

1 **Texas Board of Occupational Therapy Examiners**

2 BOARD MEETING MINUTES

3 February 6, 2015

4 333 Guadalupe, Suite #2-510

5 Austin, TX 78701

6 9:00 AM

7  
8 Members Present: Stephanie Johnston, OTR, Chair  
9 Todd Novosad, OTR, Vice Chair  
10 DeLana Honaker, OTR, PhD, FAOTA, Secretary  
11 Jennifer B. Clark, COTA  
12 Amanda Jean Ellis, Public Member  
13 Sally Harris, COTA  
14 Pamela D. Nelon, Public Member

15  
16 Members Absent: Catherine Benavidez, OT  
17 William N. Hale, Public Member

18  
19 Counsel: Kara Holsinger, Assistant Attorney General

20  
21 Staff: John Maline, Executive Director  
22 Mark Turek, Chief Investigator  
23 Cynthia Machado, Licensing Manager  
24 Randall Glines, Assistant Licensing Manager  
25 Lea Weiss, OT Coordinator

26  
27 **1. Call to Order**

28 The meeting was called to order at 9:05 AM by Stephanie Johnston, Presiding Officer. She called the  
29 roll and announced that a quorum existed. Stephanie Johnston welcomed as public attendees Ria  
30 Thompson, COTA, and Joy Herring.

31  
32 **2. Public comment**

33 There was no public comment.

34  
35 **3. Approval of the Minutes of November 7, 2014**

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

37 **Made by: DeLana Honaker**

38 **Second by: Amanda Jean Ellis**

39 **Motion passed.**

40  
41 **4. Discussion and possible action on the Executive Director's Report concerning fiscal and**  
42 **budgetary matters, performance measures, ongoing projects, agency personnel matters,**  
43 **legislative session, and other agency business**

44 John Maline briefed the Board on the fiscal standing of the agency and budgetary matters.

45  
46 At 9:34, John Maline requested that the Board move to and complete agenda item #5 and then return  
47 to agenda item #4; the Board agreed.

48  
49 At 10:55, John Maline resumed offering the Executive Director's Report and reviewed performance  
50 measures, ongoing projects, agency personnel matters, the upcoming legislative session, and issues  
51 regarding the current website.

52  
53 **5. Investigation Committee Report**

1           **A. Review and possible action on Agreed Orders for case numbers: 14-002; 14-026;**  
2           **14-037; 14-123; 14-157; 15-016; 15-037; 15-039; 15-040; 15-041; and 15-044.**

3 The Board ratified case numbers: 15-041; 15-039; 15-044; 14-037; 15-016; and 14-157.

4  
5           **B. Discussion and possible action on the Investigation Committee meeting of**  
6           **January 9, 2015**

7 Mark Turek reported that forty-one cases were reviewed at the January 9, 2015 meeting, resulting in  
8 the Investigation Committee's issuance of eleven Agreed Orders. One informal conference was held.

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

11 Mark Turek reported on performance measures, on-site investigations, and school presentations since  
12 the last Board meeting.

13  
14 Debora Ridener, OTR and Secretary of the Texas Occupational Therapy Association, joined the Board  
15 meeting as a public attendee.

16  
17 The Board broke for a short recess at 10:40 and reconvened at 10:55.

18  
19 **6. Discussion and possible action on licensee Ria Thompson's request regarding**  
20 **occupational therapy practice and §362.1, Definitions; the provision of occupational**  
21 **therapy services as per §372.1, Provision of Services; and any supervision requirements**  
22 **as per §373.3, Supervision of an Occupational Therapy Assistant, that may apply when**  
23 **teaching a course within a non-medical model of occupational therapy service delivery**

24 Ria Thompson gave a short presentation related to her interest in teaching an OT-based pre-natal and  
25 post-natal class for parents and inquired into the supervision requirements for such. The Board  
26 thanked her for the presentation, discussed her request, and affirmed that she would need to comply  
27 with the supervision requirements as per §373.3, Supervision of an Occupational Therapy Assistant.  
28 The Board discussed adding §373.3, Supervision of an Occupational Therapy Assistant, to the agenda  
29 for the next Rules Committee meeting, during which time, the Rules Committee can discuss  
30 recommending rule amendments regarding required supervision hours for occupational therapy  
31 assistants working less than a full month during a given month.

