

1 **Texas Board of Occupational Therapy Examiners**

2 BOARD MEETING MINUTES

3 November 7, 2014

4 Sugar Land Marriott Town Square

5 Sugar Land VII Room

6 16090 City Walk

7 Sugar Land, TX 77479

8 10:00 AM

9
10
11 Members Present: Stephanie Johnston, OTR, Chair
12 Todd Novosad, OTR, Vice Chair
13 DeLana Honaker, OTR, PhD, FAOTA, Secretary
14 Catherine Benavidez, OT
15 Jennifer B. Clark, COTA
16 Amanda Jean Ellis, Public Member
17 Sally Harris, COTA

18
19 Members Absent: William N. Hale, Public Member
20 Pamela Nelon, Public Member

21
22 Staff: Kara Holsinger, Assistant Attorney General
23 John Maline, Executive Director
24 Mark Turek, Chief Investigator
25 Cynthia Machado, Licensing Manager
26 Lea Weiss, OT Coordinator
27

28
29 **1. Call to Order**

30 The meeting was called to order at 10:09 AM by Stephanie Johnston, Presiding Officer. She called the
31 roll and announced that a quorum existed. Stephanie Johnston welcomed Sally Harris as a new board
32 member.

33
34 **2. Public comment**

35 There was no public comment.
36

37 **3. Approval of the Minutes of September 5, 2014**

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

39 **Made by: DeLana Honaker**

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

41 **Motion passed.**
42

43 **4. Discussion and possible action on Executive Director's Report concerning fiscal and**
44 **budgetary matters, performance measures, ongoing projects, agency personnel matters,**
45 **upcoming legislative session, and other agency business**

46 John Maline briefed the Board on the fiscal standing of the agency and reviewed the biennial budgetary
47 cycle. In addition, he addressed agency personnel matters, issues regarding the current website, and
48 the upcoming legislative session.
49

50 Catherine Benavidez joined the meeting at 10:14 AM.
51

52 **5. Investigation Committee Report**

1 **A. Review and possible action on Agreed Orders for case numbers: 13-039; 14-161;**
2 **14-162; 14-163; 14-164 and 14-165**

3 The Board ratified case numbers: 14-164; 14-163; 14-162; 14-165; 14-161; and 13-039.

4
5 **B. Discussion and possible action on the Investigation Committee meeting of**
6 **October 14, 2014**

7 Mark Turek reported that forty-one investigations were reviewed at the October 14, 2014 meeting,
8 resulting in the committee's issuance of six Agreed Orders. No informal conferences were held.

9
10 **C. Discussion and possible action on investigative activities to date**

11 Mark Turek reported on performance measures and on-site investigations since the last board meeting.

12
13 **6. Executive Session pursuant to §551.074 of the Texas Government Code, regarding the**
14 **appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of**
15 **the Executive Director of the Executive Council of Physical Therapy and Occupational**
16 **Therapy Examiners**

17 The board went into closed session at 11:19 AM. The board returned to open session at 11:27 AM.

18
19 **7. Discussion and possible action on a request from Janie Oyakawa regarding Chapter 364,**
20 **Requirements for Licensure, and licensure requirements for applicants with only an**
21 **expired license in another state and whose passing NBCOT scores are older than two**
22 **years**

23 Regarding Janie Oyakawa's request, the board confirmed its policy with regard to initial licensure
24 requirements for an applicant for an occupational therapist license who holds only an expired license in
25 another state and whose passing NBCOT scores are older than two years. The board affirmed that
26 such an applicant must apply by examination and pass the NBCOT exam for licensure purposes only or
27 the applicant may apply by endorsement if s/he obtains a license in another state. The applicant must
28 also meet the requirements as listed in Chapter 364.

29
30 **8. Rules Committee Report**
31 **Discussion and possible action on recommendations from the Rules Committee on the**
32 **following items:**

33 DeLana Honaker noted she would be reviewing topics of discussion from the Rules Committee meeting
34 of November 6, 2014 and introducing the amendments the committee would be proposing regarding
35 including telehealth as a mode of delivery of occupational therapy services.

36
37 The board determined that it would review all of the amendments the Rules Committee would be
38 proposing and then vote to propose and publish such at the end of the discussion of agenda item
39 8(b)(7).

40
41 **A. Discussion and possible action on proposing a new rule §372.2, Provision of**
42 **Services, to add a section on Telehealth**

43 DeLana Honaker noted that the committee would not be proposing a new rule §372.2, Provision of
44 Services, to add a section on Telehealth as Telehealth was simply a mode of occupational therapy
45 service delivery.

46
47 **B. Discussion and possible action on proposing rule amendments, including**
48 **amendments regarding Telehealth, to the following rules:**

49 **1. §362.1, Definitions**

50 DeLana Honaker noted that the committee proposed adding to §362.1, Definitions, definitions of
51 "telehealth," "face-to-face," and "on-site" and removing the definition for "direct care." She noted that
52 according to the proposed definition, telehealth may only be used as a mode of service delivery by
53 occupational therapy practitioners licensed by this board with clients who are located in Texas at the
54 time of the provision of occupational therapy services. The committee also proposed using language

1 such as “electronic/communications technology” to refer to communication by methods including
2 telephone, email, text, and videoconferencing, in addition to using “client,” as defined in §362.1(7),
3 throughout the proposed amendments.

4
5 **2. §363.1, Consumer/Licensee Information**

6 DeLana Honaker reported that the committee would not be proposing an amendment to §363.1,
7 Consumer/Licensee Information.

