

## **BILL ANALYSIS**

S.B. 202  
By: Nelson  
Human Services  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

The Department of State Health Services (DSHS) has the broad mission to improve the health and well-being of Texans. This legislation contains statutory modifications based on the Sunset Commission's recommendations to reduce DSHS' role in occupational licensing and certain other regulatory functions to allow the agency to focus on its core public health mission.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted in this bill as follows:

- Rulemaking authority is expressly granted to the Texas Commission of Licensing and Regulation in SECTION 1.001 of this bill.
- Rulemaking authority is expressly granted to the Texas Board of Medical Radiologic Technology, as approved by the Texas Medical Board, in SECTIONS 2.012 and 2.036 of this bill.
- Rulemaking authority is expressly granted to the Texas Medical Board in SECTIONS 2.007, 2.068, 2.083, and 2.155 of this bill.
- Rulemaking authority is expressly granted to the Texas Physician Assistant Board in SECTION 2.034 of this bill.
- Rulemaking authority is expressly granted to the Texas Board of Respiratory Care, as approved by the Texas Medical Board, in SECTIONS 2.158, 2.160, 2.183, and 2.186 of this bill.

It is the committee's opinion that rulemaking authority is transferred in this bill as follows:

- Rulemaking authority previously granted to the Texas Midwifery Board, as approved by the executive commissioner of the Health and Human Services Commission, is transferred to the Texas Commission of Licensing and Regulation in SECTIONS 1.012, 1.017, 1.022, 1.024, and 1.029 of this bill.
- Rulemaking authority previously granted to the State Board of Examiners for Speech-Language Pathology and Audiology is transferred to the Texas Commission of Licensing and Regulation in SECTIONS 1.053, 1.060, 1.063, 1.067, 1.071, 1.072, 1.075, and 1.076 of this bill.
- Rulemaking authority previously granted to the State Committee of Examiners in the

Fitting and Dispensing of Hearing Instruments, as approved by the executive commissioner of the Health and Human Services Commission, and the State Board of Examiners for Speech–Language Pathology and Audiology is transferred to the Texas Commission of Licensing and Regulation in SECTIONS 1.054, 1.055, 1.091, and 1.092 of this bill.

- Rulemaking authority previously granted to the State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments, as approved by the executive commissioner of the Health and Human Services Commission, is transferred to the Texas Commission of Licensing and Regulation in SECTIONS 1.095, 1.109, 1.114, 1.119, and 1.120 of this bill.
- Rulemaking authority previously granted to the executive commissioner of the Health and Human Services Commission is transferred to the Texas Commission of Licensing and Regulation in SECTIONS 1.132, 1.141, 1.142, 1.223, 1.224, 1.227, 1.232, 1.233, 1.245, 1.247, 1.256, 1.263, 1.270, 1.280, 1.281, 1.282, 1.283, 1.284, 1.285, 1.286, 1.287, 1.288, 1.289, 1.290, and 1.295 of this bill.
- Rulemaking authority previously granted to the Advisory Board of Athletic Trainers is transferred to the Texas Commission of Licensing and Regulation in SECTION 1.160 of this bill.
- Rulemaking authority previously granted to the Texas Board of Orthotics and Prosthetics is transferred to the Texas Commission of Licensing and Regulation in SECTIONS 1.186 and 1.187 of this bill.
- Rulemaking authority previously granted to the Texas State Board of Examiners of Dietitians is transferred to the Texas Commission of Licensing and Regulation in SECTIONS 1.201, 1.205, 1.209, and 1.213 of this bill.
- Rulemaking authority previously granted to the executive commissioner of the Health and Human Services Commission is transferred to the Texas Board of Medical Radiologic Technology, as approved by the Texas Medical Board, in SECTIONS 2.006, 2.011, 2.017, 2.022, 2.023, and 2.030 of this bill.
- Rulemaking authority previously granted to the Texas Board of Licensure for Professional Medical Physicists, as approved by the executive commissioner of the Health and Human Services Commission, is transferred to the Texas Medical Board in SECTIONS 2.061, 2.073, and 2.076 of this bill.
- Rulemaking authority previously granted to the executive commissioner of the Health and Human Services Commission is transferred to the Texas Medical Board in SECTIONS 2.010, 2.102, 2.104, 2.106, 2.109, 2.111, 2.115, 2.117, 2.121, 2.124, 2.133, 2.135, 2.136 and 2.143 of this bill.
- Rulemaking authority previously granted to the executive commissioner of the Health and Human Services Commission is transferred to the Texas Board of Respiratory Care, as approved by the Texas Medical Board, in SECTIONS 2.154, 2.156, 2.165, 2.172, and 2.178 of this bill.

## **ANALYSIS**

S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, was signed by the Governor on April 2, 2015, giving effect to the bill on that date. S.B. 202 makes technical and conforming changes to align with the changes in law enacted by S.B. 219.

