

forensic analyst licensing authority under Tex. Code. Crim. Proc. art. 38.01 §4-a.

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

Statutory Authority. The amendment is adopted under Tex. Code Crim. Proc. art 38.01 §4-a.

Cross reference to statute. The adoption affects 37 TAC §651.213.

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 26, 2018.

TRD-201805000
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Effective date: December 16, 2018
Proposal publication date: October 26, 2018
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37 TAC §651.220

The Texas Forensic Science Commission ("Commission") adopts new rule 37 TAC §651.220, concerning Blanket License for Out-of-State Laboratories for Purpose of Ensuring the Availability of Uncommon Forensic Analyses, Timeliness of Forensic Analyses, and/or Service to Counties with Limited Access to Forensic Analysis, without changes to the proposed text as published in the October 26, 2018, issue of the *Texas Register* (43 TexReg 7106). The adopted new rule will not be republished.

The new rule adds a blanket license option for out-of-state laboratories for the purpose of ensuring the availability of uncommon forensic analyses, timeliness of forensic analyses, and/or service to counties with limited access to forensic analysis. The rule is necessary to reflect adoptions made by the Commission at its October 5, 2018, quarterly meeting. The rule is made in accordance with the Commission's forensic analyst licensing authority under Tex. Code. Crim. Proc. art. 38.01 §4-a.

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

Statutory Authority. The rule is adopted under Tex. Code Crim. Proc. art 38.01 §4-a.

Cross reference to statute. The adoption affects 37 TAC Chapter 651.

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 26, 2018.

TRD-201805006

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Effective date: December 16, 2018
Proposal publication date: October 26, 2018
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TITLE 40. SOCIAL SERVICES AND ASSISTANCE

PART 12. TEXAS BOARD OF OCCUPATIONAL THERAPY EXAMINERS

CHAPTER 364. REQUIREMENTS FOR LICENSURE

40 TAC §364.1

The Texas Board of Occupational Therapy Examiners adopts amendments to §364.1, concerning requirements for licensure, with changes to the proposed text as published in the September 7, 2018, issue of the *Texas Register* (43 TexReg 5759). The rule will be republished.

The change is to replace in §364.1(a)(5) the phrase "submit a complete and legible set of fingerprints on a form prescribed by the Board to the Department of Public Safety for the purpose of obtaining criminal history record information from the Department of Public Safety and the Federal Bureau of Investigation" with "submit a complete and legible set of fingerprints in the manner prescribed by the Board for the purpose of obtaining criminal history record information from the Department of Public Safety and the Federal Bureau of Investigation" to clarify the provision.

The amendments to §364.1 are adopted to clean up and clarify the section and to add provisions to the section regarding the Board obtaining applicants' criminal history record information.

Clean ups and clarifications pertain to provisions regarding application requirements for initial Texas licensure. Provisions concerning educational requirements for initial Texas licensure have been revised in accordance with changes to the Occupational Therapy Practice Act, Tex. Occ. Code Chapter 454, pursuant to SB 317 from the 85th Legislative Session (Regular). The Legislature changed §454.203 of the Act, removing requirements for applicants to complete a specific number of weeks of supervised field work experience, and instead requiring the completion of field work experience requirements of an educational program in occupational therapy recognized by the Board. In the amendments, consequently, language referring to specified weeks of field work has been removed and replaced with a provision that refers to the relevant section of the Act. In addition, language referring to the completion of an accredited OT/OTA program in §364.1 has been replaced with language referring to academic requirements for applicants as specified in §454.203 of the Act. In the amendments, language has also been added referencing §454.205 of the Act, wherein academic and supervised field work requirements for foreign-trained applicants are described.

Further clean ups in the amendments include removing provisions that appear elsewhere in the OT Rules from the section and replacing such with a provision noting that "Applicants and

new licensees shall refer to Chapter 369 of this title for provisions regarding information changes and verification of temporary or regular license issuance and current licensure." Further clean ups and clarifications appear in the amendments.

The amendments include adding a provision requiring an applicant's submission of fingerprints. Such changes are adopted pursuant to the addition to the Act of §454.217, adopted by the 85th Legislature, requiring an applicant to submit fingerprints to the Department of Public Safety for the purpose of the Board obtaining criminal history record information from the Department of Public Safety and the Federal Bureau of Investigation.

