agenda items for future consideration. Stephanie Johnston noted that
220 possible agenda items for the upcoming meeting may include items related to practice by OTs
221 and OTAs in non-traditional, community, and/or wellness-based roles or settings, supervision,
222 and continuing education requirements.

223

224 **12. Adjournment**

225 The Board adjourned at 12:03 PM.

226

227 **Minutes adopted on: November 16, 2018**