

1 **Texas Board of Occupational Therapy Examiners**

2 BOARD MEETING MINUTES

3 May 6, 2016

4 333 Guadalupe, Suite #2-510

5 Austin, TX 78701

6 9:00 AM

7  
8 Members Present: Stephanie Johnston, OTR, Chair  
9 Todd Novosad, OTR, Vice Chair  
10 DeLana Honaker, OTR, PhD, FAOTA, Secretary  
11 Jennifer B. Clark, COTA  
12 Amanda Jean Ellis, Public Member  
13 Sally Harris, COTA  
14 Pamela D. Nelon, Public Member

15  
16 Members Absent: William N. Hale, Public Member

17  
18 Counsel Present: Kara Holsinger, Assistant Attorney General

19  
20 Staff Present: John Maline, Executive Director  
21 Mark Turek, Chief Investigator  
22 Cynthia Machado, Licensing Manager  
23 Lea Weiss, OT Coordinator

24  
25 Public Attendees: Robin Clearman, OTR, TOTA President-Elect  
26 Denise Rose, Governmental Affairs Consultant, Jackson Walker LLP,  
27 associate of Kathy Hutto, TOTA Legislative Advisor  
28  
29

30 **1. Call to Order**

31 The meeting was called to order at 9:08 AM by Stephanie Johnston, Presiding Officer. She called the  
32 roll and announced that a quorum existed.  
33

34 **2. Public comment**

35 There was no public comment.  
36

37 **3. Approval of Minutes of February 19-20, 2016**

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

39 **Made by: Jennifer B. Clark**

40 **Second by: Amanda Jean Ellis**

41 **Motion passed.**  
42

43 **4. Discussion and possible action on the Executive Director's Report concerning fiscal and**  
44 **budgetary matters, performance measures, ongoing projects, agency personnel matters,**  
45 **the current Sunset Review, Executive Council activity, and other agency business**

46 John Maline briefed the Board on the fiscal standing of the agency, performance measures, and  
47 budgetary and agency personnel matters. He also discussed the current Sunset Review and the  
48 Sunset staff report, in addition to issues relevant to agency business.  
49

50 The Board recessed at 10:05 AM and reconvened at 10:13 AM.  
51

52 **5. Investigation Committee Report**

1           **A. Review and possible action on Agreed Orders for case numbers: 15-167;**  
2           **16-007; 16-030; 16-042; 16-050; 16-105; 16-110; 16-112; 16-115; 16-116**  
3           **and 16-126**

4 The Board ratified case numbers: 16-042; 16-110; 16-115; 16-116; 16-105; 16-126; 16-050; and 16-  
5 030.

7           **B. Discussion and possible action on the Investigation Committee Meeting of**  
8           **April 14, 2016**

9 Mark Turek reported that seventy investigations were reviewed at the April 14, 2016 meeting, resulting  
10 in the Investigation Committee's issuance of eleven Agreed Orders. One informal conference was held.

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

13 Mark Turek reported on performance measures and on-site investigations since the last Board meeting.

15 **6. Discussion and possible action on adopting the proposed rule review of the following**  
16 **chapters of the Board Rules as required by §2001.039 of the Government Code: Chapter**  
17 **361, Statutory Authority; Chapter 362, Definitions; Chapter 363, Consumer/Licensee**  
18 **Information; Chapter 364, Requirements for Licensure; Chapter 367, Continuing**  
19 **Education; Chapter 368, Open Records; Chapter 369, Display of Licenses; Chapter 370,**  
20 **License Renewal; Chapter 371, Inactive and Retired Status; Chapter 372, Provision of**  
21 **Services; Chapter 373, Supervision; Chapter 374, Disciplinary Actions/Detrimental**  
22 **Practice/Complaint Process/Code of Ethics; Chapter 375, Fees; and Chapter 376,**  
23 **Registration of Facilities**

24 Lea Weiss introduced the previously published proposed rule review and reported that no public  
25 comment was received regarding the review.

