

# TBOTE news

The Texas Board of Occupational Therapy Examiners

December, 2014

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Previous Newsletters, Forms, and Frequently Asked Questions are on the website.

[www.ptot.texas.gov](http://www.ptot.texas.gov)

## Future Board Meeting Dates

February 6, Austin

May 8, Austin

September 18, Austin

## TBOTE BOARD

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## Notes from the Coordinator:

### Proposed Rule Changes and Website Updates

**Proposed Rule Changes, Pages 2-9:** At TBOTE's meeting on November 7, 2014, the Board proposed amendments to Chapter 362, Definitions; Chapter 372, Provision of Services; and Chapter 373, Supervision. Many of these changes relate to the proposed inclusion of telehealth in the OT Rules as a mode of occupational therapy service delivery. Please follow this [link](#) to read the full proposed amendments and turn to pages 2-9 in this newsletter for a general introduction to and information about these proposals.

### Website Updates:

#### Statements of Licensure and Wallet Cards:

Licenses may now access and print statements of licensure from the ECPTOTE website. Please follow this link to the [Occupational Therapy License Verification](#) page and then choose the SSN and DOB function to print either a statement of licensure or wallet card.

#### Statements of Facility Registration:

Statements of Facility Registration are now available from the ECPTOTE website. Follow this link to the [Verification](#) page and then select the "Facility Registration" tab.

#### Log-Out Feature:

We have added a logout feature on the website. Now, after you have logged into the website to enter your CE or take the jurisprudence exam, you may logout. The next time you return to the site, you may login to complete your Continuing Education Submission Form and/or take the jurisprudence exam. Please remember that if you are renewing online, you must complete your CE Submission Form before taking the jurisprudence exam.

## Proposed changes to [§362.1](#), [§372.1](#), & [§373.1-§373.3](#)

[To read the proposed amendments on the website, click on the link above.]

***(These are PROPOSED amendments. They have NOT been adopted. The [current rules](#) are in effect.)***

### General Introduction to the Proposed Amendments:

At its November 7, 2014 meeting, the Texas Board of Occupational Therapy Examiners (TBOTE) proposed amendments that would allow for the inclusion of telehealth as a mode of delivery of occupational therapy services; the Board also proposed changes that would clarify existing rules. The Board proposed, for example, a definition of telehealth and additional definitions that would clarify existing language in the rules, such as “face-to-face” and “on-site;” in addition, the Board proposed the removal of the definition of “direct care.” Please see an excerpt from the proposed amendment to §362.1, Definitions, on page 3.

TBOTE’s proposed definition of telehealth emphasizes that telehealth is a mode of service delivery for the provision of occupational therapy services. The same federal and state regulations such as HIPAA and other regulations related to privacy, security, confidentiality, etc. that apply whenever an occupational therapy practitioner provides services would apply when s/he is delivering services through telehealth. Therefore, when selecting and utilizing electronic/communications technologies for the provision of occupational therapy services via telehealth, for example, it would be the responsibility of the occupational therapy practitioner, as it is in all situations, to comply with such regulations.

Furthermore, telehealth, as any other mode of service delivery, may only be used by occupational therapy practitioners licensed by TBOTE with clients who are located in Texas at the time of the provision of occupational therapy services.

TBOTE, in addition, has proposed an amendment to §372.1, Provision of Services. One of these changes would add the requirement that the occupational therapist who screens, evaluates, or implements the plan of care is responsible for determining the need for the physical presence of an occupational therapy practitioner during any interactions with clients. According to this proposed amendment, the OT would be responsible for determining if telehealth or a different mode of service delivery would be appropriate during any interactions with clients. Please see an excerpt from the proposed amendment to §372.1 on page 4.

Finally, TBOTE has proposed amendments to Chapter 373, Supervision, to clarify supervision requirements in general and with regard to the supervision of non-licensed personnel, temporary licensees, and occupational therapy assistants via telehealth. In cases in which supervision must take place when the supervising OT is physically present with the treating temporary licensee or OTA, for example, such is stated. In other instances, the Board has proposed changes that would allow for supervision to take place via telehealth. In addition, the Board has proposed using the phrase “electronic/communications technology methods” to refer to communication via such electronic/communications technology methods as telephone, email, text, videoconferencing, etc. Please see an excerpt from the proposed amendments to Chapter 373 on pages 5-8.

To read the full proposed amendments (which include the preamble for each, the proposed changes within context of the entire rule section, and additional cleanups of the rule with regard to grammatical corrections), please read the December 5, 2014 PDF edition of the [Texas Register](#).

