

1 **TEXAS BOARD OF OCCUPATIONAL THERAPY EXAMINERS**

2 Board Meeting
3 333 Guadalupe St #2-510
4 Austin, TX 78701
5 July 31-Aug 1, 2008
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8 Members Present: Cecilia Fierro, OTR, Presiding Officer
9 Judith Chambers, Public Member
10 Dely De Guia Cruz, Public Member
11 Stephanie Johnston, OTR
12 Clarissa Meyers, OTR
13 Pamela Nelson, Public Member
14 Bobby James Vasquez, OTR
15

16 Members Absent: Michael Carreon, COTA
17 Joseph Messmer, COTA
18

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

25 Guests: Lynda Jennings, OTR, President-Elect, TOTA
26 Mary Hennigan, MOT, Executive Director, TOTA
27 Kathy Hutto, Legislative Advisor, TOTA
28 John Haislet, Attorney General Intern
29 Tony Gillman, Governor's Office
30

31
32 **I. Call to Order**

33 Cecilia Fierro, Presiding Officer, called the roll and established that a quorum existed.
34 The meeting was called to order at 9:49 AM.
35

36 **8. Discussion and Action TOTA's request for CE pre-approval**

37 The board moved to item number eight on the agenda to prepare for the afternoon meeting with
38 the Texas Occupational Therapy Association (TOTA). The Board discussed questions and
39 concerns based on the written material received from TOTA. The agency is familiar with the
40 Texas Physical Therapy Association's (TPTA) CE model and discussed recommending to
41 TOTA that they model their CE system, forms, audit, and quarterly reports on TPTA's method.
42 The board focused on the frequently asked questions prepared by TOTA and made a list of
43 concerns. Bobby Vasquez offered to be the spokesman for the board and ask the board's
44 questions.
45

46 The Board discussed several sections of the OT Practice Act, §454.252 and §454.253, Renewal
47 of License and Renewal of Expired License by Out-Of-State Practitioner needs to have the
48 reference to the cost of the national examination removed from these two chapters, so the
49 Executive Council can set the late fee and restoration fee. The Board thinks that the process is
50 onerous for those who do not meet the requirements to restore their license and should be
51 changed. The Board would like to change (b) in §454.006, Practice of Occupational Therapy
52 and replace the language with a non-medical model. Ms. Johnston suggested adding the word,
53 "spiritual" to the language.

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2 The board recessed at 11:50am.
3 The board returned to the agenda at 1:47pm.
4 Mary Hennigan, Lynda Jennings and Kathy Hutto joined the board to present TOTA's proposed
5 CE approval process.
6
7 Bobby James Vasquez questioned the number of reviewers, the order of the review, and the
8 educational degrees required to be a reviewer. He questioned how TOTA will communicate
9 their concerns to the board; how the number of pages or hours needed to complete a course
10 would be relevant to CE, how courses would be posted for licensees to find, and how TOTA
11 would conduct their provider audits. Lastly, what would be the function of TOTA's continuing
12 education committee?
13
14 TOTA agreed to remove the initial reviewer process and remove the Masters Degree
15 requirement from the course reviewer's criteria.
16
17 Further revisions to the TOTA proposal are due September 1, October 1 and November 1.
18 TOTA passed out some materials including the Memorandum of Understanding (MOU) between
19 TOTA and the Board.
20
21 Kathy Hutto questioned whether the Practice Act needed to be amended to amend §454.254,
22 Mandatory Continuing Education. Our attorney Kevin Heyburn will look at this and get back to
23 the Board and Kathy Hutto about this.
24
25 The Board returned to its regular agenda.
26 6. Discussion and possible adoption of proposed and published amendments:
27 A. §373.3, Supervision of a Licensed Occupational Therapy Assistant
28 Motion: To adopt the proposed amendment with change in wording from
29 proposed "therapist" to COTA/LOTA.
30 Made by: Bobby Vasquez
31 Second: Judith Chambers
32 Motion Passed.
33 The Rules Committee will look at this section again.
34
35 B. §374.1 Fees
36 Motion: To adopt the proposed amendment as published which will refer readers
37 to the Executive Council's fees.
38 Made by: Bobby Vasquez
39 Second: Judith Chambers
40 Motion passed
41
42 C. §376.3 Requirements for Facility Registration
43 Motion: To adopt the proposed amendment as published, which would clarify the
44 Therapist in Charge form.
45 Made by: Stephanie Johnston
46 Second: Dely Cruz
47 Motion passed.
48
49 D. §376.4 Requirements for Registered Facilities, which clarifies when new
50 facility registration and renewal cards must be ordered.
51 Motion: To adopt the proposed amendment as published.
52 Made by: Bobby Vasquez
53 Second: Judith Chambers
54 Motion passed.

