

1 **Texas Board of Occupational Therapy Examiners**  
2 **BOARD MEETING MINUTES**  
3 Telephonic Conference Call  
4 July 31, 2020  
5 8:00 AM  
6

7 **Members Present:** Blanca Cardenas, Public Member  
8 Jennifer Clark, COTA  
9 Karen Gardner, OTR  
10 DeLana Honaker, OTR, PhD, CLT, FAOTA, Secretary  
11 Eddie Jessie, Public Member  
12 Stephanie Johnston, OTR, OTD, FAOTA, Chair  
13 Sally Harris King, COTA  
14 Todd Novosad, OTR, Vice Chair  
15

16 **Members Absent:** None  
17

18 **Counsel Present:** Rosalind Hunt, Assistant Attorney General  
19

20 **Staff Present:** Amy Carter, Chief Investigator  
21 Adriana Delgado, Assistant Licensing Manager  
22 Randall Glines, Staff Services Officer  
23 Ralph Harper, Executive Director  
24 Karissa Rodriguez, Licensing Manager  
25 Lea Weiss, OT Coordinator  
26

27 **Public Attendees:** Kate Goodrich, Governmental Affairs Consultant,  
28 Jackson Walker, LLP  
29 Judith Joseph, OTR, Executive Director,  
30 Texas Occupational Therapy Association  
31 Denise Rose, Governmental Affairs Consultant  
32 Jackson Walker, LLP  
33

34 **The Texas Board of Occupational Therapy Examiners may discuss and/or take action on**  
35 **any of the following agenda items. The Board may go into executive session on any**  
36 **agenda item listed below as authorized by the Open Meetings Act, Texas Government**  
37 **Code, chapter 551.**  
38

39 **1. Call to Order**

40 The meeting was called to order at 8:06 AM by Stephanie Johnston, Presiding Officer.  
41

42 **2. Roll Call for Board Members**

43 Stephanie Johnston conducted a roll call for members, who were all in attendance. Stephanie  
44 Johnston noted that a quorum existed.  
45

46 **3. Roll Call for Public Participants**

47 Stephanie Johnston introduced the agenda item and the public participants introduced  
48 themselves.

49

50 **4. Excusing Board Member absences**

51 No action taken.

52

53 **5. Public Comment**

54 There was no public comment.

55

56 **6. Minutes of May 1, 2020**

57 **Motion: To approve the minutes**

58 **Made by: Sally Harris King**

59 **Second by: DeLana Honaker**

60 **Motion passed.**

61

62 **7. Executive Director's Report concerning fiscal and budgetary matters, performance**  
63 **measures, ongoing projects, agency personnel matters, Executive Council**  
64 **activity, upcoming legislative session, and other agency business**

65 Ralph Harper briefed the Board on fiscal and budgetary matters, performance measures,  
66 ongoing projects, agency personnel matters, Executive Council activity, and updates regarding  
67 the slated relocation of the agency, along with other state agencies located in the William P.  
68 Hobby building, to a new capital area complex in Austin in 2022. In addition, Ralph Harper  
69 highlighted the agency's response to COVID-19.

70

71 **8. Investigation Committee Report concerning:**

72 **A. Agreed Orders for case #s: 20-011, 20-081, 20-115, 20-174, 20-188, 20-190,**  
73 **20-192, 20-195, 20-209, 20-210, and 20-225**

74

75 **Motion: To approve agreed orders for case numbers 20-188, 20-210, and 20-225**

76 **Made by: Investigation Committee**

77 **Second by: None Required**

78 **Motion passed.**

79

80 **Motion: To approve agreed orders for case numbers 20-011 and 20-190**

81 **Made by: Investigation Committee**

82 **Second by: None Required**

83 **Motion passed.**

84

85 **Motion: To approve agreed orders for case numbers 20-192 and 20-209**

86 **Made by: Investigation Committee**

87 **Second by: None Required**

88 **Motion passed.**

89

90 **Motion: To approve agreed order for case number 20-195**

91 **Made by: Investigation Committee**

92 **Second by: None Required**

93 **Motion passed.**

94

95 **Motion: To approve agreed order for case number 20-115**

96 **Made by: Investigation Committee**  
97 **Second by: None Required**  
98 **Motion passed.**

99  
100 In addition, Amy Carter reported on case number 20-081 and reported that pursuant to  
101 §454.255(b) of the Occupational Therapy Practice Act, the individual's license will be  
102 administratively suspended due to failure to complete the fingerprinting requirement.

