

# TBOTE news

The Texas Board of Occupational Therapy Examiners

June 2020

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Previous newsletters, forms, and FAQs are available from the website: [www.ptot.texas.gov](http://www.ptot.texas.gov).

## Next Board Meeting\*

July 31, 2020

\* Subject to change

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## Notes from the Coordinator

### Proposed Rules

The Board proposed rule changes at its last meeting. Please see further information in this newsletter.

### Adopted Rule Reviews

The Board and the Executive Council have adopted rule reviews. Please see further information in this newsletter. No rule changes were adopted at the last Board meeting.

### New Requirement Coming Soon: Training concerning Human Trafficking

*Note: The following concerns a requirement that is not yet in effect.*

Recent legislation added a new renewal requirement concerning training on the prevention of human trafficking for certain health care practitioners.

The anticipated effective date of this requirement is for renewals on or after September 1, 2020.

Refer to the next page of this newsletter for further information.

## **New Renewal Requirement Coming Soon: Training concerning Human Trafficking**

*Note: The information below concerns changes that are not yet in effect. Refer to the current [Act and Rules](#) and the [Continuing Education](#) and [License Renewal](#) pages for current CE and renewal requirements.*

House Bill (HB) 2059 of the last legislative session added the completion of training on the prevention of human trafficking as a condition for license renewal. To meet the requirement, certain health care practitioners, no sooner than September 1, 2020, will be required to complete a training course on human trafficking that is approved by the Commissioner of the Health and Human Services Commission (HHSC) in order to renew a license. In addition, the bill requires that HHSC approve at least one course that is available without charge.

The Board has proposed rules regarding adding this requirement for all licensees. Information regarding the proposed rules may be found later in this newsletter.

**It is anticipated that this requirement will be in effect for all renewals on or after September 1, 2020 and this will be a requirement for each renewal period thereafter (i.e., that this training must be completed each renewal period).**

**Renewals completed before September 1, 2020 would not require the training.**

The Board's proposed rules would add this training as a CE requirement, and the minimum number of CE hours required for renewal would need to include this training. In other words, this training would be used to satisfy part of the number of CE hours already required for license renewal. Refer to further information in this newsletter regarding related proposed rules.

Licensees may already access the HHSC approved course from the link below. The course is online and available free of charge. The course is a one-hour course. Currently, only one course has been approved by HHSC.

<https://hhs.texas.gov/services/safety/texas-human-trafficking-resource-center/health-care-practitioner-human-trafficking-training>

Specific details regarding the implementation of this training will be disseminated closer to the anticipated effective date. However, licensees who complete the HHSC approved training prior to the Board's adoption of related proposed rules should retain documentation of course completion. The Board's proposed rules, for example, include that documentation of completion of the course would be a certificate of completion or letter of verification indicating credit awarded. Information regarding general TBOTE documentation requirements for CE, for example, are contained in Chapter 367, Continuing Education, of the OT Rules.

Please note that the proposed rules do not require that licensees complete a specific number of hours of training as HB 2059 does not set a minimum amount of hours for this training. If the course is approved by HHSC to meet the training requirement, then the number of hours of the course would be sufficient to meet the requirement. In other words, the Board has not proposed a minimum number of hours that the course must include. Instead, licensees might select whichever HHSC approved course fits their needs. As noted, currently, only one course has been approved by HHSC to meet the requirement and it is a one-hour course. Refer to the link above for further information regarding such.

The proposed rules also include that a specific training course may be repeated to meet this requirement for a subsequent renewal period. For example, if a licensee took a specific course for one renewal period to meet the training requirement for that renewal, the licensee could retake the course the next renewal period to satisfy the training requirement for that next renewal period.

It is anticipated that an agenda item concerning possible adoption of the proposed rules will be on the Board's agenda for its July 31, 2020 board meeting.

**Updated information regarding this new requirement prior to the effective date and further details to follow will be updated on the Board's webpages, will be disseminated through mass emails, and will appear in upcoming editions of TBOTE News. Please continue to monitor such for updates.**

## Introduction to Proposed TBOTE Rule Changes from the May Board Meeting

*These are PROPOSED rule changes.*

*The current rules are in effect.*

The Texas Board of Occupational Therapy Examiners (TBOTE) has proposed amendments to §364.1, Requirements for Licensure; §364.2, Initial License by Examination; §364.3, Temporary License; §364.4, Licensure by Endorsement; §367.1, Continuing Education; §370.2, Late Renewal, §370.3, Restoration of a Texas License; §371.1, Inactive Status; and §371.2, Retired Status.

The proposals have been published in the June 19, 2020, issue of the [Texas Register](#), and a PDF of the proposals has been uploaded to the [OT Act and Rules](#) page.

Please note that the information that follows is just a brief introduction; refer to the full proposals for further information.