***Please note that the excerpts from the proposed amendments that follow are in bold and any new words/phrases are underlined. Language that has been removed has a strikethrough and is in brackets. In addition, explanatory comments have been placed in italics under the proposed amendments.***

**Excerpt from Proposed Amendment to §362.1, Definitions:**

*The Texas Board of Occupational Therapy Examiners proposes an amendment to §362.1, concerning definitions in that section of the OT Rules. The amendment will clarify existing definitions with regard to and add new definitions related to telehealth.*

*Proposed new definitions (Please note the new numbering to fit into §362.1's current numerical scheme.):*

**(42) Telehealth--A mode of service delivery through the use of electronic information or communications technologies to support long-distance clinical health care, client and provider health-related education, public health, and supervision of health-care providers. As a mode of service delivery, telehealth is on-site contact with the client and the occupational therapy practitioner. Telehealth refers only to the practice of occupational therapy by occupational therapy practitioners who are licensed by this board with clients who are located in Texas at the time of the provision of occupational therapy services. Also may be known as other terms including but not limited to telepractice, telemedicine, telecare, telerehabilitation, and e-health services.**

*Please note that according to this definition, "telehealth is on-site contact with the client and the occupational therapy practitioner." Please see the proposed definition for "On-site" below, which is defined as when the client, the occupational therapy practitioner, and any non-licensed personnel s/he supervises "are present at the same time with visual contact via electronic/communications technology methods or physical presence."*

**(17) Face-to-face--Refers to contact with the client which is visual, real time interaction via electronic/communications technology methods or physical presence.**

*This proposed definition of "Face-to-face" would allow for such contact to be via telehealth or physical presence.*

**(35) On-Site--Refers to when the client, the occupational therapy practitioner, and any non-licensed personnel supervised by an occupational therapy practitioner are present at the same time with visual contact via electronic/communications technology methods or physical presence.**

*According to this proposed definition, "on-site" contact is when the client, the occupational therapy practitioner, and any non-licensed personnel s/he supervises are present at the same time with visual contact via electronic/communications technology methods or via their physical presence.*

*According to this proposed definition, such electronic/communications technology methods as telephone, email, or text, for example, would not fulfill the requirement for being "present at the same time with visual contact."*

*Proposed removal of the following existing definition:*

**~~[(12) Direct Contact--Refers to contact with the client which is face-to-face in person.]~~**

*The only instance in which "direct" (with regard to contact) appears in the current OT Rules would be struck if the proposed amendment to §373.1 is adopted; please see page 5.*

**Excerpt from Proposed Amendment to §372.1, Provision of Services:**

*The Texas Board of Occupational Therapy Examiners proposes an amendment to §372.1, concerning the provision of services. The amendment will clarify the existing rule in general and with regard to telehealth. The amendment will also add the requirement that the occupational therapist who screens, evaluates, or implements the plan of care is responsible for determining the need for the physical presence of an occupational therapy practitioner during any interactions with clients.*

**§372.1 new (a) inclusion:**

**(a) The occupational therapist who screens, evaluates, or implements the plan of care is responsible for determining the need for the physical presence of an occupational therapy practitioner during any interactions with clients.**

*According to this proposed amendment, the occupational therapist who screens, evaluates, or implements the plan of care is responsible for determining whether an occupational therapy practitioner needs to be physically present with the client or whether services may be delivered via telehealth. Thus, at any point during any interactions with the client, the OT would be responsible for determining if the physical presence of an occupational therapy practitioner is required.*

**§372.1(f)(7)**

**The occupational therapy practitioners must have face-to-face, real time interaction with the ~~[patient or]~~ client during the intervention process.**

*This item is in the current version of the OT Rules under §372.1(e). In the proposed amendment, it is under §372.1(f), for if the new §372.1(a) is adopted, the current lettering in §372.1 will change.*

*“Patient or” has been removed to remain consistent with other instances in the OT Rules when only “client” is used as defined in §362.1(7).*

*Please note the proposed definition for “Face-to-face,” which would allow for this interaction to occur via telehealth.*

## **Excerpt from Proposed Amendments to Chapter 373, Supervision:**

*The Texas Board of Occupational Therapy Examiners proposes amendments to §373.1-§373.3, concerning supervision requirements for non-licensed personnel, temporary licensees, and occupational therapy assistants. The amendments will clarify supervision requirements in general and with regard to supervision via telehealth.*