### **Article 1 – Regulatory Programs Transferred to the Texas Department of Licensing and Regulation (TDLR)**

#### ***Part 1. Transfers during the biennium ending August 31, 2017***

S.B. 202 transfers regulation of midwives; speech–language pathologists and audiologists; hearing instrument fitters and dispensers; dyslexia therapists and practitioners; athletic trainers; orthotists and prosthetists; and dieticians from DSHS to TDLR during the biennium ending August 31, 2017. The bill reconstitutes the existing associated boards and committees as advisory boards at TDLR and makes them responsible for providing advice and recommendations to TDLR on technical matters relevant to the administration of the laws associated with the regulatory programs. The bill specifies the advisory boards’ appointments and terms, including filling vacancies and selecting the presiding officer; duties; and meeting requirements. The bill makes changes to conform the statutory provisions relating to administration and enforcement for each of these regulatory programs to existing TDLR requirements and procedures. S.B. 202 transfers administration and enforcement of these regulatory programs to TDLR’s executive director and transfers the associated rulemaking authority to the Texas Commission of Licensing and Regulation, and makes related conforming changes. The bill repeals provisions of law associated with the regulatory programs that duplicate or conflict with other provisions of law that currently apply to TDLR, and makes related conforming changes. The bill removes the separate Sunset dates for the regulatory programs subject to the Sunset Act and maintains certain requirements of DSHS in the Texas Midwifery Act.

S.B. 202 prohibits the Texas Commission of Licensing and Regulation, until September 1, 2019, from adopting a new rule relating to the scope of practice of or a health-related standard of care for athletic trainers, dieticians, hearing instrument fitters and dispensers, midwives, orthotists and prosthetists, and speech–language pathologists and audiologists unless the rule has been proposed by the advisory board established for that profession. The bill requires the Texas Commission of Licensing and Regulation to adopt rules prescribing the procedure by which the specified advisory boards may propose these rules. The bill requires the Texas Commission of Licensing and Regulation, until September 1, 2019, to either adopt the rule as proposed or return it to the advisory board for revision, and specifies that the Texas Commission of Licensing and Regulation retains authority for final adoption of all rules and is responsible for ensuring compliance with all laws regarding the rulemaking process.

S.B. 202 requires the Texas Commission of Licensing and Regulation to adopt rules clearly specifying how TDLR and the Texas Commission of Licensing and Regulation will solicit input from, and on request provide information to, advisory boards established for athletic trainers, dieticians, hearing instrument fitters and dispensers, midwives, orthotists and prosthetists, and speech–language pathologists and audiologists regarding the general investigative, enforcement, or disciplinary procedures of TDLR or the Texas Commission of Licensing and Regulation.

***Part 2. Transfers during the biennium ending August 31, 2019***

S.B. 202 transfers the regulation of offender education providers, laser hair removal, massage therapy, code enforcement officers, sanitarians, and mold assessors and remediators from DSHS to TDLR during the biennium ending August 31, 2019. The bill makes changes to conform the statutory provisions relating to administration and enforcement for each of these regulatory programs to existing TDLR requirements and procedures.

S.B. 202 transfers administration and enforcement of these regulatory programs to TDLR’s executive director and transfers the associated rulemaking authority to the Texas Commission of Licensing and Regulation. The bill repeals provisions of law associated with the regulatory programs that duplicate or conflict with other provisions of law that currently apply to TDLR, and makes related conforming changes.

S.B. 202 authorizes TDLR to establish advisory committees to provide advice and recommendations to TDLR on technical matters relevant to the administration of the code enforcement officer and sanitarian regulatory programs. The changes in law made by Part 2 of

Article 1 are effective September 1, 2017.

### ***Part 3. Transition Provisions***

For a program transferred under Article 1, S.B. 202 specifies that a rule or fee in effect on the effective date of the program's transfer remains in effect until changed by the Texas Commission of Licensing and Regulation; a license, permit, certificate of registration, or other authorization is continued in effect after the effective date of the transfer as one of TDLR's; and a complaint, investigation, contested case, or other proceeding before DSHS that is pending on the effective date of the transfer is transferred without change in status to TDLR or the Texas Commission of Licensing and Regulation, as appropriate. The bill also requires DSHS to provide TDLR with access to any systems or information necessary to accept a transferred program.

