

Texas Board of Occupational Therapy Examiners



OCCUPATIONAL THERAPY RULES December, 2008

Adopted under the authority of
Title 3, Subtitle H,
Chapters 452 and 454, Occupations Code

**Executive Council of
Physical Therapy and
Occupational Therapy Examiners**

Includes all revisions as of December, 2008

Subject to further change by action of:

Executive Council of Physical Therapy and Occupational Therapy Examiners

Texas Legislature and the

Texas Board of Occupational Therapy Examiners

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RULE AMENDMENTS AND ADOPTIONS

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Rule changes made between December 2007 and December, 2008

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CHAPTER 361. STATUTORY AUTHORITY

§361.1 Statutory Authority

These rules are promulgated under the authority of the Occupational Therapy Practice Act, Texas Civil Statutes, and Article 8851. These rules do not restate all the provisions of the Occupational Therapy Practice Act. The board makes decisions in the discharge of its statutory authority without regard to any person's race, creed, color, religion, sex, national origin, disability, or age.

Source: The provisions of this §361.1 Adopted to be effective October 11, 1994, 19 TxReg 7712

CHAPTER 362. DEFINITIONS

§362.1 Definitions

The following words, terms, and phrases, when used in this part shall have the following meaning, unless the context clearly indicates otherwise.

- (1) Act--The Occupational Therapy Practice Act, Title 3, Subtitle H, Chapter 454 of the Occupations Code.
- (2) AOTA--American Occupational Therapy Association.
- (3) Applicant--A person who applies for a license to the Texas Board of Occupational Therapy Examiners.
- (4) Board--The Texas Board of Occupational Therapy Examiners (TBOTE).
- (5) Certified Occupational Therapy Assistant (COTA)--An alternate term for a Licensed Occupational Therapy Assistant. An individual who uses this term must hold a regular or provisional license to practice or represent self as an occupational therapy assistant in Texas and must practice under the general supervision of an OTR or LOT. An individual who uses this term is responsible for ensuring that he or she is otherwise qualified to use it.
- (6) Class A Misdemeanor--An individual adjudged guilty of a Class A misdemeanor shall be punished by:
 - (A) A fine not to exceed \$4,000;
 - (B) Confinement in jail for a term not to exceed one year; or
 - (C) Both such fine and imprisonment (Vernon's Texas Codes Annotated Penal Code §12.21).
- (7) Client--The entity that receives occupational therapy. Clients may be individuals (including others involved in the individual's life who may also help or be served indirectly such as caregiver, teacher, parent, employer, spouse), groups, or populations (i.e., organizations, communities).
- (8) Complete Application--Notarized application form with photograph, license fee, jurisprudence examination with at least 70% of questions answered correctly and all other required documents.
- (9) Complete Renewal--Contains renewal fee, renewal form with signed continuing education affidavit, home/work address(es) and phone number(s), and jurisprudence examination with at least 70% of questions answered correctly.

- (10) Continuing Education Committee--Reviews and makes recommendations to the board concerning continuing education requirements and special consideration requests.
- (11) Coordinator of Occupational Therapy Program--The employee of the Executive Council who carries out the functions of the Texas Board of Occupational Therapy Examiners.
- (12) Direct Contact--Refers to contact with the client and includes face-to-face in person or via visual telecommunications.
- (13) Endorsement--The process by which the board issues a license to a person currently licensed in another state, the District of Columbia, or territory of the United States that maintains professional standards considered by the board to be substantially equivalent to those set forth in the Act, and is applying for a Texas license for the first time.
- (14) Evaluation--The process of planning, obtaining, documenting and interpreting data necessary for intervention. This process is focused on finding out what the client wants and needs to do and on identifying those factors that act as supports or barriers to performance.
- (15) Examination--The Examination as provided for in Section 17 of the Act. The current Examination is the initial certification Examination given by the National Board for Certification in Occupational Therapy (NBCOT).
- (16) Executive Council--The Executive Council of Physical Therapy and Occupational Therapy Examiners.
- (17) Executive Director--The employee of the Executive Council who functions as its agent. The Executive Council delegates implementation of certain functions to the Executive Director.
- (18) First Available Examination--Refers to the first scheduled Examination after successful completion of all educational requirements.
- (19) Intervention--The process of planning and implementing specific strategies based on the client's desired outcome, evaluation data and evidence, to effect change in the client's occupational performance leading to engagement in occupation to support participation.
- (20) Investigation Committee--Reviews and makes recommendations to the board concerning complaints and disciplinary actions regarding licensees and facilities.
- (21) Investigator--The employee of the Executive Council who conducts all phases of an investigation into a complaint filed against a licensee, an applicant, or an entity regulated by the board.
- (22) Jurisprudence Examination--An examination covering information contained in the Texas Occupational Therapy Practice Act and Texas Board of Occupational Therapy Examiners rules. This test is an open book examination with multiple choice or true-false questions. The passing score is 70%.
- (23) License--Document issued by the Texas Board of Occupational Therapy Examiners which authorizes the practice of occupational therapy in Texas.
- (24) Medical Condition--A condition of acute trauma, infection, disease process, psychiatric disorders, addictive disorders, or post surgical status. Synonymous with the term health care condition.

(25) NBCOT--National Board for Certification in Occupational Therapy.

(26) Non-licensed Personnel--OT Aide or OT Orderly or other person not licensed by this board who provides support services to occupational therapy practitioners and whose activities require on-the-job training and close personal supervision.

(27) Non-Medical Condition--A condition where the ability to perform occupational roles is impaired by developmental disabilities, learning disabilities, the aging process, sensory impairment, psychosocial dysfunction, or other such conditions which does not require the routine intervention of a physician.

(28) Occupation--Activities of everyday life, named, organized, and given value and meaning by individuals and a culture. Occupation is everything people do to occupy themselves, including looking after themselves, enjoying life and contributing to the social and economic fabric of their communities.

(29) Occupational Therapist (OT)--An individual who holds a valid regular or provisional license to practice or represent self as an Occupational Therapist in Texas. This definition includes an Occupational Therapist who is designated as an Occupational Therapist, Registered (OTR) and a Licensed Occupational Therapist (LOT).

(30) Occupational Therapist, Registered (OTR)--An alternate term for a Licensed Occupational Therapist. An individual who uses this term must hold a regular or provisional license to practice or represent self as an occupational therapist in Texas. An individual who uses this term is responsible for ensuring that he or she is otherwise qualified to use it.

(31) Occupational Therapy Practice--includes:

(A) Methods or strategies selected to direct the process of interventions such as:

- (i) Establishment, remediation, or restoration of a skill or ability that has not yet developed or is impaired.
- (ii) Compensation, modification, or adaptation of activity or environment to enhance performance.
- (iii) Maintenance and enhancement of capabilities without which performance in everyday life activities would decline.
- (iv) Health promotion and wellness to enable or enhance performance in everyday life activities.
- (v) Prevention of barriers to performance, including disability prevention.

(B) Evaluation of factors affecting activities of daily living (ADL) instrumental activities of daily living (IADL), education, work, play, leisure, and social participation, including:

- (i) Client factors, including body functions (such as neuromuscular, sensory, visual, perceptual, cognitive) and body structures (such as cardiovascular, digestive, integumentary, genitourinary systems).
- (ii) Habits, routines, roles and behavior patterns.
- (iii) Cultural, physical, environmental, social, and spiritual contexts and activity demands that affect performance.
- (iv) Performance skills, including motor, process, and communication/interaction skills.

- (C) Interventions and procedures to promote or enhance safety and performance in activities of daily living (ADL), instrumental activities of daily living (IADL), education, work, play, leisure, and social participation, including.
- (i) Therapeutic use of occupations, exercises, and activities.
 - (ii) Training in self-care, self-management, home management and community/work reintegration.
 - (iii) Development, remediation, or compensation of physical, cognitive, neuromuscular, sensory functions and behavioral skills.
 - (iv) Therapeutic use of self, including one's personality, insights, perceptions, and judgments, as part of the therapeutic process.
 - (v) Education and training of individuals, including family members, caregivers, and others.
 - (vi) Care coordination, case management and transition services.
 - (vii) Consultative services to groups, programs, organizations, or communities.
 - (viii) Modification of environments (home, work, school, or community) and adaptation of processes, including the application of ergonomic principles.
 - (ix) Assessment, design, fabrication, application, fitting and training in assistive technology, adaptive devices, and orthotic devices, and training in the use of prosthetic devices.
 - (x) Assessment, recommendation, and training in techniques to enhance functional mobility including wheelchair management.
 - (xi) Driver rehabilitation and community mobility.
 - (xii) Management of feeding, eating, and swallowing to enable eating and feeding performance.
 - (xiii) Application of physical agent modalities, and use of a range of specific therapeutic procedures (such as wound care management; techniques to enhance sensory, perceptual, and cognitive processing; manual therapy techniques) to enhance performance skills.

(32) Occupational Therapy Assistant (OTA)--An individual who holds a valid regular or provisional license to practice or represent self as an Occupational Therapy Assistant in Texas, and who is required to be under the continuing supervision of an OT. This definition includes an individual who is designated as a Certified Occupational Therapy Assistant (COTA) or a Licensed Occupational Therapy Assistant (LOTA).

(33) Occupational Therapy Plan of Care--A written statement of the planned course of Occupational Therapy intervention for a patient/client. It must include goals, objectives and/or strategies, recommended frequency and duration, and may also include methodologies and/or recommended activities.

- (34) Occupational Therapy Practitioners--Occupational Therapists, and Occupational Therapy Assistants licensed by this board.
- (35) Outcome--The focus and targeted end objective of occupational therapy intervention. The overarching outcome of occupational therapy is engagement in occupation to support participation in context(s).
- (36) Place(s) of Business--Any facility in which a licensee practices.
- (37) Practice--Providing occupational therapy as a clinician, practitioner, educator, or consultant. Only a person holding a license from TBOTE may practice occupational therapy in Texas.
- (38) Accredited Educational Program--An educational institution offering a course of study in occupational therapy that has been accredited or approved by the Accreditation Council for Occupational Therapy Education (ACOTE) of the American Occupational Therapy Association.
- (39) Rules--Refers to the TBOTE Rules.
- (40) Screening--A process used to determine a potential need for occupational therapy interventions, educational and/or other client needs. Screening information may be compiled using observation, client records, the interview process, self-reporting, and/or other documentation.

