

1 **Texas Board of Occupational Therapy Examiners**
2 **BOARD MEETING MINUTES**
3 **November 16-17, 2018**
4 **Camp Buckner**
5 **Pecos Conference Center**
6 **3835 FM 2342**
7 **Burnet, TX 78611**
8 **8:30 AM**
9

10 **Members Present:** Stephanie Johnston, OTR, OTD, FAOTA, Chair
11 Todd Novosad, OTR, Vice Chair
12 DeLana Honaker, OTR, PhD, CLT, FAOTA, Secretary
13 Blanca Cardenas, Public Member
14 Jennifer B. Clark, COTA
15 Amanda Jean Ellis, Public Member
16 Karen Gardner, OTR
17 Sally Harris King, COTA
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19 **Members Absent:** Pamela D. Nelon, Public Member
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21 **Counsel Present:** Kara Holsinger, Assistant Attorney General
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23 **Staff Present:** John Maline, Executive Director
24 Mark Turek, Chief Investigator
25 Lea Weiss, OT Coordinator
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27 **Public Attendees:** None
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29 **1. Call to Order**

30 The meeting was called to order at 8:59 AM on November 16, 2018, by Stephanie Johnston,
31 Presiding Officer. She called the roll and announced that a quorum existed and noted that
32 Amanda Jean Ellis would join the meeting later that day and that Blanca Cardenas would join
33 when the meeting reconvened the next day on November 17, 2018.
34

35 **2. Discussion and possible action on excusing board member absences**

36 **Motion:** To approve the excuse of Pamela D. Nelon for the absence at the November
37 16-17, 2018 Board meeting

38 **Made by:** DeLana Honaker

39 **Second by:** Sally Harris King

40 **Motion passed.**
41

42 **3. Public comment**

43 There was no public comment.
44

45 **4. Approval of Minutes of August 3, 2018**

46 **Motion:** To approve the minutes as written

47 **Made by: DeLana Honaker**
48 **Second by: Karen Gardner**
49 **Motion passed.**

50

51 **5. Discussion and possible action on the Executive Director's Report concerning**
52 **fiscal and budgetary matters, performance measures, ongoing projects, agency**
53 **personnel matters, Executive Council activity, upcoming legislative session, and**
54 **other agency business**

55 John Maline briefed the Board on fiscal and budgetary matters, performance measures, ongoing
56 projects, agency personnel matters, Executive Council activity, and the upcoming legislative
57 session. The Board discussed the agenda item. No action was taken.

58

59 **6. Investigation Committee Report**

60 **A. Review and possible action on Agreed Orders for Case #s: 16-122; 18-096;**
61 **18-191; 18-193; 18-197; 18-198; 18-201; 18-202; 18-221 and 19-005**

62 Mark Turek presented agreed orders for the following case numbers: 18-191; 18-193; 18-197;
63 18-198; 18-201; 18-202; 18-096; 18-221; and 16-122.

64 The Board reviewed and ratified the agreed orders for case numbers: 18-191; 18-193; 18-197;
65 18-198; 18-201; 18-202; 18-096; 18-221; and 16-122.

66

67 The remaining case was not presented to the Board at this time.

68

69 **B. Discussion and possible action on the Investigation Committee meeting of**
70 **October 11, 2018**

71 Mark Turek reported that 68 cases were reviewed at the October 11, 2018 meeting, resulting in
72 the Investigation Committee's issuance of nine Agreed Orders. One informal conference was
73 held.

74

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

76 Mark Turek reported on performance measures and on-site investigations since the last Board
77 meeting, in addition to continuing work regarding the implementation of fingerprint-based
78 criminal history background checks of applicants and licensees with an anticipated rollout date
79 of January 1, 2019 for renewals and new license issuance.

80

81 **7. Discussion and possible action on adopting changes to proposed §364.1.**
82 **Requirements for Licensure; §370.1. License Renewal; §370.3. Restoration of a**
83 **Texas License; §371.1. Inactive Status; §371.2. Retired Status; and §374.1.**
84 **Disciplinary Actions**

85 Lea Weiss reviewed the proposed amendments to §364.1. Requirements for Licensure; §370.1.
86 License Renewal; §370.3. Restoration of a Texas License; §371.1. Inactive Status; and §371.2.
87 Retired Status and noted that the proposed amendments include the addition of provisions
88 requiring an applicant's or licensee's submission of fingerprints. Such changes were proposed
89 pursuant to the addition to the Act of §454.217 and §454.255, adopted by the 85th Legislature,
90 requiring an applicant or licensee to submit fingerprints to the Department of Public Safety for

91 the purpose of the Board obtaining criminal history record information from the Department of
92 Public Safety and the Federal Bureau of Investigation.

