

1 **TEXAS BOARD OF OCCUPATIONAL THERAPY EXAMINERS**

2 Board Meeting
3 333 Guadalupe St #2-510
4 Austin, TX 78701
5 May 11, 2007
6 9:30 AM
7

8 Members Present: Jean Polichino, OTR and Presiding Officer
9 Grace Butler, PhD, Public Member
10 Michael Carreon, COTA
11 Dely De Guia Cruz, Public Member
12 Joseph Messmer, COTA
13 Clarissa Meyers, OTR
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15
16 Members Absent: Judith Bowen, OTR
17 Cecilia Fierro, OTR and Secretary
18

19 Staff: John Maline, Executive Director
20 Kevin Heyburn, Assistant Attorney General
21 Augusta Gelfand, OT Coordinator
22 Mark Turek, Chief Investigator
23 Cynthia Machado, Licensing Manager
24

25
26 **I. Call to Order**

27 Jean Polichino, Presiding Officer, called the meeting to order at 9:36 AM. She called the roll
28 and established that a quorum existed.
29

30 **2. Public Comment**

31 No comment
32

33 Dely De Guia Cruz joined the meeting at 9:40am.
34

35 **3. Approval of Minutes of February 16, 2007**

36 Motion: To approve minutes as corrected.

37 Made by: Clarissa Meyers

38 Second by: Joe Messmer

39 Motion passed.
40
41

42 **4. Discussion and Possible Action On Executive Director's Report concerning fiscal**
43 **and budgetary matters, annual performance measures, the Executive Council,**
44 **agency personnel, ongoing projects, the legislative session, and other agency**
45 **business.**

46 Mr. Maline explained the annual financial reports and statistics for the agency, covering the
47 second quarter. He explained expenses and income to date. He told the board we will have
48 the funds to do a paper mailing to licensees this year. Mr. Maline discussed several bills that
49 may affect the agency or licensees. He handed out printed copies of the online customer
50 surveys to discuss at the next board meeting. The comments were favorable. He reminded
51 the Board that we will begin the Sunset process this summer, and they will be a part of the
52 process.

1 **5. Executive Session pursuant to §551.074 of the Government Code, regarding the**
2 **appointment, employment, evaluation, reassignment, duties, discipline, or**
3 **dismissal of the Executive Director of the Executive Council of Physical Therapy**
4 **and Occupational Therapy Examiners.**

5
6 The Board went into executive session at 10:00AM and returned to open session at 10:15 AM.
7

8 **6. Investigation Committee Report**

9 **A. Review and Possible Action on Agreed Orders#: 07-36; 07-39; 07-40; 07-**
10 **50; and 07-52.**

11 The Board voted to ratify each of the Agreed Orders.
12

13 **B. Discussion of committee meetings on April 28, 2007**

14 The Committee reviewed 26 cases which resulted in 5 Agreed Orders and 1
15 warning letter.
16

17 **C. Discussion of investigative activities to date**

18 In the second quarter FY07, 24 complaints were received and 31 investigations
19 were completed, resulting in 5 Agreed Orders, in an average time of 87 days
20 and at an average cost of \$80 per investigation completed.
21

22 **7. Rule Adoption**

23 The American Occupational Therapy Association (AOTA) and 5 individuals wrote public
24 comment to the proposed rules. One of individuals wrote in opposition to the required
25 continuing education with the first license, the rest agreed with the proposed rule. AOTA wrote
26 some further specificity to the Approved Education Program definition and the Board accepted
27 the suggestion. AOTA suggested that the Board mail renewal notices, which the Board
28 already does. AOTA further suggested that the Board relax its rules for restoration of a
29 license. Since the rules mirror language from the OT Practice Act, the Board does not have
30 the statutory authority to make such an amendment.
31

32 **A. Discussion and possible adoption of proposed published rule**
33 **amendments to §362.1, Definitions**

34 Motion: To adopt §362.1 with changes [which reflect the comment received from AOTA
35 for the definition of Accredited Educational Program].

36 Made by: Joe Messmer

37 Second: Michael Carreon

38 Motion passed.
39

40 **B. Discussion and possible adoption of proposed published rule**
41 **amendments to §364.1, Requirements for Licensure**

42 Motion: To adopt §364.1 as published for proposed amendment in the *Texas Register*.

43 Made by: Michael Carreon

44 Second: Clarissa Meyer

45 Motion passed.
46

47 **C. Discussion and possible adoption of proposed published rule**
48 **amendments to §367.1,2, Continuing Education**

49 Motion: To adopt amendment in §367.1 and §367.2 as published in the *Texas Register*.

50 Made by: Joe Messmer

51 Second: Michael Carreon

52 Motion passed.
53

1 The Board requested that Chapter 367 be reviewed by the Education Committee to see
2 whether AOTA's Category 1 and 2 meet TBOTE's definition of Type 2.

3
4 **D. Discussion and possible adoption of proposed published rule**
5 **amendments to §370.1, License Renewal and a new proposed §370.2, Late**
6 **Renewal**

7 Motion: To adopt amendments with changes to §370.1 and a new §370.2.

8 Made by: Clarissa Meyer

9 Second: Joe Messmer

10 Motion passed.

11
12 Michael Carreon left the Board meeting at 11:05 AM.

13
14 **8. Discussion and possible action on interpretation on §454.215 regarding exemption of**
15 **facilities from registration**

16 Kevin Heyburn gave the board his opinion regarding OT outpatient services in nursing homes
17 and satellite hospitals. He suggested that ECPTOTE sit down with the Department of Aging
18 and Disability and the Texas Department of State Health Services to agree with each other on
19 the interpretation.

20
21 **9. Discussion and possible action on the OT Coordinator's Report**

22 Ms. Gelfand pointed out her written report and the other reading material in that report. Dr.

23 Butler added her fax number to the Board roster.

24
25 **10. Presiding Officers Report**

26 Ms. Polichino stated that the Governor's Appointment Secretary reported that the two
27 professional members to be replaced had been found, and that their office is working on the
28 public member replacement. Ms. Polichino recognized Grace Butler for her work on the
29 president's committee on cancer. She passed around Judith Bowen's letter to the Board which
30 thanked the board and staff for their flowers and cards of condolence in memory of Ms.
31 Bowen's husband.

32
33 **11. Discussion and possible action on future meeting dates and agenda items**

34 October 12, 2007 was chosen as the next board meeting date, which will be held at the
35 Woodlands Waterway Marriott Hotel and Conference Center, The Woodlands, Texas, in
36 conjunction with TOTA's conference.

37
38 **12. Adjournment**

39 The Board adjourned at 11:38 AM

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42 The Board adopted the Minutes on: October 12, 2007