

TBOTE *★news*

The Texas Board of Occupational Therapy Examiners

September 2016

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Previous Newsletters, Forms, and FAQs are available from the website: www.ptot.texas.gov.

Next Board Meeting Date

November 4, 2016
Sugar Land, TX

TBOTE BOARD

Stephanie Johnston, OTR, Chair
Todd N. Novosad, OTR, Vice Chair
DeLana Honaker, OTR, PhD, FAOTA, Secretary
Jennifer B. Clark, COTA
Amanda Jean Ellis, Public Member
William N. Hale, Public member
Sally Harris, COTA
Pamela D. Nelon, Public member

Notes from the Coordinator

Sunset Review Update:

See page 2.

Adopted Rule Changes:

There were no adopted rule changes from the August 2016 meeting.

Proposed Rule Changes:

At its August 2016 meeting, the Board proposed rule changes to §367.1, Continuing Education, and §369.1, Display of Licenses.

An introduction to the proposals and information regarding public comment may be found on page 3 of this newsletter.

New Board Display:

There is a new theme in TBOTE's display booth in the lobby of the William P. Hobby, Jr. Building, where TBOTE's office is located.

The display was created by Marce Ayala, Jessica Moffet, Elena Omi, and Lindsay Strawser, students from the Lone Star College–Tomball Occupational Therapy Assistant program.



Sunset Review Update

On June 23, 2016, the Sunset Advisory Commission held a public hearing regarding the Sunset Staff report recommendations for a number of agencies, including the Executive Council of Physical Therapy and Occupational Therapy Examiners (ECPTOTE), the Texas Board of Occupational Therapy Examiners (TBOTE), and the Texas Board of Physical Therapy Examiners (TBPTE).

On August 22, 2016, the Commission rendered its decision concerning the recommendations, all of which were adopted (some with modifications), with the exception of Recommendation 4.1.

Below appear several of the key recommendations from the Sunset Staff report.

- *1.1 Discontinue the registration of physical and occupational therapy facilities and temporarily authorize the boards to expunge facility-related administrative violations from a licensee's record.*
- *2.2 Provide clear statutory authority for licensure by endorsement.*
- *2.3 Clarify that occupational therapy assistants licensed in other states may practice in this state temporarily under the same conditions as occupational therapists.*
- *3.2 Remove the boards' authority to delegate to other entities the responsibility of approving continuing education and continuing competence while clarifying their authority to preapprove course providers.*

Adopted Modification: In lieu of the staff recommendation, continue the authority of the Texas Board of Occupational Therapy Examiners (OT board) and Texas Board of Physical Therapy Examiners (PT board) to delegate to other entities the responsibility of approving continuing education and continuing competence, and require the boards to adopt rules relating to the approval of continuing competence or continuing education courses inclusive of a request for proposal and bid process and implement that process within 12 months, and no less than once every four years thereafter.

- *3.3 Require the boards to conduct fingerprint-based criminal background checks of licensure applicants and licensees.*
- *3.6 Direct the OT board to adopt rules to specify the types of criminal activities that may result in denial, suspension, or revocation of a license.*
- *4.1 Continue the executive council, PT board, and OT board for 12 years.*

The Commission did not vote on Recommendation 4.1. The Commission postponed consideration of the recommendation to continue ECPTOTE, TBOTE, and TBPTE for 12 years pending Sunset staff's evaluation of whether to consolidate certain health licensing entities. The Sunset staff will report its findings in November; the Commission will take public testimony in December (tentatively scheduled for December 8 to 9, 2016) and vote on any proposals at its January decision meeting (tentatively scheduled for January 11, 2017).

Please note that any law changes or Practice Act changes as a result of the Sunset Process would not occur until the 2017 legislative session.

