

1 **Texas Board of Occupational Therapy Examiners**

2 BOARD MEETING MINUTES

3 February 19-20, 2016

4 Vintage Villas

5 4209 Eck Lane

6 Austin, TX 78734

7 8:00 AM

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

16  
17 Members Absent: Pamela D. Nelon, Public Member

18  
19 Counsel Present: Kara Holsinger, Assistant Attorney General

20  
21 Staff Present: John Maline, Executive Director  
22 Mark Turek, Chief Investigator  
23 Randall Glines, Licensing Manager  
24 Lea Weiss, OT Coordinator

25  
26 Public Attendees: Ryan Buscaglio, OTR, Encompass Home Health  
27 Larry Duron, OTR, TOTA Standards and Practices Chair  
28 Erick Fajardo, Policy Analyst, Sunset Advisory Commission  
29 Diana Khan, PT, Encompass Home Health  
30 Alan Leonard, Policy Analyst, Sunset Advisory Commission  
31 Denise Rose, Governmental Affairs Consultant, Jackson Walker LLP,  
32 associate of Kathy Hutto, TOTA Legislative Advisor  
33 Leslie Settle, OTR, Encompass Home Health  
34 Joe Walraven, Policy Analyst, Sunset Advisory Commission

35  
36  
37 **1. Call to Order**

38 The meeting was called to order at 8:14 AM by Stephanie Johnston, Presiding Officer. She called the  
39 roll and announced that a quorum existed.

40  
41 **2. Public comment**

42 There was no public comment.

43  
44 **3. Approval of Minutes of November 6, 2015**

45 **Motion: To adopt the minutes as written**

46 **Made by: DeLana Honaker**

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

48 **Motion passed.**

49  
50 **4. Discussion and possible action on the Executive Director's Report concerning fiscal and**  
51 **budgetary matters, performance measures, ongoing projects, agency personnel**  
52 **matters, the current Sunset Review, Executive Council activity, and other agency**  
53 **business**

1 John Maline briefed the Board on the fiscal standing of the agency, performance measures, and  
2 budgetary and agency personnel matters. He also discussed the current Sunset Review and  
3 issues relevant to agency business.

4  
5 **5. Investigation Committee Report**

6 **A. Review and possible action on Agreed Orders for case numbers: 15-101; 15-143;**  
7 **15-167; 15-228; 15-230; 16-001; 16-007; 16-022; 16-030; 16-031; 16-032; 16-**  
8 **034; 16-035; 16-036; 16-040; 16-044; 16-052; 16-063; and 16-079**

9 The Board ratified case numbers: 16-052; 16-063; 16-034; 16-035; 16-079; 16-032; 16-036; 16-040;  
10 16-044; 15-228; 16-031; 15-143; 16-022; 16-001; and 15-230.

11  
12 **B. Discussion and possible action on the Investigation Committee Meeting of**  
13 **January 22, 2016**

14 Mark Turek reported that sixty-nine investigations were reviewed at the January 22, 2016 meeting,  
15 resulting in the Investigation Committee's issuance of nineteen Agreed Orders. No informal  
16 conferences were held.

17  
18 **C. Discussion and possible action on investigative activities to date**

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

20  
21 **6. Discussion and possible action on occupational therapy practice in the home health**  
22 **setting including medication management and the supervision of home health aides**

23 The Board discussed issues related to occupational therapy practice in the home health setting  
24 including medication management and the supervision of home health aides. Ryan Buscaglio and  
25 Leslie Settle from Encompass Home Health addressed the Board during the agenda item. The Board  
26 referred this item to the Rules Committee.

27  
28 **7. Discussion and possible action on the inclusion of telehealth as a mode of**  
29 **occupational therapy service delivery in the Board Rules**

30 The Board discussed the possible inclusion of telehealth as a mode of occupational therapy service  
31 delivery in the Board Rules. The Board referred this item to the Rules Committee.