Regarding criminal history record information, adopted amendments to §370.1, concerning license renewal; §370.3, concerning license restoration; §371.1, concerning inactive status; and §371.2, concerning retired status, have also been submitted to the *Texas Register* for publication.

No comments were received regarding adoption of §364.1.

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.

§364.1. Requirements for Licensure.

(a) All applicants for initial Texas licensure shall:

(1) submit a complete application form as prescribed by the Board and non-refundable application fee as set by the Executive Council;

(2) submit a current photograph that meets the requirements for a U.S. passport;

(3) submit a successfully completed Board jurisprudence examination on the Act and Rules;

(4) have completed academic and supervised field work requirements of an accredited educational program in occupational therapy as per §454.203 of the Act (relating to Qualifications for Occupational Therapist or Occupational Therapy Assistant License) or if foreign-trained, have met substantially equivalent academic and supervised field work requirements as per §454.205 of the Act (relating to Foreign-Trained Applicants);

(5) submit a complete and legible set of fingerprints in the manner prescribed by the Board for the purpose of obtaining criminal history record information from the Department of Public Safety and the Federal Bureau of Investigation; and

(6) either meet the requirements in §364.2 of this title (relating to Initial License by Examination) and apply by examination or meet the requirements in §364.4 of this title (relating to Licensure by Endorsement) and apply by endorsement.

(b) The applicant must also meet the requirements in §364.2 of this title and apply by examination if the applicant:

(1) has not passed the NBCOT certification examination;

or

(2) has passed the NBCOT certification examination and

(A) is not currently licensed as an occupational therapist or occupational therapy assistant in another state or territory of the U.S.; or

(B) if not currently licensed in another state or territory of the U.S., is applying from the U.S. military or a non-licensing state

or territory of the U.S. and cannot substantiate occupational therapy employment for at least two years immediately preceding application for a Texas license.

(c) The applicant must also meet the requirements in §364.4 of this title and apply by endorsement if the applicant has passed the NBCOT certification examination and:

(1) is currently licensed as an occupational therapist or occupational therapy assistant in another state or territory of the U.S.; or

(2) if not currently licensed in another state or territory of the U.S., is applying from the U.S. military or a non-licensing state or territory of the U.S. and can substantiate occupational therapy employment for at least two years immediately preceding application for a Texas license.

(d) Applicants who are military service members, military veterans, and military spouses:

(1) The Board shall credit verified military service, training, or education toward the licensing requirements, other than an examination requirement, with respect to an applicant who is a military service member or military veteran.

(2) The Board shall waive the application fees for a military service member or military veteran who is applying for a license by examination as per §364.2 of this title (relating to Initial License by Examination). In order to request a waiver of application fees, the military service member or military veteran must submit a copy of the Uniformed Services Military ID card or other appropriate official documentation evidencing current or former military affiliation and notify the Board of his or her military affiliation.

(3) The Board shall waive the application fees and will expedite the issuance of a license for a military service member, military veteran, or military spouse who is applying for licensure by endorsement as per §364.4 of this title (relating to Initial Licensure by Endorsement). In order to request a waiver of application fees and expedited services, the military service member, military veteran, or military spouse must submit a copy of the Uniformed Services Military ID card or other appropriate official documentation evidencing current or former military affiliation and notify the Board of his or her military affiliation.

(4) In this section, "military service member," "military veteran," and "military spouse" have the meaning as defined in Chapter 55, Occupations Code, §55.001.

(e) An application for license is valid for one year after the date it is received by the Board. At the end of the year, the application fee must be paid to continue the application process for the second year.

(f) An applicant who submits an application containing false information may be denied a license by the Board.

(g) Should the Board reject an application for license, the reasons for the rejection will be communicated in writing to the applicant. The applicant may submit additional information and request reconsideration by the Board. If the applicant remains dissatisfied, a hearing may be requested as specified in the Act.

(h) Applicants and new licensees shall refer to Chapter 369 of this title for provisions regarding information changes and verification of temporary or regular license issuance and current licensure.

(i) The address of record is the information provided to the public. Until applicants and licensees select an address of record, the work address will be used as the default. If no work address is available, the mailing address will be used. If no alternate address is available,

the home address will be used. Applicants and licensees may update this information at any time.

