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

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Don Green

Chief Financial Officer

Teacher Retirement System of Texas

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TITLE 40. SOCIAL SERVICES AND ASSISTANCE

PART 12. TEXAS BOARD OF OCCUPATIONAL THERAPY EXAMINERS

CHAPTER 362. DEFINITIONS

40 TAC §362.1

The Texas Board of Occupational Therapy Examiners adopts an amendment to §362.1, concerning definitions. The amendment is adopted pursuant to changes to the OT Practice Act, Occupations Code, Chapter 454, made by SB 317 from the 85th Regular Legislative Session, pertaining to the repeal of occupational therapy facility registration. The amendment is adopted without changes to the proposed text as published in the June 14, 2019 issue of the Texas Register (44 TexReg 2951). The rules will not be republished.

The amendment is adopted to revise the definition of "Investigation Committee" to remove the facilities reference therein in accordance with changes in statute to the OT Practice Act pursuant to SB 317, which repeals requirements concerning the registration of occupational therapy facilities.

Other adopted rule changes regarding facility registration have also been submitted to the Texas Register for publication, including the repeal of Chapter 376, concerning registration of facilities, and amendments to §374.1, concerning disciplinary actions, and §374.2, concerning detrimental practice.

No comments were received regarding adoption of §362.1.

The amendment is adopted under the Occupational Therapy Practice Act, Title 3, Subtitle H, Chapter 454, Occupations Code, which provides the Texas Board of Occupational Therapy Examiners with the authority to adopt rules consistent with this Act to carry out its duties in administering this Act.

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

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Ralph A. Harper

Executive Director

Texas Board of Occupational Therapy Examiners

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For further information, please call: (512) 305-6900

CHAPTER 367. CONTINUING EDUCATION

40 TAC §367.1 - 367.3

The Texas Board of Occupational Therapy Examiners adopts amendments to §367.1, concerning continuing education, §367.2, concerning categories of education, and §367.3, concerning continuing education audit, with changes to the proposed text as published in the June 14, 2019, issue of the Texas Register (44 TexReg 2934). The change upon adoption will add the clarifying phrase "or hours" to §367.3(e) so that the phrase will read "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 hours or contact hours." The rules will be republished.

The amendments to the sections are adopted to revise continuing education (CE) requirements including to change the number of continuing education hours required for renewal, to remove certain courses from the list of unacceptable activities, to add a provision concerning under what circumstances a licensee may count continuing education hours earned outside of the renewal cycle toward the required continuing education, to revise requirements concerning pre-approved continuing education, to expand the categories of continuing education and make changes therein, to revise a provision concerning requests for special consideration for continuing education, and to clarify and cleanup provisions in the sections.

Changes to §367.1 include reducing the number of required continuing education hours per renewal period from thirty to twenty-four hours and to include language that unless otherwise specified in the chapter, one hour of continuing education is equal to one contact hour. A provision is also being adopted to add that licensees who submit their renewal with all required items prior to the month when their license expires may count CE completed during their license's expiration month for their next renewal period. Additional changes to §367.1 include removing a number of courses from the list of activities not acceptable for continuing education. The amendments also clarify that all continuing education activities that are approved or offered by the American Occupational Therapy Association or the Texas Occupational Therapy Association are pre-approved by the Board.

The amendments to the section include further cleanups, including removing a provision requiring that those renewing a license more than ninety days late must submit proof of continuing education for the renewal as §370.1, concerning late renewal, of the OT Rules, already contains a provision addressing the submission of CE documentation for late renewal.

Changes to §367.2 revise the categories of continuing education and the requirements therein and include cleanups to the sections to use the term "contact hours" consistently and to remove redundant language. Revisions to the categories of continuing education include amendments regarding the CE a licensee may
earn for the supervision of fieldwork students. In addition, the
category was expanded to allow a licensee to earn credit for the
supervision of a student completing a supervised project for the
accredited educational program and for the supervision of a stu-
dent completing a re-entry course through an accredited college
or university. The amendments also revise the continuing edu-
cation credit a licensee may earn for the completion of NBCOT
Navigator activities and authorize continuing education credit for
completion of the AOTA Benchmark. In addition, a provision con-
cerning a request for special consideration for continuing edu-
cation has been revised to add that such must be submitted in
writing a minimum of 60, though no more than 270, days prior to
expiration of the license.

