

TBOTE news

The Texas Board of Occupational Therapy Examiners

August 2020

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Previous newsletters, forms, and FAQs are available from the website: www.ptot.texas.gov.

Next Board Meeting

November 6, 2020*

* Subject to change

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Notes from the Coordinator

Proposed and Adopted Rules and Rule Review

The Board proposed and adopted rule changes at its last meeting and completed its review of existing agency rules. Please see further information in this newsletter.

New Renewal Requirement in Effect September 1, 2020:

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 effective date of this requirement is for renewals and restorations completed on or after September 1, 2020.

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

New Renewal Requirement Effective September 1, 2020: Training on the Prevention of Human Trafficking

The information below regards a brief overview of a new renewal requirement that goes into effect on September 1, 2020; until that date, the [current rules](#) and current renewal requirements are in effect. Refer to the adopted rules that take effect on September 1, 2020, for further information.

Basic Information

HB 2059 of the last legislative session added the completion of a training course approved by the Health and Human Services Commission (HHSC) on the prevention of human trafficking as a condition for license renewal. HB 2059 requires that HHSC approve at least one course available without charge.

HHSC has approved one training course so far, "SOAR to Health and Wellness."

Who needs to complete this training and when does this new renewal requirement go into effect?

Effective September 1, 2020, licensees of the Texas Board of Occupational Therapy Examiners must complete this training prior to renewing a license of any status, including to change license status at the time of renewal, or prior to restoring a license expired one year or more.

My license isn't set to expire until the end of September 2020 or October 2020, but I'm planning to complete my renewal prior to September 1, 2020. Would the training be required for this renewal?

The training is required for renewals on or after September 1, 2020. A renewal completed prior to September 1, 2020, would not require the training.

Is this a CE requirement?

Yes. This is a CE requirement for license renewal. To renew on or after September 1, 2020, as part of the required CE, the licensee must complete a course approved by HHSC on the prevention of human trafficking.

Remember that to renew, the licensee attests to having met CE requirements, which as of September 1, 2020, will include having met this training requirement.

When can I complete this training?

Like all CE required for license renewal, the training must be completed during the licensee's current renewal period, prior to license renewal.

What is the cost for the course?

The course is a free course.

Is this a one-time CE requirement?

No. This will be a CE requirement for each renewal period.

How many hours of CE may I earn from the course?

Completion of the 1-hour course may be counted for 1 hour/contact hour of CE.

Are there a certain number of hours I need to complete for this new requirement?

The Board's adopted rules (effective September 1, 2020) do not require that licensees complete a specific number of hours of training as HB 2059 does not set a specific number. If the course is approved by HHSC to meet the training requirement, then the number of hours of the completed course would be sufficient. Note that the only approved course so far is a 1-hour course. Until other courses are approved by HHSC, as of September 1, 2020, to renew an active or inactive status license, for example, 1 of the 24 hours of CE required for renewal must come from the "SOAR to Health and Wellness" course.

Do I have to send the Board my certificate of completion for the training?

Retain your certificate as you would any required CE documentation.

Do not submit your certificate to the Board unless instructed to do so. For example, if you are randomly selected for a CE audit, then you would submit your certificate with the rest of your CE documentation from that renewal.

I have already taken/will take a different course on the prevention of human trafficking. Can I use that to meet the HB 2059 human trafficking training requirement?

No. As noted, the only course currently approved by HHSC to meet this training requirement is "SOAR to Health and Wellness." No other course may be counted.

It is anticipated that there will be additional courses approved by HHSC in the future.

How can I access the course?

See the [License Renewal](#) page. From there, you may find a document that addresses further details regarding the training, including a link to access such.

Are there any steps to complete before I can access the course?

Yes. A free account needs to be created for TRAIN, the course provider, certain areas of the account profile need to be completed, etc.

See the document on the [License Renewal](#) page for further information, including an overview of basic steps to access the course, along with a detailed illustration of those steps with related screen shots. The document also contains further FAQs regarding the training and information regarding technical support.

Where can I find more information regarding this requirement?

Refer to the document available from the [License Renewal](#) page. As noted, such contains detailed information.

On or soon after September 1, 2020, an updated PDF of the compiled OT Rules will be available from the [Act and Rules](#) page and will include recent amendments concerning the training. The text of the rule amendments concerning this requirement as proposed is available from the [Act and Rules](#) page. The amendments were adopted with no changes.

Refer to the full [Act and Rules](#) for further renewal and CE requirements and to the adopted amendments for further information regarding the training.

Introduction to Adopted Rule Changes from the July Board Meeting

The rule changes noted below will take effect September 1, 2020. Until then, [the current rules](#) are in effect.

Note that on September 1, 2020, the "December, 2019" compiled PDF version of the OT Rules will no longer be up to date as it will not contain the adopted changes. An up-to-date version of the compiled rules will be available from the [Act and Rules](#) page soon after the changes take effect and will have "September, 2020" on the cover.

Notice of the adoptions has been published in the August 14, 2020, issue of the *Texas Register*, and notice of the rule changes as proposed, which includes the text of the proposals, was published in the June 19, 2020, issue of the *Texas Register*. The amendments were adopted with no changes.

PDFs of the notices of proposal and adoption are also available from the [Act and Rules](#) page.

A brief introduction to the adopted rule changes appears below; refer to the [Act and Rules](#) page for further information.

Adopted 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 adopted 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 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 will 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, remove redundant language that already appears in another section of the OT Rules and includes a further cleanup for consistency.

