A BILL TO BE ENTITLED

AN ACT

relating to the continuation and functions of the Department of State Health Services, the provision of health services in this state, and the regulation of certain health-related occupations and activities.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

ARTICLE 1. STATE MENTAL HEALTH HOSPITAL SYSTEM

SECTION 1.001. Subchapter D, Chapter 1001, Health and Safety Code, is amended by adding Section 1001.086 to read as follows:

Sec. 1001.086. TREATMENT ALTERNATIVES TRAINING CURRICULUM FOR JUDGES AND ATTORNEYS. (a) The department shall work with the court of criminal appeals to develop and maintain a training curriculum for judges and attorneys that provides information on inpatient and outpatient treatment alternatives to inpatient commitment to a state hospital for a patient whom a court is ordering to receive mental health services:

(1) to attain competency to stand trial under Chapter 46B, Code of Criminal Procedure; or

(2) following an acquittal by reason of insanity under Chapter 46C, Code of Criminal Procedure.

(b) The training curriculum developed and maintained under Subsection (a) must include a guide to treatment alternatives, other than inpatient treatment at a state hospital, from which a
patient described by Subsection (a) may receive mental health services.

SECTION 1.002. Not later than March 1, 2016, the Department of State Health Services and the court of criminal appeals shall develop the training curriculum required by Section 1001.086, Health and Safety Code, as added by this article.

ARTICLE 2. COMMUNITY MENTAL HEALTH PROGRAMS

SECTION 2.001. Subchapter B, Chapter 533, Health and Safety Code, is amended by adding Section 533.0347 to read as follows:

Sec. 533.0347. REVIEW RELATING TO BEHAVIORAL HEALTH SERVICES PROVIDER CONTRACTS. (a) In this section, "behavioral health services" means mental health services, substance abuse services, or both.

(b) The commission shall conduct a strategic review to evaluate and improve the performance measures and payment mechanisms that are included in the department's contracts with providers of behavioral health services. The commission shall conduct the review in three phases and with the assistance of a third party who has expertise in health purchasing.

(c) In the first phase of the review, the commission shall:

(1) identify for elimination from the department's contracts with providers of behavioral health services performance measures that are not required by state or federal law, particularly those that measure inputs and processes rather than outcomes;

(2) review and identify refinements to the metrics and methodology associated with the withholding of funds from local

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1 patient described by Subsection (a) may receive mental health services.

2 SECTION 1.002. Not later than March 1, 2016, the Department of State Health Services and the court of criminal appeals shall develop the training curriculum required by Section 1001.086, Health and Safety Code, as added by this article.

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14 (b) The commission shall conduct a strategic review to evaluate and improve the performance measures and payment mechanisms that are included in the department's contracts with providers of behavioral health services. The commission shall conduct the review in three phases and with the assistance of a third party who has expertise in health purchasing.

19 (c) In the first phase of the review, the commission shall:

21 (1) identify for elimination from the department's contracts with providers of behavioral health services performance measures that are not required by state or federal law, particularly those that measure inputs and processes rather than outcomes;

25 (2) review and identify refinements to the metrics and methodology associated with the withholding of funds from local
mental health authorities for use as performance-based incentive payments for the authorities as directed by Rider 78, page II-76, Chapter 1411 (S.B. 1), Acts of the 83rd Legislature, Regular Session, 2013 (the General Appropriations Act); and

(3) consider adopting strategies that are similar to strategies associated with the performance measures and accountability processes for managed care organizations.

(d) The commission and the department may not include a performance measure identified for elimination under Subsection (c)(1) in a contract between the department and a provider of behavioral health services that is entered into or renewed on or after September 1, 2015.

(e) Not later than September 1, 2015, the commission and the department shall implement the refinements identified under Subsection (c)(2) to the metrics and methodology associated with the withholding of funds from local mental health authorities for use as performance-based incentive payments for the authorities.