Source Note: The provisions of this §362.1 adopted to be effective October 11, 1994, 19 TexReg 7712; amended to be effective January 1, 1996, 20 TexReg 10906; amended to be effective May 8, 1996, 21 TexReg 3714; amended to be effective March 5, 1997, 22 TexReg 1897; amended to be effective November 4, 1997, 22 TexReg 10747; amended to be effective October 25, 1998, 23 TexReg 10911; amended to be effective August 21, 2000, 25 TexReg 8062; amended to be effective October 16, 2000, 25 TexReg 10377; amended to be effective February 12, 2001, 26 TexReg 1346; amended to be effective July 22, 2001, 26 TexReg 5440; amended to be effective December 27, 2001, 26 TexReg 10623; amended to be effective July 22, 2002, 27 TexReg 6545; amended to be effective November 15, 2004, 29 TexReg 10581; amended to be effective May 31, 2007, 32 TexReg 2877; amended to be effective December 21, 2008, 33 TexReg 10189

CHAPTER 363. CONSUMER/LICENSEE INFORMATION

§363.1 Consumer/Licensee Information

- (a) The board prepares and provides without cost a Consumer Information Sign (in English and Spanish). The sign, or a reasonable facsimile of the sign, must be displayed in a location of public access at the place(s) of business of any board licensee.
- (b) Board meetings are announced and conducted under the provisions of the Texas Open Meetings Act, Texas Government Code, §551 et seq.
- (c) The board intends that the public have a reasonable opportunity to speak on issues that are under the jurisdiction of the board. The board reserves the authority to limit the length of public commentary.
- (d) The licensee is responsible for being knowledgeable of Title 3, Subtitle H, Chapter 454 Occupations Code, the Occupational Therapy Practice Act, and of the Texas Board of Occupational Therapy Examiners' rules.

Source Note: The provisions of this §363.1 adopted to be effective January 9, 1995, 19 TexReg 10360; amended to be effective July 22, 2002, 27 TexReg 6545

CHAPTER 364. REQUIREMENTS FOR LICENSURE

§364.1 Requirements for Licensure

- (a) All applicants shall:
- (1) submit a complete, notarized application form with a recent passport-type color photograph of the applicant;
 - (2) submit a non-refundable application fee as set by the Executive Council;
 - (3) submit a successfully completed board jurisprudence examination on the Texas Occupational Therapy Practice Act and board rules;
 - (4) have completed an accredited OT/OTA program;
 - (5) have completed supervised fieldwork experience, a minimum of 6 months for OT and 2 months for OTA.
- (b) If the applicant has not passed the national licensure examination, the applicant must also meet the requirement in §364.2 of this title (relating to License by Examination).
- (c) If the applicant is licensed as an OTR or COTA in another state, jurisdiction of the U.S., or US military, the applicant must also meet the requirements as stated in §364.4 of this title (relating to Licensure by Endorsement).
- (d) An application for license is valid for one year after the date it is received by the board.
- (e) An applicant who submits an application containing false information may be denied a license by the board.
- (f) 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.
- (g) Applicants and licensees must notify the board in writing of changes in name, residential address, and work address within 30 days of the change.
- (h) The Board will issue a replacement copy of a license to replace one lost or destroyed upon receipt of a written request and the appropriate fee from the licensee. For a name change, the appropriate fee and a copy of the legal document (marriage certificate, divorce decree) enacting the name change must accompany the request.
- (i) 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.
- (j) Licensees will follow the rules for continuing education, as described in Chapter 367 of this title (relating to Continuing Education).

Source Note: The provisions of this §364.1 adopted to be effective February 12, 2001, 26 TexReg 1347; amended to be effective July 22, 2001, 26 TexReg 5440; amended to be effective July 22, 2002, 27 TexReg 6545; amended to be

effective May 31, 2007, 32 TexReg 2879

§364.2 Initial Licensure by Examination

- (a) An Applicant applying for license by examination must
 - (1) meet all provisions for §364.1 of this title (relating to Requirements for a License); and
 - (2) pass the NBCOT certification examination for occupational therapists or occupational therapy assistants with a score set by NBCOT. Score reports must be sent to the Board by NBCOT or their score reporting service.
 - (3) Application for license must be received no later than two years following date of exam.
- (b) Upon receiving the test scores from NBCOT the Board will automatically issue a regular license to the applicant with a passing score.
- (c) An applicant who fails an examination may take additional examinations by sending in the appropriate fee with the board's re-exam form.
- (d) An application for license is valid for one year from the date it is received by the board. During that year, a re-exam fee may be paid to the board for each subsequent exam taken by the applicant. At the end of the year the application fee must be paid to continue the application process for the second year. The process will then continue under the terms of the original application.

Source Note: The provisions of this §364.2 adopted to be effective February 12, 2001, 26 TexReg 1347; amended to be effective July 22, 2001, 26 TexReg 5440

§364.3 Temporary License

- (a) The Board will issue a temporary license to an applicant who is taking the exam for the first time
- (b) Temporary Licensure is not available to applicants who have received a license in another state, US Territory or another country as an occupational therapy practitioner, unless they were licensed as a certified occupational therapy assistant (COTA) and now meet the requirements for a temporary license as an OT.
- (c) To be issued a temporary license, the applicant must:
 - (1) meet all provisions of §364.1 of this title (relating to Requirement for a License);
 - (2) meet all provisions of §364.2 of this title (relating to License by Examination);
 - (3) submit the Confirmation of Examination Registration and Eligibility to Examine form from NBCOT, which must be sent directly to the board by NBCOT;
 - (4) submit a signed Verification of Supervision form as provided by the board;

- (5) send the board the application fee as set by the Executive Council.
- (d) If the applicant fails to take the first available examination, or fail to have the scores reported, the temporary license will be revoked.
- (e) If the applicant fails the examination, the temporary license is void and must be returned. No second temporary licenses are issued after failure of the examination.
- (f) A temporary license shall be valid no longer than 180 days.

Source Note: The provisions of this §364.3 adopted to be effective February 12, 2001, 26 TexReg 1347; amended to be effective July 22, 2001, 26 TexReg 5440; amended to be effective July 22, 2002, 27 TexReg 6545

§364.4 Licensure by Endorsement

- (a) The board may issue a license by endorsement to applicants currently licensed in another state, District of Columbia or territory of the United States which has licensing requirements substantially equivalent to this state. Previous Texas licensees are not eligible for License by Endorsement. An Applicant seeking endorsement must:
 - (1) meet all provisions for §364.1 of this title (relating to Requirements for License);
 - (2) arrange to have NBCOT's score report form sent directly to the board except applicants examined prior to 1985 should have NBCOT provide the board its Verification of Certification form.
 - (3) submit verification of license in good standing from the state(s) in which the applicant is currently licensed. This must be an original verification sent directly by the licensing board in that state, or,
 - (4) submit, if applying from a non-licensing state or US military and not holding a current state license, a Verification of Employment form substantiating occupational therapy employment for at least 2 years immediately preceding application for a Texas license.
- (b) Provisional License:
 - (1) The Board may grant a Provisional License to an applicant who is applying for License by endorsement if there is an unwarranted delay in the submission of required documentation outside the applicant's control. All other requirements for licensure by endorsement must be met. The applicant must also submit the Provisional License fee as set by the Executive Council. The Board may not grant a provisional license to an applicant with disciplinary action in their license history, or to an applicant with pending disciplinary action. The Provisional License will have a duration of 180 days.
 - (2) The Board may grant a Provisional License to an applicant who has previously held a Texas license and does not meet the requirements for restoration of a license as outlined in Chapter 370 provided that such applicant has a current license in good standing in another state which has licensing requirements substantially equivalent to Texas. Upon receiving a passing score from NBCOT, a new regular license will be issued, as outlined in §364.2 of this chapter. A failing score will result in

revocation of the Provisional License. The Provisional License will have a duration of 180 days. The applicant must:

- (A) submit a new application as outlined in §364.1 and §364.2 of this title;
- (B) submit verification of the current license in another state or US territory;
- (C) submit the provisional license fee as set by the Executive Council;
- (D) submit a copy of the confirmation of registration for NBCOT's national examination.

Source Note: The provisions of this §364.4 adopted to be effective February 12, 2001, 26 TexReg 1347; amended to be effective July 22, 2001, 26 TexReg 5440; amended to be effective October 20, 2002, 27 TexReg 9626; amended to be effective February 12, 2004, 29 TexReg 1227

CHAPTER 367 CONTINUING EDUCATION

§367.1 Continuing Education

- (a) The Act mandates licensee participation in a continuing education program for license renewal. All continuing education must be directly relevant to the profession of occupational therapy and meet the definition of Type 1 or Type 2 as outlined in this section. The licensee is solely responsible for keeping accurate documentation of all continuing education requirements.
- (b) All licensees must complete a minimum of 30 hours of continuing education every two years during the period of time the license is current in order to renew the license, and provide this information as requested.
- (c) Those renewing a license more than 90 days late must submit proof of continuing education for the renewal.
- (d) Types of Continuing Education.
 - (1) A minimum of 15 hours of continuing education must be in skills specific to occupational therapy practice with patients or clients hereafter referred to as Type 2.
 - (A) Type 2 courses teach occupational therapy treatment and intervention with patients or clients.
 - (B) All continuing education hours may be in Type 2, but no less than 15 hours of Type 2 is acceptable.
 - (2) General information hereafter referred to as Type 1 continuing education is relevant to the profession of occupational therapy. Examples include but are not limited to: supervision, education, documentation, quality improvement, administration, reimbursement and other occupational therapy related subjects.
- (e) Specific continuing educational activities may be counted only one time in the licensee's career unless content has been updated or revised.

- (f) Effective January 1, 2003, Type 1 and Type 2 educational activities approved or offered by the American Occupational Therapy Association or the Texas Occupational Therapy Association are pre-approved by the board. The board will review its approval process and continuation thereof for educational activities by January 2005 and at least once each five-year period thereafter.
- (g) Licensees are responsible for choosing Type 1 or Type 2 CE according to the definitions in this section.