**Comments:** Comments on the proposed amendments may be submitted in writing 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](mailto:lea@ptot.texas.gov) within 30 days following the publication of this notice in the *Texas Register*.

It is requested when sending a comment that individuals include the rule section to which the comment refers and that comments sent by email include "Public Comment" in the email's subject line.

*A general overview of the proposed changes appears below; refer to the full published proposals for further information.*

### **Proposed Rule Changes**

#### **§364.1. Requirements for Licensure.**

#### **§364.2. Initial License by Examination.**

#### **§364.3. Temporary License.**

#### **§364.4. Licensure by Endorsement.**

The amendments to the sections are proposed to streamline and increase the efficiency of the Board's licensing processes, including through the use of digital technology, and to reduce potential burdens for applicants.

The proposed amendments to §364.1, §364.2, and §364.4 concern the application submission criteria required for the issuance of a license. An amendment to §364.1 would allow an applicant to submit the photograph required for initial licensure in electronic form. Amendments to §364.2 and §364.4 include adding provisions that would allow the Board to verify an applicant's history of licensure in occupational therapy, rather than routinely requiring that an applicant submit a verification of license from each state or territory of the U.S. in which the applicant is currently licensed or previously held a license. The amendments include that if the Board cannot verify the applicant's history of licensure, the applicant must submit a verification of license. The amendments concerning license verification will, therefore, result in applicants only being required to submit verifications for licenses that the Board cannot verify.

Additional amendments to §364.1, Requirements for Licensure, would remove redundant language that already appears in another section of the OT Rules and includes a further cleanup for consistency.

The proposed amendments, in addition, include amendments to §364.3, Temporary License. Applicants for a temporary license must submit a Confirmation of Examination Registration and Eligibility to Examine form from NBCOT, which must be sent directly to the Board by NBCOT and which reflects the eligibility window in which the applicant will take the examination. Related provisions in the section include that this is a 90-day window. This examination eligibility window is set by NBCOT. The proposed amendments would remove the reference to 90 days with regard to that window and replace such with "eligibility." This change will ensure that the section will not specify a number of days that are determined by another entity, NBCOT, prior to sending the form to the Board.

The proposed amendments to the section also include the removal of language regarding licensure in another country from §364.3(b). Board rule §364.3 requires that to be issued a temporary license, the applicant must meet all the provisions in §364.1, concerning requirements for licensure, and §364.2, concerning initial license by examination, and licensure in another country is not addressed in the sections with regard to an applicant's eligibility for licensure. To bring greater uniformity to the OT Rules and remove potential barriers to licensure for an applicant who would otherwise be eligible for a temporary license, the amendments include the removal of language from the provision that would prevent an applicant from obtaining a temporary license in Texas if the applicant has received a license in another country.

The current §364.3(b) also allows for temporary licensure as an occupational therapist to be available to an applicant for an occupational therapist license who has had a history of licensure or employment as an occupational therapy assistant; proposed amendments to the section would, similarly, make temporary licensure as an occupational therapy assistant available to an applicant for an occupational therapy assistant license who has had a history of licensure or employment as an occupational therapist. The changes, likewise, are proposed to bring greater uniformity to the OT Rules and remove a potential barrier to temporary licensure for an applicant who otherwise would be eligible for such.

The amendments include additional cleanups to the sections.

#### **§367.1. Continuing Education.**

The amendments are proposed to add requirements concerning training on the prevention of human trafficking pursuant to House Bill 2059 of the 86th Regular Legislative Session in 2019.

House Bill 2059 requires that a health care practitioner successfully complete a training course on human trafficking prevention approved by the executive commissioner of the Health and Human Services Commission as a condition for license renewal. The Bill defines "health care practitioner" as an individual who provides direct patient care. The proposed amendments to §367.1 and proposed amendments to other chapters of the Board rules will require the completion of human trafficking prevention training as condition for license renewal for all occupational therapy licensees. The proposed amendments also pre-approve up to two contact hours for a human trafficking prevention training course and would allow a specific training course to be repeated for credit during a subsequent renewal period.

#### **§370.2. Late Renewal.**

#### **§370.3. Restoration of a Texas License.**

The amendments are proposed to support the Board in streamlining and increasing the efficiency of its licensing processes, including through the use of digital technology, and reduce potential burdens for applicants. The amendments also cleanup and modify requirements for the renewal of an expired license and add human trafficking prevention training requirements pursuant to House Bill 2059.

Amendments to §370.2 include as a cleanup the replacement of the current §370.2(a) with a simplified provision. An additional amendment to the section concerns removing the requirement that to renew a license expired for more than 90 days, but less than one year, the individual must submit copies of the continuing education documentation. This change will reduce requirements for a late renewal and streamline the late renewal process.

