

1 **Texas Board of Occupational Therapy Examiners**

2 **BOARD MEETING MINUTES**

3 333 Guadalupe, Suite #2-510

4 Austin, TX 78701

5 February 7, 2020

6 9:00 AM

7  
8 **Members Present:** Blanca Cardenas, Public Member  
9 Karen Gardner, OTR  
10 DeLana Honaker, OTR, PhD, CLT, FAOTA, Secretary  
11 Eddie Jessie, Public Member  
12 Stephanie Johnston, OTR, OTD, FAOTA, Chair  
13 Sally Harris King, COTA  
14 Todd Novosad, OTR, Vice Chair

15  
16 **Members Absent:** Jennifer Clark, COTA

17  
18 **Counsel Present:** Kara Holsinger, Deputy Chief, Administrative Law Division,  
19 Attorney General of Texas

20  
21 **Staff Present:** Michael Briscoe, Licensing Manager  
22 Amy Carter, Chief Investigator  
23 Ralph Harper, Executive Director  
24 Ebony Holley, Senior Accountant  
25 Karissa Rodriguez, Program Specialist  
26 Lea Weiss, OT Coordinator

27  
28 **Public Attendees:** Olivia Gargiulo, OTA Student  
29 Judith Joseph, OTR, Executive Director,  
30 Texas Occupational Therapy Association

31  
32 **The Texas Board of Occupational Therapy Examiners may discuss and/or take action on**  
33 **any of the following agenda items. The Board may go into executive session on any**  
34 **agenda item listed below as authorized by the Open Meetings Act, Texas Government**  
35 **Code, chapter 551.**

36  
37 **1. Call to Order**

38 The meeting was called to order at 9:03 AM by Stephanie Johnston, Presiding Officer. She  
39 called the roll and announced that a quorum existed and welcomed the public attendees. She  
40 noted that Pamela Nelon had resigned from the Board as a public member after thirteen years  
41 of dedicated service and noted that her service was appreciated. Stephanie Johnston also  
42 noted that Kara Holsinger would be attending the meeting in place of Rosalind Hunt, the  
43 Agency's assistant attorney general, who was unable to attend.

44  
45 **2. Excusing board member absences**

46 **Motion: To approve the excuse of Jennifer Clark for the absence at the February 7,**  
47 **2020 meeting**  
48 **Made by: Karen Gardner**  
49 **Second by: Todd Novosad**  
50 **Motion passed.**

51  
52 **3. Public comment**  
53 Judith Joseph noted that questions exist regarding the use of the title "Doctor" by OTs and that  
54 clarification was needed.

55  
56 Stephanie Johnston noted that the OT Practice Act prohibits the use of the title "Doctor."  
57

58 Judith Joseph also noted that questions exist regarding the Board's reasons for removing  
59 certain supervision requirements for an occupational therapy assistant with a regular license  
60 and suggested clarification.

61  
62 **4. Minutes of October 25, 2019**

63 **Motion: To approve the minutes as written**  
64 **Made by: DeLana Honaker**  
65 **Second by: Todd Novosad**  
66 **Motion passed.**

67  
68 **5. Executive Director's Report concerning fiscal and budgetary matters, performance**  
69 **measures, ongoing projects, agency personnel matters, Executive Council**  
70 **activity, recent legislative session, and other agency business, including the**  
71 **Governor's December 18, 2019 letter regarding SB 1264 of the 86th Regular**  
72 **Legislative Session, relating to consumer protections against certain medical and**  
73 **health care billing by certain out-of network providers, and SB 1995 of the 86th**  
74 **Regular Legislative Session and the creation of the Regulatory Compliance**  
75 **Division within the Office of the Governor to review proposed rules that affect**  
76 **market competition**

77 Ralph Harper briefed the Board on fiscal and budgetary matters, performance measures,  
78 ongoing projects, agency personnel matters, Executive Council activity, and updates regarding  
79 the slated relocation of the agency, along with other state agencies located in the William P.  
80 Hobby building, to a new capital area complex in Austin in 2022. In addition, Ralph Harper  
81 referred to the Governor's letter of December 18, 2019, regarding SB 1264 and Amy Carter  
82 discussed such. The Board discussed the item. Ralph Harper also noted the creation of the  
83 Regulatory Compliance Division of the Office of the Governor and Lea Weiss discussed the  
84 process for the submission of any proposed rules pursuant to such that affect market  
85 competition.