27 The Board discussed the review and found that the reasons for initially adopting the rules continue to  
28 exist.

30 **Motion: To readopt all chapters in the Board Rules and publish notice of the adopted rule**  
31 **review**

32 **Made by: Todd Novosad**

33 **Second by: Sally Harris**

34 **Motion passed.**

36 **7. Discussion and possible action on adopting changes to proposed §367.1, Continuing**  
37 **Education; §367.2, Categories of Education; §367.3, Continuing Education Audit;**  
38 **proposed new §372.2, General Purpose Occupation-Based Instruction; §373.3,**  
39 **Supervision of an Occupational Therapy Assistant; §376.5, Exemptions to Registration;**  
40 **§362.1, Definitions; §372.1, Provision of Services; §373.1, Supervision of Non-Licensed**  
41 **Personnel; §370.3, Restoration of a Texas License; §371.1, Inactive Status; and §371.2,**  
42 **Retired Status**

44 Lea Weiss reviewed the proposed rule amendments to §367.1, Continuing Education; §367.2,  
45 Categories of Education; and §367.3, Continuing Education Audit, which include the removal of the  
46 Type 1 and Type 2 continuing education designations and changes that would instead require that all of  
47 the required 30 hours of continuing education taken for license renewal fit the recommended new  
48 definition for continuing education. Further changes to §367.2 would add specific NBCOT Navigator™  
49 activities as acceptable continuing education activities and include changes to the list of unacceptable  
50 activities that may not be completed for CE credit.

52 Lea Weiss noted that no public comment was received. The Board discussed the proposed  
53 amendments.

1 **Motion: To adopt as published the amendments to proposed §367.1, Continuing**  
2 **Education; §367.2, Categories of Education; and §367.3, Continuing Education**  
3 **Audit**

4 **Made by: DeLana Honaker**

5 **Second by: Jennifer B. Clark**

6 **Motion passed.**

7  
8 Lea Weiss reviewed the proposed rule amendments regarding new §372.2, General Purpose  
9 Occupation Based Instruction; §373.3, Supervision of an Occupational Therapy Assistant; and §376.5,  
10 Exemptions to Registration. The proposed changes include adding a new rule regarding general  
11 purpose occupation-based instruction, §372.2, General Purpose Occupation-Based Instruction, and  
12 changes to §373.3 with regard to the required supervision hours for an OTA and to general purpose  
13 occupation-based instruction. Proposed changes to §376.5 concern facility registration exemptions  
14 with regard to general purpose occupation-based instruction.

15  
16 Lea Weiss noted that public comments were received regarding §373.3. The Board discussed  
17 and responded to the comments.

18  
19 The Board discussed the proposed amendments. One change discussed was the removal from  
20 §372.2(b) of the sentence “However, if a participant requires individualized occupational therapy  
21 services, a referral must be made to an occupational therapist for the provision of occupational therapy  
22 services in accordance with §372.1 of this title (relating to Provision of Services)” to be replaced with “If  
23 a participant requires individualized occupational therapy services, these may only be provided in  
24 accordance with §372.1 of this title (relating to Provision of Services).”

25  
26 A further change discussed was to remove from the previously proposed amendment to §373.3 the  
27 provision §373.3(b)(4), “When general purpose occupation-based instruction is being provided pursuant  
28 to §372.2, the OT must approve the curricular goals/program prior to the OTA’s initiating instruction.”  
29 The Board discussed adding this provision as §372.2(d).

30  
31 An additional change concerned replacing in proposed §373.3(b)(2)(F)(ii) the word “or” in the phrase  
32 “electronic information or communications technologies” with a slash so the phrase reads “electronic  
33 information/communications technologies.”

34  
35 **Motion: To adopt with changes proposed new rule §372.2, General Purpose Occupation-**  
36 **Based Instruction, and the amendment to proposed §373.3, Supervision of an**  
37 **Occupational Therapy Assistant, and adopt as published the amendment to**  
38 **proposed §376.5, Exemptions to Registration**

39 **Made by: DeLana Honaker**

40 **Second by: Todd Novosad**

41 **Motion passed.**

42  
43 Lea Weiss reviewed the proposed rule amendments to §362.1, Definitions; §372.1, Provision of  
44 Services; and §373.1, Supervision of Non-Licensed Personnel.