32  
33 **8. Discussion and possible action on the provision of occupational therapy in groups and**  
34 **classes and supervision**

35 The Board discussed the provision of occupational therapy in groups and classes and supervision. The  
36 Board referred this item to the Rules Committee.

37  
38 **9. Discussion and possible action on documentation including of progress and goals**

39 The Board discussed the documentation of progress and goals. The Board referred this item to the  
40 Rules Committee.

41  
42 **10. Discussion and possible action on Chapter 367 including the revision and/or possible**  
43 **removal of the definitions and designations of Type 1 and/or Type 2 CE, the inclusion of**  
44 **NBCOT Navigator Activities and independent study activities as acceptable CE activities,**  
45 **and other continuing education issues**

46 The Board discussed Chapter 367 and possible revisions to such. The Board referred this item to the  
47 Education Committee.

48  
49 **11. Discussion and possible action on changes to the Jurisprudence Examination**

50 The Board discussed possible changes to the Jurisprudence Examination. The Board referred this item  
51 to the Rules Committee and Education Committee.

52  
53 The Board recessed at 11:14 AM.

54

1 The Board reconvened at 1:19 PM on February 20, 2016.

2  
3 Will Hale joined the meeting at this time.

4  
5 **12. Discussion and possible action on adopting changes to proposed §374.4, Code**  
6 **of Ethics**

7 DeLana Honaker reviewed the proposed rule amendment. Lea Weiss noted that one public comment  
8 had been received from Chrissy Vogeley, Manager of State Affairs of the American Occupational  
9 Therapy Association, in support of the proposed amendment and the inclusion of the principles and  
10 related standards of conduct from AOTA's 2015 Occupational Therapy Code of Ethics. The Board  
11 acknowledged the comment and made no changes to the amendment based on the comment.

12  
13 **Motion: To adopt as published the amendment to proposed §374.4, Code of Ethics, with an**  
14 **effective date on or after April 1, 2016**

15 **Made by: DeLana Honaker**

16 **Second by: Todd Novosad**

17 **Motion passed.**

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

28 The Board discussed the requirement as per §2001.039 of the Government Code to review the Board  
29 Rules every four years.

30  
31 **Motion: To propose a rule review of and publish notice regarding such of Chapter 361,**  
32 **Statutory Authority; Chapter 362, Definitions; Chapter 363, Consumer/Licensee**  
33 **Information; Chapter 364, Requirements for Licensure; Chapter 367, Continuing**  
34 **Education; Chapter 368, Open Records; Chapter 369, Display of Licenses; Chapter**  
35 **370, License Renewal; Chapter 371, Inactive and Retired Status; Chapter 372,**  
36 **Provision of Services; Chapter 373, Supervision; Chapter 374, Disciplinary**  
37 **Actions/Detrimental Practice/Complaint Process/Code of Ethics; Chapter 375,**  
38 **Fees; and Chapter 376, Registration of Facilities of the Board Rules**

39 **Made by: Sally Harris**

40 **Second by: DeLana Honaker**

41 **Motion passed.**

42  
43 **14. Education Committee Report**

44 **Discussion and possible action on recommendations from the Education Committee**  
45 **including the following items:**

- 46 **A. Discussion and possible action on proposing rule amendments to Chapter 367**  
47 **including the revision and/or possible removal of the definitions and**  
48 **designations of Type 1 and/or Type 2 CE, the inclusion of NBCOT Navigator**  
49 **Activities and independent study activities as acceptable CE activities, and other**  
50 **continuing education issues**

51 Todd Novosad reviewed the Committee's discussion regarding Chapter 367, which included  
52 recommended changes related to the removal of the Type 1 and Type 2 continuing education  
53 designations and changes that would instead require that all of the required 30 hours of continuing  
54 education taken for license renewal fit the recommended new definition for continuing education.