Source Note: The provisions of this §367.1 adopted to be effective October 11, 1994, 19 TexReg 7714; amended to be effective January 1, 1996, 20 TexReg 10907; amended to be effective February 2, 1999, 24 TexReg 606; amended to be effective February 3, 2000, 25 TexReg 818; amended to be effective August 21, 2000, 25 TexReg 8063; amended to be effective July 22, 2001, 26 TexReg 5441; amended to be effective January 1, 2003, 27 TexReg 12015; amended to be effective October 27, 2003, 28 TexReg 9291; amended to be effective August 29, 2006, 31 TexReg 6801; amended to be effective May 31, 2007, 32 TexReg 2880; amended to be effective February 25, 2008, 33 TexReg 1603

§367.2 Categories of Education

- (a) All continuing education must comply with Type 1 or Type 2 as outlined in §367.1 of this title (relating to Continuing Education). Continuing education undertaken by a licensee for renewal shall be acceptable if it falls in one or more of the following categories.
 - (1) Formal academic courses related to occupational therapy. Completion of course work at or through an accredited college or university shall be counted as follows: three CE hours for each credit hour of a course with a grade of A, B, C, and/or P (Pass). Thus a three-credit course counts for 9 credit hours of continuing education. All college course work must comply with Type 1 and Type 2 as outlined in §367.1 of this title (relating to Continuing Education), no maximum.
 - (2) In-service educational programs, training programs, institutes, seminars, workshops, facility based courses, and conferences in occupational therapy. Hour for hour credit on program content only, no maximum.
 - (3) Development of publication, media materials or research/grant activities per two year renewal period:
 - (A) Published scholarly work in a peer-review journal, 15 hours maximum.
 - (B) Principle investigator or co-principle investigator in grant or research proposals accepted for consideration. 10 hours maximum.
 - (C) Published book, 10 hours maximum.
 - (D) Second or other author, 7 hours maximum.
 - (E) Book chapter, 5 hours maximum.
 - (F) Other publications such as newsletter and trade magazines, 2 hours maximum.
 - (4) Home study courses, Internet-based courses, and videotape instruction, no maximum.

- (A) Courses must fit the criteria for continuing education for Type 1 or Type 2.
 - (B) These courses must have a post-test and give a certificate of completion.
 - (C) Internet courses must reflect a pre-determined number of credit hours.
- (5) Professional presentations by licensee:
- (A) Professional presentation, e.g. in-services, workshops, institutes: any presentations counted only one time. Hour for hour credit. 10 hour maximum.
 - (B) Community/Service organization presentation: any presentation counted once. Hour for hour credit. 10 hours maximum.
- (6) Any deviation from the above 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 days prior to expiration of the license.
- (b) Unacceptable Continuing Education Activities include but are not limited to:
- (1) Any non-instructional time frames such as breaks, meals, introductions, and pre/post testing.
 - (2) Business meetings
 - (3) Exhibit hall attendance
 - (4) Reading journals
 - (5) Courses such as, but not limited to: grant writing, case management, massage therapy, general management and business, social work, defensive driving, water safety, team building, GRE, GMAT, MCAT preparation, cooking for health, weight management, women's health and stress management, reading techniques, geriatric anthology, general foreign languages.
 - (6) Facility-based annual required courses such as, but not limited to patient abuse, disposal of hazardous waste, patient privacy, HIPAA & FERPA, blood borne pathogens, and other annual facility required repetitive courses do not count toward continuing education.
 - (7) Program providers are prohibited from self-promotion of programs, products, and/or services during the presentation of the program.

Source Note: The provisions of this §367.2 adopted to be effective July 22, 2001, 26 TexReg 5441; amended to be effective August 29, 2006, 31 TexReg 6801; amended to be effective May 31, 2007, 32 TexReg 2880

§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 30 hours required and has signed to that fact on the renewal form.
- (b) Licensees randomly selected for the audit must provide to TBOTE appropriate documentation within 30 days of notification. Documentation submitted must specify whether they are Type 1 or Type 2.
 - (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, or a total of four years.
 - (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, and certificates of completion.
 - (e) Documentation must identify the licensee by name and license number, and must include the date and title of the course, the signature of the authorized signer, and the number of CEUs or contact hours awarded for the course.
 - (f) Knowingly providing false information or failure to respond during the audit process or the renewal process is grounds for disciplinary action.

Source Note: The provisions of this §367.3 adopted to be effective July 22, 2001, 26 TexReg 5441; amended to be effective August 29, 2006, 31 TexReg 6801

CHAPTER 368. OPEN RECORDS

§368.1 Open Records

- (a) Open Records Requests. Inspection of Public Records under the Texas Open Records Act, Texas Civil Statutes, Article 8890, §9(c) and (d), provide that all of the records of the board are public records and are available for public inspection during normal business hours except that investigative files and records of the board are confidential. In addition, the exceptions to disclosure in Texas Civil Statutes, Article 6252-17a, may protect certain information. This rule is promulgated pursuant to Article 6252-17a to establish a records review process that is efficient, safe, and timely to the public and to the agency.
 - (1) Requests must be in writing and reasonably identify the records requested.
 - (2) Records access will be by appointment only.
 - (3) Records access is available only during the regular business hours of the agency.
 - (4) Unless confidential information is involved, review may be by physical access or by duplication at the requestor's option. Any person, however, whose request would be unduly disruptive to the ongoing business of the office may be denied physical access and will be provided the option of receiving copies. Costs of duplication shall be the responsibility of the requesting party in accordance with the established board fee policy, payable at the time of receipt of records, if in person; or in advance, if by mail. The board may, in its discretion, waive fees if it is in the public interest to do so.

- (5) When the safety of any public record is at issue, physical access may be denied and the records will be provided by duplication as previously described.
 - (6) Confidential files will not be made available for inspection or for duplication except under certain circumstances, e.g., court order.
 - (7) All open records request appointments will be referred to the executive director or designee before complying with a request.
 - (8) The open records coordinator for the agency is the executive director and the alternate is the director's designee.
- (b) Charges for Copies of Public Records. The charge to any person requesting reproductions of any readily available record of the Texas Board of Occupational Therapy Examiners will be the charges established by the General Services Commission.
- (c) The board may waive these charges if there is a public benefit. The executive director of the Executive Council of Physical Therapy and Occupational Therapy Examiners is authorized to determine whether a public benefit exists on a case-by-case basis.

Source Note: The provisions of this §368.1 adopted to be effective October 11, 1994, 19 TexReg 7715.

CHAPTER 369 DISPLAY OF LICENSES

§369.1 Display of Licenses

- (a) Licenses must be displayed in accordance with the Act, §454.214.
- (b) The original license and renewal certificate must be prominently displayed in the licensee's principal place of business as designated by the licensee. The wallet-sized license renewal certificate must be carried by the licensee when in other practice settings. Reproduction of the original license and/or renewal certificate is only authorized for institutional file purposes and not for public display.
- (c) A licensee shall not make any alteration(s) on a license and/or renewal certificate.

Source Note: The provisions of this §369.1 adopted to be effective October 11, 1994, 19 TexReg 7715; amended to be effective July 22, 2002, 27 TexReg 6546

§369.2 Changes of Name or Address of Licensees

- (a) A licensee or applicant shall notify the board in writing of changes in name, residential and/or primary business address and/or supervisor within 30 days of such change(s). A copy of a marriage license, court decree, or divorce decree evidencing a change in name must be submitted by the licensee or applicant with any written notification in a change in name.
- (b) Failure to provide the changes requested in subsection (a) of this section may cause a licensee to be subject to disciplinary action.

Source Note: The provisions of this §369.2 adopted to be effective October 11, 1994, 19 TexReg 7715; amended to be effective January 1, 1996, 20 TexReg 10907

§369.3 Use of Titles

- (a) Temporary Licensees.
 - (1) Only an occupational therapist with a temporary license may use the title "Occupational Therapist" and the initials "OT."
 - (2) Only an occupational therapy assistant with a temporary license may use the title "Occupational Therapy Assistant" and the initials "OTA."
- (b) Regular and Provisional Licensees.
 - (1) Only an occupational therapist with a regular or provisional license may use the title "Licensed Occupational Therapist" or "Occupational Therapist, Registered" and the initials "LOT" or "OTR."
 - (2) Only an occupational therapy assistant with a regular or provisional license may use the title "Licensed Occupational Therapy Assistant" or "Certified Occupational Therapy Assistant" and the initials "LOTA" or "COTA."
- (c) Limitations.
 - (1) A person who does not hold a license to practice occupational therapy in Texas may not use any of the following terms in conjunction with their business, work, or services:
 - (A) "occupational therapist," "licensed occupational therapist," "occupational therapist, registered";
 - (B) "occupational therapy assistant," "licensed occupational therapy assistant," "certified occupational therapy assistant";
 - (C) "OT," "OTR," "LOT," "OTR/L";
 - (D) "OTA," "LOTA," "COTA," "COTA/L"; or
 - (E) any other words, letters, abbreviations, or insignia indicating or implying that he or she is an occupational therapist or an occupational therapy assistant.
 - (2) If a licensee chooses to use the designations "occupational therapist, registered," "certified occupational therapy assistant," "OTR," or "COTA," it is the responsibility of the individual licensee to ensure that he or she is qualified to use those terms.

Source Note: The provisions of this §369.3 adopted to be effective October 11, 1994, 19 TexReg 7715; amended to be effective May 8, 1996, 21 TexReg 3715; amended to be effective November 4, 1997, 22 TexReg 10750

CHAPTER 370 LICENSE RENEWAL

§370.1 License Renewal

- (a) License 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 or renewal certificate in hand. If a license expired after all required items

are submitted but before the licensee received the renewal certificate, the licensee may not provide occupational therapy services until the renewal certificate is in hand.

- (1) General Requirements. The renewal application is not complete until the board receives all required items. The components required for license renewals are:
 - (A) signed renewal application form, or online equivalent 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 which may be due;
 - (C) a passing score on the Jurisprudence exam.
 - (D) any additional forms the board may require.
 - (2) The licensee is responsible for ensuring that the license is renewed, whether receiving a renewal notice or not.
 - (3) Online Renewal. Licensees may complete their renewal online but can only continue to practice with their online receipt for 30 days from the date on the receipt.
 - (A) Licensees who do not have a Social Security Number on file will be unable to renew online.
 - (B) Licensees who are inactive status, or who wish to change their current status must renew with a paper application before the expiration date.
 - (C) Licensees who want to change their name on their license must submit a copy of court documents with the new name before the renewal process so that the renewal card reflects the new name. Changing the wall license requires a replacement license fee. Should the change occur out of the renewal process sequence, the licensee must pay for a duplicate renewal card and/or wall license.
- (b) Restrictions to Renewal/Restoration
- (1) The board will not renew a license if a licensee has defaulted with the Student Loan Corporation (TGSLC). Upon notice from TGSLC that a repayment agreement has been established, the license shall be renewed.
 - (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.