32  
33 **7. Discussion and possible action on adopting changes to proposed §362.1, Definitions;**  
34 **§372.1, Provision of Services; §373.1, Supervision of Non-Licensed Personnel; §373.2,**  
35 **Supervision of a Temporary Licensee; and §373.3, Supervision of an Occupational**  
36 **Therapy Assistant**

37 DeLana Honaker introduced the proposed, published amendments and Lea Weiss noted that one  
38 public comment was received from an individual requesting that the Board reconsider the proposed  
39 amendment to §372.1, which would allow an initial evaluation and re-evaluations to be conducted in  
40 person or via electronic/communications technology methods. The individual noted that she believed  
41 initial evaluations and re-evaluations must be conducted in person. The Board discussed the need to  
42 reconsider the proposed amendments regarding telehealth, in particular, the section concerning the  
43 initial evaluation and re-evaluations.

44  
45 **Motion: To withdraw the proposed, published rules to §362.1, Definitions; §372.1,**  
46 **Provision of Services; §373.1, Supervision of Non-Licensed Personnel; §373.2,**  
47 **Supervision of a Temporary Licensee; and §373.3, Supervision of an Occupational**  
48 **Therapy Assistant, and to send them back to the Rules Committee for discussion**  
49 **and possible action**

50 **Made by: Todd Novosad**

51 **Second by: Pamela D. Nelon**

52 **Motion Passed.**

53  
54 **8. Rules Committee Report**

1 **Discussion and possible action on recommendations from the Rules Committee**  
2 **including the following items:**

3 **A. Discussion and possible action on proposing rule amendments to the following**  
4 **rules:**

5 **1. §364.1, Requirements for Licensure; §364.2, Initial License by Examination;**  
6 **§364.3, Temporary License; and §364.4, Licensure by Endorsement**

7 DeLana Honaker brought forth a motion from the Rules Committee to amend Chapter 364,  
8 Requirements for Licensure, to clarify licensing requirements and eligibility for those applying for a  
9 regular, temporary, or provisional license and to clarify the requirements for licensure for applicants  
10 who have already taken and passed the National Board for Certification in Occupational Therapy  
11 (NBCOT) certification examination. The proposed language included adding the requirement that an  
12 applicant with a history of licensure in occupational therapy must submit a verification of license from  
13 each state or territory of the U.S. in which the applicant is currently licensed or previously held a license  
14 and that U.S. active duty service members and/or their spouses shall notify the Board of their military  
15 affiliation when submitting their Uniformed Services Military ID Card so such may be linked to their  
16 application.

17  
18 The Rules Committee's motion also included removing from §364.3, Temporary License, language  
19 stating that if an applicant does not take the first available examination, the temporary license will be  
20 revoked. The Rules Committee suggested adding language that would clarify that a temporary license  
21 is void for the temporary licensee who does not take NBCOT certification examination during the 90  
22 day window as stated on the Confirmation of Examination Registration and Eligibility to Examine form  
23 from NBCOT; according to the current rule, the applicant must submit this form as one of the conditions  
24 for receiving a temporary license.

25  
26 The proposed language would also remove from §364.4, Licensure by Endorsement, the provisional  
27 license option for former Texas licensees who hold a current license in another state as this was a  
28 holdover from before the adoption of §370.3, Restoration of a Texas License.

29  
30 **Motion: To propose and publish the amendments to §364.1, Requirements for Licensure;**  
31 **§364.2, Initial License by Examination; §364.3, Temporary License; and §364.4,**  
32 **Licensure by Endorsement**

33 **Made by: Rules Committee**

34 **Second by: None required.**

35 **Motion passed.**

36  
37 **2. §370.3, Restoration of a Texas License**

38 DeLana Honaker brought forth a motion from the Rules Committee to amend §370.3, Restoration of a  
39 Texas License, by adding language that would clarify existing policies and would include the  
40 requirement that an applicant for restoration must submit to the Board a verification of license from  
41 each state or territory of the U.S. in which the applicant is currently licensed or previously held a  
42 license. The proposed language would also clarify that those applying from the U.S. military or a non-  
43 licensing state or territory of the U.S. may, if not holding a current license, submit proof of occupational  
44 therapy employment for at least two years immediately preceding the application for a Texas license  
45 when applying for restoration by proof of current licensure or occupational therapy employment.

46  
47 **Motion: To propose and publish the amendment to §370.3, Restoration of a Texas License**

48 **Made by: Rules Committee**

49 **Second by: None required.**

50 **Motion passed.**

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52 **3. §374.2, Detrimental Practice**

53 DeLana Honaker brought forth a motion from the Rules Committee to amend §374.2, Detrimental  
54 Practice, by adding an item to a non-exclusive list of actions that are considered detrimental practice.