(f) In the second phase of the review:

(1) the commission and the third party shall develop outcome measures for inclusion in contracts with providers of behavioral health services that are based on best practices in performance measurement and contracting;

(2) the commission shall use a subset of priority outcome measures from those developed under Subdivision (1) to develop and implement incentive payments and financial sanctions for inclusion in contracts with providers of behavioral health services that are aligned with the models used by the commission for
purchasing health care services; and

(3) the commission and the department shall jointly:

(A) identify obstacles to the timely processing of contracts with providers of behavioral health services and determine ways to eliminate those obstacles; and

(B) determine ways to streamline contracts with providers of behavioral health services, including the reporting requirements for performance measures included in those contracts, to minimize the administrative burden on providers of behavioral health services, the commission, and the department.

(g) For a contract between the department and a provider of behavioral health services that is entered into or renewed on or after September 1, 2016, the commission and the department shall:

(1) include:

(A) the outcome measures developed under Subsection (f)(1); and

(B) the incentive payments and financial sanctions developed under Subsection (f)(2); and

(2) ensure that the contract is streamlined in accordance with the commission's and department's determinations under Subsection (f)(3)(B).

(h) In the third phase of the review, the commission shall develop and make available to the public online, not later than December 1, 2016, a web-based dashboard that enables the public to make comparisons between behavioral health services providers.

(i) This section expires September 1, 2017.
is amended to read as follows:

(a) In developing rules governing local mental health authorities under Sections 533.035, [533.0351, 533.03521, 533.0357, and 533.0358, the executive commissioner shall use rulemaking procedures under Subchapter B, Chapter 2001, Government Code.

SECTION 2.003. Subchapter B, Chapter 533, Health and Safety Code, is amended by adding Section 533.0515 to read as follows:

Sec. 533.0515. REGIONAL ALLOCATION OF MENTAL HEALTH BEDS IN STATE HOSPITALS. (a) The commission, with input from the local mental health authorities and local behavioral health authorities, and after considering any plan developed under Section 533.051, shall divide the state into regions for the purpose of allocating to each region beds in the state hospitals for patients who are:

(1) voluntarily admitted to a state hospital under Subchapter B, Chapter 462, or Chapter 572;

(2) admitted to a state hospital for emergency detention under Subchapter C, Chapter 462, or Chapter 573;

(3) ordered by a court to receive at a state hospital inpatient chemical dependency treatment under Subchapter D, Chapter 462, or inpatient mental health services under Chapter 574;

(4) committed to a state hospital to attain competency to stand trial under Chapter 46B, Code of Criminal Procedure; or

(5) committed to a state hospital to receive inpatient mental health services following an acquittal by reason of insanity under Chapter 46C, Code of Criminal Procedure.

(b) The local mental health authorities and local
behavioral health authorities shall develop and submit to the commission for approval a methodology for allocating to each region designated under Subsection (a) a certain number of state hospital beds for the patients described by Subsection (a). The commission may approve the allocation methodology only if the authorities demonstrate that the methodology fairly allocates state hospital beds across the state.

(c) After the commission approves the allocation methodology, the department shall begin allocating state hospital beds to the regions according to the methodology.

(d) On a quarterly basis, the commission shall assess and collect from each local mental health authority and local behavioral health authority in a region a daily fee, in an amount prescribed by rule by the executive commissioner, for each bed day that a patient from that region and described by Subsection (a) spends in a state hospital in excess of the number of state hospital beds allocated to that region under Subsection (c).

(e) The commission shall distribute the fees collected under Subsection (d) to the local mental health authorities and local behavioral health authorities in each region in which patients described by Subsection (a) underuse the state hospital beds allocated to the region during the quarter. The commission shall distribute the fees to the local mental health authorities and local behavioral health authorities in proportion to the underuse of state hospital beds in the regions in which the authorities are located.

