

file for an interstate transfer of supervision in accordance with Texas Government Code, Chapter 510 and the Interstate Compact for Adult Offender Supervision Rules.

(g) Intrastate Transfer. Each CSCD director [directors] shall comply with the [use] uniform transfer procedures in accordance with 37 Texas Administrative Code §163.35(c)(8)[§163.35(10), relating to Supervision].

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on August 26, 2019.

TRD-201902883

Sharon Howell

General Counsel

Texas Department of Criminal Justice

Earliest possible date of adoption: October 6, 2019

For further information, please call: (936) 437-6700



TITLE 40. SOCIAL SERVICES AND ASSISTANCE

PART 12. TEXAS BOARD OF OCCUPATIONAL THERAPY EXAMINERS

CHAPTER 364. REQUIREMENTS FOR LICENSURE

40 TAC §364.5

The Texas Board of Occupational Therapy Examiners proposes new rule §364.5, concerning recognition of out-of-state license of military spouse. The new rule is proposed to add provisions to the Occupational Therapy Rules concerning the recognition of out-of-state licenses of military spouses as required by SB 1200 of the 86th Regular Legislative Session.

New rule §364.5 would add to the Occupational Therapy Rules provisions concerning the information a military spouse seeking recognition of the out-of-state license must submit to the Board and the conditions under which the military spouse may practice in the state once the individual has received confirmation from the Board that the military spouse is authorized to engage in the practice of occupational therapy. The proposal includes further provisions pursuant to SB 1200.

FISCAL NOTE

Ralph Harper, Executive Director of the Executive Council of Physical Therapy and Occupational Therapy Examiners, has determined that for the first five-year period the proposed new rule would be in effect, there would be no fiscal implications for state or local government as a result of enforcing or administering the rule as the changes do not impose a cost.

LOCAL EMPLOYMENT IMPACT

Mr. Harper has determined that the new rule would not impact a local economy as the proposed rule concerns the reduction of occupational therapy regulations and does not impose a cost; therefore, a local employment impact statement is not required.

PUBLIC BENEFITS AND PROBABLE ECONOMIC COST

Mr. Harper has determined that for each of the first five years the proposed new rule would be in effect, the public benefit anticipated as a result of enforcing the rule would be the reduction of occupational therapy regulations. There would be no anticipated economic cost to persons required to comply with the proposed new rule.

SMALL AND MICRO-BUSINESSES AND RURAL COMMUNITIES IMPACT

There would be no costs or adverse economic effects on small or micro-businesses or rural communities as the proposed new rule concerns the reduction of occupational therapy regulations and does not impose a cost; therefore, an economic impact statement or regulatory flexibility analysis is not required for the proposed new rule.

TAKINGS IMPACT ASSESSMENT

The proposed rule would not impact private real property as defined by Tex. Gov't Code §2007.003, so a takings impact assessment under Tex. Gov't Code §2001.043 is not required.

GOVERNMENT GROWTH IMPACT STATEMENT

The proposed new rule's impact on government growth during the first five years the rule would be in effect is as follows: would not create or eliminate a government program; would not require the creation of new employee positions or the elimination of existing employee positions; would not require an increase or decrease in future legislative appropriations to the agency; would not require an increase or decrease in fees paid to the agency as military spouses licensed in another jurisdiction may already have initial license fees waived as required by previous legislation; would create a new regulation concerning the recognition of an out-of-state license of a military spouse; would not expand or repeal an existing regulation; would not increase or decrease the number of individuals subject to the rule's applicability as this is a proposed new rule; and would neither positively nor adversely affect this state's economy as military spouses licensed in another jurisdiction may already have initial licensing fees waived as required by previous legislation.

REQUIREMENT FOR RULE INCREASING COSTS TO REGULATED PERSONS

Tex. Gov't Code §2001.0045, Requirement for Rule Increasing Costs to Regulated Persons, does not apply to the proposed new rule section because the rule does not impose a cost, does not increase costs to regulated persons, and because the Board is required by SB 1200 to adopt rules to implement the legislation.