Changes to the section include further clarifications, cleanups,
and revisions including the removal of language concerning
§373.3 of the OT Rules, which concerned supervision of an oc-
cupational therapy assistant, as that section has been repealed
from the OT Rules.

Changes to §367.3 concern cleanups and clarifications and add
that documentation of continuing education includes letters of
verification and that hours may be listed on continuing education
documentation.

One comment was received from the American Occupational
Therapy Association (AOTA) in support of the inclusion of
AOTA's Benchmark as an acceptable continuing education activity
in the proposed amendments to §367.2. The Board agreed with the
comment and made no changes to the proposal based on the
comment.

The amendments are adopted under the Occupational Therapy
Practice Act, Title 3, Subtitle H, Chapter 454, Occupations Code,
which provides the Texas Board of Occupational Therapy Exa-
miners with the authority to adopt rules consistent with this Act to
carry out its duties in administering this Act.

§367.1. Continuing Education.

(a) The Act mandates licensee participation in a continuing ed-
cuation program for license renewal. All activities taken to complete
this requirement must meet the definition of continuing education as
outlined in this section. The licensee is solely responsible for keeping
accurate documentation of all continuing education activities and for
selecting continuing education as per the requirements in this chapter.

(1) Definition of Continuing Education; also known as CE.
Continuing Education - Professional development activities that meet
the requirements in this chapter and directly concern one or more of
the following:

(A) occupational therapy practice as defined in §362.1
of this title (relating to Definitions);

(B) health conditions treated by occupational therapy;

(C) ethical or regulatory matters in occupational ther-
apy; or

(D) occupational therapy documentation or reimburse-
ment for occupational therapy services.

(2) Unacceptable Activities. Unacceptable professional
development activities not eligible for continuing education include
but are not limited to:

(A) Any non-instructional time frames such as breaks,
meals, introductions, and pre/post testing.

(B) Business meetings.

(C) Exhibit hall attendance.

(D) Reading journals.

(E) Courses that provide information about the work
setting's philosophy, policies, or procedures or designed to educate em-
ployees about a specific work setting.

(F) Courses in topics concerning professionalism or
customer service.

(G) Courses such as: social work; defensive driving;
water safety; team building; GRE, GMAT, MCAT preparation; general
foreign languages; disposal of hazardous waste; patient privacy; CPR;
First Aid; HIPAA; and FERPA.

(b) Required Continuing Education Hours.

(1) Unless otherwise specified in this chapter, 1 hour of
continuing education is equal to 1 contact hour.

(2) All licensees must complete a minimum of 24 contact
hours every two years during the period of time the license is current in
order to renew the license. Licensees must provide proof of completion
of contact hours at the Board's request.

(3) Licensees who submit their renewal with all required
items prior to the month when their license expires may count CE com-
pleted during their license's expiration month for their next renewal pe-
period.

(c) Each continuing education activity may be counted only
one time in two renewal cycles.

(d) Activities approved or offered by the American Occu-
pational Therapy Association or the Texas Occupational Therapy Asso-
ciation are pre-approved for CE credit for license renewal. The Board
will review its approval process and continuation thereof for educa-
tional activities at least every five years.

(e) Program providers are prohibited from self-promotion of
programs, products, and/or services during the presentation of the pro-
gram.

§367.2. Categories of Education.
Continuing education activities completed by the licensee for license
renewal shall be acceptable if falling under one or more of the following
categories and meeting further requirements in this chapter.

(1) Formal academic courses from an occupational therapy
program.

(A) Completion of course work at or through an accredited
college or university shall be counted as follows: 3 contact hours
for each credit hour of a course with a grade of A, B, C, and/or P (Pass).
Thus a 3 credit course counts for 9 contact hours, no maximum. Docu-
mentation shall include a transcript from the accredited college or uni-
versity.

(B) Creation of a new course or courses at or through an
accredited college or university may be counted for 10 contact hours
maximum. Documentation shall be a letter from the Program Director.

(2) In-service educational programs, training programs, in-
stitutes, seminars, workshops, facility based courses, internet-based
courses, conferences, and home-study courses with specified learning
objectives. Hour for hour credit on program content only, no maxi-
imum. Documentation shall include a certificate of completion or letter
of verification.

