

# TBOTE *★news*

The Texas Board of Occupational Therapy Examiners

December 2017

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Previous newsletters, forms, and FAQs are available from the website:

[www.ptot.texas.gov](http://www.ptot.texas.gov).

## Next Board Meeting Date

February 2, 2018  
Austin, TX

## TBOTE BOARD

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## Notes from the Coordinator

### Proposed or Adopted Rule Changes

There were no rule changes adopted at the Board's most recent meeting.

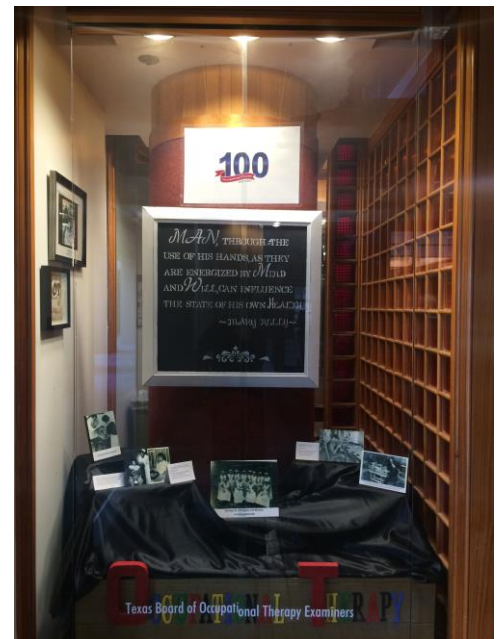
The Board has proposed amendments to §362.1. Definitions, §367.2. Categories of Education, and §372.1. Provision of Services, in addition to new rules §363.3. Negotiated Rulemaking, §363.4. Alternative Dispute Resolution, and §367.4. Process for Selecting a Peer Organization to Evaluate and Approve Continuing Education Courses.

Please see further information in this newsletter regarding the proposals.

### New Board Display:

There is a new theme in TBOTE's display booth in the lobby of the William P. Hobby, Jr. Building, where TBOTE's office is located.

The display was created by Jeremy Burke, Veronica Franco, Joslyn Rivera, Jennifer Nguyen, Anthony Alyiar, Imelda Mendiola, Evaristo Terrones, Corinne Cole, and Charlie Nguyen, students from the Lone Star College–Tomball Occupational Therapy Assistant program.



## Introduction to Proposed Rule Changes from the November Board Meeting

*These are **PROPOSED** rule changes.  
The current rules are in effect.*

The Board has proposed amendments to §362.1. Definitions, §367.2. Categories of Education, and §372.1. Provision of Services, in addition to new rules §363.3. Negotiated Rulemaking, §363.4. Alternative Dispute Resolution, and §367.4. Process for Selecting a Peer Organization to Evaluate and Approve Continuing Education Courses.

The proposals have been published in the December 8, 2017 issue of the [Texas Register](#). A PDF of the proposals has been uploaded to the Board's [Act and Rules](#) page, as well.

Please note that the information that follows is just a brief introduction; refer to the full proposals for further information.

**Comments:** Comments on the proposed amendments and proposed new rules may be submitted to Lea Weiss, Occupational Therapy Coordinator, Texas Board of Occupational Therapy Examiners, 333 Guadalupe Street, Suite 2-510, Austin, Texas 78701-3942 or to [lea@ptot.texas.gov](mailto:lea@ptot.texas.gov) no later than 30 days from the date that these proposed amendments and proposed new rules are published in the *Texas Register*.

If sending comments, please include the rule number in your comment and please also write "OT Public Comment – Proposed Rules" in the subject line if sending an email.

*A general overview of the proposed amendments and new rules appears below; refer to the full published proposals for further information.*

### **Introduction to Proposed Amendments and Proposed New Rules:**

#### **§362.1. Definitions.**

The amendments to §362.1 are proposed to cleanup and clarify the section and to revise the Board's definition of telehealth.

Cleanups and clarifications pertain to amending a reference to the Occupational Therapy Practice Act under the definition of examination and to adding to the definition of jurisprudence examination that such is an online examination and that the passing score is at least seventy percent.

The definition of telehealth in the proposed amendment has been revised to more closely align it with the current definition of telehealth service in Occupations Code, §111.001, Definitions, as amended by SB 1107 from the 85<sup>th</sup> Legislative Session (Regular).