S.B. 202 requires DSHS and TDLR, as soon as practicable after the effective date of a transfer to adopt a transition plan to provide for the orderly transfer of power, duties, functions, programs, and activities. The bill requires the transition plan to provide for the transfer to be completed by August 31, 2017 for a program transferred under Part 1 of Article 1, and by August 31, 2019 for a program transferred under Part 2 of Article 1. The bill establishes that on the date specified in the transition plan, if applicable, the existing board associated with the program is abolished and TDLR is required, as soon as practicable after that date, to appoint the advisory board for the program. The bill specifies that on the date established in the transition plan for the transfer of a particular program to TDLR, all full-time equivalent employee positions at DSHS that primarily concern the administration or enforcement of the program being transferred become positions at TDLR. The bill requires TDLR to post the positions for hiring and, when filling the positions, to give consideration to an applicant who was an employee at DSHS primarily involved in administering or enforcing the transferred program immediately before the date of the transfer. The bill specifies TDLR is not required to hire these applicants. The bill requires TDLR to create a health professions division by August 31, 2017 to oversee programs transferred from DSHS and to ensure TDLR develops necessary health-related expertise.

S.B. 202 requires TDLR to submit a report by December 1 of each year, until January 1, 2020, regarding the implementation of the transfers with respect to that calendar year. The bill specifies the detailed information the report must include and the recipients of the report. S.B. 202 requires TDLR, in preparing a report, to solicit input from DSHS and each advisory board or committee established to advise TDLR regarding a transferred program, and requires TDLR to make each report available to the public on TDLR's website.

## **Article 2 – Regulatory Programs Transferred to the Texas Medical Board (TMB)**

### ***Medical Radiologic Technologists***

S.B. 202 transfers administration of the Medical Radiologic Technologist Certification Act from DSHS to TMB and specifies that the Medical Radiologic Technologist Certification Act expires on September 1, 2017 unless continued in existence by the Texas Sunset Act. The bill establishes the nine-member Texas Board of Medical Radiologic Technology as a governor-appointed advisory board to TMB. The bill specifies the appointment; membership eligibility and restrictions; terms; vacancies; officers; grounds for removal; per diem; application of open meetings, open records, and administrative procedure laws; meetings; quorum requirements; and training of the advisory board.

S.B. 202 transfers the powers and duties of DSHS and the executive commissioner of the Health and Human Services Commission (HHSC), as applicable, in relation to the regulation of medical radiologic technologists and certain persons performing radiological procedures to the advisory board and TMB, as applicable, and makes related conforming changes. To conform statutory provisions relating to administration and enforcement for this regulatory program to TMB requirements and procedures, the bill adds or amends provisions relating to the issuance and

renewal of certificates; the division of responsibilities and delegation of certain duties between the advisory board and TMB; public participation; guidelines for early involvement in the rulemaking process; complaints and investigative information; and disciplinary actions and proceedings. The bill repeals provisions of law associated with the regulatory program that duplicate or conflict with other provisions of law that currently apply to TMB, and makes related conforming changes. The bill requires TMB to provide administrative and clerical employees as necessary to the advisory board.

S.B. 202 requires the advisory board to adopt specified rules for the performance of the advisory board's duties relating to the regulation of medical radiologic technologists and certain persons performing radiological procedures. The bill requires the advisory board to review and approve or reject each application for the issuance or renewal of a certificate; issue each certificate; deny, suspend, or revoke a certificate or otherwise discipline a certificate holder; and take any action necessary to carry out the functions and duties of the advisory board. The bill requires an applicant to pass a jurisprudence examination approved by the advisory board.

S.B. 202 authorizes the advisory board to delegate authority to TMB employees to issue certificates to applicants who clearly meet all certification requirements without formal advisory board approval, and specifies that if the TMB employees determine that the applicant does not clearly meet all certification requirements, the application must be returned to the advisory board.

S.B. 202 authorizes the Texas Board of Medical Radiologic Technology to make a referral to the Texas Physician Health Program and to require participation in the program as a prerequisite for issuing or maintaining a certificate or other authorization. The bill requires the advisory board to adopt related procedures in rule.

S.B. 202 requires TMB to adopt rules to regulate individuals who perform radiologic procedures and individuals who are licensed by TMB and supervise an individual who performs radiologic procedures. The bill requires TMB, by a majority vote, to approve or reject each rule adopted by the advisory board and specifies that if the rule is approved, it may take effect, and if it is rejected TMB must return the rule to the advisory board for revision.

S.B. 202 requires TMB, rather than the executive commissioner of HHSC, with the assistance of the Texas Board of Nursing, the Texas Physician Assistant Board, and other appropriate state agencies, to identify by rule certain radiologic procedures that are dangerous or hazardous and that may be performed only by a practitioner, certified medical radiologic technologist, registered nurse, or licensed physician assistant.

S.B. 202 requires an applicant for a certificate and an applicant for renewal of a certificate to undergo a fingerprint-based criminal history check before the advisory board may issue or renew a certificate. The bill authorizes the advisory board to enter into an agreement with the Department of Public Safety to administer the criminal history checks, and authorizes the Department of Public Safety to collect from each applicant the costs incurred to conduct the criminal history check. The bill requires the advisory board to adopt rules and guidelines on consequences of criminal convictions. The bill specifies that the criminal history check requirements apply only to applications or renewals of certificates filed on or after January 1, 2016 and provides that an application filed before that date is governed by the law in effect at the time the application was filed, and continues the former law in effect for that purpose.