(3) Development of publications, media materials, or
grant/research activities. Documentation shall include a copy of the
actual publication or media material(s) or a letter of verification.
documenting acceptance for publication or distribution, or title page and receipt of grant or research proposal.  
(A) Published scholarly work in a peer-review journal.  
(i) Primary or second author, 15 contact hours maximum.  
(ii) Other author, consultant, reviewer, or editor, 5 contact hours maximum.  
(B) Grant or research proposals accepted for consideration.  
(i) Principal investigator or co-principal investigator, 10 contact hours maximum.  
(ii) Consultant or reviewer, 4 contact hours maximum.  
(C) Published book.  
(i) Primary author or book editor, 15 contact hours maximum.  
(ii) Second or other author, 7 contact hours maximum.  
(iii) Consultant or reviewer, 5 contact hours maximum.  
(D) Published book chapter or monograph.  
(i) Primary author, 7 contact hours maximum.  
(ii) Second or other author, consultant, reviewer, or editor, 2 contact hours maximum.  
(E) Author, consultant, reviewer, or editor of other practice related publications such as newsletters, blogs, and trade magazines, 2 contact hours maximum.  
(F) Developer of practice-related or instructional materials using alternative media such as video, audio, or software programs or applications to advance the professional skills of others (not for proprietary use), 15 contact hours maximum.  
(4) Presentations by licensee. Documentation shall include verification of presentation noting the date, title, and number of contact hours of the presentation, presenter(s), and type of presentation (i.e., 2 hour poster, 3 hour workshop). Any presentation may be counted only once.  
(A) Professional presentation, e.g., in-services, workshops, institutes. Hour for hour credit. 10 contact hours maximum.  
(B) Community/Service organization presentation. Hour for hour credit. 10 contact hours maximum.  
(5) Supervision of students completing an accredited educational program or re-entry course.  
(A) A licensee may earn a maximum of 10 contact hours for student supervision per renewal period.  
(B) Fieldwork Supervision.  
(i) Fieldwork Level 1: A licensee may earn .025 contact hours for each hour of supervision provided to a student.  
(ii) Fieldwork Level 2:  
(I) A licensee may earn 6 contact hours for 8 weeks of supervision provided to a student.  
(II) A licensee may earn 9 contact hours for 12 weeks of supervision provided to a student.  
(III) Licensees may divide fieldwork supervision hours based on the supervision provided.  
(iii) Documentation shall include verification provided by the school to the fieldwork educator(s) with the name of the student, level of fieldwork, school, and dates or hours of fieldwork or the signature page of the completed evaluation form. Evaluation scores and comments should be deleted or blocked out.  
(C) Student Project Supervision.  
(i) A licensee may earn .025 contact hours for each hour of supervision provided to a student completing a supervised project for the accredited educational program.  
(ii) Documentation shall include the following:  
(I) verification provided by the school to the supervisor with the name of the student, school and academic program, and dates of the semester for which the project was completed; and  
(II) an attestation signed by the licensee and the student or school attesting to the dates and hours of supervision and the activities completed.  
(D) Supervision of a Re-Entry Student.  
(i) A licensee may earn CE for the supervision of a student completing a re-entry course through an accredited college or university.  
(ii) A licensee may earn 3 contact hours for 4 weeks of supervision.  
(iii) A licensee may earn 6 contact hours for 8 weeks of supervision.  
(iv) Licensees may divide fieldwork supervision hours based on the supervision provided.  
(v) Documentation shall include verification provided by the school to the supervisor(s) with the name of the student, school and re-entry program, and dates of the supervision rotation or the signature page of the completed evaluation form. Evaluation scores and comments should be deleted or blocked out.  
(6) Mentorship.  
(A) Participation as a mentor or mentee for the purpose of the development of occupational therapy skills by a mentee under the guidance of a mentor skilled in a particular occupational therapy area. Both the mentor and mentee must hold a regular OT or OTA license in a state or territory of the U.S.  
(B) Documentation shall include a signed mentorship agreement between a mentor and mentee that outlines specific goals and objectives and designates the plan of activities that are to be met by the mentee; the names of both mentor and mentee and their license numbers and issuing states; an activity log that corresponds to the mentorship agreement and lists dates and hours spent on each objective-based activity; a final evaluation of the outcomes of the mentorship agreement completed by the mentor; and a final evaluation of the outcomes of the mentorship agreement completed by the mentee.  
(C) Participation as a Mentee: A licensee may earn one contact hour for each 3 hours spent in activities as a mentee directly related to the achievement of goals and objectives up to a maximum of 15 contact hours.  
(D) Participation as Mentor: A licensee may earn one contact hour for each 5 hours spent in activities as a mentor up to a maximum of 10 contact hours.  