(j) The first regular license is valid from the date of issuance until the last day of the applicant's birth month, with a duration of at least two years.

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 19, 2018.

TRD-201804972

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Effective date: January 1, 2019

Proposal publication date: September 7, 2018

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CHAPTER 370. LICENSE RENEWAL

40 TAC §370.1, 370.3

The Texas Board of Occupational Therapy Examiners adopts amendments to §370.1, concerning license renewal, and §370.3, concerning license restoration, with changes to the proposed text as published in the September 7, 2018, issue of the *Texas Register* (43 TexReg 5762). The rules will be republished.

The changes are to replace in §370.1(a)(1)(E) the phrase "a complete and legible set of fingerprints on a form prescribed by the Board submitted to the Department of Public Safety for the purpose of obtaining criminal history record information from the Department of Public Safety and the Federal Bureau of Investigation" with "a complete and legible set of fingerprints submitted in the manner prescribed by the Board for the purpose of obtaining criminal history record information from the Department of Public Safety and the Federal Bureau of Investigation" and in §370.3(a)(2)(E), §370.3(b)(2)(F), and §370.3(c)(2)(E) the phrase "submit a complete and legible set of fingerprints on a form prescribed by the Board to the Department of Public Safety for the purpose of obtaining criminal history record information from the Department of Public Safety and the Federal Bureau of Investigation" with "submit a complete and legible set of fingerprints in the manner prescribed by the Board for the purpose of obtaining criminal history record information from the Department of Public Safety and the Federal Bureau of Investigation." The changes are to clarify the provisions.

The amendments to §370.1 and §370.3 are adopted to clean up and clarify the sections and to add provisions to the sections regarding the Board obtaining licensees' criminal history record information.

Clean ups and clarifications pertain to provisions regarding application requirements for the renewal of a Texas occupational therapy license. Such changes include removing "online" from provisions in §370.1 and §370.3 concerning the jurisprudence examination, as such is defined in §362.1 of the OT Rules, concerning definitions, as an online examination. In the amendments to §370.1, references to a paper or online application have

also been replaced with language referring to an application form as prescribed by the Board and with references to further requirements licensees must meet in additional sections of the OT Rules. Further clean ups and clarifications appear in §370.1 and §370.3.

The amendments include adding provisions requiring a licensee's submission of fingerprints. Such changes are adopted pursuant to the addition to the Act of §454.255, adopted by the 85th Legislature, requiring a licensee to submit fingerprints to the Department of Public Safety for the purpose of the Board obtaining criminal history record information from the Department of Public Safety and the Federal Bureau of Investigation.

Regarding criminal history record information, adopted amendments to §364.1, concerning requirements for licensure; §371.1, concerning inactive status; and §371.2, concerning retired status, have also been submitted to the *Texas Register* for publication.

No comments were received regarding adoption of §370.1 and §370.3.

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.

§370.1. License Renewal.

(a) Licensee Renewal. Licensees are required to renew their licenses every two years by the end of their birth month. A licensee may not provide occupational therapy services without a current license. Licenses and license expiration dates should be verified on the Board's license verification web page.

(1) General Requirements. The renewal application is not complete until the Board receives all required items. The components required for license renewal are:

(A) a complete renewal application form as prescribed by the Board verifying completion of 30 hours of continuing education, as per Chapter 367 of this title (relating to Continuing Education);

(B) the renewal fee and any late fees as set by the Executive Council that may be due;

(C) a passing score on the jurisprudence examination;

(D) the licensee's physical address, any work address, other mailing address, email address, and a chosen address of record. The address of record is the address that will be shared with the public. Until licensees select an address of record, the work address will be used as the default. If no work address is available, the mailing address will be used. If no alternate address is available, the home address will be used; and

(E) a complete and legible set of fingerprints submitted in the manner prescribed by the Board for the purpose of obtaining criminal history record information from the Department of Public Safety and the Federal Bureau of Investigation. The licensee is not required to submit fingerprints under this section if the license holder has previously submitted fingerprints under:

(i) Chapter 364 of this title (relating to Requirements for Licensure) for the initial issuance of the license;

(ii) Chapter 370 of this title (relating to License Renewal) as part of a prior license renewal; or

(iii) Chapter 371 of this title (relating to Inactive and Retired Status) as part of a prior license renewal or change of license status.