S.B. 202 specifies the advisory board's minimum standards for approval of a curriculum or an education program to train certain individuals, registered nurses, and physician assistants to perform radiologic procedures do not have to include mandatory training guidelines for a registered nurse or licensed physician assistant who intentionally uses radiologic technology.

The bill requires, rather than authorizes the Texas Board of Nursing to adopt rules governing

registered nurses performing certain radiologic procedures, including rules establishing mandatory training guidelines; and requiring registered nurses performing certain radiologic procedures to register with the Texas Board of Nursing and to identify the practitioner ordering the procedures.

S.B. 202 requires the Texas Physician Assistant Board to adopt rules governing licensed physician assistants performing certain radiologic procedures, including rules establishing mandatory training guidelines; and requiring licensed physician assistants performing certain radiologic procedures to register with the Texas Physician Assistant Board and to identify the practitioner ordering the procedures. The bill requires the Texas Physician Assistant Board to notify the agency licensing the practitioner that the physician assistant has registered. The bill specifies that Subchapter F, Chapter 601, Occupations Code applies to the Texas Physician Assistant Board and exempts the Texas Physician Assistant Board from the requirement to adopt rules to regulate the manner in which a persons who holds a license issued by the Texas Physician Assistant Board may order, instruct, or direct another person in the performance of a radiologic procedure.

### ***Medical Physicists***

S.B. 202 transfers the administration of the Medical Physics Practice Act from the Texas Board of Licensure for Professional Medical Physicists at DSHS to TMB and specifies that the Medical Physics Practice Act expires on September 1, 2017 unless continued in existence by the Texas Sunset Act. The bill abolishes the Texas Board of Licensure for Professional Medical Physicists and establishes the Medical Physicist Licensure Advisory Committee as an informal advisory committee to TMB. S.B. 202 specifies the advisory committee consists of seven members appointed by the president of TMB. The bill specifies appointment requirements; membership eligibility and restrictions; terms; vacancies; grounds for removal; compensation; officers; and meeting and quorum requirements of the advisory committee. The bill specifies the advisory committee has no independent rulemaking authority.

S.B. 202 authorizes TMB to include any member of the advisory committee in a proceeding of TMB related to a power or duty related to the regulation of medical physicists if TMB considers the expertise of the advisory committee member to be beneficial in the proceeding. The bill subjects the advisory committee to the Open Meetings and Public Information Acts, except as otherwise provided. The bill exempts the advisory committee from Chapter 2110, Government Code.

S.B. 202 transfers the powers and duties of the Texas Board of Licensure for Professional Medical Physicists, the executive secretary, DSHS, and the executive commissioner of HHSC related to the regulation of medical physicists to TMB, and makes related conforming changes. The bill requires TMB to adopt rules reasonably necessary to perform its duties in relation to the regulation of medical physicists, including procedural rules governing investigations, informal hearings, the issuance of cease and desist orders, and disciplinary sanctions; and rules governing character and conduct for applicants or license holders and fitness to practice medical physics. The bill requires TMB to establish the qualifications for a medical physicist to practice; minimum education and training requirements necessary for a license; and requirements for examinations for licensure.

S.B. 202 requires TMB to prescribe the application form for a medical physicist license; issue, deny, renew, revoke, cancel, restrict, suspend, or accept the surrender of a license; charge fees that are reasonable and necessary to cover the costs of administering the regulation; conduct informal hearings for certain violations; and issue disciplinary sanctions, including agreed orders and non-disciplinary remedial plans. The bill requires TMB to establish procedures for making a confidential referral to the Texas Physician Health Program and for requiring participation in the program as a prerequisite for issuing or maintaining a medical physicist license. To conform statutory provisions relating to administration and enforcement for this regulatory program to

certain TMB requirements and procedures, the bill adds or amends provisions of law relating to issuance and renewal of licenses; complaints and investigative information; and disciplinary actions and proceedings relating to medical physicists. The bill repeals provisions of law associated with the regulation of medical physicists that duplicate or conflict with other provisions of law that currently apply to TMB, and makes related conforming changes.

S.B. 202 requires an applicant for a license and license renewal to undergo a fingerprint-based criminal history check before TMB may issue or renew a license, unless the license holder has previously submitted fingerprints for the initial issuance or part of a prior renewal of the license. The bill authorizes TMB to enter into an agreement with the Department of Public Safety to administer the criminal history checks and authorize the Department of Public Safety to collect from each applicant the costs incurred to conduct the criminal history check. The bill requires TMB to adopt rules and guidelines as necessary regarding consequences of criminal convictions. The bill specifies that the criminal history check requirements apply only to license applications or renewals on or after January 1, 2016 and provides that an application filed before that date is governed by the law in effect at the time the application was filed, and continues the former law in effect for that purpose.