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(7) Participation in volunteer activities related to occupational therapy including service on a committee, board, or commission of a state occupational therapy association, AOTA, or NBCOT for the purpose of tangible outcomes such as official documents, publications, and official reports. Documentation shall include a copy of the actual publication or official document/report that reflects the licensee’s name. Maximum of 10 contact hours.

(8) NBCOT Navigator® Activities. Licensees may earn CE for the completion of NBCOT Navigator activities. For such activities, 1 NBCOT CAU is the equivalent of 1 contact hour, no maximum. Documentation is a certificate of completion or letter of verification. Self-reflections and self-assessments, reading lists and research portal activities, professional development plans, or similar activities are not eligible for CE credit.

(9) AOTA Benchmark. Licensees may earn CE for the completion of the AOTA Benchmark. Documentation is a certificate of completion or letter of verification indicating credit awarded. No maximum.

(10) Any deviation from the continuing education categories will be reviewed on a case by case basis by the Coordinator of Occupational Therapy or by the Continuing Education Committee. A request for special consideration must be submitted in writing a minimum of 60, though no more than 270, days prior to expiration of the license.

§367.3. Continuing Education Audit.
(a) The Board shall select for audit a random sample of licensees. The audit will cover a period for which the licensee has already completed the continuing education requirement.

(b) Licensees randomly selected for the audit must provide to TBOTE appropriate documentation within 30 days of notification.

(c) 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.

(d) 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, certificates of completion, and letters of verification.

(e) 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 hours or 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 hours or contact hours.

(f) Knowingly providing false information or failure to respond during the audit process or the renewal process is grounds for disciplinary action.

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

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Ralph A. Harper
Executive Director
Texas Board of Occupational Therapy Examiners
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CHAPTER 374. DISCIPLINARY ACTIONS/DETRIMENTAL PRACTICE/COMPLAINT PROCESS/CODE OF ETHICS/LICENSE OF PERSONS WITH CRIMINAL CONVICTIONS

40 TAC §374.1, §374.2

The Texas Board of Occupational Therapy Examiners adopts amendments to §374.1, concerning disciplinary actions, and §374.2, concerning detrimental practice, pursuant to changes to the OT Practice Act, Occupations Code, Chapter 454, made by SB 317 from the 85th Regular Legislative Session, including pertaining to the repeal of occupational therapy facility registration. The amendments are adopted with changes to the proposed text as published in the June 14, 2019, issue of the Texas Register (44 TexReg 2939). The changes are to revise two rule references contained in the schedule of sanctions in §374.1 to coincide with related numbering changes in the adopted amendments to §374.2. The rules will be republished.

The amendments, required to enact statutory changes to the OT Practice Act pursuant to SB 317, are adopted to remove from the chapter facilities related language concerning disciplinary actions and detrimental practice and to add language regarding the expulsion of facility related violations.

Changes to §374.1 remove from the section references to facilities in a provision concerning understanding and complying with the OT Practice Act and the OT Rules and a provision concerning the publishing of final disciplinary actions taken by the Board. In addition, the adoptions add to §374.1 that "The board may suspend any record of disciplinary action taken against a license holder before September 1, 2019, for practicing in a facility that failed to meet the registration requirements of §454.215 of the Act (relating to Occupational Therapy Facility Registration), as that section existed on January 1, 2019. The board may not suspend a record under this subsection after September 1, 2021." The provision is being adopted pursuant to SB 317 and the addition to the OT Practice Act of §454.307, concerning record of disciplinary action and expungement.

The changes also eliminate failure to register or renew a facility registration and practicing in an unregistered facility from the list of practices considered detrimental to the public health and welfare in §374.2 and from a schedule of sanctions in §374.1.

Other adopted rule changes regarding facility registration have also been submitted to the Texas Register for publication, including the repeal of Chapter 376, concerning registration of facilities, and an amendment to §362.1, concerning definitions.

No comments were received regarding adoption of §374.1 and §374.2.

The amendments are adopted under the Occupational Therapy Practice Act, Title 3, Subtitle H, Chapter 454, Occupations Code,
which provides the Texas Board of Occupational Therapy Examiners with the authority to adopt rules consistent with this Act to carry out its duties in administering this Act.