86  
87 **6. Investigation Committee Report concerning:**  
88 **A. Agreed Orders for case #s: 19-206, 19-210, 20-003, 20-008, 20-034, 20-052,**  
89 **20-069, and 20-088**

90 Amy Carter presented agreed orders for the following case numbers: 19-210, 20-003, 20-008,  
91 20-034, 20-052, and 20-088.  
92

93 The Board reviewed and ratified the agreed orders for case numbers: 19-210, 20-003, 20-008,  
94 20-034, 20-052, and 20-088.

95  
96 The remaining cases were not presented to the Board at this time.  
97

98 **B. Number of cases reviewed, Agreed Orders issued, informal conferences,**  
99 **and other investigative matters discussed during the Investigation**  
100 **Committee Meeting of January 07, 2020**

101 Amy Carter reported that 59 cases were reviewed at the January 7, 2020 meeting, resulting in  
102 the Investigation Committee's issuance of six Agreed Orders. No informal conferences were  
103 held.  
104

105 **C. Recommendation to amend §374.1(c) regarding changes to the Schedule of**  
106 **Sanctions**

107 Amy Carter discussed possible changes to the schedule of sanctions and noted the following:  
108

109 Suggested changes from the Investigation Committee from its January 7, 2020 meeting  
110 concerned adding the phrase "+investigative costs" to each item under the Maximum Discipline  
111 column in the schedule of sanctions.  
112

113 Amy Carter discussed the following with regard to changes in addition to those recommended  
114 by the Investigation Committee:  
115

116 Further amendments could add the phrase "+investigative costs" to the text under the Minimum  
117 Discipline column for a violation concerning a conviction for a crime, other than a minor offense,  
118 that is determined by the Board to have a direct bearing on whether individual should be  
119 entrusted to serve the public in the capacity of an occupational therapist or occupational therapy  
120 assistant. Further changes could include removing restricted practice under Minimum Discipline  
121 and replacing such with information regarding license suspension. To coincide with the change,  
122 the information under the Intermediate Discipline column for the violation could also be revised  
123 to change the penalty of a 30-60 day license suspension with provisional restricted practice to a  
124 2-6 month license suspension with restricted practice.  
125

126 **Motion: To propose and submit for publication in the *Texas Register* the**  
127 **amendments to §374.1, Disciplinary Actions**

128 **Made by: Sally Harris**

129 **Second by: DeLana Honaker**

130 **Motion passed.**  
131

132 **D. Performance measures, on-site investigation visits, school presentations,**  
133 **and other investigative activities that have occurred between this meeting**  
134 **and the Board's last meeting**

135 Amy Carter reported on performance measures, on-site investigations, presentations, and  
136 further investigative activities since the last Board meeting.  
137

138 **7. Proposing a rule review of the following chapters of the Board Rules as required**  
139 **by §2001.039 of the Government Code: Chapter 361, Statutory Authority; Chapter**  
140 **362, Definitions; Chapter 363, Consumer/Licensee Information; Chapter 364,**  
141 **Requirements for Licensure; Chapter 367, Continuing Education; Chapter 368,**

142 **Open Records; Chapter 369, Display of Licenses; Chapter 370, License Renewal;**  
143 **Chapter 371, Inactive and Retired Status; Chapter 372, Provision of Services;**  
144 **Chapter 373, Supervision; Chapter 374, Disciplinary Actions/Detrimental**  
145 **Practice/Complaint Process/Code of Ethics/Licensure of Persons with Criminal**  
146 **Convictions; and Chapter 375, Fees**

147 Lea Weiss noted that §2001.039 of the Government Code requires that the Board review its  
148 rules every four years to determine whether the reasons for initially adopting the rules continue  
149 to exist.