103  
104 The remaining case was not presented to the Board at this time.

105  
106 **B. Recommendation to amend §374.1, Disciplinary Actions, of the Board**  
107 **Rules regarding changes to the Schedule of Sanctions**

108 Amy Carter introduced possible changes to the schedule of sanctions contained in §374.1,  
109 including concerning the following:

110  
111 Changes to the Schedule of Sanctions could include replacing investigative costs with  
112 administrative penalties. The amendments to the Schedule of Sanctions in §374.1 would  
113 impose administrative penalties, not to exceed the maximum stated in the Occupational  
114 Therapy Practice Act.

115  
116 Additional possible changes to the Schedule of Sanctions include changes concerning  
117 references to the Occupational Therapy Practice Act and Board Rules and further cleanups to  
118 the schedule.

119  
120 **Motion: To approve publishing for public comment proposed rule §374.1, relating to**  
121 **Disciplinary Actions**

122 **Made by: Karen Gardner**  
123 **Second by: DeLana Honaker**  
124 **Motion passed.**

125  
126 **C. Number of cases reviewed, Agreed Orders issued, informal conferences,**  
127 **and other investigative matters discussed during the Investigation**  
128 **Committee Meeting of June 25, 2020**

129 Amy Carter reported that sixty-eight cases were reviewed at the June 25, 2020 meeting,  
130 resulting in the Investigation Committee's issuance of nine Agreed Orders. Two informal  
131 conferences were held.

132  
133 **D. Performance measures, on-site investigation visits, school presentations,**  
134 **fingerprints, and other investigative activities that have occurred between**  
135 **this meeting and the Board's last meeting**

136 Amy Carter reported on performance measures, on-site investigations, presentations,  
137 fingerprints, and further investigative activities.

138  
139 **9. Authorization to readopt §367.4, Process for Selecting a Peer Organization to**  
140 **Evaluate and Approve Continuing Education Courses, of the Board Rules**  
141 **pursuant to §2001.039 of the Government Code**

142 Lea Weiss noted that pursuant to §2001.039 of the Texas Government Code, concerning an  
143 agency review of existing rules, the agency had reassessed whether the reasons for adopting  
144 §367.4 continue to exist and as a result of the review, found that the reasons for adopting the

145 rule continue to exist. She noted that the section had originally been added to the Board Rules  
146 pursuant to legislative action during the Board's Sunset Review.

147

148 Lea Weiss also noted that no public comment was received and that the Board had already  
149 readopted the remaining board rules and completed its review of such. She added that if  
150 §367.4 is readopted, such would conclude the Board's current rule review.

151

152 Lea Weiss added that §367.4 had been identified by the Regulatory Compliance Division of the  
153 Office of the Governor as possibly having an anticompetitive market effect. As the division, after  
154 completing its review of §367.4, determined that the rule is consistent with state policy, the rule  
155 was approved by the division and may be finally adopted by the Board.

156

157 **Motion: To readopt §367.4, relating to Process for Selecting a Peer Organization to**  
158 **Evaluate and Approve Continuing Education Courses**

159 **Made by: DeLana Honaker**

160 **Second by: Todd Novosad**

161 **Motion passed.**

162

163 **10. Authorization to adopt changes to the following sections of the Board Rules**  
164 **concerning initial licensure requirements:**

165 **A. §364.1, Requirements for Licensure**

166 **B. §364.2, Initial License by Examination**

167 **C. §364.3, Temporary License**

168 **D. §364.4, Licensure by Endorsement**

169 Lea Weiss noted that previously proposed amendments to the sections were available for  
170 adoption, including the following:

171

172 The amendments to §364.1, §364.2, and §364.4 concern the application submission criteria  
173 required for the issuance of a license. An amendment to §364.1 will allow an applicant to submit  
174 the photograph required for initial licensure in electronic form. Amendments to §364.2 and  
175 §364.4 include adding provisions that will allow the Board to verify an applicant's history of  
176 licensure in occupational therapy, rather than routinely requiring that an applicant submit a  
177 verification of license from each state or territory of the U.S. in which the applicant is currently  
178 licensed or previously held a license. The amendments include that if the Board cannot verify  
179 the applicant's history of licensure, the applicant must submit a verification of license. The  
180 amendments concerning license verification will result in applicants only being required to  
181 submit verifications for licenses that the Board cannot verify.