### *Perfusionists*

S.B. 202 transfers administration of the Licensed Perfusionists Act from the Texas State Perfusionist Advisory Committee at DSHS to TMB and specifies that the Licensed Perfusionists Act expires on September 1, 2017 unless continued in existence by the Texas Sunset Act. The bill abolishes the Texas State Perfusionist Advisory Committee and establishes the Perfusionist Licensure Advisory Committee as an informal advisory committee to TMB. The bill specifies the advisory committee consists of seven members appointed by the president of TMB. The bill specifies appointment requirements; membership eligibility and restrictions; terms; vacancies; grounds for removal; officers; and meeting requirements of the advisory committee. The bill specifies the advisory committee has no independent rulemaking authority.

S.B. 202 authorizes TMB to include any member of the advisory committee in a proceeding of the medical board related to a power or duty related to the regulation of perfusionists if TMB considers the expertise of the advisory committee member to be beneficial in the proceeding. The bill provides limited exemptions from the Open Meetings and Public Information Acts relating to informal proceedings. The bill exempts the advisory committee from Chapter 2110, Government Code.

S.B. 202 transfers the powers and duties of the Texas State Perfusionist Advisory Committee and the secretary and related duties of DSHS and the executive commissioner of HHSC to TMB and the executive director of TMB related to the regulation of perfusionists and makes related conforming changes. The bill authorizes TMB to adopt rules necessary to regulate the practice of perfusion, enforce the regulation of the practice, and perform its duties in relation to the regulation of perfusionists.

S.B. 202 requires TMB to establish the qualifications for a perfusionist to practice in this state, including rules governing character and conduct for applicants or license holders and fitness of applicants or license holders to practice; issue, revoke, restrict, suspend, deny, cancel, or accept the surrender of a license; charge fees that are reasonable and necessary to cover the costs of regulation; and establish minimum education and training and examination requirements for licensure. The bill requires TMB to prescribe the application form for a license; adopt and publish a code of ethics; establish procedural rules governing investigations, informal hearings, the issuance of cease and desist orders, and disciplinary sanctions; conduct informal hearings for certain violations; and issue disciplinary sanctions, including agreed orders and non-disciplinary remedial plans. The bill requires TMB to establish procedures for making a confidential referral to the Texas Physician Health Program and for requiring participation in the program as a prerequisite for issuing or maintaining a perfusionist license.

To conform statutory provisions relating to administration and enforcement for this regulatory program to certain TMB requirements and procedures, the bill adds or amends provisions of law relating to issuance and renewal of licenses; complaints and investigative information; and disciplinary actions and proceedings relating to perfusionists. The bill repeals provisions of law associated with the regulation of perfusionists that duplicate or conflict with other provisions of law that currently apply to TMB, and makes related conforming changes.

The bill requires an applicant for a license and license renewal to undergo a fingerprint-based criminal history check before TMB may issue or renew a license, unless the license holder has previously submitted fingerprints for the initial issuance or part of a prior renewal of the license. The bill authorizes TMB to enter into an agreement with the Department of Public Safety to administer the criminal history checks and authorize the Department of Public Safety to collect from each applicant the costs incurred to conduct the criminal history check. The bill requires TMB to adopt rules and guidelines as necessary regarding consequences of criminal convictions. The bill specifies that the criminal history check requirements apply only to license applications or renewals on or after January 1, 2016 and provides that an application filed before that date is governed by the law in effect at the time the application was filed, and continues the former law in effect for that purpose.

### ***Respiratory Care Practitioners***

S.B. 202 transfers the administration of Chapter 604, Occupations Code, relating to the certification and permitting of respiratory care practitioners from DSHS to TMB and specifies that Chapter 604, Occupations Code expires on September 1, 2017 unless continued in existence by the Texas Sunset Act. The bill establishes the nine-member Texas Board of Respiratory Care as a governor-appointed advisory board to TMB. The bill specifies the appointment; membership eligibility and restrictions; terms; vacancies; officers; grounds for removal; per diem; application of open meetings, open records, and administrative procedure laws; meetings; quorum requirements; and training of the advisory board.

S.B. 202 transfers the powers and duties of DSHS and the executive commissioner of HHSC, as applicable, in relation to the certification and permitting of respiratory care practitioners to the advisory board and TMB, as applicable, and makes related conforming changes. To conform statutory provisions relating to administration and enforcement for this regulatory program to certain TMB requirements and procedures, the bill adds or amends provisions relating to the issuance and renewal of certificates and temporary permits; the division of responsibilities and delegation of certain duties between the advisory board and TMB; public participation; guidelines for early involvement in the rulemaking process; complaints and investigative information; and disciplinary actions and proceedings. The bill repeals provisions of law associated with the certification and permitting program that duplicate or conflict with other provisions of law that currently apply to TMB, and makes related conforming changes. The bill requires TMB to provide administrative and clerical employees as necessary to the advisory board.