SECTION 2.004. Subchapter D, Chapter 533, Health and Safety
Code, is amended by adding Sections 533.088 and 533.089 to read as follows:

Sec. 533.088. ESTABLISHMENT OF NEW FACILITY TYPES; FUNDING.
(a) The executive commissioner may adopt rules establishing new types of community-based crisis and treatment facilities for persons with mental health disorders, substance abuse disorders, or co-occurring mental health and substance abuse disorders. A new type of facility established by rule under this section must provide mental health or substance abuse services to patients in a residential setting and according to best practices.

(b) The department shall give priority in the award of state funding for crisis and treatment facilities for persons with mental health or substance abuse disorders to a facility that is approved by the department to operate as a new facility type under Subsection (a) or that otherwise delivers mental health or substance abuse services in an innovative manner.

Sec. 533.089. REVIEW RELATING TO CERTAIN COMMUNITY-BASED CRISIS AND TREATMENT FACILITIES. (a) The department shall conduct a comprehensive review of department rules and department contract requirements governing community-based crisis and treatment facilities for persons with mental health and substance abuse disorders. As part of the review, department regulatory staff, department behavioral health program staff, and stakeholders shall work together to identify best practices for and unnecessary barriers to the effective delivery of mental health and substance abuse services by community-based crisis and treatment facilities.

(b) The department shall:
AAdevelop proposed rules based on the work of the department staff and stakeholders in Subsection (a); and

(2) submit to the appropriate behavioral health services advisory body designated by the executive commissioner the proposed rules for the body's review.

(c) Not later than September 1, 2016, the executive commissioner shall adopt rules relating to the delivery of mental health and substance abuse services by community-based crisis and treatment facilities after considering any recommendations made by the advisory body under Subsection (b)(2). The rules may include the establishment of new types of community-based crisis and treatment facilities for persons with mental health disorders, substance abuse disorders, or co-occurring mental health and substance abuse disorders as authorized by Section 533.088.

(d) This section expires September 1, 2017.

SECTION 2.005. Subchapter D, Chapter 1001, Health and Safety Code, is amended by adding Sections 1001.0731 and 1001.0732 to read as follows:

Sec. 1001.0731. CONTRACTING FOR CERTAIN FUNCTIONS RELATING TO SUBSTANCE ABUSE. The department may contract only with local mental health authorities and local behavioral health authorities to administer outreach, screening, assessment, and referral functions relating to the provision of substance abuse services.

Sec. 1001.0732. MENTAL HEALTH AND SUBSTANCE ABUSE HOTLINES. The department shall ensure that each local mental health authority and local behavioral health authority operates a toll-free telephone hotline that enables a person to call a single hotline
number to obtain information from the authority about mental health services, substance abuse services, or both.

SECTION 2.006. The following provisions, including provisions amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, are repealed:

(1) Section 7.030, Education Code;
(2) Subchapter F, Chapter 461A, Health and Safety Code; and
(3) Section 533.0351, Health and Safety Code.

SECTION 2.007. As soon as practicable after the effective date of this Act, the Health and Human Services Commission shall divide the state into regions and the local mental health authorities and local behavioral health authorities shall develop and submit to the commission for approval the state hospital bed allocation methodology required by Section 533.0515, Health and Safety Code, as added by this article. Before the commission approves the methodology, the Department of State Health Services shall continue to allocate beds in the state hospitals according to the department's policy as it existed immediately before the effective date of this Act, and the policy is continued in effect for that purpose.

SECTION 2.008. Section 1001.0731, Health and Safety Code, as added by this article, applies only to a contract that is entered into or renewed on or after the effective date of this Act. A contract that is entered into or renewed before that date is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that
ARTICLE 3. EMERGENCY MEDICAL SERVICES REGULATION

SECTION 3.001. Section 773.050, Health and Safety Code, is amended by adding Subsection (i) to read as follows:

(i) The department may develop and administer at least twice each calendar year a jurisprudence examination to determine the knowledge that an applicant for an emergency medical services provider license or emergency medical services personnel certification has of this chapter, department rules, and any other applicable laws affecting the applicant's activities regulated under this chapter. Department rules must specify who must take the examination on behalf of an entity applying for an emergency medical services provider license.