### **§363.3. Negotiated Rulemaking.**

### **§363.4. Alternative Dispute Resolution.**

The new rules are proposed in order to comply with statutory amendments to §454.108 of the Occupational Therapy Practice Act regarding establishing a policy on Negotiated Rulemaking and Alternative Dispute Resolution.

### **§367.2. Categories of Education.**

### **§367.4. Process for Selecting a Peer Organization to Evaluate and Approve Continuing Education Courses.**

The amendment to §367.2 is proposed to clarify, cleanup, and revise the section regarding continuing education requirements. The proposed new rule, §367.4, would establish a process for selecting a peer organization to evaluate and approve continuing education courses as required by recent statutory changes to §454.254(e) of the Occupational Therapy Practice Act.

The proposed amendment to §367.2 includes a cleanup regarding the continuing education documentation for home study courses, educational teleconferences, Internet-based courses, and video instruction to include that such may include a letter of verification. The amendment, furthermore, clarifies the continuing education documentation requirement for presentations by licensees to include that documentation shall include verification of presentation. In the amendment, a reference to documentation for this activity including a brochure or conference guide has been removed. Another revision is to remove the reference to TBOTE, the Texas Board of Occupational Therapy Examiners, from a provision regarding participation in volunteer activities related to occupational therapy for the purpose of tangible outcomes such as official documents, publications, and official reports.

Proposed new rule §367.4 would add to the Board Rules that if the Board chooses to authorize a license holder peer organization in Texas to evaluate and approve continuing education courses, the Board will conduct a request for proposals and bid process to select an organization and will request bids and proposals at least once every four years. New rule §367.4 is proposed pursuant to recent statutory changes to the Occupational Therapy Practice Act §454.254(e) during the 85<sup>th</sup> Legislative Session (Regular).

### **§372.1. Provision of Services.**

The amendments are proposed to cleanup and clarify the section in general and to revise and clarify the section's regulations regarding occupational therapy services provided via telehealth and modifications to the plan of care.

The amendments to the section would remove the requirement that the initial evaluation for a medical condition must be conducted in person and may not be conducted via telehealth. New language instead would include that the occupational therapist is responsible for determining whether any aspect of the evaluation may be conducted via telehealth or must be conducted in person. The amendments would also remove current language that the occupational therapist must have real time interaction with the client during the evaluation process either in person or via telehealth to instead include that the occupational therapist must have contact with the client

during the evaluation via telehealth using synchronous audiovisual technology or in person. The amendments would also add that other telecommunications or information technology may be used to aid in the evaluation but may not be the primary means of contact or communication. The amendments, in addition, would remove that the occupational therapy practitioners must have real time interaction with the client during the intervention process either in person or via telehealth and instead would include that the occupational therapy practitioners must have contact with the client during the intervention session via telehealth using synchronous audiovisual technology or in person. The amendments would add, as well, that other telecommunications or information technology may be used to aid in the intervention session but may not be the primary means of contact or communication. The amendments would, additionally, include that except where otherwise restricted by rule, the occupational therapy practitioner is responsible for determining whether any aspect of the intervention session may be conducted via telehealth or must be conducted in person. Concurrent with these changes, the provision requiring that the occupational therapist is responsible for determining whether any aspect of the provision of services may be conducted via telehealth or must be conducted in person has been removed in the proposal.

The amendments to §372.1 would also remove language that the occupational therapist and an occupational therapy assistant may work jointly to revise the short-term goals, but the final determination resides with the occupational therapist and that revisions to the plan of care and goals must be documented by the occupational therapist and/or occupational therapy assistant to reflect revisions at the time of the change. The amendment would add instead that modifications to the plan of care must be documented.

The amendments include further cleanups and clarifications including adding the phrase “discontinuation of occupational therapy services” under applicable provisions regarding a discharge.

## CE Documentation and the CE Audit

### CE Documentation

The Act mandates licensee participation in a continuing education program for license renewal. Licensees are responsible for choosing CE that meets requirement as per Chapter 367 of the OT Rules and for keeping accurate documentation of all continuing education activities. Licensees must earn a minimum of 30 hours of CE each renewal period.

Information regarding categories of CE activities and the required documentation for each can be found in §367.2, Categories of Education. §367.3, Continuing Education Audit, provides further information regarding documentation. For example, continuing education documentation includes, but is not limited to, an official transcript, AOTA self-study completion certificates, copies of official sign-in or attendance sheets, course certificates of attendance, and certificates of completion.