(2) The licensee is responsible for ensuring that the license is renewed, whether receiving a renewal notice or not.

(3) The renewal process is not complete until the Board's license verification web page reflects that the license has been renewed by displaying the new renewal date.

(4) Renewal fees and late fees are non-refundable.

(5) Licensees electing to change their status or renewing a license on inactive or retired status must meet further requirements as per Chapter 371 of this title (relating to Inactive and Retired Status).

(6) Licensees renewing a license expired one year or more must meet further requirements as per §370.3 of this title (relating to Restoration of a Texas License).

(b) Restrictions to Renewal.

(1) The Board will not renew a license if a licensee has defaulted with the Texas Guaranteed Student Loan Corporation (TGSLC). Upon notice from TGSLC that a repayment agreement has been established, the license shall be renewed if all other renewal requirements have been met.

(2) The Board will not renew a license if the licensee has defaulted on a court or Attorney General's notice of child support. Upon receipt that repayment has been established, the license shall be renewed if all other renewal requirements have been met.

§370.3. *Restoration of a Texas License.*

(a) Restoration of a license expired one year or more to a person with a current license or occupational therapy employment:

(1) The Board may restore a license to a person whose Texas license has been expired one year or more if the person:

(A) is currently licensed in another state or territory of the U.S. and that license has not been suspended, revoked, cancelled, surrendered or otherwise restricted for any reason; or

(B) if not currently licensed in another state or territory of the U.S., is applying from the U.S. military or a non-licensing state or territory of the U.S. and can substantiate occupational therapy employment for at least two years immediately preceding application for a Texas license.

(2) The person shall meet the following requirements:

(A) submit a completed restoration application form as prescribed by the Board, which includes a current photograph that meets the requirements for a U.S. passport;

(B) submit to the Board a verification of license from each state or territory of the U.S. in which the applicant is currently licensed or previously held a license. This must be an original verification sent directly to the Board by the licensing board in that state or territory. Any disciplinary actions must be reported to the Board. If not currently licensed in another state or territory of the U.S. and applying from the U.S. military or a non-licensing state or territory of the U.S., the person must submit a Verification of Employment form substantiating occupational therapy employment for at least two years immediately preceding application for a Texas license;

(C) pass the jurisprudence examination;

(D) pay the restoration fee; and

(E) submit a complete and legible set of fingerprints in the manner prescribed by the Board for the purpose of obtaining criminal history record information from the Department of Public Safety and the Federal Bureau of Investigation. The licensee is not required to submit fingerprints under this section if the license holder has previously submitted fingerprints under:

(i) Chapter 364 of this title (relating to Requirements for Licensure) for the initial issuance of the license;

(ii) Chapter 370 of this title (relating to License Renewal) as part of a prior license renewal; or

(iii) Chapter 371 of this title (relating to Inactive and Retired Status) as part of a prior license renewal or change of license status.

(b) Restoration of a license expired at least one year but less than two years to a person without a current license or occupational therapy employment:

(1) The Board may restore a license expired at least one year but less than two years to a person who was licensed in Texas and:

(A) is not currently licensed in another state or territory of the U.S.; or

(B) if not currently licensed in another state or territory of the U.S., is applying from the U.S. military or a non-licensing state or territory of the U.S. and cannot substantiate occupational therapy employment for at least two years immediately preceding application for a Texas license.

(2) The person shall meet the following requirements:

(A) submit a completed restoration application form as prescribed by the Board, which includes a current photograph that meets the requirements for a U.S. passport;

(B) submit copies of the completed continuing education showing 45 hours of continuing education as per Chapter 367 of this title (relating to Continuing Education);

(C) submit to the Board a verification of license from each state or territory of the U.S. in which the applicant is currently licensed or previously held a license. This must be an original verification sent directly to the Board by the licensing board in that state or territory. Any disciplinary actions must be reported to the Board;

(D) pass the jurisprudence examination;

(E) pay the restoration fee; and

(F) submit a complete and legible set of fingerprints in the manner prescribed by the Board for the purpose of obtaining criminal history record information from the Department of Public Safety and the Federal Bureau of Investigation. The licensee is not required to submit fingerprints under this section if the license holder has previously submitted fingerprints under:

(i) Chapter 364 of this title (relating to Requirements for Licensure) for the initial issuance of the license;

(ii) Chapter 370 of this title (relating to License Renewal) as part of a prior license renewal; or

(iii) Chapter 371 of this title (relating to Inactive and Retired Status) as part of a prior license renewal or change of license status.