Amendments to §370.3 concern the renewal of a license expired one year or more, which, in the OT Rules, is referred to as the restoration of a license. Amendments to the section would allow an applicant to submit the photograph required for the restoration of a license in electronic form and would allow the Board to verify an applicant's history of licensure in occupational therapy, rather than routinely requiring that an applicant submit a verification of license from each state or territory of the U.S. in which the applicant is currently licensed or previously held a license. The amendments include that if the Board cannot verify the applicant's history of licensure, the applicant must submit a verification of license. The amendments concerning license verification will, therefore, result in applicants only being required to submit verifications for licenses that the Board cannot verify.

A further amendment to §370.3 concerns reducing the number of continuing education hours required for the restoration of a license expired at least one year, but less than two years. Previously, the OT Rules required that to renew a license expired less than one year, the individual must complete 30 hours of continuing education. Recent amendments to other rule sections changed that amount to 24 hours. The proposed changes to §370.3 are a cleanup to coincide with such changes by reducing the required continuing education hours for restoration from 45 to 36 hours. The amendments include further cleanups.

An additional modification to the section is proposed to specify a time frame during which certain requirements must be met in the corresponding subsection.

Further amendments to §370.3 concern adding provisions requiring that individuals complete training on the prevention of human trafficking as a requirement for license restoration.

#### **§371.1. Inactive Status.**

#### **§371.2. Retired Status.**

The amendments to the sections are proposed to cleanup and clarify the sections and to reduce the requirements to initiate retired status. In addition, amendments to §371.2 are proposed to add requirements concerning training on the prevention of human trafficking pursuant to House Bill 2059. Cleanups and clarifications to the sections include amendments to provisions concerning fees to add greater uniformity and clarity to the manner in which such are referenced.

Amendments to §371.2 include changes concerning reducing the number of hours of continuing education required to initiate retired status. Rather than requiring that the individual complete the same number of continuing education hours required to renew an active or inactive status license, the amendments will instead require that to initiate retired status, the individual must complete 6 hours of continuing education, which is the number of hours required to renew a license already on retired status. This change will reduce potential barriers for licensees concerning the initiation of retired status. Concomitant with these changes, requirements to return a license to active status have been revised so that a licensee who has been on retired status less than one year must complete the remainder of continuing education hours required for the renewal of a license on active status.

Further amendments to §371.2 concern the addition of requirements concerning training on human trafficking.

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## Rule Reviews by TBOTE and ECPTOTE

*Note: The information below refers to reviews of existing rules; the current OT Rules and ECPTOTE Rules are in effect and may be accessed from the links below.*

[Current OT Rules](#)

[Current ECPTOTE Rules](#)

According to §2001.39 of the Texas Government Code, an agency is required to review and consider for re-adoption each of its rules every four years and to assess whether the reasons for initially adopting the rules continue to exist.

### **TBOTE Rule Reviews**

The Board has adopted the review of the following rules in the OT Rules in accordance with Texas Government Code §2001.039: Chapter 361, Statutory Authority; Chapter 362, Definitions; Chapter 363, Consumer/Licensee Information; Chapter 364, Requirements for Licensure; §367.1, Continuing Education; §367.2, Categories of Education; §367.3, Continuing Education Audit; Chapter 368, Open Records; Chapter 369, Display of Licenses; Chapter 370, License Renewal; Chapter 371, Inactive and Retired Status; Chapter 372, Provision of Services; Chapter 373, Supervision; Chapter 374, Disciplinary Actions/Detrimental Practice/Complaint Process/Code of Ethics/Licensure of Persons with Criminal Convictions; and Chapter 375, Fees.

The Board finds the reasons for adopting the rules continue to exist and re-adopts the rules in accordance with the requirements of Texas Government Code §2001.039.

Notice of the adoption was published in the May 15, 2020 issue of the [Texas Register](#). A PDF of the notice of the adopted review may also be accessed from the [OT Act and Rules](#) page.

Board rule §367.4, Process for Selecting a Peer Organization to Evaluate and Approve Continuing Education Courses, has been identified by the Regulatory Compliance Division of the Office of the Governor as possibly having an anticompetitive market effect and may not be re-adopted until the Board obtains the approval of the Regulatory Compliance Division after the completion of the division's review of the section. Though under review, the current §367.4 is in effect. If the Board obtains this approval to re-adopt the rule, notice of the proposed re-adoption of the review of §367.4 will be submitted to the *Texas Register* for publication in a future issue. Further information may be accessed from this link: <https://gov.texas.gov/organization/regulatory-compliance>.

### **ECPTOTE Rule Review**

The Executive Council has assessed whether the reasons for adopting the rules in Chapter 651 continue to exist. As a result of the review, the Executive Council finds the reasons for adopting the rules in Chapter 651 continue to exist and re-adopts those sections in accordance with the requirements of Texas Government Code §2001.039.