§374.1. Disciplinary Actions.

(a) The board, in accordance with the Administrative Procedure Act, may deny, revoke, suspend, or refuse to renew or issue a license, or may reprimand or impose probationary conditions, if the licensee or applicant for licensure has been found in violation of the rules or the Act. The board will adhere to procedures for such action as stated in the Act, §§454.301, 454.302, 454.303, and 454.304.

(b) The board recognizes four levels of disciplinary action for its licensees.

(1) Level I: Order and/or Letter of Reprimand or Other Appropriate Disciplinary Action (including but not limited to community service hours).

(2) Level II: Probation—The licensee may continue to practice while on probation. The board orders the probationary status which may include but is not limited to restrictions on practice and continued monitoring by the board during the specified time period.

(3) Level III: Suspension—A specified period of time that the licensee may not practice as an occupational therapist or occupational therapy assistant. Upon the successful completion of the suspension period, the license will be reinstated upon the licensee successfully meeting all requirements.

(4) Level IV: Revocation—A determination that the licensee may not practice as an occupational therapist or occupational therapy assistant. Upon passage of 180 days, from the date the revocation order becomes final, the former licensee may petition the board for re-issuance of a license. The former licensee may be required to re-take the Examination.

(c) The board shall utilize the following schedule of sanctions in all disciplinary matters.

(d) The board shall consider the following factors in conjunction with the schedule of sanctions when determining the appropriate penalty/sanction in disciplinary matters:

(1) the seriousness of the violation, including:
   (A) the nature, circumstances, extent, and gravity of the violation; and
   (B) the hazard or potential hazard created to the health, safety, or economic welfare of the public;

(2) the history of previous violations;

(3) the amount necessary to deter future violations;

(4) efforts to correct the violation;

(5) the economic harm to the public interest or public confidence caused by the violation;

(6) whether the violation was intentional; and

(7) any other matter that justice requires.

(c) Licensees who provide occupational therapy services are responsible for understanding and complying with Chapter 454 of the Occupations Code (the Occupational Therapy Practice Act), and the Texas Board of Occupational Therapy Examiners' rules.

(f) Final disciplinary actions taken by the board will be routinely published as to the names and offenses of the licensees.

(g) A licensee who is ordered by the board to perform certain act(s) will be monitored by the board to ensure that the required act(s) are completed per the order of the board.

(h) The board may expunge any record of disciplinary action taken against a license holder before September 1, 2019, for practicing in a facility that failed to meet the registration requirements of §454.215 of the Act (relating to Occupational Therapy Facility Registration), as that section existed on January 1, 2019. The board may not expunge a record under this subsection after September 1, 2021.

(i) A licensee or applicant is required to report to the board a felony of which he/she is convicted within 60 days after the conviction occurs.

§374.2. Detrimental Practice.
The Act, §454.301(a)(6) states "practiced occupational therapy in a manner detrimental to the public health and welfare," which is defined but not limited to the following:

(1) impersonating another person holding an occupational therapy license or allowing another person to use his or her license;

(2) using occupational therapy techniques or modalities for purposes not consistent with the development of occupational therapy as a profession, as a science, or as a means for promoting the public health and welfare;

(3) failing to report or otherwise concealing information related to violations of the Act, or rules and regulations pursuant to the Act, which could therefore result in harm to the public health and welfare or damage the reputation of the profession;

(4) intentionally making or filing a false or misleading report, or failing to file a report when it is required by law or third person, or intentionally obstructing or attempting to obstruct another person from filing such a report;

(5) intentionally harassing, abusing, or intimidating a patient either physically or verbally;

(6) intentionally or knowingly offering to pay or agreeing to accept any remuneration directly or indirectly, overtly or covertly, in cash or in kind, to or from any person, firm, association of persons, partnership, or corporation for receiving or soliciting patients or patronage, regardless of source of reimbursement, unless said business arrangement or payments practice is acceptable under the Texas Health and Safety Code, §§161.091 - 161.094, the Social Security Act, §1128B, 42 United States Code 1320a-7b, or the Social Security Act, §1877, 42 United States Code 1395m or its regulations;

(7) recommending or prescribing therapeutic devices or modalities sold by a third person for the purpose or with the result of receiving a fee or other consideration from the third person;

(8) breaching the confidentiality of the patient/therapist relationship;