Documentation must identify the licensee by name, and must include the date and title of the course, the name and signature of the authorized signer, and the number of contact hours awarded for the course. When continuing education units (CEUs), professional development units (PDUs), or other units or credits are listed on the documentation, such must be accompanied by documentation from the continuing education provider noting the equivalence of the units or credits in terms of contact hours. This is not needed for AOTA CEUs, but be sure you know what such represent in hours. Remember that a contact hour is not the same as a learning credit, PDU, CAU, etc. When you renew, you must attest to your CE in contact hours.

Chapter 367 of the OT Rules may be accessed from the following link:

<http://www.ptot.texas.gov/page/ot-acts-and-rules>.

Please visit the [Continuing Education page](#) for additional resources including a sample certificate of completion.

### CE Audit

The Board administers four CE Audits per year and sends by mail an audit letter to each licensee randomly selected for inclusion. To ensure that you receive Board communication, keep your contact information current and remember that you must notify the Board in writing of changes in name; residential, business, mailing, and/or email address; and/or supervisor within 30 days of such changes.

Included licensees must submit by the deadline documentation of the CE for the renewal period considered by the audit. (For information regarding required documentation, please see above.) Knowingly providing false information or failure to respond during the audit process is grounds for disciplinary action.

The audit letter is also accompanied by a form for the licensee to complete with a summary of the activities and/or courses and information regarding the intended audience, objectives, and content.

In addition, licensees should submit when possible supporting documentation that helps demonstrate how an activity meets CE requirements. An official course description, syllabus, outline, and/or learning objectives, for example, are useful as a certificate often lists just the name of a course and does not provide further information about its content. When selecting courses to take for CE, licensees should retain this information whenever possible.

Please remember that when submitting CE documentation to the Board, only copies of documentation should be sent as the submission will not be returned.

By the conclusion of the audit, licensees will either receive an emailed letter stating they have satisfied the CE requirements or they will be contacted regarding their submission and any questions or concerns the Board may have. Please remember that the CE Audit process is not instantaneous and may take some time to conclude.

#### ***CE Reminder***

*As per §367.3(c) of the OT Rules, “The licensee is solely responsible for keeping accurate documentation of all continuing education requirements. Continuing education documentation must be maintained for two years from the date of the last renewal for auditing purposes.”*

*Consider strategies to enhance access to your stored CE documentation by creating a back-up system such as keeping a second copy in a different location. This way, if you are randomly selected for the OT CE Audit or otherwise must access your materials, you will have more than one method to do so.*

*For example, consider keeping electronic copies of your documentation in addition to the physical copies. If you scan your CE documentation and email yourself the file, you will have a copy you can access from any internet connection, regardless of your location or the physical condition of your documents.*



**OT BOARD FORMAL DISCIPLINARY ACTIONS TAKEN  
NOVEMBER 3, 2017 BOARD MEETING:**

- (1) Cathy Montgomery, COTA #206241 (Keller)** – failed to properly renew her license to practice; lacked sufficient number or type of hours required for license renewal. Violation of Section 454.301 of the Act and chapter 367 of the board rules. ***Board Order required sixty (60) hours of community service.***
- (2) Linda Drisdale, COTA #202134 (Austin)** – practiced in a detrimental manner by inaccurately documenting treatment rendered. Violation of Section 454.301 of the Act and chapter 374 of the board rules. ***Board Order suspended her license to practice for thirty (30) days.***
- (3) Douglas Lawler, COTA #213705 (Olathe, KS)** – practiced in a detrimental manner by inaccurately documenting treatment rendered. Violation of Section 454.301 of the Act and chapter 374 of the board rules. ***Board Order suspended his license to practice for thirty (30) days.***
- (4) Sarah Plotycia, OTR #115424 (Albany)** – practiced in a detrimental manner by inaccurately documenting treatment rendered. Violation of Section 454.301 of the Act and chapter 374 of the board rules. ***Board Order suspended her license to practice for forty-five (45) days.***
- (5) Maria Kidwell, COTA #211478 (Corsicana)** – practiced in a detrimental manner by using drugs to an extent that affected her professional competence; resulting in a failed drug test and termination of her employment. Violation of Section 454.301 of the Act and chapter 374 of the board rules. ***Board Order suspended her license to practice for thirty (30) days.***