SECTION 3.002. Section 773.0571, Health and Safety Code, as amended by Chapters 1089 (H.B. 3556) and 1311 (S.B. 8), Acts of the 83rd Legislature, Regular Session, 2013, is reenacted and amended to read as follows:

Sec. 773.0571. REQUIREMENTS FOR PROVIDER LICENSE. The department shall issue to an emergency medical services provider applicant a license that is valid for two years if the department is satisfied that:

(1) the applicant has adequate staff to meet the staffing standards prescribed by this chapter and the rules adopted under this chapter;

(2) each emergency medical services vehicle is adequately constructed, equipped, maintained, and operated to render basic or advanced life support services safely and
efficiently;

(3) the applicant offers safe and efficient services for emergency prehospital care and transportation of patients;

(4) the applicant:
   (A) possesses sufficient professional experience and qualifications to provide emergency medical services; and
   (B) has not been excluded from participation in the state Medicaid program;

(5) the applicant holds a letter of approval issued under Section 773.0573 by the governing body of the municipality or the commissioners court of the county in which the applicant is located and is applying to provide emergency medical services, as applicable; [and]

(6) the applicant employs a medical director; [and]

(7) the applicant operates out of a physical location in compliance with Section 773.05715;

(8) the applicant owns or has a long-term lease agreement for all equipment necessary for safe operation of an emergency medical services provider, as provided by Section 773.05716; and

(9) the applicant complies with the rules adopted under this chapter.

SECTION 3.003. Section 773.05713, Health and Safety Code, is amended to read as follows:

Sec. 773.05713. REPORT TO LEGISLATURE. Not later than December 1 of each even-numbered year, the department shall electronically submit a report to the lieutenant governor, the
speaker of the house of representatives, and the standing committees of the house and senate with jurisdiction over the department on the effect of Sections 773.05711 and 773.05712 that includes:

(1) the total number of applications for emergency medical services provider licenses submitted to the department and the number of applications for which licenses were issued or licenses were denied by the department;

(2) the number of emergency medical services provider licenses that were suspended or revoked by the department for violations of those sections and a description of the types of violations that led to the license suspension or revocation;

(3) the number of occurrences and types of fraud committed by licensed emergency medical services providers related to those sections;

(4) the number of complaints made against licensed emergency medical services providers for violations of those sections and a description of the types of complaints, reported in the manner required by Section 773.0605(d); and

(5) the status of any coordination efforts of the department and the Texas Medical Board related to those sections.

SECTION 3.004. Subchapter C, Chapter 773, Health and Safety Code, is amended by adding Sections 773.05715 and 773.05716 to read as follows:

Sec. 773.05715. PHYSICAL LOCATION REQUIRED. (a) An emergency medical services provider must have a permanent physical location as the provider's primary place of business. An applicant
for an emergency medical services provider license must demonstrate proof of the location of the primary place of business in the manner required by the department.

(b) The physical location may be owned or leased by the emergency medical services provider.

(c) The emergency medical services provider must remain in the same physical location for the period of licensure, unless the department approves a change in location.

(d) The emergency medical services provider must maintain all patient care records in the physical location that is the provider's primary place of business, unless the department approves an alternate location.

(e) Only one emergency medical services provider may operate out of a single physical location.

Sec. 773.05716. NECESSARY EQUIPMENT. (a) An emergency medical services provider must own or hold a long-term lease for all equipment necessary for the safe operation of an emergency medical services provider, including emergency medical services vehicles, heart rate monitors, defibrillators, stretchers, and any other equipment the department determines is required.

(b) An applicant for an emergency medical services provider license must demonstrate proof of compliance with this section in the manner required by the department.