150  
151 **Motion:** **To propose and submit for publication in the *Texas Register* a rule review**  
152 **of the following chapters of the Board Rules: Chapter 361, Statutory**  
153 **Authority; Chapter 362, Definitions; Chapter 363, Consumer/Licensee**  
154 **Information; Chapter 364, Requirements for Licensure; Chapter 367,**  
155 **Continuing Education; Chapter 368, Open Records; Chapter 369, Display of**  
156 **Licenses; Chapter 370, License Renewal; Chapter 371, Inactive and Retired**  
157 **Status; Chapter 372, Provision of Services; Chapter 373, Supervision;**  
158 **Chapter 374, Disciplinary Actions/Detrimental Practice/Complaint**  
159 **Process/Code of Ethics/Licensure of Persons with Criminal Convictions;**  
160 **and Chapter 375, Fees**

161 **Made by:** **DeLana Honaker**

162 **Second by:** **Todd Novosad**

163 **Motion passed.**

164

165 **8. Governor's October 8, 2019 letter regarding sensible regulations and barriers to**  
166 **occupational licensing**

167 Lea Weiss discussed the letter and the response the Agency submitted. Ralph Harper noted  
168 that the Board should ensure it continues to enact sensible regulations and avoid barriers to  
169 occupational licensing.

170

171 **9. Governor's December 18, 2019 letter regarding SB 1264 of the 86th Regular**  
172 **Legislative Session, relating to consumer protections against certain medical and**  
173 **health care billing by certain out-of network providers**

174 As the topic was addressed during agenda item 5, there was no further discussion.

175

176 **10. OT Coordinator's Report, concerning Board licensing and continuing-education**  
177 **audit statistics, entry-level occupational-therapy accreditation statistics and**  
178 **updates, and the 2019 Council of State Governments' Summit of the States**  
179 **concerning interstate licensure compacts, including the development of an**  
180 **interstate licensure compact in occupational therapy by the Council of State**  
181 **Governments, the American Occupational Therapy Association, and the National**  
182 **Board for Certification in Occupational Therapy**

183 Lea Weiss discussed Board licensing and continuing-education audit statistics, entry-level  
184 occupational-therapy accreditation statistics and updates, and the 2019 Council of State  
185 Governments' Summit of the States, which she attended, concerning interstate licensure  
186 compacts, including the development of an interstate licensure compact in occupational therapy  
187 by the Council of State Governments, the American Occupational Therapy Association, and the

188 National Board for Certification in Occupational Therapy.

189

190 **11. Presiding Officer's Report, concerning developments in the field of occupational**  
191 **therapy, including the development of an interstate licensure compact in**  
192 **occupational therapy by the Council of State Governments, the American**  
193 **Occupational Therapy Association, and the National Board for Certification in**  
194 **Occupational Therapy**

195 Stephanie Johnston discussed updates on the development of an interstate licensure compact  
196 in occupational therapy.

197

198 **12. Future Board meeting dates and agenda items for future consideration**

199 Stephanie Johnston noted that Board meetings had been scheduled for May 1, 2020; July 31,  
200 2020; November 6, 2020; and February 5, 2021, with possible committee meetings to be held  
201 April 30 and May 1, 2020; July 30 and 31, 2020; November 5 and 6, 2020; and February 4  
202 and 5, 2021.

203

204 Stephanie Johnston noted that possible agenda items for the upcoming meeting may include  
205 items related to HB 2059 and requirements for training on human trafficking for license  
206 renewal. Todd Novosad noted that the Education Committee may meet in May.

207

208 **13. Adjournment**

209 The Board adjourned at 10:36 AM.

210

211 **Minutes approved on:** May 1, 2020