(9) failing to obtain informed consent prior to engaging in scientific research involving patients, or otherwise violating ethical principles of research as defined by the TBOTE Code of Ethics, §374.4 of this title (relating to Code of Ethics), or other occupational therapy standards;

(10) practicing occupational therapy after the expiration of a temporary, provisional, or regular license;

(11) violation of Chapter 373 of this title (relating to Supervision);

(12) advertising in a manner which is false, misleading, or deceptive;

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(13) failing to give sufficient prior written notice of resignation of employment (or termination of contract) resulting in loss or delay of patient treatment for those patients/clients under the licensee's care; or

(14) failing to maintain the confidentiality of all verbal, written, electronic, augmentative, and nonverbal communication, including compliance with HIPAA regulations.

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

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Ralph A. Harper
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CHAPTER 376. REGISTRATION OF FACILITIES

40 TAC §§376.1 - 376.10

The Texas Board of Occupational Therapy Examiners adopts the repeal of Chapter 376, concerning registration of occupational therapy facilities, pursuant to changes to the OT Practice Act, Occupations Code, Chapter 454, made by SB 317 from the 85th Regular Legislative Session, pertaining to the repeal of occupational therapy facility registration. The repeal is adopted without changes to the proposed text as published in the June 14, 2019, issue of the Texas Register (44 TexReg 2940). The rules will not be republished.

The repeal is adopted in order to discontinue the registration of occupational therapy facilities as mandated by changes to the OT Practice Act pursuant to SB 317 in the 85th Regular Legislative Session. The repeal removes from the OT Rules requirements to register an occupational therapy facility with the Board and renew the registration annually and the requirement that occupational therapy practitioners may only practice in an occupational therapy facility if that facility is registered or exempt from the registration requirement.

Other adopted amendments regarding facility registration have also been submitted to the Texas Register for publication, including amendments to §382.1, concerning definitions, §374.1, concerning disciplinary actions, and §374.2, concerning detrimental practice.

No comments were received regarding the repeal of Chapter 376.

The repeal is adopted under the Occupational Therapy Practice Act, Title 3, Subtitle H, Chapter 454, Occupations Code, which provides the Texas Board of Occupational Therapy Examiners with the authority to adopt rules consistent with this Act to carry out its duties in administering this Act.

