

TBOTE news

The Texas Board of Occupational Therapy Examiners

February 2017

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Previous newsletters, forms, and FAQs are available from the website:

www.ptot.texas.gov.

Next Board Meeting Date

May 5, 2017

Austin, TX

TBOTE BOARD

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Notes from the Coordinator

Sunset Review Update

See page 2 for information regarding the status of the current Sunset Review.

Adopted Rule Changes and PDF of the OT Rules

A rule amendment to §372.1, Provision of Services, and new rule, §374.5, Licensure of Persons with Criminal Convictions, will go into effect 3/1/2017.

An up-to-date PDF version of the current OT Rules, which will contain the rule changes, will be uploaded to the website soon after they are effective.

See page 3 for further information.

Proposed Rule Changes

The Board has proposed rule amendments to §367.1, Continuing Education, and §367.2, Categories of Education. See page 4 for further information.

Sunset Review Update:
**Sunset Advisory Commission Decision on the Continuance
of the Executive Council, the OT Board, and the PT Board**

On January 11, 2017, members of the Texas Sunset Advisory Commission voted to; “Continue the Executive Council of Physical Therapy and Occupational Therapy Examiners, Texas Board of Physical Therapy Examiners, Texas Board of Occupational Therapy Examiners . . . for 12 years as currently structured.”

This decision was adopted during a meeting concerning recommendations from the Sunset Staff’s previously published Healthcare Licensing Consolidation Project report, which had included a recommendation to move both the OT Board and PT Board to the Texas Department of Licensing & Regulation (TDLR), reconstitute the boards as advisory boards, and dissolve the Executive Council of Physical Therapy Examiners and Occupational Examiners (ECPTOTE) as a state licensure agency.

Regarding this previous Sunset Staff recommendation, Chairman Larry Gonzales proposed a modification to instead continue ECPTOTE and the OT and PT boards for another 12 years. This modification was passed unanimously by the Commission of 10 legislators and 2 public members. Consequently, there are no adopted Commission decisions regarding consolidating the OT and PT boards or dissolving ECPTOTE.

In another modification, the Commission confirmed that ECPTOTE is an agency whose governance and board structure are worthy of emulation. One of the Commission’s adopted decisions includes the recommendation to create a new agency, the Texas Behavioral Health Executive Council, with its associated Board of Examiners of Psychologists, Board of Examiners of Family and Marriage Counselors, Board of Examiners of Professional Counselors, Board of Social Worker Examiners, and Council on Sex Offender Treatment, to be modeled after ECPTOTE’s functional regulatory model.

The Sunset Commission has concluded its public hearings and deliberation for this review cycle. A Sunset Staff Report with Commission Decisions, which documents the Commission’s decisions on the original staff recommendations and any new issues raised during the hearing process, has been uploaded to the Commission’s website. This report will form the basis of the Sunset bills considered during the 85th Texas Legislature, which convened on January 10, 2017.

Please note that any change in statute (OT Practice Act and PT Practice Act) as a result of the Sunset process would not occur until passed by both the Texas Senate and Texas House of Representatives and signed into law by the Governor.

The Sunset Staff’s report with Commission decisions may be accessed from the following link:
<https://www.sunset.texas.gov/reviews-and-reports>.

For further information about the Sunset process, visit the Commission’s website at
<https://www.sunset.texas.gov>.

Introduction to Adopted Rule Changes from the February Board Meeting

A rule amendment to §372.1, Provision of Services, and new rule, §374.5, Licensure of Persons with Criminal Convictions, will take effect on March 1, 2017.

As of March 1, 2017, the December, 2016 compiled PDF version of the OT Rules will no longer be up-to-date as it will not contain these amendments.

An up-to-date version of the compiled rules will be available from the [Act and Rules page](#) soon after the amendments take effect and will have “March, 2017” on the cover. Note that rules accessed from the [Texas Administrative Code](#) reflect any rule changes once they are effective.

Notice of the adoptions was published in the February 17, 2017, issue of the [Texas Register](#). As §372.1 was adopted with a change, it was republished therein. Note that the effective date for §374.5, Licensure of Persons with Criminal Convictions, was printed incorrectly. The March 3, 2017 issue will be published with a correction regarding the actual effective date of March 1, 2017.

A general overview of the adopted rule changes appears below; refer to the notice of adoption and the [Act and Rules page](#) for further information.

Introduction to Adopted Rule Changes

§372.1. Provision of Services.

The amendment will clarify language in the section regarding the receipt of verbal and written referrals for occupational therapy services and clarify that with regard to medical conditions, a referral must be requested at any time during the evaluation process when necessary to ensure the safety and welfare of the client.

The December 2, 2016 proposed amendment to §372.1 included the following provision in §372.1(d)(2): “If a referral is transmitted verbally, it must be documented by the authorized personnel who receives the referral.” Upon adoption, a change was made to add to the provision clarifying language defining “authorized personnel.” The addition reads: “In this section, ‘authorized personnel’ means staff members authorized by the employer or occupational therapist to receive referrals transmitted verbally.”

§374.5. Licensure of Persons with Criminal Convictions.

The new rule section §374.5 will specify the types of criminal activities that may result in denial, suspension, or revocation of a license in accordance with the Sunset Commission’s adopted recommendation that the Texas Board of Occupational Therapy Examiners adopt rules regarding such.

Introduction to Proposed Rule Changes from the February Board Meeting

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

The Board has proposed rule amendments to §367.1, Continuing Education, and §367.2, Categories of Education.

The proposals have been published in the February 24, 2017 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 proposed amendments 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.

A general overview of the proposed changes appears below; refer to the full published proposals for further information.

Introduction to Proposed Amendments:

§367.1. Continuing Education.

§367.2. Categories of Education.

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

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

regarding self-promotion by program providers has also been relocated to §367.1 as part of the proposed amendment.

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

The amendments include further clarifications and cleanups, as well.

CE Reminder

As per §367.3(c) of the OT Rules, “The licensee is solely responsible for keeping accurate documentation of all continuing education requirements. Continuing education documentation must be maintained for two years from the date of the last renewal for auditing purposes.”

Consider strategies to enhance your access to your stored CE documentation by creating a back-up system such as keeping a second copy in a different location. This way, if you are randomly selected for the OT CE Audit or otherwise must access your materials, you will have more than one method to do so.

For example, consider keeping electronic copies of your documentation in addition to the physical copies. If you scan your CE documentation and email yourself the file, you will have a copy you can access from any internet connection, regardless of your location.



**OT BOARD FORMAL DISCIPLINARY ACTIONS TAKEN
FEBRUARY 3, 2017 BOARD MEETING:**

- (1) Rosa Maldonado, COTA #205297 (San Antonio)** – failed to properly renew her license to practice; 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) Sharraine Spencer Williams, OTR #105502 (Terrell)** – failed to properly renew her license to practice; 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 to practice for thirty (30) days.***
- (3) Edgar Julian Valdez, COTA #211785 (Houston)** – 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 forty-five (45) days.***
- (4) Labrina McNary, COTA #211186 (DeSoto)** – practiced in a detrimental manner by resigning/abandoning her position without sufficient prior notice – thereby abandoning the patients she was scheduled to treat. 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.***
- (5) Jeffrey Calhoun, OTR #115106 (San Antonio)** – practiced in a detrimental manner by failing to maintain the confidentiality of patient information in compliance with HIPAA regulations. Violation of Section 454.301 of the Act and chapter 374 of the board rules. ***Board Order suspended his license to practice for fifteen (15) days.***