Notice of ECPTOTE's adopted rule review was published in the [Texas Register](#) on May 29, 2020; a PDF of the notice of the adopted review may also be accessed from the [OT Act and Rules](#) page.

#### **CE Reminder**

*Board rule changes that became effective September 1, 2019 require that licensees earn 24 contact hours of CE for license renewal. Refer to Chapter 367 of the OT Rules for further CE requirements.*



**OT BOARD FORMAL DISCIPLINARY ACTIONS TAKEN  
MAY 01, 2020 BOARD MEETING**

- (1) **Ricardo Rivas, COTA #204886 (Harlingen)** – failed to properly renew his license to practice; lacked sufficient number of hours required for license renewal. Violation of Section 454.301 of the Act and chapter 367 of the board rules. ***Board Order suspended his license to practice for sixty (60) days.***
- (2) **Piyun Beacham, COTA #210404 (The Woodlands)** – failed to properly renew her license to practice; lacked sufficient number of hours required for license renewal. Violation of Section 454.301 of the Act and chapter 367 of the board rules. ***Board Order suspended her license to practice for sixty (60) days.***
- (3) **Chandra Mason, COTA #211158 (Plano)** – failed to properly renew her license to practice; lacked sufficient number of hours required for license renewal. Violation of Section 454.301 of the Act and chapter 367 of the board rules. ***Board Order required sixty (60) hours of community service.***
- (4) **Eric Nichols, COTA #211005 (Waco)** – failed to properly renew his license to practice; lacked sufficient number of hours required for license renewal. Violation of Section 454.301 of the Act and chapter 367 of the board rules. ***Board Order required fifteen (15) hours of community service.***
- (5) **Lauren Gilkes, OTR #117165 (New Braunfels)** – practiced in a detrimental manner by practicing with an expired license. Violation of Section 454.301 of the Act and chapter 374 of the board rules. ***Board Order suspended her license to practice for ten (10) days.***
- (6) **Ross Bonhomme, COTA #204300 (The Woodlands)** - practiced in a detrimental manner by resigning/abandoning her position without sufficient prior notice – thereby abandoning the patients she was scheduled to treat. Violation of Section 454.301 of the Act and chapter 374 of the board rules. ***Board Order suspended her license to practice for forty-five (45) days.***
- (7) **Traci Taylor, COTA #210220 (Fort Worth)** – practiced in a detrimental manner by fraudulently documenting treatment rendered. Violation of Section 454.301 of the Act and chapter 374 of the board rules. ***Board Order suspended her license to practice for ninety (90) days.***
- (8) **Adam Peebles, COTA #211406 (Corpus Christi)** - practiced in a detrimental manner by fraudulently documenting treatment rendered. Violation of Section 454.301 of the Act and chapter 374 of the board rules. ***Board Order suspended his license to practice for ninety (90) days.***
- (9) **Courtney Kee, OTR #114421 (Alvin)** – practiced in a detrimental manner by fraudulently documenting treatment rendered. Violation of Section 454.301 of the Act and chapter 374 of the board rules. ***Board Order suspended her license to practice for forty-five (45) days.***
- (10) **Bhavini Patel, COTA #214960 (Dallas)** – practiced in a detrimental manner by fraudulently documenting treatment rendered. Violation of Section 454.301 of the Act and chapter 374 of the board rules. ***Board Order suspended her license to practice for thirty (30) days.***
- (11) **Jose Palacios, OTR #114393 (Austin)** – practiced in a detrimental manner by fraudulently documenting treatment rendered. Violation of Section 454.301 of the Act and chapter 374 of the board rules. ***Board Order suspended his license to practice for thirty (30) days.***

- (12) **Laura Moscatelli, COTA #208357 (Liberty Hill)** – pled guilty to felony DWI and failed to notify Board within 60 days of conviction. Violation of Section 454.301 of the Act, chapter 374.1 of the board rules, and Section 53.021 of the Texas Occupations Code. ***Board Order accepted the surrender of her license to practice in lieu of other disciplinary action by the Board.***
- (13) **Aurora De La Garza, COTA #212844 (Harlingen)** – felony conviction for conspiracy to commit illegal remuneration, ineligible to work with any company working with Medicaid and/or Medicare, and failed to notify Board within 60 days of conviction. Violation of Section 454.301 of the Act, chapter 374.1 of the board rules, and Section 53.021 of the Texas Occupations Code. ***Board Order revoked her license to practice.***
- (14) **Kevin Harris, COTA #208276 (Houston)** – failed to complete the fingerprint requirement pursuant to Section 454.255 of the Act and chapter 370.1 of the board rules. ***Board administratively suspended his license to practice.***