S.B. 202 requires the advisory board to adopt specified rules for the performance of the advisory board's duties. The bill requires the advisory board to review and approve or reject each application for the issuance or renewal of a certificate or temporary permit; adopt procedures for the issuance or renewal of each certificate or permit; deny, suspend, restrict, cancel, or revoke a certificate or temporary permit or otherwise discipline a certificate or permit holder; and take any other action necessary to carry out the functions and duties of the advisory board. The bill requires an applicant for a certificate or temporary permit to pass a jurisprudence examination approved by the advisory board.

S.B. 202 authorizes the advisory board to delegate authority to TMB employees to issue certificates or temporary permits to applicants who clearly meet all applicable requirements



without formal advisory board approval, and specifies that if the TMB employees determine that the applicant does not clearly meet all applicable requirements, the application must be returned to the advisory board.

S.B. 202 authorizes the advisory board to use the Texas Physician Health Program as the advisory board's peer assistant program. The bill authorizes the advisory board, by rule, to establish procedures for making a confidential referral to the program and for requiring participation in the program as a prerequisite for issuing or maintaining a certificate or temporary permit.

S.B. 202 requires TMB to adopt rules to regulate respiratory care practitioners and physicians who supervise respiratory care practitioners. The bill requires TMB, by a majority vote, to approve or reject each rule adopted by the advisory board and specifies that if the rule is approved, it may take effect, and if it is rejected TMB must return the rule to the advisory board for revision.

S.B. 202 requires an applicant for a certificate or temporary permit or an applicant for a renewal of a certificate or temporary permit to undergo a fingerprint-based criminal history check before the advisory board may issue or renew a certificate or temporary permit. The bill authorizes the advisory board to enter into an agreement with the Department of Public Safety to administer the criminal history checks, and authorizes the Department of Public Safety to collect from each applicant the costs incurred to conduct the criminal history check. The bill requires the advisory board to adopt rules and guidelines on consequences of criminal convictions. The bill specifies that the criminal history check requirements apply only to applications or renewals of a certificate or permit filed on or after January 1, 2016 and provides that an application filed before that date is governed by the law in effect at the time the application was filed, and continues the former law in effect for that purpose.

### ***Transition Provisions***

S.B. 202 specifies that rules and fees; licenses, certificates, or permits; and complaints, investigations, contested cases, or other proceedings continue or remain in effect, or transfer without change in status from DSHS to TMB, the Texas Board of Medical Radiologic Technology, or the Texas Board of Respiratory Care, as appropriate.

S.B. 202 requires DSHS and TMB to adopt a transition plan to provide for the orderly transfer of powers, duties, functions, programs, and activities and for the transition plan to provide for the transfer to be completed as soon as practicable after the effective date of the Act. The bill requires DSHS to provide TMB with access to any systems or information necessary for TMB to accept a transferred program. The bill abolishes the Texas Board of Licensure for Professional Medical Physicists and the Texas State Perfusionist Advisory Committee on the effective date of the Act and requires the governor and president of TMB, as appropriate, to appoint members to the Texas Board of Medical Radiologic Technology, the Medical Physicist Licensure Advisory Committee, the Perfusionist Licensure Advisory Committee, and the Texas Board of Respiratory Care as soon as practicable after the effective date of the Act. The bill specifies that on the effective date of the Act, all full-time equivalent employee positions at DSHS that primarily concern the administration or enforcement of the applicable law being transferred become positions at TMB. The bill requires TMB to post the positions for hiring and, when filling the positions, to give consideration to an applicant who, immediately before the effective date of this Act, was an employee at DSHS primarily involved in administering or enforcing the applicable law. The bill specifies that TMB is not required to hire these applicants.

### **Article 3 – Deregulation of certain activities and occupations**

S.B. 202 repeals provisions and makes conforming changes to discontinue state involvement in the licensing, permitting, and certification of registration, or other authorization of the following

activities and occupations:

- indoor air quality in state buildings;
- rendering;
- tanning bed facilities;
- bottled and vended water certifications;
- personal emergency response systems;
- opticians;
- contact lens dispensers; and
- bedding.

S.B. 202 changes the required wording on warning signs that must be posted in tanning facilities and at each tanning device by removing references to DSHS and its toll-free number and replacing it with specified wording to contact local law enforcement or local health authorities if a violation of law relating to the operation of a tanning facility is suspected.