93
94 Lea Weiss noted that upon adoption, to clarify the proposals, changes could be made to replace
95 the phrase “a complete and legible set of fingerprints on a form prescribed by the Board
96 submitted to the Department of Public Safety for the purpose of obtaining criminal history record
97 information from the Department of Public Safety and the Federal Bureau of Investigation” with
98 “a complete and legible set of fingerprints submitted in the manner prescribed by the Board for
99 the purpose of obtaining criminal history record information from the Department of Public
100 Safety and the Federal Bureau of Investigation” and the phrase “submit a complete and legible
101 set of fingerprints on a form prescribed by the Board to the Department of Public Safety for the
102 purpose of obtaining criminal history record information from the Department of Public Safety
103 and the Federal Bureau of Investigation” with “submit a complete and legible set of fingerprints
104 in the manner prescribed by the Board for the purpose of obtaining criminal history record
105 information from the Department of Public Safety and the Federal Bureau of Investigation.”
106

107 Lea Weiss noted that further amendments were also proposed to cleanup and clarify the
108 sections.

109
110 Cleanups and clarifications in §364.1, Requirements for Licensure, pertain to provisions
111 regarding application requirements for initial Texas licensure. Provisions concerning
112 educational requirements were revised in accordance with changes to the Occupational
113 Therapy Practice Act, Tex. Occ. Code Chapter 454, pursuant to SB 317 from the 85th
114 Legislative Session (Regular). The Legislature changed §454.203 of the Act, removing
115 requirements for applicants to complete a specific number of weeks of supervised field work
116 experience, and instead requiring the completion of field work experience requirements of an
117 educational program in occupational therapy recognized by the Board. In the proposal,
118 consequently, language referring to specified weeks of field work was removed and replaced
119 with a provision that refers to the relevant section of the Act. In addition, language referring to
120 the completion of an accredited OT/OTA program in §364.1 was replaced with language
121 referring to academic requirements for applicants as specified in §454.203 of the Act. In the
122 proposal, language was also added referencing §454.205 of the Act, wherein academic and
123 supervised field work requirements for foreign-trained applicants are described.
124

125 Further cleanups in the proposed amendments include removing provisions that appear
126 elsewhere in the OT Rules from the section and replacing such with a provision noting that
127 “Applicants and new licensees shall refer to Chapter 369 of this title for provisions regarding
128 information changes and verification of temporary or regular license issuance and current
129 licensure.”
130

131 With regard to §370.1, License Renewal, and §370.3, Restoration of a Texas License, cleanups
132 and clarifications pertain to provisions regarding application requirements for the renewal of a
133 Texas occupational therapy license. Such changes include removing “online” from provisions in
134 §370.1 and §370.3 concerning the jurisprudence examination, as such is defined in §362.1 of
135 the OT Rules, concerning definitions, as an online examination. In the proposed amendments
136 to §370.1, references to a paper or online application were also replaced with language referring

137 to an application form as prescribed by the Board and with references to further requirements
138 licensees must meet in additional sections of the OT Rules.

139

140 With regard to §371.1, Inactive Status, and §371.2, Retired Status, cleanups and clarifications
141 also pertain to removing “online” from provisions concerning the jurisprudence examination.
142 Further clarifications and cleanups appear in the proposal, including removing a reference in
143 §371.2 to verification of current licensure, as provisions concerning verification of current
144 licensure already appear elsewhere in the OT Rules.

145

146 Lea Weiss noted that further cleanups and clarifications appear in the proposals to §364.1,
147 §370.1, §370.3, §371.1, and §371.2.

148

149 Lea Weiss noted that no public comment was received regarding the proposed amendments.
150 The Board discussed the proposed amendments and possible changes.

151

152 **Motion: To adopt the amendments with changes as discussed to §364.1.**
153 **Requirements for Licensure; §370.1. License Renewal; §370.3. Restoration**
154 **of a Texas License; §371.1. Inactive Status; and §371.2. Retired Status with**
155 **an effective date of January 1, 2019 or as soon as possible thereafter**

156 **Made by: Jennifer B. Clark**

157 **Second by: Todd Novosad**

158 **Motion passed.**

159

160 With regard to §374.1. Disciplinary Actions, Lea Weiss noted that the amendments were
161 proposed to add information concerning a schedule of sanctions to the chapter in order to
162 comply with a recent statutory amendment to the Occupational Therapy Practice Act, Tex. Occ.
163 Code Chapter 454.

164

165 The proposed amendments would add a schedule of sanctions to the section and information
166 regarding factors considered in conjunction with the schedule of sanctions when determining the
167 appropriate penalty/sanction in disciplinary matters. The amendments were proposed pursuant
168 to the addition to the Act of §454.3025, adopted by the 85th Legislature, requiring the Board to
169 adopt a schedule of sanctions.

