

1 **Texas Board of Occupational Therapy Examiners**

2 **BOARD MEETING MINUTES**

3 Videoconference Call

4 October 29, 2021

5 333 Guadalupe, Suite 2-510

6 Austin, TX 78701

7 8:30 AM

8  
9 **Members Present:** Jacob Boggus, Public Member  
10 Jennifer Clark, COTA  
11 Karen Gardner, OTR, Secretary  
12 Eddie Jessie, Public Member  
13 Stephanie Johnston, OTR, OTD, FAOTA, Chair  
14 Sally Harris King, COTA  
15 Todd Novosad, OTR, Vice Chair

16  
17 **Members Absent:** Blanca Cardenas, Public Member

18  
19 **Counsel Present:** Rosalind Hunt, Assistant Attorney General

20  
21 **Staff Present:** Amy Carter, Director of Enforcement  
22 Randall Glines, Staff Services Officer  
23 Ralph Harper, Executive Director  
24 Karissa Rodriguez, Licensing Manager  
25 Lea Weiss, OT Coordinator

26  
27 **The Texas Board of Occupational Therapy Examiners may discuss and/or take action on**  
28 **any of the following agenda items. The Board may go into executive session on any**  
29 **agenda item listed below as authorized by the Open Meetings Act, Texas Government**  
30 **Code Chapter 551.**

31  
32 **1. Call to Order**

33 The meeting was called to order at 8:35 AM by Stephanie Johnston, Presiding Officer, who was  
34 physically present at the location of the meeting open to the public. She called the roll and  
35 announced that a quorum existed.

36  
37 **2. Excusing Board Member absences**

38 **Motion:** To approve the excuse of Blanca Cardenas for the absence at the meeting

39 **Made by:** Karen Gardner

40 **Second by:** Jacob Boggus

41 **Motion passed.**

42  
43 **3. Public Comment**

44 There was no public comment.

45  
46 **4. Minutes of August 6, 2021**

47 **Motion: To approve the minutes**  
48 **Made by: Sally Harris King**  
49 **Second by: Todd Novosad**  
50 **Motion passed.**

51

52 **5. Executive Director's Report concerning fiscal and budgetary matters, performance**  
53 **measures, ongoing projects, agency personnel matters, Executive Council**  
54 **activity, recent and current legislative sessions, and other agency business**

55 Ralph Harper briefed the Board on fiscal and budgetary matters, performance measures,  
56 ongoing projects, agency personnel matters, Executive Council activity and updates regarding  
57 the slated relocation of the agency, along with other state agencies located in the William P.  
58 Hobby building, to a new capital area complex in Austin in 2022. Ralph Harper noted updates  
59 regarding the Centralized Accounting and Payroll/Personnel System (CAPPS) Financials  
60 program and recent reviews of the agency's activities, including the State Office of Risk  
61 Management (SORM) Risk Management Program Review and the State Auditor's Office (SAO)  
62 Audit on Licensing and Enforcement.

63

64 **6. Investigation Committee Report concerning:**

65 **A. Agreed Orders for case #s: 21-364, 21-380, 21-381, 21-383, 21-385, 21-386,**  
66 **21-401, 21-405, 21-409, 21-414, 21-416, 21-422, 21-450, 21-451, and 21-465**

67 Amy Carter presented motions from the Investigation Committee to approve agreed orders for  
68 the following case numbers: 21-409, 21-414, 21-422, and 21-451.

69

70 The Board approved the agreed orders.

71

72 Agreed orders for the remaining cases were not presented to the Board.

73

74 **B. Number of cases reviewed, Agreed Orders issued, informal conferences,**  
75 **administrative suspensions under Texas Occupations Code §454.255(b),**  
76 **and other investigative matters discussed during the Investigation**  
77 **Committee Meeting of September 28, 2021**

78 Amy Carter reported that ninety cases were reviewed by the Investigation Committee at the  
79 September 28, 2021 meeting. Thirteen orders were issued by the Investigation Committee, four  
80 of which were accepted. No informal conferences were held.

81

82 Amy Carter addressed administrative suspensions under Texas Occupations Code  
83 §454.255(b).

84

85 Amy Carter reported on case number 21-416 and that pursuant to §454.255(b) of the  
86 Occupational Therapy Practice Act, the individual's license would be administratively suspended  
87 due to failure to complete the fingerprinting requirement.

