

TBOTE news

The Texas Board of Occupational Therapy Examiners

February 2018

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Previous newsletters, forms, and FAQs are available from the website: www.ptot.texas.gov.

Next Board Meeting Date

May 4, 2018*
Austin, TX
*Subject to change

TBOTE BOARD

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Notes from the Coordinator

Adopted Rule Changes and PDF of the OT Rules

At its February, 2018 meeting, the Board adopted 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 rule changes will go into effect March 1, 2018.

A revised PDF of the compiled OT Rules will be uploaded to the website soon after the changes are in effect.

See page 2 for further information.

No rules were proposed at the February meeting.

Introduction to Adopted Rule Changes from the February Board Meeting

The Board has adopted 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 rule changes will take effect March 1, 2018. Until then, [the current rules](#) are in effect.

On March 1, 2018, the June, 2017 compiled PDF version of the OT Rules will no longer be up-to-date as it will not contain the recently adopted changes. An up-to-date version of the compiled rules will be available from the [Act and Rules page](#) soon after the changes take effect and will have “March, 2018” on the cover.

Similarly, the [Continuing Education page](#) will be updated soon after the changes are in effect.

Notice of the adoptions is published in the February 16, 2018, issue of the [Texas Register](#).

Note: *If CE you have completed for your current renewal period met the requirements of the OT Rules at the time, you will be able to use it when you renew.*

A general overview of the adopted rule changes appears below; refer to the [Act and Rules page](#) for further information and regulations. From that page, you can also access a link to search for previous versions of the OT Rules.

Introduction to Adopted Rule Changes

§362.1. Definitions.

The amendments are adopted 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 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 85th Legislative Session (Regular).

§363.3. Negotiated Rulemaking.

§363.4. Alternative Dispute Resolution.

The new rules are adopted 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.

New rule §363.3 adds to the Board Rules that it is the policy of the Board to engage in negotiated rulemaking procedures consistent with Texas Government Code, Chapter 2008, when appropriate. New rule §363.4 adds to the Board Rules that it is the policy of the Board to use alternative dispute resolution where appropriate consistent with Texas Government Code, Chapter 2009, and any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

§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 adopted to clarify, cleanup, and revise the section regarding continuing education requirements. The new rule establishes 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 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 letter of verification was added to the provision as part of the proposal; once the amendment is in effect, the documentation listed for this category will be a certificate of completion or 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.

New rule §367.4 adds 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 adopted pursuant to recent statutory changes to the Occupational Therapy Practice Act §454.254(e) during the 85th Legislative Session (Regular).

§372.1. Provision of Services.

The amendments are adopted 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 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 includes 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 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 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, 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 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 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, 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 from the section.

The amendments to §372.1 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 adds 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.

Applicants for TBOTE Board Needed

There are nine board member positions on the Texas Board of Occupational Therapy Examiners: four OT positions, two OTA positions, and three public members.

Presently, the Board has only eight members serving. In addition, five seats are filled currently by members either waiting to be reappointed or have their positions filled by new members, subject to action by the Governor.

Information about the current makeup of the Board and members' terms may be accessed from this link: <https://www.ptot.texas.gov/page/ot-board>. The Board's mission is to protect the health, safety, and welfare of the people of Texas through the regulation and enforcement of the practice of occupational therapy.

Subchapter B of the OT Practice Act, accessible from the [Act and Rules page](#), addresses information regarding membership restrictions and serving on the Board. For example, the OT and OTA positions require that the individual has practiced for at least the three years preceding appointment to the Board, and for a public member position, that the individual or the individual's spouse is not licensed by an occupational regulatory agency in the field of health care. A board term is six years unless it is to complete the unexpired term for a member who is no longer serving. Please refer to Subchapter B for further restrictions and information.

If you are interested in serving the people of Texas by becoming a member of the Board, please contact the Governor's Appointments Office and submit an application for appointment. And if someone you know is interested, please share this information. This will ensure the Governor's Office will have applicants who can be considered for any openings.

The Appointments Office is the source for information concerning the Board membership application process and any questions regarding available positions. Please visit its webpage for information: <https://gov.texas.gov/organization/appointments>.

Note: The Board does not process or accept applications to serve as a member and cannot address further questions regarding the appointments process. Please direct any questions regarding appointments to the Governor's Appointments Office using the contact information accessible from the link above.

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
FEBRUARY 2, 2018 BOARD MEETING:**

- (1) Ryan Lake Barber, COTA #211456 (Corpus Christi)** – 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.***
- (2) Kayla Rae Holland, COTA #210679 (Carthage)** – 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) Natalie Tomecek, COTA #209714 (Shreveport, LA)** – practiced in a detrimental manner by resigning/abandoning her position without sufficient prior notice – thereby abandoning the patients she was scheduled to treat. Violation of Section 454.301 of the Act and chapter 374 of the board rules. ***Board Order suspended her license to practice for seven (07) days.***
- (4) Lela Knox, COTA #211771 (West Monroe, LA)** – practiced in a detrimental manner by verbally abusing a patient during treatment – referring to her using an offensive term. Violation of Section 454.301 of the Act and chapter 374 of the board rules. ***Board Order required thirty (30) hours of community service.***
- (5) Kevin Harris, COTA #208276 (Houston)** – the continued practice by the licensee constitutes a continuing or imminent threat to the public health and welfare. ***Board suspends the license to practice under Section 454.305 of the Act.***