PUBLIC COMMENT

Comments on the proposed new rule may be submitted to Lea Weiss, Occupational Therapy Coordinator, Texas Board of Occupational Therapy Examiners, 333 Guadalupe Street, Suite 2-510, Austin, Texas 78701-3942 or to lea@ptot.texas.gov no later than 30 days from the date that the proposed new rule is published in the *Texas Register*.

STATUTORY AUTHORITY

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

Title 3, Subtitle H, Chapter 454 of the Occupations Code is affected by this proposal.

§364.5. Recognition of Out-of-State License of Military Spouse.

(a) A military spouse may engage in the practice of occupational therapy without obtaining the applicable occupational therapy license if the military spouse is currently licensed in good standing by another jurisdiction of the U.S. that has licensing requirements that are substantially equivalent to the requirements for the license in this state.

(b) Before engaging in the practice of occupational therapy, the military spouse must:

(1) notify the Board in writing of the following:

(A) the military spouse's intent to practice in this state;

(B) the military spouse's full name and any previous last names, social security number, date of birth, residential address, business address, email address, and a chosen address of record;

(C) the license type, license number, and jurisdiction in which the military spouse is currently licensed in good standing; and

(D) a list of all jurisdictions in which the military spouse has held or currently holds a license with the license type, license number, and license expiration date of each;

(2) submit to the Board proof of the military spouse's residency in this state and a copy of the military spouse's military identification card; and

(3) receive from the Board written confirmation that:

(A) the Board has verified the military spouse's license in the other jurisdiction; and

(B) the military spouse is authorized to engage in the practice of occupational therapy in accordance with this section.

(c) The military spouse shall comply with all other Board laws and regulations applicable to the practice of occupational therapy in this state. The military spouse may be subject to revocation of the authorization described by subsection (b)(3)(B) of this section for failure to comply with Board laws and regulations and the Board may notify any jurisdictions in which the military spouse is licensed of the revocation of such.

(d) A military spouse may engage in the practice of occupational therapy under the authority of this section only for the period during which the military service member to whom the military spouse is married is stationed at a military installation in this state but not to exceed three years from the date the military spouse receives the confirmation described by subsection (b)(3) of this section. During this authorization period, the military spouse must:

(1) maintain a current license in good standing in another jurisdiction that has licensing requirements that are substantially equivalent to the requirements for the license in this state;

(2) update the Board of any changes to information as specified in subsection (b)(1)(B)-(C) of this section within 30 days of such change(s); and

(3) notify the Board within 30 days of any disciplinary action taken against the military spouse by another jurisdiction.

(e) The Board will identify, with respect to each type of license issued by the Board, the jurisdictions that have licensing requirements that are substantially equivalent to the requirements for the license in this state; and the Board shall verify that a military spouse is licensed in good standing in the jurisdiction upon receipt of the items described by subsection (b)(1)-(2) of this section.

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

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on August 23, 2019.

TRD-201902875

Ralph A. Harper

Executive Director

Texas Board of Occupational Therapy Examiners

Earliest possible date of adoption: October 6, 2019

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



CHAPTER 370. LICENSE RENEWAL

40 TAC §370.1

The Texas Board of Occupational Therapy Examiners proposes amendments to §370.1, concerning license renewal. The amendments are proposed to remove language concerning restrictions to renewal for a licensee in default of a student loan pursuant to SB 37 of the 86th Regular Legislative Session and to cleanup and clarify provisions in the section.

The proposal includes amendments to reflect law changes made by SB 37, relating to a prohibition on the use of student loan default or breach of a student loan repayment as a ground for refusal to renew a license. Related changes to §370.1 are proposed to remove from the section a provision restricting the renewal of a license for an individual who has defaulted with the Texas Guaranteed Student Loan Corporation.

Additional amendments are proposed as cleanups and clarifications. An amendment is proposed to strike a reference in the section to the number of continuing education hours required per renewal period and to replace such with language referencing continuing education requirements as per Chapter 367, concerning Continuing Education, as adopted amendments to that chapter changed the number of required hours from thirty to twenty-four hours. Additional amendments are proposed to remove a redundant reference to the address of record, as language concerning such is already located elsewhere in the Occupational Therapy Rules, and to clarify a provision regarding a restriction on renewal for certain child support issues, including to add a reference to related statutory language in Texas Family Code.