45  
46 Proposed changes to §362.1 would clarify existing definitions with regard to and add a definition for  
47 telehealth, in addition to further cleanups to the definitions in the section.

48  
49 Proposed changes to §372.1 include clarifications regarding the provision of services in general and  
50 would add language regarding the use of telehealth as a mode of occupational therapy service delivery  
51 during the provision of occupational therapy services.

1 Proposed changes to §373.1 would clarify the supervision requirements for non-licensed personnel in  
2 general and with regard to the use of non-licensed personnel during the provision of occupational  
3 therapy services via telehealth.

4  
5 Proposed changes include grammatical revisions and cleanups to the sections, as well.

6  
7 Lea Weiss noted that public comments were received regarding §362.1 and §372.1. In addition, Robin  
8 Clearman commented during the agenda item. The Board discussed and responded to the comments.

9  
10 The Board discussed the proposed amendments and changes to §362.1 with regard to replacing in  
11 §362.1(39), the proposed definition for telehealth, the word “or” in the phrase “electronic information or  
12 communications technologies” with a slash so the phrase reads “electronic information/communications  
13 technologies.”

14  
15 **Motion: To adopt with changes the amendment to proposed §362.1, Definitions, and to**  
16 **adopt as published the amendments to proposed §372.1, Provision of Services;**  
17 **and §373.1, Supervision of Non-Licensed Personnel**

18 **Made by: Sally Harris**

19 **Second by: DeLana Honaker**

20 **Motion passed.**

21  
22 Lea Weiss reviewed the proposed rule amendments to §370.3, Restoration of a Texas License; §371.1,  
23 Inactive Status; and §371.2, Retired Status.

24  
25 Proposed changes to §370.3 would clarify requirements for the restoration of a license expired one  
26 year or more and include revisions related to expedited services for military service members, military  
27 veterans, and military spouses.

28  
29 Proposed changes to Chapter 371 include clarifications with regard to inactive and retired status and  
30 language that would include inactive status licensees in the CE audit.

31  
32 Proposed changes include grammatical revisions and cleanups to the sections, as well.

33  
34 Lea Weiss noted that no public comment was received. The Board discussed the proposed  
35 amendments.

36  
37 **Motion: To adopt as published the amendments to proposed §370.3, Restoration of a**  
38 **Texas License; §371.1, Inactive Status; and §371.2, Retired Status**

39 **Made by: Todd Novosad**

40 **Second by: DeLana Honaker**

41 **Motion passed.**

42  
43 **8. Discussion and possible action on the OT Coordinator’s Report. The Coordinator’s**  
44 **Report may concern any items listed on the agenda and events that have occurred**  
45 **between this meeting and the Board’s last meeting.**

46 Lea Weiss discussed recent activities at the Board including the Board’s mass emailing project,  
47 updates in ACOTE accreditation status for OT and OTA programs in Texas, ACOTE actions regarding  
48 entry-level OT and OTA education, and information regarding Board licensing statistics.

49  
50 **9. Discussion and possible action on the Presiding Officer’s Report. The Presiding**  
51 **Officer’s report may concern any items listed on the agenda and events that have**  
52 **occurred between this meeting and the Board’s last meeting.**

53 Stephanie Johnston thanked the public attendees for attending and discussed plans for the upcoming  
54 Board meetings.

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

Stephanie Johnston noted that the next Board meeting has been scheduled for August 5, 2016 in Austin with possible Committee meetings to be held August 4 and 5, 2016; possible Board and Committee agenda items will concern updates to the jurisprudence examination.

The Board also discussed the future Board meeting dates of November 4, 2016, during the TOTA Mountain Central Conference in Sugar Land, with possible Committee meetings to be held November 3 and November 4, 2016, and Board meeting dates of February 3, 2017 and May 5, 2017 in a location to be determined, with possible Committee meetings to be held February 2 and 3, 2017 and May 4 and 5, 2017.

**11. Adjournment**

The Board adjourned at 12:08 PM.

**Minutes adopted on:** August 5, 2016