(c) Restoration of a license expired two years or more to a person without a current license or occupational therapy employment:

(1) The Board may restore a license expired two years or more to a person who was licensed in Texas and:

(A) is not currently licensed in another state or territory of the U.S.; or

(B) if not currently licensed in another state or territory of the U.S., is applying from the U.S. military or a non-licensing state or territory of the U.S. and cannot substantiate occupational therapy employment for at least two years immediately preceding application for a Texas license.

(2) The person shall meet the following requirements:

(A) submit a completed restoration application form as prescribed by the Board, which includes a current photograph that meets the requirements for a U.S. passport;

(B) submit to the Board a verification of license from each state or territory of the U.S. in which the applicant is currently licensed or previously held a license. This must be an original verification sent directly to the Board by the licensing board in that state or territory. Any disciplinary actions must be reported to the Board;

(C) pass the jurisprudence examination;

(D) pay the restoration fee;

(E) submit a complete and legible set of fingerprints in the manner prescribed by the Board for the purpose of obtaining criminal history record information from the Department of Public Safety and the Federal Bureau of Investigation. The licensee is not required to submit fingerprints under this section if the license holder has previously submitted fingerprints under:

(i) Chapter 364 of this title (relating to Requirements for Licensure) for the initial issuance of the license;

(ii) Chapter 370 of this title (relating to License Renewal) as part of a prior license renewal; or

(iii) Chapter 371 of this title (relating to Inactive and Retired Status) as part of a prior license renewal or change of license status; and

(F) satisfy one of the following:

(i) complete a re-entry course through an accredited college or university and submit the certificate of completion or transcript to the Board;

(ii) obtain an advanced or post-professional occupational therapy degree, with an official transcript sent to the Board; or

(iii) take and pass the NBCOT examination for licensure purposes only (after requesting Board approval to take the examination) and have the passing score reported to the Board directly by NBCOT.

(d) The Board shall expedite the restoration of a license to a military service member, military veteran, or military spouse. To request expedited services, the military service member, military veteran, or military spouse must submit a copy of the Uniformed Services Military ID card or other appropriate official documentation evidencing current or former military affiliation and notify the Board of his or her military affiliation. In this section, "military service member," "military veteran," and "military spouse" have the meaning as defined in Chapter 55, Occupations Code, §55.001.

(e) The licensee whose license has been restored shall refer to Chapter 369 of this title for provisions regarding verification of current licensure.

(f) The restoration fee as set by the Executive Council is non-refundable.

(g) Restoration requirements must be met within one year of the Board's receipt of the application. Restoration requirements are based on the length of time the license has been expired and whether the individual has a current license or occupational therapy employment as specified in this section at the time of the licensee's restoration.

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 19, 2018.

TRD-201804975

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Effective date: January 1, 2019

Proposal publication date: September 7, 2018

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CHAPTER 371. INACTIVE AND RETIRED STATUS

40 TAC §371.1, §371.2

The Texas Board of Occupational Therapy Examiners adopts amendments to §371.1, concerning inactive status, and §371.2, concerning retired status, with changes to the proposed text as published in the September 7, 2018, issue of the *Texas Register* (43 TexReg 5765). The rules will be republished.

The changes are to replace in §371.1(d)(5), §371.2(c)(5), and §371.2(d)(5) the phrase "a complete and legible set of fingerprints on a form prescribed by the Board submitted to the Department of Public Safety for the purpose of obtaining criminal history record information from the Department of Public Safety and the Federal Bureau of Investigation" with "a complete and legible set of fingerprints submitted in the manner prescribed by the Board for the purpose of obtaining criminal history record information from the Department of Public Safety and the Federal Bureau of Investigation" to clarify the provisions.

