

1 **Texas Board of Occupational Therapy Examiners**
2 **RULES COMMITTEE MEETING MINUTES**

3 November 2, 2017
4 333 Guadalupe, Suite #2-510
5 Austin, TX 78701
6 12:30 PM
7

8 **Committee Members Present:** DeLana Honaker, OTR, PhD, FAOTA,
9 Rules Committee Chair
10 Sally Harris King, COTA
11 Amanda Jean Ellis, Public Member
12

13 **Counsel Present:** Kara Holsinger, Assistant Attorney General
14

15 **Staff Present:** John Maline, Executive Director
16 Mark Turek, Chief Investigator
17 Michael Briscoe, Licensing Manager
18 Lea Weiss, OT Coordinator
19

20 **Public Attendees:** Judith Joseph, TOTA Executive Director
21

22 **1. Call to Order**

23 DeLana Honaker called the roll and determined that a quorum existed. The meeting was called
24 to order at 12:30 PM.
25

26 **2. Public Comment**

27 There was no public comment.
28

29 **3. Approval of Minutes of November 3, 2016 Rules Committee meeting**

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

31 **Made by:** Sally Harris King

32 **Second by:** Amanda Jean Ellis

33 **Motion passed.**
34

35 **4. Discussion and possible action on SB 1107 from the 85th Regular Legislative**
36 **session and proposing a new rule regarding telehealth and rule amendments,**
37 **including amendments regarding telehealth, to the following rules:**

38 **A. Chapter 362, Definitions**

39 **B. §372.1, Provision of Services**

40 **C. §373.1, Supervision of Non-Licensed Personnel**

41 The Committee discussed recommending the following amendments to §362.1, Definitions, to
42 cleanup and clarify the section and to revise the Board's definition of telehealth.
43

44 Recommended cleanups and clarifications pertain to amending a reference to the Occupational
45 Therapy Practice Act under the definition of examination and to adding to the definition of
46 jurisprudence examination that such is an online examination and that the passing score is at
47 least seventy percent.
48

49 The Committee also discussed recommending revisions to the definition of telehealth to more
50 closely align it with the current definition of telehealth service in Occupations Code, §111.001,
51 Definitions, as amended by SB 1107 from the 85th Legislative Session (Regular).
52

53 The Committee, in addition, discussed recommending the following amendments to the Board
54 to cleanup and clarify §372.1, Provision of Services, in general and to revise and clarify the
55 section's regulations regarding occupational therapy services provided via telehealth and
56 modifications to the plan of care.

57
58 The recommended amendments would remove the requirement that the initial evaluation for a
59 medical condition must be conducted in person and may not be conducted via telehealth. New
60 language instead would include that the occupational therapist is responsible for determining
61 whether any aspect of the evaluation may be conducted via telehealth or must be conducted in
62 person. The suggested amendments would also remove current language that the occupational
63 therapist must have real time interaction with the client during the evaluation process either in
64 person or via telehealth to instead include that the occupational therapist must have contact with
65 the client during the evaluation via telehealth using synchronous audiovisual technology or in
66 person. The changes would also add that other telecommunications or information technology
67 may be used to aid in the evaluation but may not be the primary means of contact or
68 communication. The amendments, in addition, would remove that the occupational therapy
69 practitioners must have real time interaction with the client during the intervention process either
70 in person or via telehealth and instead would include that the occupational therapy practitioners
71 must have contact with the client during the intervention session via telehealth using
72 synchronous audiovisual technology or in person. The amendments would add, as well, that
73 other telecommunications or information technology may be used to aid in the intervention
74 session but may not be the primary means of contact or communication. The amendments
75 would, additionally, include that except where otherwise restricted by rule, the occupational
76 therapy practitioner is responsible for determining whether any aspect of the intervention
77 session may be conducted via telehealth or must be conducted in person. Concurrent with
78 these changes, the provision requiring that the occupational therapist is responsible for
79 determining whether any aspect of the provision of services may be conducted via telehealth or
80 must be conducted in person would be removed from the section.

81
82 The recommended amendments to §372.1 would also remove language that the occupational
83 therapist and an occupational therapy assistant may work jointly to revise the short-term goals,
84 but the final determination resides with the occupational therapist and that revisions to the plan
85 of care and goals must be documented by the occupational therapist and/or occupational
86 therapy assistant to reflect revisions at the time of the change. The amendment would add
87 instead that modifications to the plan of care must be documented.

88
89 The recommended amendments would include further cleanups and clarifications including
90 adding the phrase "discontinuation of occupational therapy services" under applicable
91 provisions regarding a discharge.

92
93 The Committee did not discuss recommending changes to §373.1, Supervision of Non-Licensed
94 Personnel.

95
96 **Motion: To recommend changes to §362.1; Definitions; and §372.1, Provision of**
97 **Services, as discussed**
98 **Made by: Sally Harris King**
99 **Second by: Amanda Jean Ellis**

100 **Motion passed.**

101

102 **5. Discussion and possible action on SB 317 from the 85th Regular Legislative**
103 **session and proposing new rules concerning negotiated rulemaking and**
104 **alternative dispute resolution**

105 The Committee discussed recommending to the Board the proposal of new rules §363.3,
106 concerning negotiated rulemaking, and §363.4, concerning alternative dispute resolution. The
107 new rules would be proposed in order to comply with statutory amendments to §454.108 of the
108 Occupational Therapy Practice Act regarding establishing a policy on Negotiated Rulemaking
109 and Alternative Dispute Resolution.

110

111 **Motion: To recommend changes to §372.1, Provision of Services, as discussed**

112 **Made by: Sally Harris King**

113 **Second by: DeLana Honaker**

114 **Motion passed.**

115

116 **6. Discussion and possible action on questions received by the Texas Board of**
117 **Occupational Therapy Examiners related to the OT Practice Act and Board Rules**

118 There were no questions discussed and no action was taken.

119

120 **7. Discussion and possible action on future meeting dates and agenda items**

121 The Committee discussed a possible meeting date of February 1, 2018, in Austin with possible
122 agenda items to include the discussion of possible rule changes concerning OT Practice
123 Act changes from SB 317.

124

125 **8. Adjournment**

126 The Committee adjourned at 2:06 PM.

127

128 **Minutes adopted on: August 2, 2018**