8
9 **3. §364.1, Requirements for Licensure, and §364.4, Licensure by**
10 **Endorsement**

11 DeLana Honaker reported that the committee would not be proposing amendments to §364.1,
12 Requirements for Licensure, and §364.4, Licensure by Endorsement.

13
14 **4. §369.1, Display of Licenses**

15 DeLana Honaker reported that the committee would not be proposing an amendment to §369.1,
16 Display of Licenses.

17
18 **5. §372.1, Provision of Services**

19 DeLana Honaker noted that to Chapter 372, the committee would be proposing an “a” inclusion such
20 that the occupational therapist who screens, evaluates, or implements the plan of care would be
21 responsible for determining the need for the physical presence of an occupational therapy
22 practitioner during any interactions with clients.

23
24 DeLana Honaker noted that the committee had discussed issues related to compliance with federal and
25 state regulations such as HIPAA and other regulations related to privacy, security, confidentiality, etc.
26 The board determined that as telehealth was just another mode of service delivery, an occupational
27 therapy practitioner, when selecting electronic/communications technologies for telehealth or when
28 utilizing telehealth, for example, would be responsible for adhering to and complying with the same
29 regulations as an occupational therapy practitioner utilizing other modes to deliver occupational therapy
30 services.

31
32 **6. §373.1, Supervision of Non-Licensed Personnel; §373.2, Supervision of a**
33 **Temporary Licensee; and §373.3, Supervision of an Occupational Therapy**
34 **Assistant**

35 DeLana Honaker noted that the committee would be proposing an amendment to §373.1, Supervision
36 of Non-Licensed Personnel, to allow for supervision of non-licensed personnel to be conducted in
37 person or via telehealth.

38
39 In addition, DeLana Honaker noted that the committee would be proposing an amendment to §373.2,
40 Supervision of a Temporary Licensee, to clarify that when providing services, an occupational therapy
41 assistant with a temporary license must receive supervision by an occupational therapy assistant or
42 occupational therapist with a regular license who is on the premises, and that an occupational therapist
43 with a temporary license must receive supervision by an occupational therapist with a regular license
44 who is on the premises. The committee, furthermore, proposed language that would clarify that an
45 occupational therapy assistant with a temporary license must receive at least four hours of supervision
46 per month and an occupational therapist with a temporary license must have encounters twice a month
47 with an occupational therapist who is physically present with the temporary licensee when s/he is
48 providing occupational therapy services.

49
50 DeLana Honaker added that the committee, with regard to §373.3, Supervision of an Occupational
51 Therapy Assistant, would be proposing language that would clarify that a full-time occupational therapy
52 assistant must receive at least two hours of supervision per month by an occupational therapist who is
53 physically present with the occupational therapy assistant when s/he is providing services and that an
54 occupational therapy assistant working part time, PRN, or less than a full month must receive at least

1 one hour of supervision per month by an occupational therapist who is physically present with the
2 occupational therapy assistant when s/he is providing services. Finally, the committee proposed
3 cleanups to the section to clarify supervision requirements, in general.

4
5 **7. §376.1, Facility Definitions; §376.4, Requirements for Registered**
6 **Facilities; and §376.5, Exemptions to Registration**

7 DeLana Honaker reported that the committee would not be proposing amendments to §376.1, Facility
8 Definitions; §376.4, Requirements for Registered Facilities; and §376.5, Exemptions to Registration.

9
10 **Motion: To propose and publish the amendments to §362.1, Definitions; §372.1, Provision**
11 **of Services; §373.1, Supervision of Non-Licensed Personnel; §373.2, Supervision**
12 **of a Temporary Licensee; and §373.3, Supervision of an Occupational Therapy**
13 **Assistant**

14 **Made by: Rules Committee**

15 **Motion passed.**

16
17 **9. Education Committee Report**

18 **Discussion and possible action on recommendations from the Education Committee on**
19 **proposing changes to Chapter 367 to include categories of education, the continuing**
20 **education approval process, and other continuing education issues**

21 The board took a break at 12:49 PM and reconvened at 1:02 PM. DeLana Honaker left the meeting at
22 12:49 PM.

23
24 Todd Novosad discussed the Education Committee meeting of November 7, 2014. He noted that the
25 committee had reviewed the CE Approval Review questionnaire for approved providers from 2010 and
26 discussed revisions to such as per the upcoming CE Approval Review in 2015. He added that the
27 committee had considered continuing education requests. In addition, he noted that at the next
28 Education Committee meeting, agenda items would include the consideration of mentoring as a
29 category of continuing education; discussion and possible action on proposing an amendment to
30 §367.2, Categories of Education, to clarify the section; and discussion and possible action related to the
31 CE approval process.

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

36 Lea Weiss reported on her attendance, along with DeLana Honaker, at the NBCOT Annual Regulatory
37 Conference October 24-25, 2014 in Alexandria, VA, during which time, telehealth was a central topic
38 discussed. She also noted that the board was currently collecting submissions for the CE Audit with a
39 deadline of November 23, 2014.

40
41 **11. Discussion and possible action on the Presiding Officer's Report. The Presiding**
42 **Officer's report may concern any items listed on the agenda and events that have**
43 **occurred between this meeting and the Board's last meeting.**

44 There was no report.

45
46 **12. Discussion and possible action on scheduling future board meeting dates and agenda**
47 **items for future consideration**

48 The next board meeting is set for February 6, 2015. The board discussed future meeting dates
49 in May and September, 2015.

50
51 **13. Adjournment**

52 The Board adjourned at 1:18 PM.

53
54 **Minutes adopted on: February 6, 2015**