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2 7. Discussion and possible action on proposing amendments to §362.1 Definitions
3 Motion: To publish proposed amendments to §362.1
4 Made by: Judith Chambers
5 Second: Dely Cruz
6 Motion passed.
7

8 The Board recessed at 4:30PM.
9

10 The Board reconvened at 9:37AM on August 1, 2008
11 Clarissa joined the board meeting at this time.
12

13 **2. Public Comment**

14 No comment
15

16 **3. Approval of Minutes of April 25, 2008**

17 Motion: To approve minutes as corrected
18 Made by: Judith Chambers
19 Second by: Dely Cruz
20 Motion passed.
21

22 **4 Discussion and Possible Action On Executive Director's Report concerning fiscal
23 and budgetary matters, performance measures, the Executive Council, agency
24 personnel, strategic plan, ongoing projects, and other agency business.**

25 Mr. Maline presented his report which included the statistics on the agency's income, expenses
26 and performance measures. John passed out the agency's new 2009-2013 Strategic Plan. He
27 also referred to the Legislative Appropriation Request which he has finished and will be mailing
28 out to the board members.
29

30 **5. Investigation Committee Report**

31 **A. Review and Possible Action on Agreed Orders#: 08-36; 08-55; 08-73; 08-
32 79; 08-84; 08-88; 08-102; 08-104; 08-106 and 08-109.**
33

34 A. The Board voted to ratify orders: 08-79; 08-73; 08-88; 08-109; 08-36; 08-106;
35 and 08-84.
36

37 **B. Discussion of committee meetings on April 3, 2008**

38 The Committee reviewed 40 cases which resulted in 10 Agreed Orders and 1
39 informal conference.
40

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

42 Mr. Turek reported that 44 complaints were completed, resulting in 16 Agreed
43 Orders, at an average cost of \$131 in 87 days.
44
45

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

47 Augusta Gelfand referred to her written report. She deferred to Kevin Heyburn to discuss the
48 advisory published on DADS website, named Advisory 08-17. This advisory has resulted in
49 many phone calls and additional facility registrations for nursing homes and assisted living
50 facilities providing outpatient OT and PT. Kevin said that the Department of State Health
51 Services should be publishing their version of the advisory for satellite facilities soon.
52

1 Augusta reported on the status of the licensees' minimum data set which is required by SB 29.
2 Tony Gillman from the Governor's office who is the representative to the Health Professional
3 Council and the health licensing boards introduced himself and offered to assist the board.
4

5 Return to agenda item #8B. John Maline summarized the way he thought the Practice Act
6 issues had been discussed.
7

8 **10. Presiding Officers Report**

9 There was no written report. Cecelia thanked the board for participating in the lengthy meeting
10 with TOTA and expressed the interest of the Board to work and communicate with TOTA and a
11 collaborative manner.
12

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

14 The future board dates are: November 21, 2008; February 20, and May 8, all in Austin.
15

16 **12. Adjournment**

17 The Board adjourned at 10:50 AM
18

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20 The Board adopted the Minutes on: November 21, 2008