### **§373.1, Supervision of Non-Licensed Personnel**

#### **§373.1(b)**

**(b) ~~[Close Personal]~~ Supervision in this section is ~~[implies direct,]~~ on-site contact whereby the supervising occupational therapy licensee is able to respond immediately to the needs of the client ~~[patient]~~. This type of supervision is required for non-licensed personnel providing support services to the occupational therapy practitioners.**

*Proposed changes to §373.1(b) reflect that the supervising occupational therapy licensee may conduct on-site supervision of non-licensed personnel via telehealth. Please see the proposed definition for “On-site.”*

*“Patient” has been replaced by “client” to remain consistent with other instances in the OT Rules when only “client” is used as defined in §362.1(7).*

### **§373.2, Supervision of a Temporary Licensee**

#### **§373.2(b)**

**(b) Supervision of an occupational therapy assistant with a temporary license includes:**  
**(1) sixteen hours of supervision a month of which at least twelve hours are through electronic/communications technology methods ~~[telephone]~~, written report or conference, including the review of progress of ~~[patients/]~~ clients assigned, ~~[, ]~~ plus**

*Proposed changes to §373.2(b)(1) reflect using the term “electronic/communications technology methods” to signal the use of electronic or communications technologies such as telephone, email, text, videoconferencing, etc.*

*“Patients/” has been removed to remain consistent with other instances in the OT Rules when only “clients” is used as defined in §362.1(7).*

**(2) four or more hours of physical presence supervision a month ~~[which are face-to-face, real time supervision]~~ with the temporary licensee providing services to one or more ~~[patients/]~~ clients.**

*Proposed changes to §373.2(b)(2) reflect that these four hours of supervision must be conducted when the supervising OT and the occupational therapy assistant with a temporary license are both physically present together. Thus, for these four hours, the supervising OT may not supervise the temporary licensee via telehealth.*

*During these four hours, however, the OT may supervise the temporary licensee providing services to clients via telehealth if both the OT and temporary licensee are physically present together.*

*“Patients/” has been removed to remain consistent with other instances in the OT Rules when only “clients” is used as defined in §362.1(7).*

**(3) When providing occupational therapy services, a temporary licensee must have ~~on-site~~ supervision by an occupational therapist or occupational therapy assistant who is on the premises and holds ~~with~~ a regular license ~~when providing occupational therapy services~~.**

*Proposed changes to §373.2(b)(3) maintain the current rule’s meaning: when providing occupational therapy services, the occupational therapy assistant with a temporary license must have supervision by an OT or OTA with a regular license who is on the premises.*

### **§373.2(c)**

**(c) Supervision of an occupational therapist with a temporary license includes documentation regarding:**

**(1) frequent communication between the supervising occupational therapist and the temporary licensee by electronic/communications technology methods ~~telephone~~, written report or conference, including the review of progress of ~~patients/~~ clients assigned, ~~;~~ plus**

*Proposed changes to §373.2(c)(1) reflect using the term “electronic/communications technology methods” to signal the use of electronic or communications technologies such as telephone, email, text, videoconferencing, etc.*

*“Patients/” has been removed to remain consistent with other instances in the OT Rules when only “clients” is used as defined in §362.1(7).*

**(2) encounters twice a month where the occupational therapist directly observes the temporary licensee providing services to one or more ~~patients/~~ clients with physical presence ~~face-to-face, real-time,~~ interaction.**

*Proposed changes to §373.2(c)(2) reflect that these encounters must be when the supervising OT and the occupational therapist with a temporary license are both physically present together. Thus, for these encounters, the supervising OT may not supervise the temporary licensee via telehealth.*

*During these encounters, however, the OT may supervise the temporary licensee providing services to clients via telehealth if both the OT and temporary licensee are physically present together.*

*“Patients/” has been removed to remain consistent with other instances in the OT Rules when only “clients” is used as defined in §362.1(7).*

**(3) When providing occupational therapy services, a temporary licensee must have ~~on-site~~ supervision by an occupational therapist who is on the premises and holds ~~with~~ a regular license ~~when providing occupational therapy services~~.**

*Proposed changes to §373.2(c)(3) maintain the current rule’s meaning: when providing occupational therapy services, the occupational therapist with a temporary license must have supervision by an OT with a regular license who is on the premises.*

### **§373.3, Supervision of an Occupational Therapy Assistant**

#### **§373.3(a)**

**(a) An occupational therapy assistant shall provide occupational therapy services only under the supervision of an occupational therapist(s).**

