

1                                   **Texas Board of Occupational Therapy Examiners**  
2                                   **BOARD MEETING MINUTES**  
3                                   **February 3, 2017**  
4                                   **333 Guadalupe, Suite #2-510**  
5                                   **Austin, TX 78701**  
6                                   **9:00 AM**  
7

8   **Members Present:** Stephanie Johnston, OTR, Chair  
9                                   DeLana Honaker, OTR, PhD, CLT, FAOTA, Secretary  
10                                  Jennifer B. Clark, COTA  
11                                  Amanda Jean Ellis, Public Member  
12                                  William N. Hale, Public Member  
13                                  Sally Harris, COTA  
14                                  Pamela D. Nelon, Public Member  
15

16 **Members Absent:** Todd Novosad, OTR, Vice Chair  
17

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

20 **Staff Present:** John Maline, Executive Director  
21                                  Mark Turek, Chief Investigator  
22                                  Karissa Rodriguez, Asst. Licensing Manager  
23                                  Lea Weiss, OT Coordinator  
24

25 **Public Attendees:** Tim Reistetter, TOTA Standards & Practice Chair  
26

27 **1. Call to Order**

28 The meeting was called to order at 9:05 AM by Stephanie Johnston, Presiding Officer. She  
29 called the roll and announced that a quorum existed.  
30

31 **2. Public comment**

32 Tim Reistetter commented on TOTA's activities regarding the Sunset review process and the  
33 current legislative session.  
34

35 **3. Approval of Minutes of November 4, 2016**

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

37 **Made by:** DeLana Honaker

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

39 **Motion passed.**  
40

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

45 John Maline briefed the Board on fiscal and budgetary matters, performance measures, agency  
46 personnel matters, and issues relevant to agency business. John Maline also discussed the  
47 current Sunset Review, including information regarding the Sunset Commission's January 11,  
48 2017 meeting, and the upcoming legislative session. Tim Reistetter commented during this item  
49 on TOTA's activities during the Sunset review process. The Board discussed the current Sunset  
50 Review.  
51

52 No action was taken on the agenda item.  
53

54 **5. Investigation Committee Report**

55 **A. Review and possible action on Agreed Orders for Case #s: 16-163; 16-229;**  
56 **16-254; 16-260; 17-005; 17-013; 17-018; 17-035; 17-041; and 17-042**

57 Mark Turek presented agreed orders for the following cases: 16-260; 17-041; 17-005; 17-  
58 013; and 17-035.

59  
60 The Board reviewed and ratified the agreed orders for case numbers: 16-260; 17-041; 17-005;  
61 17-013; and 17-035.

62  
63 The remaining cases were not presented to the Board at this time.

64  
65 **B. Discussion and possible action on the Investigation Committee meeting of**  
66 **January 12, 2017**

67 Mark Turek reported that fifty five cases were reviewed at the January 12, 2017 meeting,  
68 resulting in the Investigation Committee's issuance of nine Agreed Orders. One informal  
69 conference was held.

70  
71 **C. Discussion and possible action on investigative activities to date**

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

74  
75 The Board recessed at 10:07 AM and reconvened at 10:21 AM.

76  
77 **6. Discussion and possible action on adopting changes to proposed §372.1,**  
78 **Provision of Services; and proposed new §374.5, Licensure of Persons with**  
79 **Criminal Convictions**

80 Lea Weiss reviewed the proposed amendment to §372.1, concerning provision of services. The  
81 amendment would clarify provisions regarding the receipt of verbal and written referrals for  
82 occupational therapy services and clarify that with regard to medical conditions, a referral must  
83 be requested at any time during the evaluation process when necessary to ensure the safety  
84 and welfare of the client. She also noted that the proposed amendment to §372.1 included the  
85 following provision in §372.1(d)(2): "If a referral is transmitted verbally, it must be documented  
86 by the authorized personnel who receives the referral." Upon adoption, Lea Weiss noted that a  
87 possible change could be the addition of clarifying language defining "authorized personnel."  
88 The addition could read: "In this section, 'authorized personnel' means staff members  
89 authorized by the employer or occupational therapist to receive referrals transmitted verbally."

90  
91 Lea Weiss noted that no public comment was received. The Board discussed the amendment  
92 and adopting such with the possible change.

93  
94 **Motion: To adopt with a change the amendment to §372.1, Provision of Services,**  
95 **with an effective date on or after March 1, 2017**

96 **Made by: DeLana Honaker**

97 **Second by: Amanda Jean Ellis**

98 **Motion passed.**

99  
100 Lea Weiss reviewed the proposed new rule, §374.5, concerning licensure of persons with  
101 criminal convictions. The new section would specify the types of criminal activities that may  
102 result in denial, suspension, or revocation of a license in accordance with the Sunset  
103 Commission's adopted recommendation that the Board adopt rules regarding such.

104  
105 Lea Weiss noted that no public comment was received. The Board discussed the amendment.