182

183 Additional amendments to §364.1, Requirements for Licensure, remove redundant language  
184 that already appears in another section of the Board Rules and include a further cleanup for  
185 consistency.

186

187 The amendments, in addition, include changes to §364.3, Temporary License, that will remove  
188 the reference to a specific number of days in the eligibility window for the National Board for  
189 Certification in Occupational Therapy (NBCOT) initial certification examination. This change will

190 ensure that the section will not specify a number of days that are determined by another entity,  
191 NBCOT.

192

193 Further amendments include the removal of language from the section that would prevent an  
194 applicant from obtaining a temporary license in Texas if the applicant has received a license in  
195 another country.

196

197 Additional amendments to the section will make temporary licensure as an occupational therapy  
198 assistant available to an applicant for an occupational therapy assistant license who has had a  
199 history of licensure or employment as an occupational therapist if the applicant is otherwise  
200 eligible for such.

201

202 The amendments include additional cleanups to the sections.

203

204 No public comment was received regarding the amendments.

205

206 **Motion: To adopt proposed rule §364.1, relating to Requirements for Licensure;**  
207 **§364.2, relating to Initial License by Examination; §364.3, relating to**  
208 **Temporary License; and §364.4, relating to Licensure by Endorsement, as**  
209 **published, with an effective date of September 1, 2020 or as soon as**  
210 **possible thereafter**

211 **Made by: Sally Harris King**

212 **Second by: DeLana Honaker**

213 **Motion passed.**

214

215 **11. Authorization to adopt changes to the following chapters and sections of the**  
216 **Board Rules, including changes pursuant to HB 2059 of the 86th Regular**  
217 **Legislative Session and the addition of training on human trafficking as a**  
218 **condition for license renewal and changes concerning requirements for a late**  
219 **renewal, the restoration of an expired Texas license, and retired status:**

220 **A. §367.1, Continuing Education**

221 **B. §370.2, Late Renewal**

222 **C. §370.3, Restoration of a Texas License**

223 **D. §371.1, Inactive Status**

224 **E. §371.2, Retired Status**

225 Lea Weiss noted that previously proposed amendments to the sections were available for  
226 adoption, including the following:

227

228 Amendments to the sections will require the completion of human trafficking prevention training  
229 approved by the Health and Human Services Commission, pursuant to HB 2059, as a condition  
230 for license renewal for all occupational therapy licensees.

231

232 Amendments to §367.1 also concern pre-approval for continuing education credit for an HHSC  
233 approved human trafficking prevention training course and allow a specific training course to be  
234 repeated for credit during a subsequent renewal period.

235

236 Amendments to §370.2 include a cleanup to simplify language and concern removing the  
237 requirement that to renew a license expired for more than 90 days, but less than one year, the  
238 individual must submit copies of the continuing education documentation.

239  
240 Amendments to §370.3 will allow an applicant to submit the photograph required for the  
241 restoration of a license in electronic form and will allow the Board to verify an applicant's history  
242 of licensure in occupational therapy, rather than routinely requiring that an applicant submit a  
243 verification of license from each state or territory of the U.S. in which the applicant is currently  
244 licensed or previously held a license. The amendments include that if the Board cannot verify  
245 the applicant's history of licensure, the applicant must submit a verification of license. The  
246 amendments concerning license verification will result in applicants only being required to  
247 submit verifications for licenses that the Board cannot verify.

248  
249 A further amendment to §370.3 concerns reducing the number of continuing education hours  
250 required for the restoration of a license expired at least one year, but less than two years, to  
251 coincide with recent changes concerning continuing education to other rule sections.

252  
253 The amendments also will specify a time frame during which certain requirements must be met  
254 and include further cleanups.