Source Note: The provisions of this §370.1 adopted to be effective October 11, 1994, 19 TexReg 7716; amended to be effective January 1, 1996, 20 TexReg 10908; amended to be effective May 8, 1996, 21 TexReg 3715; amended to be effective November 4, 1997, 22 TexReg 10751; amended to be effective October 25, 1998, 23 TexReg 10912; amended to be effective February 12, 2001, 26 TexReg 1348; amended to be effective July 22, 2001, 26 TexReg 5442; amended to be effective October 27, 2003, 28 TexReg 9291; amended to be effective December 4, 2005, 30 TexReg 7891; amended to be effective May 31, 2007, 32 TexReg 2880

§370.2 Late Renewal

- (a) A renewal application is late if all required materials are not postmarked prior to the expiration date of the license. Licensees who do not complete the renewal process prior to the expiration date are subject to late fees as described.
- (1) If the license has been expired for 90 days or less, the person may renew the license by:
- (A) submitting the renewal fee and the board approved late fee; and
 - (B) reporting completion of the required number of contact hours of continuing education.
- (2) If the license has been expired for more than 90 days, but less than one year, the person may renew the license by:
- (A) submitting the renewal fee and the board approved late fee; and
 - (B) reporting completion of the required number of contact hours of continuing education.
- ((b) If the license has been expired for one year or longer, the person may not renew the license. To obtain a new license, the applicant must retake and pass the national examination and comply with the requirements and procedure for obtaining an original license set by Chapter 364 of this title (relating to Requirements for Licensure).
- (c) Restoration: Persons holding a license in another state, previously licensed in Texas:
- (1) The board may issue a license to a person who was licensed in Texas, moved to another state, is currently licensed in the other state, and has been engaged in the practice of occupational therapy in the other state for the two years preceding the application if the person meets the following requirements:
- (A) makes the application for licensure to the board on a form prescribed by the board;
 - (B) submits to the board verification of the current license in good standing from the other state;
 - (C) submits the board form documenting continuous employment in occupational therapy in another state for the two years preceding the application;
 - (D) passes the jurisprudence exam; and
 - (E) pays the board approved fee.
- (2) The license shall expire at the last day of the month of the licensee's birth. The duration shall be at least two years, and licensees shall obtain the continuing education as per Chapter 367 of this title (relating to Continuing Education).

- (d) Military Service
- (1) If a reserve status licensee is called into active military service, and his or her license expires during service, the licensee may follow the requirements for renewal with no penalty if the licensee:
 - (A) submits the renewal within 90 days after return to reserve status;
 - (B) submits evidence of active service and its inclusive dates.
 - (2) A reserve status licensee who is called into active military service will have 6 additional months after release from active military service to submit proof of completion of the 30 required CE hours as per Chapter 367 of this title (relating to Continuing Education).

Source Note: The provisions of this §370.2 adopted to be effective May 31, 2007, 32 TexReg 2880

CHAPTER 371 INACTIVE and RETIRED STATUS

§371.1 Inactive Status

A request for a change to inactive status, in accordance with the Act, may only be made at renewal date.

- (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 a 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 him or herself as an Occupational Therapist or Occupational Therapy Assistant.
- (b) Required components to put a license on inactive status are:
 - (1) Signed renewal application form documenting completion of the required continuing education as described in chapter 367 of this title, concerning Continuing Education; and
 - (2) The inactive fee and any late fees which may be due.
 - (3) A passing score on the jurisprudence exam
- (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) Signed renewal application form, documenting completion of the required continuing education as described in chapter 367 of this title, concerning Continuing Education; and
 - (2) The renewal fee and any late fees which may be due.
 - (3) A passing score on the jurisprudence exam

- (d) Requirements for reinstatement to active status. A licensee on inactive status may request to return to active status at any time. After the licensee has submitted a complete application for reinstatement, the board will send a renewal certificate for the remainder of the current renewal period to the licensee.
- (1) The components required to return to active statuses are:
 - (A) Signed renewal application form;
 - (B) The renewal fee and any late fees which may be due;
 - (C) A passing score on the jurisprudence exam; and
 - (2) If the licensee has not completed the required continuing education, he or she may retake the national licensure exam.

Source Note: The provisions of this §371.1 adopted to be effective October 11, 1994, 19 TexReg 7716; amended to be effective May 8, 1996, 21 TexReg 3716; amended to be effective November 4, 1997, 22 TexReg 10751; amended to be effective October 25, 1998, 23 TexReg 11167; amended to be effective February 3, 2000, 25 TexReg 818; amended to be effective May 20, 2001, 26 TexReg 3494

§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 Section §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 Licensed Occupational Therapist, Retired, (LOT, Ret), or Certified Occupational Therapy Assistant, Retired (COTA, Ret) or Licensed Occupational Therapy Assistant, Retired (LOTA, Ret).
- (b) To be eligible for retired status, a licensee must hold a current license on active or inactive status.
- (c) Requirements for initial retired status are:
- (1) a completed and notarized application form;

- (2) a passing score on the jurisprudence exam;
 - (3) the completed continuing education for the current renewal period; and
 - (4) the retired status fee and any late fees which may be due.
- (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) the retired status renewal form;
 - (2) a passing score on the jurisprudence exam;
 - (3) the retired renewal fee and any late fee which may be due; and
 - (4) completion of 6 hours of Type 2 continuing education each license renewal period, as described in §367.1 of this title (relating to Continuing Education).
- (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 more than one year must retake and pass the national examination to return the license to active status. The licensee must submit:
- (1) a complete and notarized application;
 - (2) a passing score on the jurisprudence exam;
 - (3) a passing score on the recent retaking of the national examination; and
 - (4) the initial application fee.
- (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.

Source Note: The provisions of this §371.2 adopted to be effective August 29, 2006, 31 TexReg 6801

CHAPTER 372. PROVISION OF SERVICES

§372.1 Provision of Services

(a) Medical Conditions.

- (1) Treatment for a medical condition by an occupational therapy practitioner requires a referral from a licensed referral source.

- (2) The referral may be an oral or signed written order. If oral, it must be followed by a signed written order.
- (3) If a written referral signed by the referral source is not received by the third treatment or within two weeks from the receipt of the oral referral, whichever is later, the therapist must have documented evidence of attempt(s) to contact the referral source for the written referral (e.g., registered letter, fax, certified letter, email, return receipt, etc.). The therapist must exercise professional judgment to determine cessation or continuation of treatment with a receipt of the written referral.

(b) Non-Medical Conditions.

- (1) Consultation, monitored services, and evaluation for need of services may be provided without a referral.
- (2) Non-medical conditions do not require a referral. However, a referral must be requested at any time during the evaluation or treatment process when necessary to insure the safety and welfare of the consumer.

(c) Screening. A screening may be performed by an occupational therapy practitioner.

(d) Evaluation.

- (1) Only an OTR or LOT may perform the evaluation.
- (2) An occupational therapy plan of care must be based on an occupational therapy evaluation.
- (3) The OTR or LOT must have face-to-face, real time interaction with the patient or client during the evaluation process.
- (4) The OTR or LOT may delegate to a COTA, LOTA or temporary licensee the collection of data for the assessment. The OTR or LOT is responsible for the accuracy of the data collected by the assistant.

(e) Plan of Care.

- (1) Only an OTR, LOT or OT may initiate, develop, modify or complete an occupational therapy plan of care. It is a violation of the OT Practice Act for a COTA/LOTA to dictate, or attempt to dictate, when occupational therapy services should or should not be provided, the nature and frequency of services that are provided, when the patient should be discharged, or any other aspect of the provision of occupational therapy as set out in the OT Act and Rules.
- (2) The OTR, LOT or OT and COTA, LOTA or OTA may work jointly to revise the short-term goals, but the final determination resides with the OTR or LOT. Revisions to the plan of care and goals must be documented by the OTR/LOT and/or COTA/LOTA to reflect revisions at the time of the change.
- (3) An occupational therapy plan of care may be integrated into an interdisciplinary plan of care, but the occupational therapy goals or objectives must be easily identifiable in the plan of care.

- (4) Only occupational therapy practitioners licensed by the Texas Board of Occupational Therapy Examiners (TBOTE) may implement the plan of care once it is established.
 - (5) Only the occupational therapy practitioner may train non-licensed personnel or family members to carry out specific tasks that support the occupational therapy plan of care.
 - (6) The OTR or LOT is responsible for determining whether intervention is needed and if a referral is required for occupational therapy intervention.
 - (7) The occupational therapy practitioners must have face-to-face, real time interaction with the patient or client during the intervention process.
 - (8) Except where otherwise restricted by rule, the supervising OTR or LOT may only delegate to a COTA, LOTA or temporary licensee tasks that they both agree are within the competency level of that COTA, LOTA or temporary licensee.
 - (9) The COTA or LOTA must include the name of his or her supervising OTR or LOT in each treatment note. If there is not a current supervising OTR or LOT, the COTA or LOTA cannot treat.
- (f) Discharge.
- (1) Only an OTR or LOT has the authority to discharge patients from occupational therapy services. The discharge is based on whether the patient or client has achieved predetermined goals, has achieved maximum benefit from occupational therapy services; or when other circumstances warrant discontinuation of occupational therapy services.
 - (2) The OTR or LOT is responsible for the content and validity of the discharge summary and must sign the discharge summary.

Source Note: The provisions of this §372.1 adopted to be effective October 11, 1994, 19 TexReg 7717; amended to be effective August 31, 1995, 20 TexReg 6337; amended to be effective May 8, 1996, 21 TexReg 3716; amended to be effective November 4, 1997, 22 TexReg 10752; amended to be effective October 25, 1998, 23 TexReg 10912; amended to be effective August 21, 2000, 25 TexReg 8063; amended to be effective July 22, 2001, 26 TexReg 5442; amended to be effective July 22, 2002, 27 TexReg 6546; amended to be effective February 27, 2005, 30 TexReg 910; amended to be effective December 4, 2005, 30 TexReg 7892; amended to be effective February 25, 2008, 33 TexReg 1604

CHAPTER 373. SUPERVISION

§373.1 Supervision of Non-Licensed Personnel

- (a) OTRs and LOTs are fully responsible for the planning and delivery of occupational therapy services. They may use non-licensed personnel to extend their services; however, the non-licensed personnel must be under the supervision of an occupational therapy practitioner.
- (b) Close Personal Supervision implies direct, on-site contact whereby the supervising occupational therapy licensee is able to respond immediately to the needs of the patient. This type of supervision is required for non-licensed personnel providing support services to the occupational therapy practitioners.
- (c) When occupational therapy practitioners delegate occupational therapy tasks to non-licensed personnel, the occupational therapy practitioners are responsible for ensuring that this person is adequately trained in the tasks delegated.

