

1 **TEXAS BOARD OF OCCUPATIONAL THERAPY EXAMINERS**

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2 Board Meeting  
3 Omni Mandalay Hotel  
4 221 East Colinas Blvd.  
5 Las Colinas Boardroom  
6 Irving, TX 75039  
7 November 17, 2006  
8 10:00 AM  
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10 Members Present: **Jean Polichino, OTR and Presiding Officer**  
11 **Cecilia Fierro, OTR and Secretary**  
12 **Grace Butler, PhD, Public Member**  
13 **Judith Bowen, OTR**  
14 **David Cabrales, Public Member**  
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17 Members Absent: Clarissa Meyers, OTR  
18 Joseph Messmer, COTA  
19 Dely De Guia Cruz, Public Member  
20 Michael Carreon, COTA  
21

22 Staff: John Maline, Executive Director  
23 Augusta Gelfand, OT Coordinator  
24 Mark Turek, Chief Investigator  
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27 Guests: Larry Duron, TOTA Political Affairs Chair  
28 Joan Bell, TOTA Education Chair

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30 **I. Call to Order**

31 Jean Polichino, Presiding Officer, called the meeting to order at 10:15 AM. She called  
32 the roll and established that a quorum existed.  
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34 **10. Presiding Officer's Report**

35 Ms. Polichino moved agenda item # 10 to the beginning of the agenda.  
36

37 Ms. Polichino asked Mr. Maline to describe the Sunset review process, which begins  
38 next summer with a self-evaluation. Mr. Maline explained that there would be a  
39 thorough review by the Sunset Commission, including hearings and ending with  
40 recommendations and legislation in 2009. In preparation for that process, Ms. Polichino  
41 suggested that the board review the OT Practice Act, look at AOTA's model Practice Act  
42 and Practice Framework, and bring forth any recommendations.  
43

44 Ms. Polichino introduced the guests from TOTA and displayed a flyer she received in the  
45 mail from a TOTA approved provider advertising questionable courses including, "PT  
46 Treatment of the Shoulder." Ms. Bell and Mr. Duron answered questions about their  
47 current program, their approved provider audit, and their proposed tightening of the  
48 criteria. The board emphasized that they thought the changes already had been made;  
49 and that approving each course would be a big improvement. The board wants TOTA to  
50 make the determinations on Type 1 and Type 2 in their approval process, and not have

1 the approved providers making the decision. Dr. Butler suggested a decision tree be  
2 utilized as the board would like answers on what happens to approved providers who do  
3 not follow TOTA's criteria. Ms. Bell stated that the committee could and would make the  
4 changes the Board requested and would report back to the board at the next meeting.

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6 **2. Public Comment**

7 No comment

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9 **3. Approval of Minutes from August 4, 2006**

10 Motion: To approve minutes as written

11 Made by: Cecilia Fierro

12 Second by: Judith Bowen

13 Motion passed.

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15 **4. Discussion and Possible Action On Executive Director's Report concerning**  
16 **fiscal and budgetary matters, annual performance measures, the Executive**  
17 **Council, agency personnel, ongoing projects, the upcoming legislative**  
18 **session, and other agency business.**

19 Mr. Maline explained the annual financial reports and statistics for the agency, covering  
20 the final fiscal year numbers and the 2006-07 budget. He pointed out the charts in his  
21 report reflecting performance measures. The growth of OT practitioners in Texas was  
22 reflected in the statistics.

23  
24 **5. Discussion and possible action on issues relating to facility registration.**

25 Mr. Maline told the Board that facility registration had changed over time and that a letter  
26 from a facility has focused the agency to look at special situations i.e. out-patient therapy  
27 services in nursing homes and satellite rehabilitation facilities owned by hospitals.

28  
29 **Motion: To charge Mr. Maline with writing a letter to request an Attorney**  
30 **General's option on the facility issues.**

31 **Made by: David Cabrales**

32 **Second: Cecilia Fierro**

33 **Motion passed.**

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35 The Board took a short recess at 11:40 AM and reconvened at 11:50 AM.

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37 **6. Investigation Committee Report**

38 **A. Review and Possible Action on Agreed Orders#: 06-27; 06-40; 06-46; 06-54;**  
39 **06-57; 06-67; 06-69; 06-77; 06-81; 06-94; and 07-06.**

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41 The Investigation Committee moved to accept each of the following Agreed Orders, and  
42 the Board passed each motion unanimously with no discussion.

43 #06-77; #06-54; #06-81; #07-06; 06-67; 06-94; 06-69; 06-47;06-40; 06-46; and 06-58.

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45 **B. Discussion of committee meetings on August 4, 2006 and October 28, 2006**

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

48 During the 4<sup>th</sup> quarter, TBOTE received 34 jurisdictional cases. The investigators  
49 resolved 26 cases in an average of 154.5 days and at a cost of \$91.66 per case.

1 **7. Rules Committee Report**

2 Discussion and possible adoption of proposed amendments to rules: §372.1; §376.1; §370.1;  
3 and §367.1

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5 A. §376.1, Definitions (Facility)

6 **Motion: To proposed an amendment to § 376.1 adding a definition for Linked**  
7 **Facility.**

8 **Made by: Judith Bowen**

9 **Second by: David Cabrales**

10 **Motion passed.**

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12 **8. Cecilia Fierro's Report on the NBCOT Conference**

13 Ms. Fierro reported on the information she received at NBCOT conference on evidence based  
14 performance. The title was misleading in that it didn't reflect OT's performance, but the  
15 agency's performance. Evidence based performance was emphasized for rule making, agency  
16 performance and compliance reporting. Cecilia reported that Texas already uses these  
17 measures in our reported performance measures, and in our reporting to HIPDB. She pointed  
18 out that some states may not want this type of public reporting if it reflects poorly on their  
19 performance statistics.

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22 **9. OT Coordinator's Report**

23 Ms. Gelfand mentioned that NBCOT has announced new criteria for exam criteria, with a  
24 master's level degree required; also the waiting period for retaking of the exam has shortened  
25 from 90 days to 45 days. She mentioned the recent decline in the accuracy of NBCOT's Score  
26 Reports. She said that NBCOT had responded to her letter in May that the new reporting  
27 system was in testing phase and would be installed over the summer. This has not occurred.  
28 Jean Polichino offered to write to their board and express our frustrations with the system.

29  
30 Ms. Gelfand also noted the board packet information from the Texas Department of State  
31 Health Services, in which they print information on the professions, including occupational  
32 therapy practitioners. The statisticians are requesting from health licensing agencies a  
33 minimum data set (MDS) for all licensees. Senator Jane Nelson has filed a bill requiring all  
34 health licensing boards to collect the MDS as a non-funded mandate. Ms. Gelfand reported  
35 that she is participating with the HPC and DIR to collect that data, probably with renewals.

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

39 February 16, 2006 is the next board meeting date.

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41 **12. Adjournment**

42 The Board adjourned at 12:02 AM

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The Board adopted the Minutes on: February 17, 2007