170

171 Lea Weiss noted that no public comment was received regarding the proposed amendments.
172 The Board discussed the proposed amendments.

173

174 **Motion: To adopt the amendments to §374.1. Disciplinary Actions with an effective**
175 **date of January 1, 2019 or as soon as possible thereafter**

176 **Made by: DeLana Honaker**

177 **Second by: Karen Gardner**

178 **Motion passed.**

179

180 The Board recessed at 10:34 AM and reconvened at 10:47 AM.

181

182 **8. Discussion on occupational therapy documentation and the OT Rules, including**
183 **Chapter 372, Provision of Services, and §374.4, Code of Ethics**

184 The Board discussed occupational therapy documentation and the OT Rules. The Board
185 referred this item to the Rules Committee.

186
187 Amanda Jean Ellis joined the meeting at this time.

188
189 **9. Discussion on supervision requirements, including regarding the following rule**
190 **sections:**

- 191 **A. Chapter 362, Definitions**
- 192 **B. §364.3, Temporary License**
- 193 **C. Chapter 369, Display of Licenses**
- 194 **D. Chapter 372, Provision of Services**
- 195 **E. Chapter 373, Supervision**

196 The Board discussed supervision requirements. The Board referred this item to the Rules
197 Committee.

198
199 **10. Discussion on practice and supervision requirements in non-traditional,**
200 **community, and/or wellness-based roles or settings, including regarding the**
201 **following rule sections:**

- 202 **A. Chapter 362, Definitions**
- 203 **B. §364.3, Temporary License**
- 204 **C. Chapter 369, Display of Licenses**
- 205 **D. Chapter 372, Provision of Services**
- 206 **E. Chapter 373, Supervision**
- 207 **F. Chapter 376, Registration of Facilities**

208 The Board discussed practice and supervision requirements in non-traditional, community,
209 and/or wellness-based roles or settings. The Board referred this item to the Rules Committee.

210
211 **11. Discussion on Chapter 367, Continuing Education, and continuing education**
212 **requirements, including on acceptable and unacceptable continuing education,**
213 **the definition of continuing education, categories of continuing education, the**
214 **continuing education approval process and pre-approved CE, required continuing**
215 **education hours and the fulfillment of continuing education requirements for**
216 **license renewal, and continuing education documentation**

217 The Board discussed Chapter 367, Continuing Education, and continuing education
218 requirements. The Board referred this item to the Education Committee.

219
220 The Board recessed at 12:19 PM.

221
222 The Board reconvened at 3:07 PM on November 17, 2018.

223
224 Blanca Cardenas joined the meeting at this time and date.

225
226 **12. Rules Committee Report**

227 **Discussion and possible action on recommendations from the Rules Committee**
228 **including the following items:**

229 **A. Discussion on supervision requirements, including regarding the following**
230 **rule sections:**

- 231 1. **Chapter 362, Definitions**
- 232 2. **§364.3, Temporary License**
- 233 3. **Chapter 369, Display of Licenses**
- 234 4. **Chapter 372, Provision of Services**
- 235 5. **Chapter 373, Supervision**

236 DeLana Honaker delivered the Rules Committee report and noted the following:

237
238 The Rules Committee discussed supervision requirements, including of non-licensed personnel,
239 temporary licensees, and occupational therapy assistants.

240
241 The Rules Committee discussed returning to the topic of the supervision of an occupational
242 therapy assistant at a future meeting, during which it may consider possible rule changes
243 including the removal of requirements concerning the Occupational Therapy Assistant
244 Supervision form and the revision of requirements concerning required supervision hours for an
245 occupational therapy assistant with a regular license.

246
247 The Board discussed the agenda item.

248
249 **B. Discussion on practice and supervision requirements in non-traditional,**
250 **community, and/or wellness-based roles or settings, including regarding**
251 **the following rule sections:**

- 252 1. **Chapter 362, Definitions**
- 253 2. **§364.3, Temporary License**
- 254 3. **Chapter 369, Display of Licenses**
- 255 4. **Chapter 372, Provision of Services**
- 256 5. **Chapter 373, Supervision**
- 257 6. **Chapter 376, Registration of Facilities**

258 DeLana Honaker noted that the Rules Committee discussed practice and supervision
259 requirements in non-traditional, community, and/or wellness-based roles or settings and
260 discussed returning to the topic at a future meeting, during which it may discuss a Frequently
261 Asked Question (FAQ) for the Board's website concerning the topic.

262
263 The Board discussed the agenda item.