The amendments to §371.1 and §371.2 are adopted to clean up and clarify the sections and to add provisions to the sections regarding the Board obtaining licensees' criminal history record information.

Clean ups and clarifications pertain to removing "online" from provisions concerning the jurisprudence examination, as such is defined in §362.1 of the OT Rules, concerning definitions, as an online examination. Further clarifications and clean ups appear in the amendments, including removing a reference in §371.2 to verification of current licensure, as provisions concerning verification of current licensure already appear elsewhere in the OT Rules.

The amendments include adding provisions requiring a licensee's submission of fingerprints. Such changes are adopted pursuant to the addition to the Act of §454.255, adopted by the 85th Legislature, requiring a licensee to submit fingerprints to the Department of Public Safety for the purpose of the Board

obtaining criminal history record information from the Department of Public Safety and the Federal Bureau of Investigation.

Regarding criminal history record information, adopted amendments to §364.1, concerning requirements for licensure; §370.1, concerning license renewal; and §370.3, concerning license restoration, have also been submitted to the *Texas Register* for publication.

No comments were received regarding adoption of §371.1 and §371.2.

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.

§371.1. *Inactive Status.*

(a) Inactive status indicates the voluntary termination of the right to practice occupational therapy by a licensee in good standing with the Board. The Board may allow an individual who is not actively engaged in the practice of occupational therapy to put an active license on inactive status at the time of renewal. A licensee may remain on inactive status for no more than three renewals or six consecutive years and may not represent himself or herself as an occupational therapist or occupational therapy assistant.

(b) Required components to put a license on inactive status are:

(1) a completed renewal application form as prescribed by the Board documenting completion of the required continuing education as described in Chapter 367 of this title (relating to Continuing Education);

(2) the inactive status fee and any late fees that may be due; and

(3) a passing score on the jurisprudence examination.

(c) Requirements for renewal of inactive status. An inactive licensee must renew the inactive status every 2 years. The components required to maintain the inactive status are:

(1) a completed renewal application form as prescribed by the Board documenting completion of the required continuing education as described in Chapter 367 of this title (relating to Continuing Education);

(2) the inactive status renewal fee and any late fees that may be due; and

(3) a passing score on the jurisprudence examination.

(d) Requirements for reinstatement to active status. A licensee on inactive status may request to return to active status at any time. The components required to return to active status are:

(1) a completed renewal application form as prescribed by the Board;

(2) the renewal fee and any late fees that may be due;

(3) a passing score on the jurisprudence examination;

(4) proof of the required continuing education, if required; and

(5) a complete and legible set of fingerprints submitted in the manner prescribed by the Board for the purpose of obtaining criminal history record information from the Department of Public Safety and the Federal Bureau of Investigation. The licensee is not required

to submit fingerprints under this section if the license holder has previously submitted fingerprints under:

(A) Chapter 364 of this title (relating to Requirements for Licensure) for the initial issuance of the license;

(B) Chapter 370 of this title (relating to License Renewal) as part of a prior license renewal; or

(C) Chapter 371 of this title (relating to Inactive and Retired Status) as part of a prior license renewal or change of license status.

(e) If the inactive status license has been expired one year or more, in order to return to active status, the individual must follow the procedures to restore the license according to §370.3 of this title (relating to Restoration of a Texas License).

(f) The inactive status fees and any late fees as set by the Executive Council are nonrefundable.

(g) Licensees on inactive status are subject to the audit of continuing education as described in §367.3 of this title (relating to Continuing Education Audit).

§371.2. *Retired Status.*

(a) The Retired Status is available for an occupational therapy practitioner whose only practice is the provision of voluntary charity care without monetary compensation.

(1) "Voluntary charity care" means occupational therapy services provided as a volunteer with no compensation, for a charitable organization as defined in §84.003 of the Texas Civil Practice and Remedies Code. This includes any bona fide charitable, religious, prevention of cruelty to children or animals, youth sports and youth recreational, neighborhood crime prevention or patrol, or educational organization (excluding fraternities, sororities, and secret societies), or other organization organized and operated exclusively for the promotion of social welfare by being primarily engaged in promoting the common good and general welfare of the people in the community, including these type of organizations with a Section 501(c)(3) or (4) exemption from federal income tax, some chambers of commerce, and volunteer centers certified by the Department of Public Safety.