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### Schedule of Sanctions

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<tr>
<td><strong>Disciplinary Violations</strong></td>
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<td><strong>Maximum Discipline</strong></td>
<td><strong>Remarks</strong></td>
</tr>
<tr>
<td>Intimidating a patient either physically or verbally</td>
<td>+investigative costs</td>
<td>with restricted practice +investigative costs; referral for criminal investigative entity</td>
<td>(until conditions are met or indefinitely)</td>
<td>pursuing other courses of action may depend on the nature of the situation, repeat of violation, or development.</td>
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<tr>
<td>Intentionally or knowingly offering to pay or agreeing to accept any remuneration directly or indirectly, overtly or covertly, in cash or in kind, to or from any person, firm, association of persons, partnership, or corporation for receiving or soliciting patients or patronage, regardless of source of reimbursement, unless said business arrangement or payments practice is acceptable under the Texas Health and Safety Code, §§161.091 - 161.094, the Social Security Act, §1128B, 42 United States Code 1320a-7b, or the Social Security Act, §1877, 42 United States Code 1395nn or its regulations</td>
<td>Sec. 454.301(a)(6) §374.2(6)</td>
<td>30-60 hours community service +investigative costs</td>
<td>30-60 day license suspension +investigative costs</td>
<td>Revocation or Suspension of license (until conditions are met or indefinitely)</td>
<td>Alternative disciplinary decisions or pursuing other courses of action may depend on the nature of the situation, repeat of violation, or development.</td>
</tr>
<tr>
<td>Recommending or prescribing therapeutic devices or modalities sold by a third person for the purpose or with the result of receiving a fee or</td>
<td>Sec. 454.301(a)(6) §374.2(7)</td>
<td>30-60 hours community service +investigative costs</td>
<td>30-60 day license suspension +investigative costs</td>
<td>Revocation or Suspension of license (until conditions are met or indefinitely)</td>
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<tr>
<td>other consideration from the third person</td>
<td>Sec. 454.301(a)(6) §374.2(8)</td>
<td>30-60 hours community service + investigative costs</td>
<td>30-60 day license suspension + investigative costs</td>
<td>Revocation or Surrender of license (until conditions are met or indefinitely)</td>
<td>Alternative disciplinary decisions or pursuing other courses of action may depend on the nature of the situation, repeat of violation, or development.</td>
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<tr>
<td>Breaching the confidentiality of the patient/therapist relationship</td>
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<tr>
<td>Failing to obtain informed consent prior to engaging in scientific research involving patients, or otherwise violating ethical principles of research as defined by the TBOETE Code of Ethics, §374.4 of this title (relating to Code of Ethics), or other occupational therapy standards</td>
<td>Sec. 454.301(a)(6) §374.2(9)</td>
<td>30-60 hours community service and additional course in ethics + investigative costs</td>
<td>30-60 day license suspension and additional course in ethics + investigative costs</td>
<td>Revocation or Surrender of license (until conditions are met or indefinitely)</td>
<td>Alternative disciplinary decisions or pursuing other courses of action may depend on the nature of the situation, repeat of violation, or development.</td>
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<td>Practicing occupational therapy after the expiration of a temporary, provisional, or regular license</td>
<td>Sec. 454.301(a)(6) §374.2(10)</td>
<td>30-60 hours community service + investigative costs</td>
<td>30-60 day license suspension + investigative costs</td>
<td>Revocation or Surrender of license (until conditions are met or indefinitely)</td>
<td>Alternative disciplinary decisions or pursuing other courses of action may depend on the nature of the situation, repeat of violation, or development.</td>
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<td>Violation of Chapter 373 of this title (relating to Supervision)</td>
<td>Sec. 454.301(a)(6) §374.2(11)</td>
<td>30-60 hours community service + investigative costs</td>
<td>30-60 day license suspension + investigative costs</td>
<td>Revocation or Surrender of license (until conditions are met or indefinitely)</td>
<td>Alternative disciplinary decisions or pursuing other courses of action may depend on the nature of the situation, repeat of violation, or development.</td>
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<tr>
<td>Advertising in a manner which is false, misleading, or deceptive / Advertised in a</td>
<td>Sec. 454.301(a)(6) §374.2(12) / Sec. 454.301(7)</td>
<td>Letter to cease and desist, if licensed, 30-60 hours community</td>
<td>Letter to cease and desist, if licensed, 30-60 day license</td>
<td>Revocation or Surrender of license (until conditions)</td>
<td>Alternative disciplinary decisions or pursuing other courses of action may depend on the nature of the situation, repeat of violation, or development.</td>
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<td>Schedule of Sanctions</td>
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<td>manner that in any way tends to deceive or defraud the public</td>
<td></td>
<td>service + investigative costs</td>
<td>suspension + investigative costs</td>
<td>are met or indefinitely</td>
<td>may depend on the nature of the situation, repeat of violation, or development.</td>
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<tr>
<td>Failing to give sufficient prior written notice of resignation of employment (or termination of contract) resulting in loss or delay of patient treatment for those patients/clients under the licensee's care</td>
<td>Sec. 454.301(a)(6) §374.2(13)</td>
<td>30-60 hours community service + investigative costs</td>
<td>30-60 day license suspension + investigative costs</td>
<td>Revocation or Surrender of license (until conditions are met or indefinitely)</td>
