

Filed with the Office of the Secretary of State on November 6, 2020.

TRD-202004662

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Effective date: November 26, 2020

Proposal publication date: June 5, 2020

For further information, please call: (512) 239-2678



TITLE 37. PUBLIC SAFETY AND CORRECTIONS

PART 15. TEXAS FORENSIC SCIENCE COMMISSION

CHAPTER 651. DNA, CODIS, FORENSIC ANALYSIS, AND CRIME LABORATORIES SUBCHAPTER C. FORENSIC ANALYST LICENSING PROGRAM

37 TAC §651.208

The Texas Forensic Science Commission ("Commission") adopts amendments to 37 Texas Administrative Code §651.208 without changes to the proposed text as published in the October 2, 2020, issue of the *Texas Register* (45 TexReg 6982). The rule will not be republished. Section 651.208 describes the requirements for renewal of a forensic analyst or technician license. The adopted amendments establish a timeline for requiring 8 discipline-specific continuing forensic education ("CFE") hours for forensic analysts adding another discipline to the scope of their forensic analyst license. Under the current rule, forensic analysts adding a discipline are required to complete 8 hours of CFE specific to the supplemental discipline before their license expires, without regard to the date they add the extra discipline to their license. The adopted amendments require 1) no CFE specific to the supplemental discipline for analysts adding a supplemental discipline within 6 months of their current license expiration; 2) 4 hours of CFE specific to the supplemental discipline for analysts adding a discipline between 6 and 18 months of license expiration; and 3) the full 8 hours for analysts adding a discipline 18 or more months before license expiration. The amendments are necessary to reflect adoptions made by the Commission at its July 24, 2020, quarterly meeting. The amendments are made in accordance with the Commission's forensic analyst licensing authority under Code of Criminal Procedure, Article 38.01 §4-a, which directs the Commission to adopt rules to establish the qualifications for a forensic analyst license and the Commission's rulemaking authority under Code of Criminal Procedure, Article 38.01 §3-a, which directs the Commission to adopt rules necessary to implement Code of Criminal Procedure Article 38.01.

Summary of Comments. No comments were received regarding the amendments to this section.

Statutory Authority. The amendments are proposed under Code of Criminal Procedure, Article 38.01 §3-a, which directs the Commission to adopt rules necessary to implement Article 38.01, and Article 38.01 §4-a(d), which directs the Commission to adopt

rules to establish the qualifications for a forensic analyst license, including the successful complete of educational requirements established by the Commission.

Cross reference to statute. The adoption affects 37 Texas Administrative Code §651.208.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on November 4, 2020.

TRD-202004633

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Effective date: November 24, 2020

Proposal publication date: October 2, 2020

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TITLE 40. SOCIAL SERVICES AND ASSISTANCE

PART 12. TEXAS BOARD OF OCCUPATIONAL THERAPY EXAMINERS

CHAPTER 374. DISCIPLINARY ACTIONS/DETRIMENTAL PRACTICE/COMPLAINT PROCESS/CODE OF ETHICS/LICENSURE OF PERSONS WITH CRIMINAL CONVICTIONS

40 TAC §374.1

The Texas Board of Occupational Therapy Examiners adopts amendments to the Schedule of Sanctions Figure in 40 Texas Administrative Code §374.1, concerning Disciplinary Actions. The amendments are adopted to replace "investigative costs" with "administrative penalties" in the Schedule of Sanctions, and to update other language to make the schedule consistent with other provisions in the chapter. The amendments are adopted without changes to the proposed text as published in the August 21, 2020, issue of the *Texas Register* (45 TexReg 5863). The rule will not be republished.

Changes to the Schedule of Sanctions include replacing investigative costs with administrative penalties. The Occupational Therapy Practice Act, Texas Occupations Code §454.3521, authorizes the Board to impose an administrative penalty for a violation of the chapter or a rule adopted under the chapter. The amendments to the Schedule of Sanctions Figure in §374.1 will impose administrative penalties, not to exceed \$200 for each day a violation continues or occurs, to the "Minimum Discipline," "Intermediate Discipline," and "Maximum Discipline" levels per §454.3521. The graduated penalty amounts are assessed based on the severity and type of violation per §454.3025(a).

Additional changes to the Schedule of Sanctions include updating citations to the "OT Act/Rule" column. The changes also

include removing from the "Failed to Properly Renew a License" violation the reference to §367.1(b) and replacing such with a reference to the full §367.1, concerning continuing education, as further provisions in the section concern the violation. Such a change, concomitantly, will ensure that the schedule's reference to the section remains intact in the event that changes to the lettering of the section's provisions are made.

An additional cleanup removes the phrase "until conditions are met or indefinitely" from the "Maximum Discipline" column, with regard to the revocation or surrender of a license. The change is made to reflect that the administrative penalty assessed in an order is fixed, not indefinitely cumulative.

A further change to the section concerns removing from the "Minimum Discipline" and "Intermediate Discipline" columns the extraneous term "provisional" when it precedes "restricted practice." The removal is a cleanup to increase consistency in the schedule, as in other areas of the schedule, just the phrase "restricted practice" is employed for an equivalent sanction. A further change to the section involves a cleanup to correct "licensee" to "license."

No comments were received regarding adoption of the amendments.

The amendments to the Schedule of Sanctions Figure in 40 TAC §374.1(c) are adopted under Texas Occupations Code §454.102, which authorizes the Board to adopt rules to carry

out its duties under chapter 454. The amendments are also adopted under §454.3025, which requires the Board by rule to adopt a schedule of administrative penalties and other sanctions that the Board may impose under this chapter. Lastly, the amendments are adopted under §454.3521, which authorizes the Board to impose an administrative penalty, not to exceed \$200 for each day a violation continues or occurs, under this chapter for a violation of this chapter or a rule or order adopted under this chapter.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on November 6, 2020.

TRD-202004660

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Effective date: December 1, 2020

Proposal publication date: August 21, 2020

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