**(1) These hours shall be documented on a Supervision Log for each employer. The occupational therapist(s) or employer may request a copy of the Supervision Log. The Supervision Log is kept by the occupational therapy assistant and signed by occupational therapist(s) when supervision is given.**

**(2) All the occupational therapist(s), whether working full time, PRN or part-time, who delegate to the occupational therapy assistant, must be participating in the supervision time, whether on a rotational or shared basis.**

*Proposed changes to §373.3(a) represent a clean-up of this section. §373.3(a)(1) and §373.3(a)(2) in the proposed amendment above appear in the current rules as §373.3(b)(3) and §373.3(b)(4), respectively. In the proposed amendment, they have been relocated under §373.3(a) as this is the section where supervision requirements for all occupational therapy assistants are listed.*

#### **§373.3(b)**

**(b) Supervision of a full time employed occupational therapy assistant by the occupational therapist(s) in all settings includes:**

**(1) A minimum of six hours a month of frequent communication between the supervising occupational therapist(s) and the occupational therapy assistant(s) including but not limited to by electronic/communications technology methods ~~telephone~~, written report, and ~~email~~, conference ~~etc.~~, including review of progress of clients ~~patients’/clients’~~ assigned, plus**

*Proposed changes to §373.3(b)(1) reflect using the term “electronic/communications technology methods” to signal the use of electronic or communications technologies such as telephone, email, text, videoconferencing, etc.*

*“Patients/” has been removed to remain consistent with other instances in the OT Rules when only “clients” is used as defined in §362.1(7).*

**(2) A minimum of two hours of supervision a month of ~~face-to-face, real-time~~ interaction with the physical presence of the occupational therapist(s) observing the occupational therapy assistant providing services with ~~patients/~~ clients.**

*Proposed changes to §373.3(b)(2) reflect that these two hours of supervision must be conducted when the supervising OT and the OTA are both physically present together. Thus, for these hours, the supervising OT may not supervise the OTA via telehealth.*

*During these two hours, however, the OT may supervise the OTA providing services to clients via telehealth if both the OT and OTA are physically present together.*

*“Patients/” has been removed to remain consistent with other instances in the OT Rules when only “clients” is used as defined in §362.1(7).*

~~**[(3) These hours shall be documented on a Supervision Log for each employer. The occupational therapist(s) or employer may request a copy of the Supervision Log. The Supervision Log is kept by the occupational therapy assistant and signed by occupational therapist(s) when supervision is given.]**~~

~~**[(4) All the occupational therapist(s), whether working full time, PRN or part time, who delegate to the occupational therapy assistant, must be participating in the supervision time, whether on a rotational or shared basis.]**~~

*In the proposed amendment, §373.3(b)(3) and §373.3(b)(4) have been relocated to §373.3(a). Please see the explanatory comments under §373.3(a) on page 7.*

### **§373.3(c)**

**(c) Occupational therapy assistants working part-time or less than a full month within a given month may pro-rate these hours, but shall document no less than four hours of supervision per month, one hour of which is physical presence ~~includes face-to-face, real-time~~ interaction by the occupational therapist(s) observing the occupational therapy assistant providing services with ~~patients/~~ clients.**

*Proposed changes to §373.3(c) reflect that at least one of these four hours of supervision per month must be conducted when the supervising OT and the OTA are both physically present together with the OT observing the OTA providing services with clients. Thus, for this hour, the supervising OT may not supervise the OTA via telehealth.*

*During this hour, however, the OT may supervise the OTA providing services to clients via telehealth if both the OT and OTA are physically present together.*



*“Patients/” has been removed to remain consistent with other instances in the OT Rules when only “clients” is used as defined in §362.1(7).*

Comments on the proposed amendments may be submitted in writing to Lea Weiss, Occupational Therapy Coordinator, Texas Board of Occupational Therapy Examiners, 333 Guadalupe Street, Suite 2-510, Austin, Texas 78701. Comments may also be submitted electronically to [info@ptot.texas.gov](mailto:info@ptot.texas.gov); please be sure to write “OT Public Comment” in the subject line.