88

89 **C. Performance measures, on-site investigation visits, school presentations,**  
90 **Texas State Auditor's Office enforcement report, and other investigative**  
91 **activities that have occurred between this meeting and the Board's last**  
92 **meeting**

93 Amy Carter reported on performance measures, on-site investigation visits, school  
94 presentations, the State Auditor's Office (SAO) Audit on Licensing and Enforcement, and other  
95 investigative activities that have occurred between this meeting and the Board's last meeting.  
96

97 **D. Proposing changes to 40 Texas Administrative Code (TAC) Chapter 370,**  
98 **License Renewal, concerning adding language regarding administrative**  
99 **suspensions and refusal to renew a license**

100 Amy Carter and Stephanie Johnston addressed a possible new rule for proposal, §370.4,  
101 relating to Administrative Suspension and Refusal to Renew a License.  
102

103 **Motion: To approve publishing for public comment proposed new rule §370.4,**  
104 **relating to Administrative Suspension and Refusal to Renew a License**

105 **Made by: Karen Gardner**

106 **Second by: Sally Harris King**

107 **Motion passed.**  
108

109 **7. Presentation by the Regulatory Compliance Division of the Office of the Governor**  
110 **regarding regulatory issues concerning market competition**

111 Erin Bennet, Director, and Julie Davis, Counsel, of the Regulatory Compliance Division of the  
112 Office of the Governor delivered a presentation regarding regulatory issues concerning market  
113 competition, including regarding the division's review process concerning proposed rules and  
114 proposed rule reviews.  
115

116 **8. Adopting changes to 40 TAC §364.5, Recognition of Out-of-State License of**  
117 **Military Spouse, including pursuant to HB 139 of the 87th Regular Legislative**  
118 **Session**

119 Lea Weiss addressed proposed changes concerning §364.5, Recognition of Out-of-State  
120 License of Military Spouse, and noted that the changes would allow a military spouse to show  
121 proof of residency by submitting a permanent change of station order, pursuant to HB 139 of the  
122 87th Regular Legislative, and included adding that individuals update the Board of certain  
123 changes. Lea Weiss noted that no public comment had been received regarding the proposal.  
124

125 **Motion: To adopt proposed rule §364.5, relating to Recognition of Out-of-State**  
126 **License of Military Spouse, as published, with an effective date of**  
127 **December 1, 2021, or as soon as possible thereafter**

128 **Made by: Todd Novosad**

129 **Second by: Eddie Jessie**

130 **Motion passed.**  
131

132 **9. Rules Committee Report concerning possible changes to the following rules in 40**  
133 **TAC, concerning: definitions, consumer/licensee information, display of licenses,**  
134 **changes of name or address, the use of titles, license renewal, the restoration of a**  
135 **license expired one year or more, the provision of services, including with regard**  
136 **to telehealth, and the supervision of non-licensed personnel**

137 **A. Chapter 362, Definitions**

138 **B. §363.1, Consumer/Licensee Information**

- 139 C. Chapter 369, Display of Licenses
- 140 D. Chapter 370, License Renewal
- 141 E. Chapter 372, Provision of Services
- 142 F. §373.1, Supervision of Non-Licensed Personnel

143 Lea Weiss delivered the Rules Committee report.

144  
145 With regard to the use of titles, Lea Weiss addressed the use of the title doctor and noted  
146 that the Legislature had included in the OT Practice Act §454.007. Use of Title of Doctor.

147  
148 Lea Weiss also noted that the committee had discussed the items listed and highlighted the  
149 committee's discussion regarding definitions, changes of name or address, the use of titles, the  
150 restoration of a license expired one year or more, the provision of services, including with regard  
151 to telehealth, and the supervision of non-licensed personnel. Lea Weiss noted that the  
152 committee did not recommend proposing changes during its meeting, but had discussed  
153 possibly recommending proposed changes at an upcoming Rules Committee meeting.