SECTION 3.005. Subchapter C, Chapter 773, Health and Safety Code, is amended by adding Section 773.0605 to read as follows:

Sec. 773.0605. COMPLAINTS AND INVESTIGATIONS. (a) The department shall track and keep records of:
(1) each complaint received by the department regarding emergency medical services providers and emergency medical services personnel;
(2) each investigation initiated by the department under this chapter; and
(3) each disciplinary action initiated by the department under this chapter.

(b) The department shall develop a formal process to refer complaints outside the department's jurisdiction to the appropriate agency for disposition.

(c) The department shall track the types of complaints received outside the department's jurisdiction. The department shall separately track complaints outside the department's jurisdiction relating to potential billing fraud and make information relating to those complaints available to the appropriate state agency.

(d) The department shall annually report statistical information regarding each complaint received, and each investigation or disciplinary action initiated, under this chapter. The report must include:

(1) the reason and basis for each complaint;
(2) the origin of each investigation, including whether the investigation:
   (A) resulted from a complaint brought by a consumer;
   (B) resulted from a complaint brought by another source; or
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(C) was initiated by the department in the absence of a complaint;

(3) the average time to resolve each complaint from the date the complaint is received;

(4) the disposition of each investigation, including:

(A) the number of investigations commenced in which no disciplinary action was taken, and the reasons no disciplinary action was taken;

(B) the number of investigations resulting in disciplinary action, and the disciplinary actions taken; and

(C) the number of complaints referred to another agency for disposition; and

(5) the number, type, and age of each open investigation at the end of each fiscal year.

(e) The department shall make the report required by Subsection (d) available to the public through publication on the department's website and on request.

SECTION 3.006. Section 773.0611, Health and Safety Code, is amended by adding Subsection (d) to read as follows:

(d) The department may use an inspection performed by an entity to which the department has delegated inspection authority as a basis for a disciplinary action under Section 773.061.

SECTION 3.007. (a) The changes in law made by Sections 773.05715 and 773.05716, Health and Safety Code, as added by this article, apply only to a person that applies for a license or renews a license as an emergency medical services provider on or after the effective date of this Act.
(b) The Department of State Health Services shall develop the formal process required by Section 773.0605(b), Health and Safety Code, as added by this article, as soon as practicable after the effective date of this Act.

(c) The Department of State Health Services may use an inspection performed by an entity to which the department has delegated inspection authority as a basis for a disciplinary action, as provided by Section 773.0611(d), Health and Safety Code, as added by this article, regardless of whether the inspection was performed before, on, or after the effective date of this Act.

ARTICLE 4. PUBLIC HEALTH SYSTEM

SECTION 4.001. Section 117.101(a), Health and Safety Code, is amended to read as follows:

(a) The committee shall:

(1) define the core public health services a local health entity should provide in a county or municipality;

(2) evaluate public health in this state and identify initiatives for areas that need improvement;

(3) identify all funding sources available for use by local health entities to perform core public health functions;

(4) establish public health policy priorities for this state; and

(5) not later than November 30 of each even-numbered year [at least annually], make formal recommendations to the department regarding:

(A) the use and allocation of funds available exclusively to local health entities to perform core public health
functions;
(B) ways to improve the overall public health of citizens in this state;
(C) methods for transitioning from a contractual relationship between the department and the local health entities to a cooperative-agreement relationship between the department and the local health entities; and
(D) methods for fostering a continuous collaborative relationship between the department and the local health entities.

SECTION 4.002. Section 117.103, Health and Safety Code, is amended to read as follows:

Sec. 117.103. BIENNIAL [ANNUAL] REPORT. Not [Beginning in 2012, not] later than November 30 of each even-numbered year, the committee shall file a report on the implementation of this chapter with the governor, the lieutenant governor, and the speaker of the house of representatives.

SECTION 4.003. The heading to Section 117.151, Health and Safety Code, is amended to read as follows:

Sec. 117.151. BIENNIAL [ANNUAL] REPORT.