(2) "Compensation" means direct or indirect payment of anything of monetary value.

(3) The designation used by the retired status licensee is Occupational Therapist Registered, Retired (OTR, Ret) or Occupational Therapist, Retired (OT, Ret), or Certified Occupational Therapy Assistant, Retired (COTA, Ret) or Occupational Therapy Assistant, Retired (OTA, Ret).

(b) To be eligible for retired status, a licensee must hold a current license on active or inactive status or an active or inactive license that has been expired less than one year.

(c) Requirements for initial retired status are:

(1) a completed retired status application form as prescribed by the Board;

(2) a passing score on the jurisprudence examination;

(3) the completed continuing education for the current renewal period;

(4) the retired status application fee and any late fees that may be due; and

(5) a complete and legible set of fingerprints submitted in the manner prescribed by the Board for the purpose of obtaining criminal history record information from the Department of Public Safety

and the Federal Bureau of Investigation. The licensee is not required to submit fingerprints under this section if the license holder has previously submitted fingerprints under:

(A) Chapter 364 of this title (relating to Requirements for Licensure) for the initial issuance of the license;

(B) Chapter 370 of this title (relating to License Renewal) as part of a prior license renewal; or

(C) Chapter 371 of this title (relating to Inactive and Retired Status) as part of a prior license renewal or change of license status.

(d) Requirements for renewal of retired status. A licensee on retired status must renew every two years before the expiration date. The retired occupational therapy practitioner shall submit:

(1) a completed retired status renewal form as prescribed by the Board;

(2) a passing score on the jurisprudence examination;

(3) the retired status renewal fee and any late fees that may be due;

(4) completion of 6 hours of continuing education each license renewal period, as described in Chapter 367 of this title (relating to Continuing Education); and

(5) a complete and legible set of fingerprints submitted in the manner prescribed by the Board for the purpose of obtaining criminal history record information from the Department of Public Safety and the Federal Bureau of Investigation. The licensee is not required to submit fingerprints under this section if the license holder has previously submitted fingerprints under:

(A) Chapter 364 of this title (relating to Requirements for Licensure) for the initial issuance of the license;

(B) Chapter 370 of this title (relating to License Renewal) as part of a prior license renewal; or

(C) Chapter 371 of this title (relating to Inactive and Retired Status) as part of a prior license renewal or change of license status.

(e) Requirements for return to active status. A licensee who has been on retired status less than one year must submit the regular license renewal fee and the late fee as described in §370.1 of this title (relating to License Renewal). A licensee who has been on retired status for one year or more must follow the procedures for §370.3 of this title (relating to Restoration of Texas License).

(f) The occupational therapy practitioner may continue to renew the retired status license indefinitely.

(g) Licensees on retired status are subject to the audit of continuing education as described in §367.3 of this title (relating to Continuing Education Audit).

(h) A retired occupational therapy practitioner is subject to disciplinary action under the OT Practice Act.

(i) The retired status fees and any late fees as set by the Executive Council are nonrefundable.

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 19, 2018.

TRD-201804978

John P. Maline
Executive Director

Texas Board of Occupational Therapy Examiners
Effective date: January 1, 2019

Proposal publication date: September 7, 2018

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

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

40 TAC §374.1

The Texas Board of Occupational Therapy Examiners adopts amendments to §374.1, concerning disciplinary actions, without changes to the proposed text as published in the September 7, 2018, issue of the *Texas Register* (43 TexReg 5767). The rule will not be republished.

The amendments are adopted to add information concerning a schedule of sanctions to the chapter in order to comply with a recent statutory amendment to the Occupational Therapy Practice Act, Tex. Occ. Code Chapter 454.

The amendments would add a schedule of sanctions to the section and information regarding factors considered in conjunction with the schedule of sanctions when determining the appropriate penalty/sanction in disciplinary matters. The amendments are adopted pursuant to the addition to the Act of §454.3025, adopted by the 85th Legislature, requiring the Board to adopt a schedule of sanctions.

No comments were received regarding adoption of §374.1.

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.

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 19, 2018.

TRD-201804982

John P. Maline
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Texas Board of Occupational Therapy Examiners
Effective date: January 1, 2019

Proposal publication date: September 7, 2018

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