The changes, 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 amendments 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 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; 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 adopted 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 adopted 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 amendments to §367.1 and adopted 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 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 adopted 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 will allow an applicant to submit the photograph required for the restoration of a license in electronic form and will 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 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 adopted 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 adopted to cleanup and clarify the sections and to reduce the requirements to initiate retired status. In addition, amendments to §371.2 are adopted to add requirements concerning training on the prevention of human trafficking pursuant to HB 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.

TBOTE Adopted Rule Review

Note: The information below refers to a review of existing rules; the current OT Rules are in effect and may be accessed from the link below.

[Current Act and Rules](#)

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

The Board has concluded its review of all sections of its rules.

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

With regard to Board rule §367.4, Process for Selecting a Peer Organization to Evaluate and Approve Continuing Education Courses, after a review by the Regulatory Compliance Division of the Office of the Governor, the division has approved the rule section, and, thus, the Board was able to readopt such. Further information regarding the division's determination may be accessed from this link: <https://gov.texas.gov/organization/regulatory-compliance>.

Notice of the readoption of §367.4 was published in the August 14, 2020, issue of the *Texas Register*. Notice of the readoption of the Board's remaining rules was published in the May 15, 2020, issue of the *Texas Register*. A PDF of the notices of adoption may also be accessed from the [Act and Rules](#) page.

Introduction to Proposed Rule Changes from the July Board Meeting

These are PROPOSED rule changes. The [current rules](#) are in effect.

The Board has proposed amendments to §374.1. Disciplinary Actions.

Notice of the proposal has been published in the August 21, 2020, issue of the *Texas Register*, and a PDF of the notice has been uploaded to the [Act and Rules](#) page.

Please note that the information that follows is just a brief introduction; refer to the full proposal 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 within 30 days following the publication of the 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 proposal for further information.

Proposed Rule Changes

§374.1. Disciplinary Actions.

The amendments are proposed to replace "investigative costs" with "administrative penalties" in the Schedule of Sanctions contained in the rule section, and to update other language to make the schedule consistent with other provisions in the chapter.

Changes to the Schedule of Sanctions include replacing investigative costs with administrative penalties. The OT Act, Texas Occupations Code §454.3521, authorizes the Board to impose an administrative penalty for a violation of the chapter or a rule adopted under the chapter. The proposed amendments to the Schedule of Sanctions Figure in §374.1 will impose administrative penalties, not to exceed \$200 for each day a violation continues or occurs, to the "Minimum Discipline," "Intermediate Discipline," and "Maximum Discipline" levels per §454.3521. The graduated penalty amounts are assessed based on the severity and type of violation per §454.3025(a).

Additional changes to the Schedule of Sanctions include updating citations to the "OT Act/Rule" column. The changes also include removing from the "Failed to Properly Renew a License" violation the reference to §367.1(b) and replacing such with a reference to the full §367.1, concerning continuing education, as further provisions in the section concern the violation. Such a change, concomitantly, will ensure that the schedule's reference to the section remains intact in the event that changes to the lettering of the section's provisions are made.

An additional cleanup removes the phrase "until conditions are met or indefinitely" from the "Maximum Discipline" column, with regard to the revocation or surrender of a license. The change is made to reflect that the administrative penalty assessed in an order is fixed, not indefinitely cumulative.

A further change to the section concerns removing from the "Minimum Discipline" and "Intermediate Discipline" columns the extraneous term "provisional" when it precedes "restricted practice." The removal is a cleanup to increase consistency in the schedule, as in other areas of the schedule, just the phrase "restricted practice" is employed for an equivalent sanction. A further change to the section involves a cleanup to correct "licensee" to "license."



**OT BOARD FORMAL DISCIPLINARY ACTIONS TAKEN
JULY 31, 2020 BOARD MEETING**

- (1) **Maria Baxley, OTA #214979 (El Paso)** – 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 required sixty (60) hours of community service.***
- (2) **Jennifer Wolfe, OTA #214966 (Tomball)** – 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 license to practice for five (5) days.***
- (3) **Aliyah Ransom, OTA #214766 (Mexia)** – 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 license to practice for thirty (30) days.***
- (4) **Megan Lentz, OT #118296 (Chelsea, AL)** – failed to complete the fingerprint requirement pursuant to Section 454.255 of the Act and chapter 370.1 of the board rules. ***Board Order accepted the surrender of license to practice in lieu of other disciplinary action by the Board.***
- (5) **Ali Raza, OTA #214471 (Saginaw, MI)** – failed to complete the fingerprint requirement pursuant to Section 454.255 of the Act and chapter 370.1 of the board rules. ***Board Order accepted the surrender of license to practice in lieu of other disciplinary action by the Board.***
- (6) **Liz Leal, OT #119081 (San Antonio)** - practiced in a detrimental manner by resigning/abandoning 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 license to practice for thirty (30) days.***
- (7) **Marilee Nelson, OTA #210922 (San Angelo)** – practiced in a detrimental manner by resigning/abandoning 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 license to practice for thirty (30) days.***
- (8) **Sandra Kristal, OT #109737 (Trenton)** - 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 license to practice for sixty (60) days.***
- (9) **Shelly Bauer, OTA #209127 (Amarillo)** – 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 license to practice for sixty (60) days.***
- (10) **Kymerly Arnold, OT #106688 (El Paso)** – 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 license to practice.***