255  
256 Amendments to §371.1, Inactive Status, and §371.2, Retired Status, also cleanup and clarify  
257 the sections and include amendments to provisions concerning fees to add greater uniformity  
258 and clarity to the manner in which such are referenced.

259  
260 Amendments to §371.2, additionally, include changes concerning reducing the number of hours  
261 of continuing education required to initiate retired status to six hours of continuing education,  
262 which is the number of hours required to renew a license already on retired status. Concomitant  
263 with these changes, requirements to return a license to active status were revised so that a  
264 licensee who has been on retired status less than one year must complete the remainder of  
265 continuing education hours required for the renewal of a license on active status.

266  
267 No public comment was received regarding the amendments.

268  
269 **Motion:** To adopt proposed rule §367.1, relating to Continuing Education; §370.2,  
270 relating to Late Renewal; §370.3, relating to Restoration of a Texas License;  
271 §371.1, relating to Inactive Status; and §371.2, relating to Retired Status, as  
272 published, with an effective date of September 1, 2020 or as soon as  
273 possible thereafter

274 **Made by:** Karen Gardner

275 **Second by:** Eddie Jessie

276 **Motion passed.**

277

278 **12. OT Coordinator's Report, concerning Board licensing statistics, entry-level**  
279 **occupational-therapy accreditation statistics and updates, and updates**  
280 **concerning the development of an interstate licensure compact in occupational**

281            **therapy by the Council of State Governments, the American Occupational Therapy**  
282            **Association, and the National Board for Certification in Occupational Therapy**  
283        Lea Weiss discussed Board licensing statistics, entry-level occupational-therapy accreditation  
284        statistics and updates, and updates concerning the development of an interstate licensure  
285        compact in occupational therapy by the Council of State Governments, the American  
286        Occupational Therapy Association, and the National Board for Certification in Occupational  
287        Therapy.  
288

289        **13.     Presiding Officer's Report, concerning developments in the field of occupational**  
290            **therapy, including the development of an interstate licensure compact in**  
291            **occupational therapy by the Council of State Governments, the American**  
292            **Occupational Therapy Association, and the National Board for Certification in**  
293            **Occupational Therapy, and entry-level occupational-therapy accreditation**  
294            **updates, including concerning the Accreditation Council for Occupational**  
295            **Therapy Education**

296        Stephanie Johnston discussed developments in the field of occupational therapy, including the  
297        development of an interstate licensure compact in occupational therapy by the Council of State  
298        Governments, the American Occupational Therapy Association, and the National Board for  
299        Certification in Occupational Therapy, and entry-level occupational-therapy accreditation  
300        updates, including concerning the Accreditation Council for Occupational Therapy Education.  
301

302        **14.     Future Board meeting dates and agenda items for future consideration**

303        Stephanie Johnston noted that Board meetings have been scheduled for November 6, 2020;  
304        February 5, 2021; May 7, 2021; and August 6, 2021, with possible committee meetings to be  
305        held November 5 and 6, 2020; February 4 and 5, 2021; May 6 and 7, 2021; and August 5 and 6,  
306        2021.  
307

308        Stephanie Johnston noted that possible agenda items for the upcoming meeting may include  
309        an item related to the possible adoption of proposed changes from the July 31, 2020 meeting.  
310

311        **15.     Personnel matters regarding the appointment, employment, evaluation,**  
312            **reassignment, duties, discipline, or dismissal of the Executive Director of the**  
313            **Executive Council of Physical Therapy and Occupational Therapy Examiners**

314        Stephanie Johnston announced that it was 9:10 AM on July 31, 2020 and that the Board would  
315        go into closed session pursuant to Texas Government Code Section 551.074 to discuss  
316        personnel matters under Agenda Item 15.  
317

318        Stephanie Johnston requested that all non-Board members leave the room, with the exception  
319        of legal counsel.  
320

321        The Board went into closed session at 9:10 AM and returned to open session at 9:22 AM. Upon  
322        returning to open session, Stephanie Johnston noted that it was 9:22 AM on July 31, 2020, and  
323        that the Board was now in open session and no action was taken in closed session.  
324

325        **16.     Adjournment**

326        The Board adjourned at 9:23 AM.  
327