S.B. 202 specifies that a license, permit, certification of registration, or other authorization issued under a law that is repealed through this article of this Act expires on the effective date of the Act, but that the changes made by the bill would not affect the validity of a disciplinary action taken, offense committed, or fee paid before the effective date of the Act and that is pending before a court or other governmental entity on the effective date of the Act. The bill specifies that an offense under or other violation of a law that is repealed by this article of this Act is governed by the law in effect when the violation was committed, and continues the former law for that purpose. The bill specifies that an offense or violation was committed before the effective date of the Act if any element of the offense or violation occurred before that date. The bill provides that a repeal of a law by this article of the Act does not entitle a person to a refund of an application, licensing, or other fee paid by the person before the effective date of the Act.

#### **Article 4 –Effective Date**

Except as otherwise provided, September 1, 2015.

#### ***Repealers***

##### **Article 1. Part 1.**

The following provisions of the Occupations Code, including provisions amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, are repealed:

Section 203.006	Section 203.051	Section 203.053
Section 203.054	Section 203.057	Section 203.058
Section 203.060	Subchapter C, Chapter 203	Section 203.151(b)
Section 203.1515	Section 203.152(a)	Sections 203.155(a) and (c)
Section 203.156	Section 203.158	Section 203.159
Section 203.160	Section 203.161	Subchapter E, Chapter 203
Section 203.255(b)	Section 203.2556	Section 203.302
Section 203.303	Section 203.405	Subchapter J, Chapter 203
Section 203.502(c)	Section 203.505(a)	Section 401.002
Section 401.101	Section 401.103	Section 401.104
Section 401.106	Section 401.109	Section 401.110
Subchapter D, Chapter 401	Section 401.201(b)	Sections 401.203(a) and (b)

Section 401.204	Section 401.205	Section 401.206
Section 401.207	Section 401.252	Sections 401.253(b), (c), (d), and (e)
Sections 401.2535(a), (b), (c), (d), (e), (f), and (g)	Section 401.254	Section 401.306
Section 401.307(c)	Section 401.313	Section 401.315
Sections 401.352(b) and (c)	Section 401.353	
Section 401.354	Section 401.405	Section 401.451(b)
Section 401.452	Section 401.4531	Section 401.454
Section 401.455	Section 401.456	Section 401.457
Section 401.458	Section 401.459	Section 401.460
Section 401.502	Section 401.5022	Section 401.551
Section 401.553	Section 401.554	Section 401.555
Section 401.556	Section 401.557	Section 401.558
Section 401.559	Section 401.560	Section 401.561
Section 402.002	Section 402.052	Section 402.053
Section 402.054	Section 402.056	Section 402.0581
Section 402.059	Section 402.060	Section 402.061
Section 402.102	Section 402.1022	Sections 402.103(a) and (b)
Section 402.105	Section 402.106	Section 402.151
Section 402.1511	Section 402.153	Sections 402.154(a), (b), (c), (d), (e), (f), and (g)
Section 402.205(d)	Section 402.206	Sections 402.209(b) and (g)
Section 402.257(b)	Sections 402.301(b), (c), (d), and (e)	Section 402.303(f)
Section 402.354	Section 402.452	Section 402.502
Section 402.503	Section 402.504	Section 402.505
Section 402.506	Sections 402.551(a) and (c)	Section 402.552
Section 402.5522	Section 402.553(b)	Section 403.002
Section 403.053	Section 403.109	Section 403.201
Section 403.205	Section 403.206	Section 403.208
Section 403.210	Section 403.211	Section 403.252
Section 451.051(a)	Section 451.0511	Section 451.0512
Section 451.0513	Section 451.052	Section 451.054
Section 451.057	Sections 451.101(b) and (c)	Section 451.1015
Section 451.1016	Section 451.102	Section 451.103
Section 451.1035	Section 451.104	Section 451.105
Section 451.106	Section 451.108	Section 451.109
Sections 451.110(a), (b), (c), (d), (e), (f), and (g)	Section 451.155	Section 451.201(b)
Section 451.202	Section 451.203	Section 451.204
Section 451.2512	Section 451.252	Section 451.253
Section 451.254	Section 451.255	Sections 451.351(a), (b), (e), (f), (g), (h), (i), (j), (k), and (l)
Section 451.352	Section 605.003	Section 605.051
Section 605.053	Section 605.054	Section 605.057
Section 605.058	Section 605.059(a)	Section 605.060
Section 605.061	Subchapter C, Chapter 605	Section 605.152
Section 605.153	Section 605.154	Section 605.201
Section 605.202	Sections 605.2021(a), (b), (c), (d), (e), (f), and (g)	Section 605.203
Section 605.253	Section 605.254(b)	Section 605.255(c)
Section 605.259(b)	Section 605.3535	Section 605.355