*Please note that the December 2013 OT Rules PDF on our website is no longer the most up-to-date, compiled PDF version of the Rules. Please click this [link](#) to the Texas Administrative Code in order to view the most recent version of the OT Rules.*



**OT BOARD FORMAL DISCIPLINARY ACTIONS TAKEN**  
**NOVEMBER 7, 2014 BOARD MEETING:**

- (1) Brian McLain, COTA #211182 (Ovett, MS)** – failed the CE audit; lacked sufficient number or type of hours required for license renewal. Violation of Section 454.301 of the Act and chapter 367 of the board rules. ***Board Order required sixty (60) hours of community service.***
- (2) Shelbye Omondi, OTR #112170 (Lubbock)** – failed the CE audit; lacked sufficient number or type of hours required for license renewal. Violation of Section 454.301 of the Act and chapter 367 of the board rules. ***Board Order suspended her license for fifteen (15) days.***
- (3) Cheri Tenpenny, OTR #104945 (Katy)** – failed the CE audit; lacked sufficient number or type of hours required for license renewal. Violation of Section 454.301 of the Act and chapter 367 of the board rules. ***Board Order suspended her license for thirty (30) days.***
- (4) Miyosha Beechum, COTA #209467 (Beckville)** – failed the CE audit; lacked sufficient number or type of hours required for license renewal. Violation of Section 454.301 of the Act and chapter 367 of the board rules. ***Board Order suspended her license for thirty (30) days.***
- (5) Mark Porras, COTA #212088 (El Paso)** – practiced occupational therapy in a detrimental manner by inaccurately documenting treatments rendered. Violation of Section 454.301 of the Act and chapter 374 of the board rules. ***Board Order suspended his license for thirty (30) days.***
- (6) Paula Black, OTR #109660 (Lewisville)** – practiced occupational therapy in a detrimental manner by inaccurately documenting treatments rendered. Violation of Section 454.301 of the Act and chapter 374 of the board rules. ***Board Order suspended her license for forty-five (45) days.***



## **Frequently Requested Contact Information**

<http://www.ptot.texas.gov/occupational-therapy/ot-resources/ot-links>

### **Texas Board of Occupational Therapy Examiners (TBOTE)**

Act & Rules, complaints, and practice of OT in Texas

512/305-6900 telephone

512/305-6970 fax

Website: [www.ptot.texas.gov](http://www.ptot.texas.gov)

Email: [info@ptot.texas.gov](mailto:info@ptot.texas.gov)

### **Texas Occupational Therapy Association (TOTA)**

512/454-8682 telephone

512/450-1777 fax

[www.tota.org](http://www.tota.org)

### **American Occupational Therapy Association (AOTA)**

Specialty certification, student fieldwork, national issues, etc.

301/652-2682 telephone

[www.aota.org](http://www.aota.org)

### **National Board for Certification in Occupational Therapy (NBCOT)**

National certification exam and score reports

301/990-7979 telephone

301/869-8492 fax

[www.nbcot.org](http://www.nbcot.org)

### **Dept. of Assistive and Rehab. Services (DARS)**

Division of Early Childhood Intervention (ECI)

512/424-6790 telephone

512/424-6799 fax

[www.dars.state.tx.us/ecis/](http://www.dars.state.tx.us/ecis/)

### **Early Childhood Education**

#### **DARS, ECI**

4900 N Lamar

Austin, TX 78751-2399

<http://www.dars.state.tx.us/ecis/index.shtml>

### **Medicare and Medicaid**

<http://www.cms.gov/>

[www.medicare.gov](http://www.medicare.gov)

#### **Medicare Part A**

888/763-9836 (Rehab Dept. Hospital)

#### **Medicare Part B**

903/463-0720 (independent practitioners)

To report Medicare fraud or abuse:

<http://www.medicarefraudcenter.org/>

**800/252-8263**

<http://www.hpsc.state.tx.us/medicaid/>

Medicaid provider fraud or abuse of a Medicaid recipient: 512/463-2011 or email [mfcu@aog.state.tx.us](mailto:mfcu@aog.state.tx.us)

### **School Based Practice**

[www.txspot.org](http://www.txspot.org)

### **School Health and Related Services (SHARS)**

[www.tea.state.tx/interagency/shars.html](http://www.tea.state.tx/interagency/shars.html)

### **Texas Dept. Aging and Disability Services (DADS)**

800/458-9858 Long term care & complaints about nursing homes, home health agencies, or assisted living facilities

800/252-8016 Nursing homes

512/719-3521 Licensing Boards

800/228-1570 Home health agencies

Elderly or disabled abuse, neglect call

800/252-5400.

[www.dads.state.tx.us](http://www.dads.state.tx.us)

### **Texas Dept. of State Health Services (TDSH)**

512/834-6650 Hospital licensing

[www.tshs.state.tx.us](http://www.tshs.state.tx.us)

### **Texas Online Services**

License applications, renewals, profile

[TxServiceDesk@egov.com](mailto:TxServiceDesk@egov.com)

877-452-9060 Help desk