106

107 **Motion:** To adopt as published new rule, §374.5, Licensure of Persons with Criminal  
108 **Convictions, with an effective date on or after March 1, 2017**  
109 **Made by:** Jennifer B. Clark  
110 **Second by:** Sally Harris  
111 **Motion passed.**  
112

113 **7. Discussion and possible action on proposing changes to §373.3, Supervision of**  
114 **an Occupational Therapy Assistant, to include those related to changes to or the**  
115 **removal of requirements regarding the Occupational Therapy Assistant**  
116 **Supervision form**

117 Lea Weiss introduced the item. The Board took no action on the item and discussed including it  
118 on an upcoming Board meeting agenda when related sections that reference the requirement  
119 are also on the agenda.  
120

121 **8. Education Committee Report**  
122 **Discussion and possible action on recommendations from the Education**  
123 **Committee including the following items:**

124 **A. Discussion on acceptable and unacceptable continuing education and**  
125 **continuing education documentation**

126 Jennifer B. Clark, who reported on the Education Committee meeting in Todd Novosad's  
127 absence, noted that the Committee did not discuss or take action on this item.  
128

129 **B. Discussion and possible action on proposing rule amendments to Chapter**  
130 **367, Continuing Education, to include changes to the definition of**  
131 **continuing education, acceptable and unacceptable continuing education**  
132 **activities, categories of continuing education, continuing education**  
133 **documentation, and the continuing education approval process**

134 Jennifer B. Clark noted that the Committee discussed recommending to the Board amendments  
135 concerning changes to the definition of continuing education, acceptable and unacceptable  
136 continuing education activities, categories of continuing education, continuing education  
137 documentation, and the continuing education approval process.  
138

139 The recommended amendment to §367.1 would replace the current definition of continuing  
140 education with a new definition of continuing education. In addition, the amendment would add  
141 to a provision regarding the continuing education approval process that "Licensees are  
142 responsible for choosing CE that meets requirements as per this chapter, regardless of the  
143 activity's provider or pre-approved status."  
144

145 The amendment, furthermore, would add provisions regarding unacceptable activities to §367.1.  
146 Such language is based on provisions regarding unacceptable activities in the current §367.2,  
147 which as part of the proposed amendments, have been relocated to §367.1 and include further  
148 changes and additions. Such changes include the addition of language regarding that such  
149 activities are not eligible for continuing education regardless of the provider or pre-approved  
150 status. Changes also include adding language regarding courses that provide information about  
151 the work setting's philosophy, policies, or procedures or designed to educate employees about  
152 a specific work setting and courses in topics concerning professionalism or customer service to  
153 a list of unacceptable activities not eligible for continuing education. Changes to this list,  
154 furthermore, include the replacement of "general management and business" and  
155 "communicable diseases" with "management and business administration" and  
156 "communicable/infectious diseases." A provision from §367.2 regarding self-promotion by  
157 program providers has also been relocated to §367.1 as part of the proposed amendment.  
158

159 Related to the proposed changes to §367.1, language regarding unacceptable activities and  
160 self-promotion by program providers would be struck in the proposed amendment to §367.2.  
161 The amendment to §367.2, in addition, would replace in provisions concerning academic  
162 courses that such must be “related to occupational therapy” with the requirement that such must  
163 be “from an occupational therapy program” and adds “or courses” to a related provision  
164 concerning the creation of a new academic course or courses, which is eligible for a maximum  
165 of ten hours of continuing education. In the proposed amendment, furthermore, references to  
166 the specific NBCOT Navigator™ activities that are eligible for continuing education have been  
167 removed and replaced by language referring to activities of that category that are not eligible.  
168

169 The amendments would include further clarifications and cleanups, as well.  
170

171 **Motion: To propose and publish the amendment to §367.1, Continuing Education,**  
172 **Made by: Education Committee**  
173 **Second by: None required.**  
174 **Motion passed.**  
175

176 **Motion: To propose and publish the amendment to §367.2, Categories of Education**  
177 **Made by: Education Committee**  
178 **Second by: None required.**  
179 **Motion passed.**  
180

181 **C. Discussion and possible action on questions received by the Texas Board**  
182 **of Occupational Therapy Examiners related to continuing education**

183 Jennifer B. Clark noted that the Committee did not discuss or take action on this item.  
184

185 **9. Discussion on adopted Sunset Commission recommendation regarding**  
186 **occupational therapy facilities**

187 John Maline discussed the Sunset Commission’s adopted recommendation to discontinue the  
188 registration of physical and occupational therapy facilities. The Board discussed the  
189 recommendation and its effects and implementation if the recommendation is passed as part of  
190 a bill during the current legislative session.  
191

192 **10. Discussion and possible action on the OT Coordinator’s Report. The**  
193 **Coordinator’s Report may concern any items listed on the agenda and events that**  
194 **have occurred between this meeting and the Board’s last meeting.**

195 Lea Weiss discussed recent activities at the Board, updates to the website, information  
196 regarding Board licensing statistics, and recent ACOTE accreditation actions.  
197

198 **11. Discussion and possible action on the Presiding Officer’s Report. The Presiding**  
199 **Officer’s report may concern any items listed on the agenda and events that have**  
200 **occurred between this meeting and the Board’s last meeting.**

201 Stephanie Johnston thanked the public attendee for attending and noted that no updates had  
202 been received from the Governor’s Office regarding board appointments. No action was taken  
203 on the agenda item.  
204

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

207 Stephanie Johnston noted that Board meetings have been scheduled for May 5, 2017; August  
208 18, 2017; November 17, 2017; and February 2, 2018, with possible Committee meetings to be  
209 held May 4 and 5, 2017; August 17 and 18, 2017; November 2 and 3, 2017; and February 1  
210 and 2, 2018.  
211

212 **13. Adjournment**  
213 The Board adjourned at 11:16 AM.  
214  
215 **Minutes adopted on:** May 5, 2017