- (d) The Occupational therapy practitioners providing the treatment must interact with the patient regarding the patient's condition, progress, and/or achievement of goals during each treatment session.
- (e) Delegation of tasks to non-licensed personnel includes but it not limited to:
 - (1) routine department maintenance;
 - (2) transportation of patients/clients;
 - (3) preparation or set up of treatment equipment and work area;
 - (4) assisting patients/clients with their personal needs during treatment;
 - (5) assisting in the construction of adaptive/assistive equipment and splints. The licensee must be on-site and attending for any initial applications to the patient;
 - (6) carrying out a predetermined segment or task in the patient's care for which the patient has demonstrated some previous performance ability in executing the task.
- (f) The Non-Licensed Personnel may not:
 - (1) perform occupational therapy evaluative procedures.
 - (2) initiate, plan, adjust, or modify occupational therapy procedures.
 - (3) act on behalf of the OTR or LOT in any matter relating to occupational therapy which requires decision making or professional judgements.
 - (4) write or sign occupational therapy documents in the permanent record. However, non-licensed personnel may record quantitative data for tasks delegated by the supervising OTR, LOT, COTA or LOTA. Any documentation reflecting activities by non-licensed personnel must identify the name and title of that person and the name of the supervising OTR, LOT, COTA or LOTA.

Source Note: The provisions of this §373.1 adopted to be effective January 9, 1995, 19 TexReg 10361; amended to be effective August 31, 1995, 20 TexReg 6337; amended to be effective May 8, 1996, 21 TexReg 3716; amended to be effective March 5, 1997, 22 TexReg 1898; amended to be effective November 4, 1997, 22 TexReg 10752; amended to be effective October 25, 1998, 23 TexReg 11167; amended to be effective July 22, 2001, 26 TexReg 5443; amended to be effective July 22, 2002, 27 TexReg 6546; amended to be effective December 4, 2005, 30 TexReg 7893

§373.2 Supervision of a Temporary Licensee

- (a) Requirements for all temporary licensees:
 - (1) A temporary licensee works under the supervision of a regular licensed occupational therapist, whose name and license number are on file on the Board's "Supervision of a Temporary Licensee" form.
 - (2) All documentation completed by an individual holding a temporary license which becomes part of the patient's/client's permanent file, must be approved and co-signed by the supervising occupational therapist.

- (3) Temporary licensees may not supervise anyone.
 - (4) A temporary licensee does not become a regular licensee with those privileges until the regular license is in hand.
- (b) Supervision of an occupational therapy assistant with a temporary license includes:
- (1) sixteen hours of supervision a month of which at least twelve hours are through telephone, written report or conference, including the review of progress of patients/clients assigned; plus
 - (2) four or more hours of supervision a month which are face-to-face, real time supervision with the temporary licensee providing services to one or more patients/clients.
- (c) Supervision of an occupational therapist with a temporary license includes documentation regarding:
- (1) frequent communication between the supervising occupational therapist and the temporary licensee by telephone, written report or conference, including the review of progress of patients/clients assigned, plus
 - (2) encounters twice a month where the OTR or LOT directly observes the temporary licensee providing services to one or more patients/clients with face-to-face, real time interaction.

Source Note: The provisions of this §373.2 adopted to be effective July 22, 2001, 26 TexReg 5443; amended to be effective July 22, 2002, 27 TexReg 6546; amended to be effective August 29, 2006, 31 TexReg 6802

§373.3 Supervision of a Licensed Occupational Therapy Assistant

- (a) A COTA/LOTA shall provide occupational therapy services only under the supervision of a licensed occupational therapist.
- (b) Supervision of a full time employed COTA or LOTA by the OTR or LOT includes:
- (1) A minimum of six hours a month of frequent communication between the supervising OTR(s) or LOT(s) and the COTA or LOTA by telephone, written report, email, conference etc., including review of progress of patient's/client's assigned, plus
 - (2) A minimum of two hours of supervision a month of face-to-face, real time interaction with the OTR(s) or LOT(s) observing the COTA or LOTA providing services with patients/clients.
 - (3) These hours shall be documented on a COTA/LOTA Supervision Log for each employer. The OTR/LOT or employer may request a copy of the COTA Supervision Log. The COTA Supervision Log is kept by the COTA/LOTA and signed by an OTR/LOT when supervision is given.
- (c) Licensees working part-time or less than a full month within a given month may pro-rate these hours, but shall document no less than four hours of supervision per month, one hour of

which includes face-to-face, real time interaction by the OTR(s) and LOT(s) observing the COTA or LOTA providing services with patients/clients. Those months where the licensee does not work as a COTA/LOTA, he or she shall write N/A in the COTA Supervision Log for that month.

- (d) COTAs or LOTAs with more than one employer must have a supervisor at each job whose name is on file with the board and must receive supervision by an OTR or LOT, as outlined for part-time employment in this section.
- (e) The OTA must include the name of the supervising OT in each patient's treatment note.

Source Note: The provisions of this §373.3 adopted to be effective July 22, 2001, 26 TexReg 5443; amended to be effective July 22, 2002, 27 TexReg 6546; amended to be effective October 27, 2003, 28 TexReg 9292; amended to be effective February 27, 2005, 30 TexReg 911; amended to be effective February 25, 2008, 33 TexReg 1605; amended to be effective August 26, 2008, 33 TexReg 7001

CHAPTER 374. DISCIPLINARY ACTIONS/DETRIMENTAL PRACTICE/COMPLAINT PROCESS/CODE OF ETHICS

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

- (d) Final disciplinary actions taken by the board will be routinely published as to the names and offenses of the licensees or facilities.
- (e) 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.

Source Note: The provisions of this §374.1 adopted to be effective October 11, 1994, 19 TexReg 7718; amended to be effective August 31, 1995, 20 TexReg 6338; amended to be effective January 1, 1996, 20 TexReg 10908; amended to be effective May 8, 1996, 21 TexReg 3717; amended to be effective November 4, 1997, 22 TexReg 10754; amended to be effective July 22, 2001, 26 TexReg 5444

§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 1395nn 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;
- (13) failing to register an occupational therapy facility which is not exempt or failing to renew the registration of an occupational therapy facility which is not exempt; or
- (14) practicing in an unregistered occupational therapy facility which is not exempt.

Source Note: The provisions of this §374.2 adopted to be effective October 11, 1994, 19 TexReg 7718; amended to be effective May 8, 1996, 21 TexReg 3718; amended to be effective July 22, 2001, 26 TexReg 5444

§374.3 Complaint Process

- (a) The Act, Subchapters G and H authorize the board to investigate complaints.
- (b) Filing and receipt of complaints.
 - (1) Complaints may be received in writing. Complainants shall be invited to explain their allegations. The staff will provide reasonable assistance to a person who wishes to file a complaint. Anonymous complaints will be accepted, but it is understood that the lack of a witness or the ability to secure additional information from the anonymous complainant may result in the board's inability to secure sufficient evidence to pursue action against the alleged violator.
 - (2) When a complaint is received, the board shall notify the parties to the complaint of the status of the complaint, unless the notice would jeopardize an undercover investigation. The board shall notify the parties to the complaint at least as frequently as quarterly until there is final disposition of the complaint, in accordance with the Act, §454.152.
 - (3) Not later than the tenth calendar day after a complaint is received, the staff shall place a timeline for completion of the investigation in the file and notify all parties to the complaint. Any change in the timeline must be noted in the file and all parties notified of the change not later than seven calendar days after the change was made. For purposes of this rule, completion of an investigation in a disciplinary matter occurs when:
 - (A) staff determines there is insufficient evidence to demonstrate a violation of the Act, board rules, or a board order; or
 - (B) staff determines that there is sufficient evidence to demonstrate a violation of the Act, board rules, or a board order and drafts proposed formal charges.
 - (4) The staff shall provide summary data of complaints extending beyond the complaint timeline to the coordinator and the executive director who will then notify the board at a regularly scheduled meeting.

- (5) The board shall keep an information file on each complaint submitted to the board. The file will be kept current and include a record of all persons contacted in relation to the complaint, notes about the findings throughout the complaint process, and other relevant information.
- (6) The Investigation Committee may determine when and if a private investigator is needed for processing of a complaint.
- (7) Complaints shall be assigned a priority status in the following categories:
 - (A) Those indicating that credible evidence exists showing a violation of the Occupational Therapy Practice Act involving actual deception, fraud, or injury to clients or the public or a high probability of immediate deception, fraud, or injury to clients or the public.
 - (B) Those indicating that credible evidence exists showing a violation of the Occupational Therapy Practice Act involving a high probability of potential deception, fraud, or injury to clients or the public.
 - (C) Those indicating that credible evidence exists showing a violation of the Occupational Therapy Practice Act involving a potential for deception, fraud, or injury to clients or the public.
 - (D) All other complaints.
- (c) The Executive Director and the Investigation Committee will take appropriate action to investigate the complaint or take other appropriate action.
 - (1) The Investigation Committee will hold meetings, at least quarterly, to review complaints, to determine if there is sufficient evidence to substantiate the allegations, to hold informal conferences, to identify appropriate discipline for violations, and to make recommendations for disciplinary action to the board.
 - (2) The Investigation Committee reviews the evidence that has been submitted and gathered by the investigator and, typically makes one of the following determinations:
 - (A) The scope of the complaint is beyond the authority of the board and possibly may be handled by another entity. The committee may refer the complainant to an appropriate entity.
 - (B) There is insufficient evidence to substantiate that a violation of the Act or rules has occurred, thus closing the investigation.
 - (C) Evidence indicates a possible violation did occur and further investigation is needed.
 - (D) Evidence indicates a violation did occur and disciplinary action is not warranted.
 - (E) Evidence indicates a violation did occur and disciplinary action is warranted.
- (d) Preliminary notice.