FISCAL NOTE

Ralph Harper, Executive Director of the Executive Council of Physical Therapy and Occupational Therapy Examiners, has determined that for the first five-year period the proposed amendments would be in effect, there would be no fiscal implications for state or local government as a result of enforcing or administering the rule as the changes do not impose a cost and any fiscal implications concerning the removal of renewal restrictions for individuals in default of student loans would be effected by law changes already in effect from SB 37.

LOCAL EMPLOYMENT IMPACT

Mr. Harper has determined that the rule would not impact a local economy as the proposed rule concerns the reduction, cleanup,

and clarification of occupational therapy regulations and does not impose a cost; therefore, a local employment impact statement is not required.

PUBLIC BENEFITS AND PROBABLE ECONOMIC COST

Mr. Harper has determined that for each of the first five years the proposed amendments would be in effect, the public benefit anticipated as a result of enforcing the rule would be the reduction, cleanup, and clarification of occupational therapy regulations. There would be no anticipated economic cost to persons required to comply with the proposed rule.

SMALL AND MICRO-BUSINESSES AND RURAL COMMUNITIES IMPACT

There would be no costs or adverse economic effects on small or micro-businesses or rural communities as the proposed rule concerns the reduction, cleanup, and clarification of occupational therapy regulations and does not impose a cost; therefore, an economic impact statement or regulatory flexibility analysis is not required for the amendments.

TAKINGS IMPACT ASSESSMENT

The proposed rule would not impact private real property as defined by Tex. Gov't Code §2007.003, so a takings impact assessment under Tex. Gov't Code §2001.043 is not required.

GOVERNMENT GROWTH IMPACT STATEMENT

The proposed amendments' impact on government growth during the first five years the rule would be in effect is as follows: would not create or eliminate a government program; would not require the creation of new employee positions or the elimination of existing employee positions; would not require an increase or decrease in future legislative appropriations to the agency; would not require a decrease in fees paid to the agency and may increase the fees paid to the agency as certain licensees previously unable to renew, pursuant to changes in law made by SB 37, may now renew, and therefore, submit required renewal fees; would not create a new or expand an existing regulation; would repeal an existing regulation to reflect law changes pursuant to SB 37 by removing a provision concerning restrictions to renewal due to student loan default; would not increase the number of individuals subject to the rule's applicability; would decrease the number of individuals subject to the rule's applicability as the amendments would remove restrictions to renewal for certain individuals; and would neither positively nor adversely affect this state's economy as any positive or adverse consequences to the state's economy concerning the removal of renewal restrictions for individuals in default of student loans would be affected by law changes already in effect from SB 37, rather than the related proposed changes, and the other changes are cleanups or clarifications with no economic impact for the state's economy.

REQUIREMENT FOR RULE INCREASING COSTS TO REGULATED PERSONS

Tex. Gov't Code §2001.0045, Requirement for Rule Increasing Costs to Regulated Persons, does not apply to the proposed rule because the rule does not impose a cost, does not increase costs to regulated persons, and because the amendments concerning restrictions to renewal are necessary to reflect law changes in effect pursuant to SB 37 from the 86th Regular Legislative Session.

PUBLIC COMMENT

Comments on the proposed amendments may be submitted to Lea Weiss, Occupational Therapy Coordinator, Texas Board of Occupational Therapy Examiners, 333 Guadalupe Street, Suite 2-510, Austin, Texas 78701-3942 or to lea@ptot.texas.gov no later than 30 days from the date that the proposed amendments are published in the *Texas Register*.

STATUTORY AUTHORITY

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

Title 3, Subtitle H, Chapter 454 of the Occupations Code is affected by this proposal.

§370.1. License Renewal.

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

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

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

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

(C) a passing score on the jurisprudence examination;

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

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

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

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

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

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

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

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

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

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

(b) Restrictions to Renewal. The Board will not renew a license if it receives information from a child support agency that a licensee has failed to pay child support under a support order for six months or more as provided by Texas Family Code §232.0135. If all other renewal requirements have been met, the license will be renewed when the child support agency notifies the Board it may renew the license.

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

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

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on August 23, 2019.

TRD-201902874

Ralph A. Harper

Executive Director

Texas Board of Occupational Therapy Examiners

Earliest possible date of adoption: October 6, 2019

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