Section 605.401	Section 605.403	Section 605.404
Section 605.405	Section 605.406	Section 605.407
Section 605.408	Section 605.409	Section 605.410
Section 605.411	Section 701.003	Section 701.052
Section 701.053	Section 701.055	Section 701.056
Section 701.059	Subchapter C, Chapter 701	Section 701.152
Section 701.153	Section 701.1535	Section 701.156
Section 701.157	Section 701.159	Section 701.160
Section 701.161	Section 701.201	Section 701.202
Section 701.203	Section 701.204	Sections 701.2041(a), (b), (c), (d), (e), (f), and (g)
Section 701.205	Section 701.206	Section 701.256
Section 701.261	Sections 701.301(b), (c), (d), (e), and (f)	Section 701.302
Section 701.402	Section 701.404	Section 701.405
Section 701.406	Section 701.407	Section 701.408
Section 701.452	Section 701.453	Section 701.501
Section 701.502(c)	Section 701.503	Section 701.504
Section 701.505	Section 701.506	Section 701.507
Section 701.508	Section 701.509	Section 701.510
Section 701.511		

**Article 1. Part 2.**

The following provisions of the Health and Safety Code are repealed:

Section 401.509	Section 401.511	Sections 401.512(b) and (c)
Sections 401.522(b) and (c)		

The following provisions of the Occupations Code, including provisions amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, are repealed:

Section 455.051	Section 455.056	Section 455.057
Section 455.058	Section 455.1565	Section 455.1571
Sections 455.160(b), (c), (d), (e), (f), and (g)	Section 455.161	Section 455.252
Section 455.253	Section 455.254	Section 455.301
Section 455.303	Section 455.304	Section 455.305
Section 455.306	Section 455.307	Section 455.308
Section 455.309	Section 455.310	Section 455.311
Section 1952.052	Section 1952.054	Section 1952.105(b)
Section 1952.152	Section 1952.251	Section 1952.253
Section 1952.254	Section 1952.255	Section 1952.256
Section 1952.257	Section 1952.258	Section 1952.259
Section 1952.260	Section 1952.261	Section 1953.0511
Section 1953.052	Section 1953.054	Section 1953.055
Section 1953.103	Section 1953.106(b)	Section 1953.152
Section 1953.202	Section 1953.301	Section 1953.303
Section 1953.304	Section 1953.305	Section 1953.306
Section 1953.307	Section 1953.308	Section 1953.309
Section 1953.310	Section 1953.311	Section 1958.053
Section 1958.055(a)	Section 1958.057	Section 1958.107
Section 1958.251	Section 1958.254	Section 1958.255
Section 1958.256	Section 1958.257	Section 1958.258
Section 1958.302		

**Article 2**

The following provisions of the Occupations Code, including provisions amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, are repealed:

Sections 601.002(2) and (5)	Section 601.051	Section 601.053
Section 601.056(b)	Section 601.103	Section 602.002 (1-a) and (2)
Sections 602.052(b) and (c)	Sections 602.053(a), (b), and (c)	Section 602.056(c)
Section 602.059	Subchapter C, Chapter 602	Sections 602.1525(b), (c), (d), (e), (f), and (g)
Section 602.155	Section 602.204	Sections 603.002(1) and (4)
Section 603.005	Section 603.054(c)	Section 603.058
Subchapter C, Chapter 603	Section 603.154(b)	Section 603.158
Section 603.159	Sections 603.2041(b), (c), (d), (f), and (g)	Section 604.051
Sections 604.052(b) and (c)	Section 604.056	

**Article 3**

The following provisions of the Government Code, including provisions amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, are repealed:

Section 2165.301(2)	Section 2165.302	Section 2165.304
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The following provisions of the Health and Safety Code, including provisions amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, are repealed:

Section 144.001	Subchapter B, Chapter 144	Sections 144.023(d) and (e)
Section 144.031	Subchapter D, Chapter 144	Subchapter E, Chapter 144
Subchapter F, Chapter 144	Section 144.071	Section 144.072
Section 144.073	Section 144.074	Section 144.075
Section 144.076	Section 144.077	Section 144.078(c)
Section 144.080	Section 144.081	Section 144.082
Section 144.083	Section 144.084	Section 144.085
Section 145.001	Section 145.002(1)	Section 145.004(b)
Section 145.006(c)	Section 145.008(k)	Section 145.009
Section 145.0095	Section 145.010	Sections 145.011(a) and (b)
Section 145.012	Section 145.0122	Section 145.015
Chapter 345	Chapter 385	Chapter 441
Chapter 781		

The following provisions of the Occupations Code, including provisions amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, are repealed:

Section 351.005(c)	Chapter 352	Sections 353.002(2) and (4)
Section 353.005	Subchapter B, Chapter 353	Section 353.202
Section 353.2025	Section 353.203	Section 353.204(b)
Section 353.205		

**EFFECTIVE DATE**

Except as otherwise provided, September 1, 2015.