1  
2 Todd Novosad also discussed changes related to adding to §367.2 specific NBCOT Navigator™  
3 activities as acceptable continuing education activities and further changes related to the list of  
4 unacceptable activities that may not be completed for CE credit. He noted that no changes were  
5 recommended regarding independent study activities.  
6

7 The Board discussed the recommended changes.  
8

9 **Motion: To propose and publish the amendments to §367.1, Continuing Education; §367.2,**  
10 **Categories of Education; and §367.3, Continuing Education Audit**

11 **Made by: Education Committee**

12 **Second by: None required**

13 **Motion passed.**  
14

15 **B. Discussion and possible action on changes to the Jurisprudence Examination**

16 Todd Novosad reported on the Committee's discussion related to changes to the Jurisprudence  
17 Examination and noted that the Committee would not be taking any action at this time.  
18

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

21 Todd Novosad noted that no questions had been discussed.  
22

23 **15. Rules Committee Report**

24 **Discussion and possible action on recommendations from the Rules Committee including the**  
25 **following items:**

26 **A. Discussion and possible action on proposing a new rule regarding telehealth;**  
27 **discussion and possible action on rule amendments, including amendments**  
28 **regarding telehealth, to the following rules:**

- 29 1. Chapter 362, Definitions
- 30 2. §363.1, Consumer/Licensee Information
- 31 3. §369.1, Display of Licenses
- 32 4. Chapter 372, Provision of Services
- 33 5. Chapter 373, Supervision
- 34 6. §374.2, Detrimental Practice
- 35 7. §370.3, Restoration of a Texas License
- 36 8. Chapter 371, Inactive and Retired Status
- 37 9. §376.1, Facility Definitions; §376.2, Requirement for Practice Setting of  
38 Licensees; §376.4, Requirements for Registered Facilities; §376.5,  
39 Exemptions to Registration; §376.7, Failure to Register; and §376.9,  
40 Disciplinary Action

41 DeLana Honaker reviewed the following recommendations made by the Committee.  
42

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

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

50 Recommended changes to §373.1 would clarify the supervision requirements for non-licensed  
51 personnel in general and with regard to the use of non-licensed personnel during the provision of  
52 occupational therapy services via telehealth.  
53

1 Recommended changes to §373.3 include language changes regarding requirements for frequent  
2 communication supervision of occupational therapy assistants.

3  
4 Recommended changes include grammatical revisions and cleanups to the sections, as well.

5  
6 The Board discussed the recommended changes.

7  
8 **Motion: To propose and publish the amendments to §362.1, Definitions; §372.1, Provision  
9 of Services; §373.1, Supervision of Non-Licensed Personnel; and §373.3,  
10 Supervision of an Occupational Therapy Assistant**

11 **Made by: Rules Committee**

12 **Second by: None required**

13 **Motion passed.**

14  
15 The Board recessed at 2:23 PM and reconvened at 2:37 PM.

16  
17 Stephanie Johnston reordered the agenda to discuss 15.B-15.D next, after which time, discussion  
18 resumed on agenda item 15.A.7.

19  
20 DeLana Honaker noted that the Committee had discussed during its meeting continuing the discussion  
21 of §370.3 and Chapter 371 during the Rules Committee Report.

22  
23 The Board discussed language changes to §370.3, which would clarify requirements for the restoration  
24 of a license expired one year or more and include revisions related to expedited services for military  
25 service members, military veterans, and military spouses.

26  
27 The Board discussed language changes to Chapter 371 to include clarifications with regard to inactive  
28 and retired status and language that would include inactive status licensees in the CE audit.

29  
30 Recommended changes include grammatical revisions and cleanups to the sections, as well.

31  
32 **Motion: To propose and publish the amendments to §370.3, Restoration of a Texas  
33 License; §371.1 Inactive Status; and §371.2, Retired Status**

34 **Made by: Todd Novosad**

35 **Second by: DeLana Honaker**

36 **Motion passed.**

37  
38 DeLana Honaker noted that the Committee did not discuss changes related to §363.1,  
39 Consumer/Licensee Information; §369.1, Display of Licenses; §373.2, Supervision of a Temporary  
40 Licensee; §374.2, Detrimental Practice; §376.1, Facility Definitions; §376.2, Requirement for Practice  
41 Setting of Licensees; §376.4, Requirements for Registered Facilities; §376.7, Failure to Register; and  
42 §376.9, Disciplinary Action.