- (1) Prior to commencing disciplinary proceedings, the staff shall serve the respondent with written notice in accordance with the Texas Government Code, §2001.54(c).
 - (2) Such notice shall contain a statement of the facts or conduct alleged to warrant an adverse action. The notice shall invite the respondent to show compliance with all requirements of the law for retention of the license.
 - (3) The respondent shall have not less than ten calendar days to respond in writing.
- (e) Agreed orders.
- (1) An agreed order is a legal document and the formal means by which a respondent accepts the disciplinary action imposed by the board. To be a valid document it must be approved by the board and signed by both the respondent and the chair of the board.
 - (2) An agreed order may be negotiated with any person under the jurisdiction of the board, the terms of which shall be approved by the Investigation Committee.
 - (3) The agreed order will be sent to the respondent by certified mail. To accept the agreed order, the respondent must sign it in the presence of a notary and return it to the board within ten calendar days after receipt. Inaction by the respondent constitutes rejection. If the respondent rejects the proposed settlement, the matter shall be referred to the Investigation Committee for appropriate action.
 - (4) The agreed order with the notarized signature of the respondent will be presented to the board. The proposed agreed order shall have no effect until such time as the board may, at a scheduled meeting, take action approving the agreed order. The agreed order will include a provision requiring the respondent reimburse the board for all investigative expenses.
 - (5) The respondent shall be notified of the date, time, and place of the board meeting at which the proposed agreed order will be considered. Attendance by the respondent is voluntary.
 - (6) Consideration by the board will include the following:
 - (A) Any board member who participated in the investigation of the complaint or formulation of the proposed agreed order may not vote on the agreed order.
 - (B) The respondent's identity will not be made available to the board until after the board has reviewed and made a decision on the agreed order.
 - (C) Upon an affirmative majority vote, the board shall authorize the agreed order, and the chair of the board will sign it. The board-approved agreed order will be provided to the respondent. A copy of the order will then be placed in the licensee's permanent file.
 - (D) If the board does not approve the agreed order, the matter will be referred to the Investigation Committee or the Executive Director for other appropriate action. The respondent and the complainant shall be so informed.

- (f) Dismissal of complaints.
- (1) Complaints may be dismissed for the following reasons:
 - (A) No evidence available.
 - (B) Insufficient evidence.
 - (C) Other reasons which the Investigation Committee believes are justification for dismissal.
 - (2) Upon the decision of the Investigation Committee to dismiss a complaint, the person who filed the complaint is provided a letter explaining why the complaint has been dismissed.
 - (3) On a quarterly basis, the board is provided with a list of the complaints that were dismissed and the reasons for the dismissals.
 - (4) At least annually the board will advise the Executive Council of complaints which have been disposed.
- (g) Informal conference.
- (1) At any time after the filing of a complaint, an informal conference may be held prior to the contested case hearing for one or more of the following purposes:
 - (A) Clarifying the issues;
 - (B) Considering proposed admissions or stipulations of fact;
 - (C) Reviewing the procedure to govern the contested case hearing;
 - (D) Exchanging witness lists and agreeing to limit the number of witnesses; and/or
 - (E) Doing any act that may simplify the proceedings, and dispose of matters in controversy, including settlement of issues in dispute and preparation of an agreed order for presentation to the board as provided herein.
 - (2) A respondent may request an informal settlement conference; however, the decision to hold a conference shall be made by the Executive Director or the Investigation Committee.
 - (3) Participation in an informal conference shall not be mandatory for the licensee or applicant, nor is it a prerequisite to a formal hearing.
 - (4) The Executive Director shall decide upon the time, date, and place of the settlement conference and provide written notice to the respondent of the same. Notice shall be provided no less than ten calendar days prior to the date of the conference by certified mail, return receipt requested to the last known address of the respondent. The ten days shall begin on the date of certified mailing. The respondent may waive the ten-day notice requirement.

- (A) The notice shall inform the respondent of the following:
 - (i) the nature of the alleged violation;
 - (ii) that the respondent may be represented by legal counsel;
 - (iii) that the respondent may offer the testimony of witnesses and present other evidence as may be appropriate;
 - (iv) that a board member may be present;
 - (v) that a representative of the Office of the Attorney General will be present;
 - (vi) that the respondent's attendance and participation is voluntary;
 - (vii) that the complainant and any client involved in the alleged violations may be present; and
 - (viii) that the settlement conference shall be canceled if the respondent notifies the Executive Director that he or she will not attend.
- (B) A copy of the board's rules concerning informal disposition shall be enclosed with the notice of the settlement conference.
- (5) The notice of the settlement conference shall be sent by certified mail, return receipt requested, to the complainant's last known address. The complainant shall be informed that he or she may appear and testify or may submit a written statement for consideration at the settlement conference. The complainant shall be notified if the conference is canceled.
- (6) Participants in the informal conference may include a board member, agency staff, the complainant, the respondent, attorneys representing any of the participants, and any other persons determined by the Investigation Committee or the Executive Director to be necessary for proper conduct of the conference. All other persons may be excluded.
- (7) The settlement conference shall be informal and shall not follow the procedures established in this chapter for contested cases and formal hearings.
- (8) The respondent, the respondent's attorney, a board member, and board staff may question witnesses, make relevant statements, present statements of persons not in attendance, and present such other evidence as may be appropriate.
- (9) An attorney from the Office of the Attorney General shall attend each settlement conference. The board member or Executive Director may call upon the attorney at any time for assistance in the settlement conference.
- (10) The respondent shall be afforded the opportunity to make statements on his or her own behalf.
- (11) Access to the board's investigative file may be prohibited or limited in accordance with the Administrative Procedures Act (APA), Chapter 2001, Texas Government Code, and the Open Records Act, Chapter 552, Texas Government Code.

- (12) No formal recording of the settlement conference shall be made.
- (13) At the conclusion of the settlement conference, the board member or the Executive Director may make recommendations for informal disposition of the complaint or contested case. The recommendations may include any disciplinary action authorized by the Occupational Therapy Practice Act. The board member or the Executive Director may also conclude that the board lacks jurisdiction, that a violation of the Act or this chapter has not been established, order that the investigation be closed, or refer the matter for further investigation.
- (h) The board follows the Administrative Procedure Act (APA), Texas Government Code, Chapter 2001, for resolution of complaints as a contested case. A copy of the APA procedures may be obtained from the board.
- (i) Should the recommendation for an informal disposition not be accepted by the respondent, the complaint shall be referred back to the Investigation Committee for appropriate action. The committee shall determine if the case should be referred to the State Office of Administrative Hearings (SOAH) or dismissed for insufficient evidence or other reasons justifying a dismissal.
- (j) If the Investigation Committee determines that a violation has occurred and the respondent is not under the jurisdiction of the board, the committee has the option of referring the case to the appropriate authority: district attorney, county attorney, etc.

Source Note: The provisions of this §374.3 adopted to be effective May 8, 1996, 21 TexReg 3718; amended to be effective July 22, 2001, 26 TexReg 5444

§374.4 Code of Ethics

- (a) The Texas Board of Occupational Therapy Examiners Code of Ethics is a public statement of the values and principles used in promoting and maintaining high standards of behavior in occupational therapy within the state of Texas. The Code of Ethics is a set of principles that applies to occupational therapy practitioners). ("Practitioners" in this section are defined as those individuals licensed by this board or applicants for licensure with this board.)
- (b) Any action that is in violation of the spirit and purpose of this Code shall be considered unethical. To ensure compliance with the Code, enforcement procedures are established by the board and enforced by the Investigation Committee and investigative staff. Submission of an application to, or acceptance of a license from, this board commits these individuals to adherence to the Code of Ethics and its enforcement procedures.
- (c) Principle 1. Occupational therapy practitioners shall demonstrate a concern for the well being of the recipients of their services (beneficence).
 - (1) Occupational therapy practitioners shall provide services in fair and equitable manner. They shall recognize and appreciate the cultural components of economics, geography, race, ethnicity, religious and political factors, marital status, sexual orientation, and disability of all recipients of their services.
 - (2) Occupational therapy practitioners shall strive to ensure that fees are fair, reasonable, and commensurate with the service performed. When occupational therapy practitioners set fees, they shall set fees considering institutional, local,

- state, and federal requirements, and with due regard for the service recipient's ability to pay.
- (3) Occupational therapy practitioners shall make every effort to advocate for recipients to obtain needed services through available means.
- (d) Principle 2. Occupational therapy practitioners shall take reasonable precautions to avoid imposing or inflicting harm upon the recipient of services or to his or her property (nonmaleficence).
- (1) Occupational therapy practitioners shall maintain relationships that do not exploit the recipient of services sexually, physically, emotionally, financially, socially, or in any other manner.
- (2) Occupational therapy practitioners shall avoid relationships or activities that interfere with professional judgment and objectivity.
- (e) Principle 3. Occupational therapy practitioners shall respect the rights of the recipient and/or their surrogate(s) as well as the recipient's rights. (autonomy, privacy, confidentiality).
- (1) Occupational therapy practitioners shall collaborate with service recipients or their surrogate(s) in setting goals and priorities throughout the intervention process.
- (2) Occupational therapy practitioners shall fully inform the service recipients of the nature, risks, and potential outcomes of any interventions.
- (3) Occupational therapy practitioners shall obtain informed consent from participants involved in research activities and indicate that they have fully informed and advised the participants of potential risks and outcomes. Occupational therapy practitioners shall endeavor to ensure that the participant(s) comprehend these risks and outcomes.
- (4) Occupational therapy practitioners shall respect the individual's right to refuse professional services or involvement in research or educational activities.
- (5) Occupational therapy practitioners shall protect all privileged confidential forms of written, verbal, and electronic communication gained from educational, practice, research, and investigational activities unless otherwise mandated by local, state, or federal regulations.
- (f) Principle 4. Occupational therapy practitioners shall achieve and continually maintain high standards of competence (duties).
- (1) Occupational therapy practitioners shall hold the appropriate state credentials for the services they provide.
- (2) Occupational therapy practitioners shall take responsibility for maintaining and documenting competence by participating in professional development and educational activities.