264
265 **C. Discussion on occupational therapy documentation and the OT Rules,**
266 **including Chapter 372, Provision of Services, and §374.4, Code of Ethics**

267 DeLana Honaker noted that the Rules Committee discussed occupational therapy
268 documentation and discussed returning to the topic at a future meeting, during which it may
269 consider possible rule changes regarding documentation including documentation for a referral
270 or plan of care.

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272 The Board discussed the agenda item.

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D. Discussion and possible action on questions received by the Texas Board of Occupational Therapy Examiners related to the OT Practice Act and Board Rules

DeLana Honaker noted that no questions were discussed during the agenda item and no action was taken.

The Board recessed at 4:41 PM and reconvened at 4:59 PM.

13. Education Committee Report
Discussion and possible action on recommendations from the Education Committee including the following items:

A. Discussion on Chapter 367, Continuing Education, and continuing education requirements, including on acceptable and unacceptable continuing education, the definition of continuing education, categories of continuing education, the continuing education approval process and pre-approved CE, required continuing education hours and the fulfillment of continuing education requirements for license renewal, and continuing education documentation

Todd Novosad delivered the Education Committee report and noted the following:

The Education Committee discussed Chapter 367, Continuing Education, and continuing education requirements, including acceptable and unacceptable continuing education, the definition of continuing education, categories of continuing education, the continuing education approval process and pre-approved CE, required continuing education hours and the fulfillment of continuing education requirements for license renewal, and continuing education documentation. He noted that the Education Committee discussed returning to the topic at a future meeting, during which it may consider possible rule changes including concerning the number of required continuing education hours, acceptable and unacceptable continuing education, and categories of continuing education.

The Education Committee also requested that the American Occupational Therapy Association and the Texas Occupational Therapy Association be asked to submit information concerning their respective continuing education approval programs in advance of the Education Committee's next CE Approval Process review, tentatively scheduled for the next Education Committee meeting.

The Board discussed the agenda item.

B. Discussion on acceptable and unacceptable continuing education and continuing education documentation

Todd Novosad noted that acceptable and unacceptable continuing education and continuing education documentation were discussed during the Education Committee's agenda item concerning continuing education and noted during agenda item 13.A. No action was taken.

318 **C. Discussion and possible action on questions received by the Texas Board**
319 **of Occupational Therapy Examiners related to continuing education**

320 Todd Novosad noted that there were no questions discussed during the agenda item and no
321 action was taken.

322

323 **14. Discussion and possible action on the election of board officers**

324 Stephanie Johnston noted that as new board members had been recently appointed, elections
325 would be held at the meeting for the officer positions of Vice Chair and Secretary.

326

327 **Motion: To elect Todd Novosad as Board Vice Chair**

328 **Made by: Sally Harris King**

329 **Second by: Karen Gardner**

330 **Motion passed.**

331

332 **Motion: To elect DeLana Honaker as Board Secretary**

333 **Made by: Todd Novosad**

334 **Second by: Karen Gardner**

335 **Motion passed.**

336

337 Stephanie Johnston, in addition, noted that new committee assignments had been made and
338 that with regard to the Executive Council, Amanda Jean Ellis would serve as the Board's public
339 member representative and Karen Gardner as the alternate professional member
340 representative.

341

342 **15. Discussion and possible action on the OT Coordinator's Report. The**
343 **Coordinator's Report may concern any items listed on the agenda and events that**
344 **have occurred between this meeting and the Board's last meeting.**

345 Lea Weiss discussed recent activities at the Board, updates regarding the licensing system and
346 website, and information regarding Board licensing statistics. No action was taken on the
347 agenda item.

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349 **16. Discussion and possible action on the Presiding Officer's Report. The Presiding**
350 **Officer's Report may concern any items listed on the agenda and events that have**
351 **occurred between this meeting and the Board's last meeting.**

352 Stephanie Johnston thanked everyone for their participation. No action was taken on the
353 agenda item.

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355 **17. Discussion and possible action on scheduling future Board meeting dates and**
356 **agenda items for future consideration**

357 Stephanie Johnston noted that Board meetings have been scheduled for February 1, 2019; May
358 3, 2019; August 2, 2019; and November 15, 2019; with possible committee meetings to be held
359 January 31 and February 1, 2019; May 2 and 3, 2019; August 1 and 2, 2019; and November 14
360 and 15, 2019.

361

362 The Board discussed agenda items for future consideration. Stephanie Johnston noted that
363 possible agenda items for the upcoming meeting may include items related to supervision

364 requirements; practice and supervision requirements in non-traditional, community, and/or
365 wellness-based roles or settings, documentation, and continuing education requirements and
366 the continuing education approval process.

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368 **18. Adjournment**

369 The Board adjourned at 5:50 PM.

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371 **Minutes adopted on:** February 1, 2019