For further information regarding the Sunset process, the Commission's hearings, etc., please refer to the Commission's website: <https://www.sunset.texas.gov/>

Introduction to Proposed Rule Changes from the August Board Meeting

*These are PROPOSED rule changes. They have NOT been adopted.
The current rules are in effect.*

At its August 2016 board meeting, the Texas Board of Occupational Therapy Examiners proposed rule changes to §367.1, Continuing Education, and §369.1, Display of Licenses.

The proposals (which include the preambles) have been published in the September 9, 2016, issue of the [Texas Register](#). A PDF of the proposed rule changes as published has been uploaded to the Board's [Act and Rules](#) page, as well.

Please note that the information that follows is just a brief introduction; refer to the full proposals for further information.

Comments: Comments on the proposed amendments may be submitted to Lea Weiss, Occupational Therapy Coordinator, Texas Board of Occupational Therapy Examiners, 333 Guadalupe Street, Suite 2-510, Austin, Texas 78701-3942 or to lea@ptot.texas.gov no later than 30 days from the date that these proposals are published in the *Texas Register*.

If sending comments, please include the rule number in your comment and please also write "OT Public Comment – Proposed Rules" in the subject line if sending an email.

§367.1. Continuing Education

The amendment would remove the provision that educational activities that meet the criteria for continuing education as per Chapter 367 that are approved or offered by the American Occupational Therapy Association or the Texas Occupational Therapy Association are pre-approved by the Board and that the Board will review its approval process and continuation thereof for educational activities by January 2005 and at least once each five-year period thereafter. The amendment would clarify continuing education rules, as any educational activity approved or offered by any provider that meets the requirements of Chapter 367 is acceptable as continuing education, and licensees are responsible for choosing continuing education according to the provisions in Chapter 367.

§369.1. Display of Licenses

The amendment would clarify the section by removing the provision that the wallet-sized license must be carried by the licensee when in practice settings other than the licensee's principal place of business. The amendment would also clarify in this section that a licensee may provide occupational therapy services according to the terms of the license upon online verification of current licensure and license expiration date from the Board's license verification page by removing language referring only to a new licensee with a regular or temporary license. This change would align this section with other existing sections that refer to additional license types that may be verified online.



**OT BOARD FORMAL DISCIPLINARY ACTIONS TAKEN
AUGUST 5, 2016 BOARD MEETING:**

- (1) Kendra Crill, COTA #211392 (Corsicana)** – practiced in a detrimental manner by practicing with an expired license. Violation of Section 454.301 of the Act and chapter 374 of the board rules. ***Board Order required eight (8) hours of community service.***
- (2) Tyna Smith, COTA #210710 (Pineland)** – practiced in a detrimental manner by practicing with an expired license. Violation of Section 454.301 of the Act and chapter 374 of the board rules. ***Board Order required thirty (30) hours of community service.***
- (3) Amy Johnston, COTA #212357 (Tomball)** – practiced in a detrimental manner by practicing with an expired license. Violation of Section 454.301 of the Act and chapter 374 of the board rules. ***Board Order suspended her license to practice for thirty (30) days.***
- (4) Veronica Donalson, COTA #211920 (Richmond)** – practiced in a detrimental manner by inaccurately documenting treatment rendered. Violation of Section 454.301 of the Act and chapter 374 of the board rules. ***Board Order suspended her license to practice for forty-five (45) days.***
- (5) Robert Clarke, OTR #110617 (Fort Worth)** – practiced in a detrimental manner by inaccurately documenting treatment rendered. Violation of Section 454.301 of the Act and chapter 374 of the board rules. ***Board Order suspended his license to practice for thirty (30) days.***
- (6) Jennifer Jones, OTR #110423 (Houston)** – practiced in a detrimental manner by using drugs or alcohol to an extent that affected her professional competence; resulting in a failed drug test and termination of her employment. Violation of Section 454.301 of the Act and chapter 374 of the board rules. ***Board Order suspended her license to practice for thirty (30) days.***
- (7) Juan Matos-Cartagena, OTR #113836 (San Antonio)** – while licensed to practice in Texas, was arrested and charged with *invasive visual recording*. ***Board Order suspended his license to practice indefinitely; until such time as the Court resolves this matter, the licensee appears before the Investigation Committee to address this matter, and the Board subsequently acts on that resolution.***

Rule Reminder: Supervision of an OTA with a Regular License – General Overview

*This is a general overview of §373.3 only.
See the full [OT Act and Rules](#) for further information and regulations.*

This overview, along with the excerpted §373.3, is available as a PDF from the [OT Act and Rules](#) page.