<td>Alternative disciplinary decisions or pursuing other courses of action may depend on the nature of the situation, repeat of violation, or development.</td>
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<td>Failing to maintain the confidentiality of all verbal, written, electronic, augmentative, and nonverbal communication, including compliance with HIPAA regulations</td>
<td>Sec. 454.301(a)(6) §374.2(14)</td>
<td>30-60 hours community service + investigative costs</td>
<td>30-60 day license suspension + investigative costs</td>
<td>Revocation or Surrender of license (until conditions are met or indefinitely)</td>
<td>Alternative disciplinary decisions or pursuing other courses of action may depend on the nature of the situation, repeat of violation, or development.</td>
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<tr>
<td>Failed CE Audit</td>
<td>§367.3</td>
<td>30-60 hours community service and completion of CE hours + investigative costs</td>
<td>30-60 day license suspension and completion of CE hours + investigative costs</td>
<td>Revocation or Surrender of license (until conditions are met or indefinitely)</td>
<td>Alternative disciplinary decisions or pursuing other courses of action may depend on the nature of the situation, repeat of violation, or development.</td>
</tr>
<tr>
<td>Failed to properly renew license</td>
<td>Sec. 454.252 §367.1(b) §370.1</td>
<td>30-60 hours community service and completion of CE hours + investigative costs</td>
<td>30-60 day license suspension and completion of CE hours + investigative costs</td>
<td>Revocation or Surrender of license (until conditions are met or indefinitely)</td>
<td>Alternative disciplinary decisions or pursuing other courses of action may depend on the nature of the situation, repeat of violation, or development.</td>
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<tr>
<td>Used drugs or intoxicating liquors to an extent that affects the applicant's or license holder's</td>
<td>Sec. 454.301(1)</td>
<td>30-90 day license suspension with restricted practice + investigative</td>
<td>6-12 month license suspension with provisional restricted</td>
<td>Revocation or Surrender of license (until conditions are met or indefinitely)</td>
<td>Alternative disciplinary decisions or pursuing other courses of action may depend on the nature of the situation, repeat of violation, or development.</td>
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<tr>
<td>professional competence</td>
<td></td>
<td>costs</td>
<td>practice + investigative costs</td>
<td>indefinitely)</td>
<td>the nature of the situation, repeat of violation, or development.</td>
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<tr>
<td>Been convicted of a crime, other than a minor offense defined as a &quot;minor misdemeanor,&quot; &quot;violation,&quot; or &quot;offense,&quot; in any court if the act for which the applicant or license holder was convicted is determined by the board to have a direct bearing on whether the applicant or license holder should be entrusted to serve the public in the capacity of an occupational therapist or occupational therapy assistant</td>
<td>Sec. 454.301(2)</td>
<td>Restricted practice</td>
<td>30-60 day license suspension with provisional restricted practice + investigative costs</td>
<td>Revocation or Surrender of license (until conditions are met or indefinitely)</td>
<td>Alternative disciplinary decisions or pursuing other courses of action may depend on the nature of the situation, repeat of violation, or development.</td>
</tr>
<tr>
<td>Obtained or attempted to obtain a license by fraud or deception</td>
<td>Sec. 454.301(3)</td>
<td>Letter of cease and desist for attempter / 30-60 day licensee suspension + investigative costs</td>
<td>60-90 day license suspension with restricted practice + investigative costs; referral for criminal investigative entity</td>
<td>Revocation or Surrender of license (until conditions are met or indefinitely)</td>
<td>Alternative disciplinary decisions or pursuing other courses of action may depend on the nature of the situation, repeat of violation, or development.</td>
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<tr>
<td>Been grossly negligent in the practice of occupational therapy or in acting as an occupational therapy assistant</td>
<td>Sec. 454.301(4)</td>
<td>30-60 hours community service + investigative costs</td>
<td>30-60 day license suspension with restricted practice + investigative costs; referral for criminal investigative entity</td>
<td>Revocation or Surrender of license (until conditions are met or indefinitely)</td>
<td>Alternative disciplinary decisions or pursuing other courses of action may depend on the nature of the situation, repeat of violation, or development.</td>
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<td>Been found mentally incompetent by a court</td>
<td>Sec. 454.301(5)</td>
<td>30-60 day license suspension with provisional</td>
<td>6-12 month license suspension with</td>
<td>Revocation or Surrender of license (until)</td>
<td>Alternative disciplinary decisions or pursuing other courses of action may depend on the nature of the situation, repeat of violation, or development.</td>
</tr>
</tbody>
</table>

TABLES AND GRAPHICS  August 16, 2019  44 TexReg 4355
### Schedule of Sanctions

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<td></td>
<td>restricted practice + investigative costs</td>
<td>provisional restricted practice + investigative costs</td>
<td>conditions are met or indefinitely</td>
<td>courses of action may depend on the nature of the situation, repeat of violation, or development.</td>
</tr>
<tr>
<td>Had a license to practice occupational therapy revoked or suspended or had other disciplinary action taken against the applicant or license holder by the proper licensing authority of another state, territory, or nation</td>
<td>Sec. 454.301(8)</td>
<td>30-60 hours community service + investigative costs</td>
<td>30-60 day license suspension with restricted practice + investigative costs</td>
<td>Revocation or Surrender of license (until conditions are met or indefinitely)</td>
<td>Alternative disciplinary decisions or pursuing other courses of action may depend on the nature of the situation, repeat of violation, or development.</td>
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