43  
44 **B. Discussion and possible action on proposing rule amendments regarding  
45 occupational therapy practice in the home health setting including medication  
46 management and the supervision of home health aides**

47 DeLana Honaker reviewed the Committee's discussion regarding occupational therapy practice in the  
48 home health setting including medication management and the supervision of home health aides. The  
49 Committee took no action on this item.

50  
51 **C. Discussion and possible action on proposing rule amendments regarding the  
52 provision of occupational therapy in groups and classes and supervision**

53 DeLana Honaker reviewed the Committee's discussion regarding the provision of occupational therapy  
54 in groups and classes and supervision and its recommended changes regarding proposing a new rule

1 regarding such, §372.2, General Purpose Occupation-Based Instruction. The Committee also  
2 recommended further changes to §373.3, related to supervision requirements for an occupational  
3 therapy assistant, with regard to the required supervision hours and to general purpose occupation-  
4 based instruction. The Committee, in addition, recommended changes to §376.5, related to  
5 exemptions to facility registration, with regard to general purpose occupation-based instruction.  
6

7 The Board discussed the recommended changes.  
8

9 **Motion: To propose and publish the new rule §372.2, General Purpose Occupation-Based**  
10 **Instruction, and amendments to §373.3, Supervision of an Occupational Therapy**  
11 **Assistant; and §376.5, Exemptions to Registration**

12 **Made by: Rules Committee**

13 **Second by: None required**

14 **Motion passed.**  
15

16 **D Discussion and possible action on proposing rule amendments regarding**  
17 **documentation including of progress and goals**

18 DeLana Honaker reported that the Committee did not discuss this agenda item.  
19

20 **E. Discussion and possible action on changes to the Jurisprudence Examination**

21 DeLana Honaker reported that the Committee did not discuss this agenda item.  
22

23 **F. Discussion on §374.4, Code of Ethics**

24 DeLana Honaker reported that the Committee did not discuss this agenda item.  
25

26 **G. Discussion and possible action on questions received by the Texas Board of**  
27 **Occupational Therapy Examiners related to the OT Practice Act and Board Rules**

28 DeLana Honaker noted that no questions had been discussed.  
29

30 **16. Discussion and possible action on the OT Coordinator's Report. The Coordinator's**  
31 **Report may concern any items listed on the agenda and events that have occurred**  
32 **between this meeting and the Board's last meeting.**

33 Lea Weiss discussed recent activities at the Board including efforts to update sections of the website,  
34 updates in ACOTE accreditation status for OT and OTA programs in Texas, ACOTE actions regarding  
35 entry-level OT and OTA education, and information regarding Board licensing statistics.  
36

37 **17. Discussion and possible action on the Presiding Officer's Report. The Presiding**  
38 **Officer's report may concern any items listed on the agenda and events that have**  
39 **occurred between this meeting and the Board's last meeting.**

40 Stephanie Johnston thanked the public attendees for attending and discussed plans for the upcoming  
41 Board meetings.  
42

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

45 Stephanie Johnston noted that the next meeting had been scheduled for May 6, 2016 in Austin with  
46 possible Committee meetings to be held May 5 and May 6, 2016.  
47

48 The Board also discussed future Board and Committee meeting dates of August 4 and 5, 2016 in  
49 Austin; November 3 and 4, 2016, during the TOTA Mountain Central Conference in Sugar Land; and  
50 February 2 and 3, 2017 in a location to be determined.  
51

52 **19. Adjournment**

53 The Board adjourned at 3:41 PM.  
54

1 **Minutes adopted on:** May 6, 2016