154  
155 Lea Weiss noted that the committee wished to discuss with the Board certain elements of the  
156 committee's discussion concerning definitions, the use of titles, the restoration of a license  
157 expired one year or more, the provision of services, including with regard to telehealth, and the  
158 supervision of non-licensed personnel, including concerning certain possible future changes  
159 regarding such. Lea Weiss reported on the committee's discussion regarding the items and  
160 Sally Harris King, the chair of the Rules Committee, and Karen Gardner, a member of the Rules  
161 Committee, addressed the items, as well.

162  
163 The Board discussed definitions, the use of titles, the restoration of a license expired one year  
164 or more, the provision of services, including with regard to telehealth, and the supervision of  
165 non-licensed personnel.

166  
167 The Board recessed at 10:49 AM and reconvened at 11:00 AM. Stephanie Johnston conducted  
168 a roll call and determined that a quorum existed.

169  
170 Eddie Jessie was no longer in attendance and was absent for the remainder of the meeting.

- 171
- 172 **10. Education Committee Report concerning:**
- 173 **A. Proposing changes to 40 TAC Chapter 367, Continuing Education,**
- 174 **including concerning the following:**
- 175 **i. current categories of continuing education activities and the**
- 176 **possible inclusion of additional categories**
- 177 **ii. continuing education documentation**

178 Todd Novosad, the chair of the Education Committee, and Lea Weiss delivered the Education  
179 Committee Report and addressed possible changes the Education Committee had  
180 recommended to Chapter 367. Lea Weiss reported on the changes and noted that such could  
181 be proposed to revise current continuing education requirements and add activities eligible for  
182 continuing education credit.

183

184 **Motion:** To approve publishing for public comment proposed rules §367.2, relating  
185 to Categories of Education, and §367.3, relating to Continuing Education  
186 Audit

187 **Made by:** Education Committee

188 **Second by:** None required

189 **Motion passed.**

190

191 **Motion:** To approve publishing for public comment proposed rule §367.1, relating to  
192 Continuing Education

193 **Made by:** Education Committee

194 **Second by:** None required.

195 **Motion passed.**

196

197 **B. Acceptable and unacceptable continuing education**

198 Todd Novosad reported on the committee's discussion regarding acceptable and unacceptable  
199 continuing education. Jennifer Clark, a member of the Education Committee, and Lea Weiss  
200 addressed the item, as well. The Board discussed the item.

201

202 **11. OT Coordinator's Report, concerning developments in the field of occupational**  
203 **therapy and updates regarding regulatory matters in occupational therapy,**  
204 **including Board licensing, CE audit, and entry-level occupational therapy**  
205 **accreditations statistics and updates; recent and developing legislation; trends**  
206 **and developments in occupational therapy regulations; and the development of an**  
207 **interstate licensure compact in occupational therapy by the Council of State**  
208 **Governments, the American Occupational Therapy Association, and the National**  
209 **Board for Certification in Occupational Therapy**

210 Lea Weiss reported on Board licensing, CE audit, and entry-level occupational therapy  
211 accreditations statistics and updates and the development of an interstate licensure compact in  
212 occupational therapy by the Council of State Governments, the American Occupational Therapy  
213 Association, and the National Board for Certification in Occupational Therapy.

214

215 **12. Presiding Officer's Report, concerning developments in the field of occupational**  
216 **therapy and updates regarding regulatory matters in occupational therapy,**  
217 **including entry-level occupational-therapy accreditation updates; trends and**  
218 **developments in occupational therapy regulations, practice, standards, and**  
219 **guidelines; the development of an interstate licensure compact in occupational**  
220 **therapy by the Council of State Governments, the American Occupational Therapy**  
221 **Association, and the National Board for Certification in Occupational Therapy;**  
222 **Board and committee appointment updates; and regulatory conferences and**  
223 **events**

224 Stephanie Johnston commented on regulatory conferences and events.

225

226 **13. Future Board meeting dates and agenda items for future consideration**

227 Stephanie Johnston noted that Board meetings had been scheduled for February 4, 2022; May  
228 6, 2022; August 5, 2022; and October 28, 2022, with possible committee meetings to be held

229 February 3 and 4, 2022; May 5 and 6, 2022; August 4 and 5, 2022; and October 27 and 28,  
230 2022.

231

232 **14. Adjournment**

233 The Board adjourned at 11:42 AM.

234

235 **Minutes approved on:** February 4, 2022