1 The proposed language would add that failing to maintain the confidentiality of all verbal, written,  
2 electronic, augmentative, and nonverbal communication, including compliance with HIPAA regulations  
3 is also practicing occupational therapy in a manner detrimental to the public health and welfare.  
4

5 **Motion: To propose and publish the amendment to §374.2, Detrimental Practice**  
6 **Made by: Rules Committee**  
7 **Second by: None required.**  
8 **Motion passed.**  
9

10 **B. Discussion and possible action on the following rules:**

- 11 1. **§362.1, Definitions**
- 12 2. **§372.1, Provision of Services**
- 13 3. **§373.1, Supervision of Non-Licensed Personnel; §373.2, Supervision**  
14 **of a Temporary Licensee; and §373.3, Supervision of an Occupational**  
15 **Therapy Assistant**

16 DeLana Honaker reviewed the Rules Committee's discussion regarding §362.1, Definitions; §372.1,  
17 Provision of Services; §373.1, Supervision of Non-Licensed Personnel; §373.2, Supervision of a  
18 Temporary Licensee; and §373.3, Supervision of an Occupational Therapy Assistant, and the manner  
19 in which such rules would be affected by the amendments proposed to these sections at the November  
20 7, 2014 TBOTE meeting. The Rules Committee discussed, in particular, requirements related to an  
21 initial evaluation and re-evaluations.  
22

23 **9. Education Committee Report**

24 **Discussion and possible action on recommendations from the Education Committee on**  
25 **proposing changes to Chapter 367 to include categories of education; the development**  
26 **of publications, media materials, or research/grant activities; mentorship; unacceptable**  
27 **continuing education activities; continuing education documentation; the continuing**  
28 **education approval process; and other continuing education issues**

29 Todd Novosad discussed the Education Committee meeting and noted that the Committee considered  
30 changes regarding §367.2 that would clarify existing policies with regard to categories of education.  
31 The Education Committee discussed expanding the continuing education (CE) credit that may be  
32 earned for the development of publications, media materials, or research/grant activities and adding  
33 language that would allow a licensee to earn CE credit for the development of practice-related or  
34 instructional materials using alternative media such as video, audio, or software programs or  
35 applications to advance the professional skills of others (not for proprietary use). The Education  
36 Committee also discussed changes that would add mentorship as a category of CE for both mentor and  
37 mentee and considered revisions to the list of unacceptable continuing education activities to add  
38 leadership and general cooking courses and to remove cooking for health, weight management, and  
39 stress management courses.  
40

41 **Motion: To propose and publish the amendments to §367.2, Categories of Education**  
42 **Made by: Pamela D. Nelon**  
43 **Second by: Jennifer B. Clark**  
44 **Motion passed.**  
45

46 Todd Novosad added that the Education Committee discussed CE documentation as per §367.3. The  
47 Education Committee asked the OT Coordinator to request that the American Occupational Therapy  
48 Association and the Texas Occupational Therapy Association submit supporting documentation with  
49 their responses to the CE Approval Process Questionnaire, which will be considered at the next  
50 Education Committee meeting. The Education Committee discussed additional continuing education  
51 issues related to CE credit, as well, and determined that as per Chapter 367, CE activities must be  
52 completed during a licensee's renewal period.  
53

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

4 Lea Weiss reviewed recent changes to the website and the Board discussed such.

5  
6 **11. Discussion and possible action on the Presiding Officer's Report. The Presiding**  
7 **Officer's report may concern any items listed on the agenda and events that have**  
8 **occurred between this meeting and the Board's last meeting.**

9 Stephanie Johnston thanked the public attendees for attending the meeting.

10  
11 **12. Discussion and possible action on scheduling future board meeting dates and agenda**  
12 **items for future consideration**

13 The next board meeting is set for May 8, 2015 with Committee meetings scheduled for May 7, 2015.  
14 Board agenda topics may include a presentation by the NBCOT. Rules Committee agenda items for  
15 future consideration include §362.1, Definitions; §372.1, Provision of Services; §373.1, Supervision of  
16 Non-Licensed Personnel; §373.2, Supervision of a Temporary Licensee; and §373.3, Supervision of an  
17 Occupational Therapy Assistant. Education Committee agenda items for future consideration include  
18 Chapter 367 and the Approval Process review. Future Committee and Board meeting dates have been  
19 set for August 13, 2015, and August 14, 2015, respectively.

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21 **13. Adjournment**

22 The Board adjourned at 1:12 PM.

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24 **Minutes adopted on: May 8, 2015**