- (3) Occupational therapy practitioners shall critically examine and keep current with emerging knowledge relevant to their practice so they may perform their duties on the basis of accurate information.
 - (4) Occupational therapy practitioners shall protect service recipients by ensuring that duties assumed by or assigned to other occupational therapy practitioners match credentials, qualifications, experience, and scope of practice.
 - (5) Occupational therapy practitioners shall provide appropriate supervision to individuals for whom the practitioners have supervisory responsibility in accordance with board rule
 - (6) Occupational therapy practitioners shall refer to or consult with other service providers whenever such a referral or consultation would be helpful to the care of the recipient of service. The referral or consultation process should be done in collaboration with the recipient of service.
- (g) Principle 5. Occupational therapy practitioners shall comply with the rules and laws of the state of Texas guiding the profession of occupational therapy (justice).
- (1) Occupational therapy practitioners shall familiarize themselves with and seek to understand and abide by applicable Texas Board of Examiner's Practice Act and rules.
 - (2) Occupational therapy practitioners shall remain abreast of revision in those laws and rules that apply to the profession of occupational therapy and shall inform employers, employees, and colleagues of those changes.
 - (3) Occupational therapy practitioners shall require those they supervise in occupational therapy-related activities to adhere to the Code of Ethics.
 - (4) Occupational therapy practitioners shall take reasonable steps to ensure employers are aware of occupational therapy's ethical obligations as set forth in this Code of Ethics, and of the implications of those obligations for occupational therapy practice, education, and research.
 - (5) Occupational therapy practitioners shall accurately record and report in a timely manner all information related to professional activities.
- (h) Principle 6. Occupational therapy practitioners shall provide accurate information about occupational therapy services (veracity).
- (1) Occupational therapy practitioners shall accurately represent their credentials, qualification, education, experience, training, and competence. This is of particular importance for those to whom occupational therapy practitioners provide their services or with whom occupational therapy practitioners have a professional relationship.
 - (2) Occupational therapy practitioners shall disclose any professional, personal, financial, business, or volunteer affiliations that may pose a conflict of interest to those with whom they may establish a professional, contractual, or other working relationship.

- (3) Occupational therapy practitioners shall refrain from using or participating in the use of any form of communication that contains false, fraudulent, deceptive, or unfair statements or claims.
 - (4) Occupational therapy practitioners shall accept the responsibility for their professional actions which reduce the public's trust in occupational therapy services and those that perform those services.
- (i) Principle 7. Occupational therapy practitioners shall treat colleagues and other professionals with fairness, discretion, and integrity (fidelity).
- (1) Occupational therapy practitioners shall preserve, respect, and safeguard confidential information about colleagues and staff, unless otherwise mandated by national, state, or local laws.
 - (2) Occupational therapy practitioners shall accurately represent the qualifications, views, contributions, and findings of colleagues.
 - (3) Occupational therapy practitioners shall take adequate measures to discourage, prevent, expose, and correct any breaches of the Code of Ethics and report any breaches of the Code of Ethics to the board.
 - (4) Occupational therapy practitioners shall familiarize themselves with established rules, policies and procedures created by the Texas Board of Occupational Therapy Examiners for handling complaints.

Source Note: The provisions of this §374.4 adopted to be effective December 27, 2001, 26 TexReg 10625

CHAPTER 375 FEES

§375.1 Fees

- (a) Fees are prescribed by the Executive Council and may be subject to change by legislative mandate, refer to 22 TAC §651.1 and §651.3 of the Executive Council Rules. The fees are required to be paid before a license or a renewal is issued. The application fee will be submitted with the application and is non-refundable.
- (b) A cashier's check, certified check, or money order must accompany all future payments to the board after an insufficient funds check has been processed by the board.
- (c) An applicant for a license shall pay the application fee plus the appropriate license fee.
- (d) The board will not refund any application fee or license fee to an applicant who is denied a license. Applicants requesting that the board cease the license application process shall forfeit all fees paid. Such requests must be received by the board in writing.
- (e) There shall be no refunds issued to individuals who have had their licenses suspended or revoked.
- (f) Licensees who have had their licenses suspended for failure to pay child support shall pay all applicable fees before licenses will be reissued.

Source Note: The provisions of this §375.1 adopted to be effective October 11, 1994, 19 TexReg 7719; amended to be effective May 8, 1996, 21 TexReg 3718; amended to be effective August 24, 2008, 33 TexReg 6605

CHAPTER 376 REGISTRATION OF FACILITIES

§376.1 Definitions

The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.

- (1) Occupational Therapy Facility--A physical site, such as a building, office, or portable facility, where the practice of occupational therapy takes place. An Occupational Therapy Facility must be under the direction of an occupational therapist, registered or licensed occupational therapist licensed by the board. The definition of Occupational Therapy Facility does not include a physical site such as a building, office, or portable facility if it meets all three conditions:
 - (A) it is not in the care, custody or control of the individual or company providing occupational therapy services therein; and
 - (B) Occupational therapy services are not provided on a predictable or regular basis at any one location; and
 - (C) healthcare delivery is not the primary purpose, activity, or business of the site where the services are provided.
- (2) OTR or LOT in Charge--An occupational therapist, registered or licensed occupational therapist who is designated on the application for registration and who has the authority and responsibility for the facility's compliance with the Act and Rules pertaining to the practice of occupational therapy in the facility.
- (3) An OT linked facility--Facility in which PT services are already registered at the same location with the same owner(s). If the PT facility registration is not current, full OT registration must be paid.

Source Note: The provisions of this §376.1 adopted to be effective October 11, 1994, 19 TexReg 7719; amended to be effective November 4, 1997, 22 TexReg 10754, amended to be effective March 1, 2004, 28 TexReg 9292; amended to be effective March 12, 2007, 32 TexReg 1328

§376.2 Requirement for Practice Setting of Licensees

All licensees of this Act who practice in an Occupational Therapy Facility can do so only if that facility is registered or exempt under this rule. A facility shall not be required to register under this section if such facility or any person providing health care services at the facility does not perform or hold itself or themselves out as performing or offering to perform occupational therapy as defined in the Act.

Source Note: The provisions of this §376.2 adopted to be effective October 11, 1994, 19 TexReg 7719, amended to be effective March 1, 2004, 28 TexReg 9292.

§376.3 Requirements for Registration Application

- (a) Registration applications must include

- (1) name of the Occupational Therapy Facility;
 - (2) physical/street address of the Occupational Therapy Facility;
 - (3) mailing address, if different from the street address;
 - (4) the name and following information about the entity or individual (in the case of a sole proprietorship) holding themselves out as offering occupational therapy services at the facility.
 - (A) Sole proprietor:
 - (i) name, home address, date of birth, social security number of the sole proprietor;
 - (ii) federal employer identification number if applicable.
 - (B) Partnership:
 - (i) name, home address, date of birth, social security number of the managing partner;
 - (ii) federal employer identification number.
 - (C) Corporation:
 - (i) names, home addresses, dates of birth, and social security numbers of managing officers (for purposes of this subsection, managing officers are defined as the top four executive officers, including the corporate officer in charge of occupational therapy Facility operations);
 - (ii) federal employer identification number.
 - (D) Governmental entity (federal, state, county, local):
 - (i) name, home address, date of birth, social security number of the individual completing the application;
 - (ii) federal employer identification number;
 - (5) the name and license number of the OTR or LOT in Charge and his or her notarized signature;
 - (6) the names and license numbers of other licensees of the Act who practice in the Occupational Therapy Facility;
 - (7) the Social Security Number and notarized signature of the individual, managing partner or officer or person authorized to complete the form;
 - (8) the non-refundable application fee, as set by the Executive Council;
- (b) An individual or entity that holds themselves out as offering occupational therapy at more than one facility is required to submit one primary facility application and an additional facility application for each additional Occupational Therapy Facility registered.

- (c) Such additional Occupational Therapy Facility that is registered less than six months before the primary facility registration expires will receive an expiration date in the same month as the primary, but in the following year. An additional Occupational Therapy Facility registered six or more months before the primary facility expiration date will receive the same expiration date as for the primary facility.
- (d) An Occupational Therapy Facility that has not been registered previously must complete the registration process and have the registration certificate before the first patient treatment.
- (e) The Occupational Therapy Facility application is valid one year after it is received by the board.
- (f) The Occupational Therapy Facility will be charged a registration fee(s) for the primary site(s) and/or additional site(s). In some cases an OT linked facility fee may apply. An OT linked facility is a facility in which PT services are already registered at the same location with the same owner(s). If the PT facility registration is not current, full OT registration must be paid.
- (g) The Occupational Therapy Facility registration fee(s) for the primary site and/or additional site(s) will be waived in circumstances which are temporary in nature, such as a natural disaster or events for special populations, such as the Special Olympics.
- (h) Waiver from Occupational Therapy Facility registration fees does not nullify all other sections as set forth in the TBOTE Rules, Chapter 376.

Source Note: The provisions of this §376.3 adopted to be effective October 11, 1994, 19 TexReg 7719; amended to be effective November 4, 1997, 22 TexReg 10755; amended to be effective March 1, 2004, 28 TexReg 9292; amended to be effective November 1, 2006, 31 TexReg 6803; amended to be effective August 24, 2008, 33 TexReg 6605

§376.4 Requirements for Registered Facilities

- (a) Each facility must have a designated OTR or LOT-in-charge. A registered facility is required to report the name and license number of the new OTR or LOT-in-charge no later than 30 days after the change occurs.
- (b) A registered facility must display the registration certificate in a prominent location in the facility where it is available for inspection by the public. A registration certificate issued by the board is the property of the board and must be surrendered on demand by the board.
- (c) A registered Occupational Therapy Facility is subject to inspection to verify compliance with the Act and this chapter by authorized personnel of the board at any reasonable time.
- (d) An individual or entities that register a facility under this Rule must notify the board within 30 days of any change to the name, physical/street address or mailing address. In the event of a name or physical address change, the owner must obtain a new registration certificate and renewal certificate (if applicable), showing the correct information.

Source Note: The provisions of this §376.4 adopted to be effective October 11, 1994, 19 TexReg 7719; amended to be effective November 4, 1997, 22 TexReg 10755; amended to be effective March 1, 2004, 28 TexReg 9292; amended to be effective August 24, 2008, 33 TexReg 6605

§376.5 Exemptions to Registration

A facility licensed under Subtitle B, Title 4, Health and Safety Code, is exempt from this definition, i.e., hospitals, nursing homes, ambulatory surgical centers, birthing centers, abortion, continuing care, personal care, and special care facilities. Colleges, universities, schools, and home health settings are exempted from registration. These types of facilities are automatically exempt and are not required to obtain a formal exemption from the board.