An occupational therapy assistant shall provide occupational therapy services only under the supervision of an occupational therapist(s). All of the occupational therapists, whether working full time, part time, or PRN (i.e., working on an as-needed basis), who delegate to the occupational therapy assistant must participate in the supervision hours, whether on a shared or rotational basis.

Name of OT in Intervention Notes:

The occupational therapy assistant must include the name of a supervising OT in each intervention note. This may not necessarily be the occupational therapist who wrote the plan of care, but an occupational therapist who is readily available to answer questions about the client's intervention at the time of the provision of services. If this requirement is not met, the occupational therapy assistant may not provide services. This provision is not applicable to instruction provided pursuant to §372.2 of the OT Rules (relating to General Purpose Occupation-Based Instruction).

Required Supervision Hours for an OTA with a Regular License:

For each employer, the occupational therapy assistant must complete a separate Supervision Log and must complete the specified supervision hours, in addition to all other requirements. Supervision hours and logs for different employers may not be combined. See the link below under “Required Forms” to access the log.

Occupational therapy assistants must complete these types of supervision per month according to the following table:

Frequent Communication Supervision: frequent communication between the supervising occupational therapist(s) and occupational therapy assistant including, but not limited to, communication by electronic/communications technology methods, written report, and conference, including review of progress of clients assigned, plus

Interactive Supervision: interactive supervision during which the occupational therapist directly observes the occupational therapy assistant providing services to one or more clients. Up to half of the required interactive supervision hours may be completed via visual and auditory, synchronous, real time, interactive electronic information/communications technologies.

OTA Required Supervision Hours

OTAs working 128 or more hours during a given month:	OTAs working between 70-127 hours during a given month:	OTAs working between 69-21 hours during a given month:	OTAs working 20 or fewer hours during a given month:
6 hours of frequent communication supervision	3 hours of frequent communication supervision	2 hours of frequent communication supervision	1 hour of frequent communication supervision
2 hours of interactive supervision	1 hour of interactive supervision	1 hour of interactive supervision	30 minutes of interactive supervision

Required Forms (accessible from the <http://www.ptot.texas.gov/page/ot-forms> and the links below):

[OTA Supervision Form](#)

- The OTA must submit this form to the Board for each employer with the employer information and name and license number of one of the OTs working for the employer who will be providing supervision.
- Changes to supervisor or employer information must be reported to the Board within 30 days.
- This form may be completed online (select the “[Change of Supervision](#)” form) or by downloading and submitting the [OTA Supervision Form](#) by mail, fax, or emailed to info@ptot.texas.gov as an attachment. If you have more than one employer, please download and submit the [OTA Supervision Form](#) instead of the online form.

[OTA Supervision Log](#)

- One log must be kept by the OTA for each employer with the names and license numbers of all supervising OTs.
- The OTA retains the log.
- The OT(s) signs the log when supervision is given.
- The OT(s) or employer may request a copy of the log.
- The log is subject to audit by the Board

CE Reminder:

There are unacceptable continuing education activities that are not eligible for CE credit as per Chapter 367 of the OT Rules. For example, as per §367.2(b), non-instructional time frames such as pre/post testing, introductions, breaks, or meals, and courses such as general management and business, leadership, HIPAA, CPR, patient abuse, etc., are not eligible for credit.

All activities claimed for CE credit including those approved or offered by AOTA or TOTA may not be an unacceptable activity as per §367.2(b) and must meet further requirements in Chapter 367.