Source Note: The provisions of this §376.5 adopted to be effective October 11, 1994, 19 TexReg 7719; amended to be effective August 31, 1995, 20 TexReg 6338, amended to be effective March 1, 2004, 28 TexReg 9292

§376.6 Renewal of Registration

- (a) An individual or entity registered as an Occupational Therapy Facility under this Rule must renew its registration annually. Licensees may not provide occupational therapy services in a facility if the registration is not current.
- (b) Requirements to renew a facility are:
 - (1) A renewal signed by the owner, managing partner or officer, or a person authorized by the owner to complete the form and the OTR or LOT-in-charge;
 - (2) a list of all OTRs, LOTs, COTAs, and LOTAs working at the facility; and
 - (3) the renewal fee as set by the Executive Council, and any late fees, which may be due.
 - (4) an Occupational Therapist in Charge form with the notarized signature of the occupational therapist.
- (c) The annual renewal date of a primary Occupational Therapy Facility registration is the last day of the month in which the registration was originally issued. The renewal date for an additional facility will be the same as the renewal date for the primary facility. The owner of the OT facilities may request that the renewal date of the OT facilities be synchronized with the PT facilities with which they are associated.
- (d) The board will notify the Occupational Therapy Facility at least 30 days before the registration expiration date. An individual or entity offering occupational therapy bears the responsibility for ensuring that the registration is renewed. Failure to receive a renewal notice from the board does not exempt the requirement to pay the renewal fee in a timely manner
- (e) The Occupational Therapy Facility renewal certificate must be displayed with the original certificate and is the property of the board.
- (f) An Occupational Therapy Facility will be allowed to renew without a late fee if the renewal application and fee are received prior to the expiration date. However, the board will not issue the certificate until the Board receives the signed and notarized OTR or LOT-in-Charge form and a list of the name(s) of the occupational therapy practitioners employed at that facility.
- (g) The registration renewal fee for an OT linked facility will be for OT primary and/or additional facility where the same owner has previously registered a PT facility at the same location. The PT facility registration must be current in order for the owner to pay the OT linked facility fee.

Source Note: The provisions of this §376.6 adopted to be effective October 11, 1994, 19 TexReg 7719, amended to be effective March 1, 2004, 28 TexReg 9292; amended to be effective November 1, 2006.

§376.7 Failure To Register

Individuals or entities which fail to register an Occupational Therapy Facility with the board as required by Act and rule will be notified of their noncompliance with the Act and the disciplinary actions by this board to which they are subject. Additionally, all licensees of this Act employed at the facility will be notified that they are in violation of the Act and Rules and thereby subject to disciplinary action.

Source Note: The provisions of this §376.7 adopted to be effective October 11, 1994, 19 TexReg 7719, amended to be effective March 1, 2004, 28 TexReg 9292

§376.8 Restoration of Registration

- (a) When an individual or entity fails to renew the registration of an Occupational Therapy Facility within the renewal month, the Occupational Therapy Facility may restore the registration by completing the renewal requirements including paying fees as set by the Executive Council.
- (1) If the Occupational Therapy Facility registration has been expired for 90 days or less, the registration may be renewed by paying the required renewal fee and a restoration fee that is one-half of the renewal fee.
 - (2) If the Occupational Therapy Facility registration has been expired for more than 90 days but less than one year, the registration may be renewed by paying all unpaid renewal fees and a restoration fee that is equal to the renewal fee.
 - (3) If the Occupational Therapy Facility registration has been expired for one year or more, the registration may be renewed by paying all unpaid renewal fees and a restoration fee which is double the renewal fee.
- (b) The owner may cancel an Occupational Therapy Facility registration if occupational therapy services will no longer be provided at that Occupational Therapy Facility. To cancel registration the owner must notify the board and return the registration certificate and the current renewal certificate (if applicable). If the owner decides to resume the provision of occupational services at a future date, the Occupational Therapy Facility registration may be restored with the previous expiration date by meeting the requirements in §376.6 of this title (relating to Renewal of Registration).
- (c) An Occupational Therapy Facility may not be registered as a new facility in lieu of renewal or restoration of a previously registered facility in the same location.

Source Note: The provisions of this §376.8 adopted to be effective October 11, 1994, 19 TexReg 7719; amended to be effective August 31, 1995, 20 TexReg 6338, amended to be effective March 1, 2004, 28 TexReg 9292

§376.9 Disciplinary Action

- (a) The board may assign disciplinary action to an individual or entity registering a facility under this Rule for violation of the Act or Rules. The disciplinary action may include: revocation or suspension of the registration; probation; penalty fees; or other appropriate disciplinary action.

- (b) The processing of complaints against individuals or entities registering Occupational Therapy Facilities under this Rule is accomplished in accordance with Chapter 374 of this title (relating to Complaints).
- (c) A revocation or suspension of a registration affects all facilities registered under one primary registration.

Source Note: The provisions of this §376.9 adopted to be effective October 11, 1994, 19 TexReg 7719, amended to be effective March 1, 2004, 28 TexReg 9292

§376.10 Change in Occupational Therapy Facility Ownership

- (a) A registration cannot be transferred or sold to another person or owner. When an individual or entity offering occupational therapy services at a registered Occupational Therapy Facility changes ownership, the new entity that registered the Occupational Therapy Facility under this rule, must register it as a new Occupational Therapy Facility within 30 days. A change of ownership takes place when one of the following occurs:
 - (1) a sole proprietor (individual) incorporates or changes to a partnership;
 - (2) a partnership incorporates or changes to a sole proprietor;
 - (3) a corporation dissolves and changes its status to a partnership or sole proprietor;
 - (4) a sole proprietor (individual), partnership or corporation sells or transfers the ownership to another individual, partnership or corporation.
- (b) If there is a change of managing officers in a partnership or corporation, the entity that registered the Occupational Therapy Facility must send the board written notification within 30 days. For purposes of this subsection, managing officers are defined as the top four executive officers, including the corporate officer in charge of occupational therapy facility operations. The written notification shall include the effective date of such change and the following information for the new managing officers:
 - (1) name and title;
 - (2) home address;
 - (3) date of birth; and
 - (4) social security number
- (c) The former or new individual or entity offering occupational therapy services at a previously registered facility must return the previous registration certificate and current renewal certificate to the board within 30 days of the sale of the Occupational Therapy Facility. In lieu of the actual documents, the Board may accept a notarized statement from the new or former owner that the certificates have been destroyed or lost.

Source Note: The provisions of this §376.10 adopted to be effective March 1, 2004, 28 TexReg 9292

EXECUTIVE COUNCIL OF PHYSICAL THERAPY AND OCCUPATIONAL THERAPY EXAMINERS TITLE 22 EXAMINING BOARDS PART 28**CHAPTER 651 FEES****§651.1 Occupational Therapy Board Fees**

- (a) Regular License.
 - (1) Occupational Therapist--\$120.
 - (2) Occupational Therapy Assistant--\$93.
 - (3) Application to retake the certification exam, OT--\$25.
 - (4) Application to retake the certification exam, OTA--\$25.
- (b) Temporary License.
 - (1) Occupational Therapist--\$70.
 - (2) Occupational Therapy Assistant--\$55.
- (c) Provisional License.
 - (1) Occupational Therapist--\$80.
 - (2) Occupational Therapy Assistant--\$75.
- (d) Active to Inactive Status.
 - (1) Occupational Therapist--a fee to equal one-half the renewal fee.
 - (2) Occupational Therapy Assistant--a fee to equal one-half the renewal fee.
- (e) Inactive Status to Active Status.
 - (1) Occupational Therapist--a fee equal to the renewal fee.
 - (2) Occupational Therapy Assistant--a fee equal to the renewal fee.
- (f) Renewal.
 - (1) Active.
 - (A) Occupational Therapist--\$217.
 - (B) Occupational Therapy Assistant--\$167.

- (2) Inactive.
 - (A) Occupational Therapist--a fee equal to one-half the renewal fee.
 - (B) Occupational Therapy Assistant--a fee equal to one-half the renewal fee.
- (g) Retired Status
 - (1) Application --\$25.
 - (2) Renewal --\$25.
- (h) Late Fees Renewal (all licensees).
 - (1) Late 90 days or less--the renewal fee plus late fee which is equal to one-half of the certification examination fee.
 - (2) Late more than 90 days but less than one year--the renewal fee plus late fee which is equal to the certification examination fee.
- (i) License Restoration Fee for all licensees--a fee equal to the certification examination fee.
- (j) Registration Fees--Facilities.
 - (1) Registration of First Facility--\$314.
 - (2) Registration of Each Additional Facility--\$124.
 - (3) Registration of Linked Primary Facility--\$40.
 - (4) Registration of Linked Additional Facility--\$30.
- (k) Renewal Fees—Facilities.
 - (1) Renewal of Registration of First Facility--\$306.
 - (2) Renewal of Registration of Each Additional Site--\$126.
 - (3) Renewal of Linked Primary Facility--\$40.
 - (4) Renewal of Linked Additional Facility--\$30.
- (l) Late Fees--All Facilities
 - (1) Late 90 days or less--a fee equal to one-half of the renewal fee, in addition to the renewal fee.

- (2) Late more than 90 days but less than one year--a fee equal to the renewal fee, in addition to the renewal fee.
- (m) Facility Restoration (all facilities)--Late one year or more--renewal fee(s) plus a restoration fee which is double the renewal fee.

Source Note: The provisions of this §651.1 adopted to be effective August 18, 1995, 20 TexReg 5864; amended to be effective May 22, 1996, 21 TexReg 4225; amended to be effective August 16, 1996, 21 TexReg 7381; amended to be effective December 17, 2000, 25 TexReg 12394; amended to be effective September 1, 2001, 26 TexReg 3747; amended to be effective March 4, 2002, 27 TexReg 1496; amended to be effective June 2, 2002, 27 TexReg 4571; amended to be effective January 1, 2004, 28 TexReg 11095; amended to be effective December 2, 2004, 29 TexReg 11035; adopted to be effective September 1, 2005.; amended to be effective November 1, 2006.

§651.3 Administrative Services Fees

- (a) Verification/Transfer of Licensure--\$50.
- (b) Duplicate/Replacement License--\$30.
- (c) Duplicate Renewal Certificate/Wallet Card--\$30.
- (d) Duplicate of Facility Registration Certificate--\$30.
- (e) Reinstatement of Suspended or Revoked License--\$50.
- (f) Insufficient Funds Check Fee--\$25.
- (g) ACH Return Fee--\$25

Source Note: The provisions of this §651.3 adopted to be effective August 16, 1996, 21 TexReg 7381; adopted to be effective January 1, 2004; adopted to be effective September 1, 2005.