SECTION 4.004. Section 117.151(a), Health and Safety Code, is amended to read as follows:

(a) Not [Beginning in 2012, not] later than November 30 of each even-numbered year, the department shall file a [an annual] report with the governor, the lieutenant governor, and the speaker of the house of representatives detailing:

(1) the implementation of the committee's
recommendations for the previous biennium described in Section
117.101(a)(5); and
(2) an explanation of the department's reasons for not
implementing a recommendation.

SECTION 4.005. Subchapter D, Chapter 1001, Health and
Safety Code, is amended by adding Sections 1001.0785 and 1001.0786
to read as follows:

Sec. 1001.0785. INVENTORY OF PUBLIC HEALTH DUTIES. (a) The
department shall develop and periodically update a comprehensive
inventory of the roles, responsibilities, and capacity, relating to
public health services, of:

(1) the department's central office;
(2) each public health region designated under Section
121.007; and
(3) each local health department, district, and
authority in this state.

(b) The inventory under Subsection (a) must include:

(1) the specific services and programs each entity
currently provides; and
(2) the level of services provided.

(c) Using the inventory compiled under Subsection (a), the
department shall create and update a clear matrix of duties
specific to each region, indicating which duties are performed by
each entity listed in Subsection (a). The department shall clearly
delineate the division of duties between the department's central
office and the public health regions.

(d) To assist the department in updating the matrix under
Subsection (c), each entity described by Subsections (a)(2) and (3) shall provide the department with information regarding any significant change in public health services provided by that entity.

(e) In creating the inventory and matrix of responsibilities under this section, the department shall solicit input from the Public Health Funding and Policy Committee established under Section 117.051 and local health departments.

(f) The department shall biennially present the inventory and matrix created or updated under this section at a meeting of the Public Health Funding and Policy Committee and at a meeting of the State Health Services Council.

(g) The department shall update the inventory and matrix under this section not later than September 1 of each even-numbered year.

Sec. 1001.0786. PUBLIC HEALTH ACTION PLAN. (a) The department, in consultation with the Public Health Funding and Policy Committee established under Section 117.051, shall:

(1) establish clear goals and statewide priorities for developing and improving the public health services delivery system in this state;

(2) develop an overarching vision for the department's central office, each public health region designated under Section 121.007, and local health departments, districts, and authorities;

(3) develop goals and strategies for each region in this state, with milestones, dates, performance measures, and identification of the resources needed; and
(4) create a public health action plan with regional strategies and milestones to achieve the goals described by Subdivisions (1)-(3).

(b) The department shall complete an updated public health action plan not later than November 30 of each even-numbered year and present the plan, including progress on the goals established in previous plans, to the Public Health Funding and Policy Committee, the State Health Services Council, and the appropriate standing committees of the legislature.

SECTION 4.006. The Department of State Health Services shall submit the initial inventory required by Section 1001.0785, Health and Safety Code, as added by this article, not later than March 1, 2016.

ARTICLE 5. VITAL STATISTICS

SECTION 5.001. Subchapter A, Chapter 191, Health and Safety Code, is amended by adding Section 191.0031 to read as follows:

Sec. 191.0031. CERTIFIED COPIES BY MAIL. The state registrar or a local registrar may not issue a certified copy of a record under this chapter to a person who has applied for the record by mail unless the person has provided notarized proof of identity in accordance with rules adopted by the executive commissioner of the Health and Human Services Commission. The rules may require the issuer of the certified copy to verify the notarization using the records of the secretary of state under Section 406.012, Government Code.

SECTION 5.002. Section 191.022, Health and Safety Code, is amended by adding Subsection (g) to read as follows:
(g) Each local registrar shall annually submit a self-assessment report to the state registrar. The department shall prescribe the information that must be included in the report to allow a thorough desk audit of a local registrar.

SECTION 5.003. Chapter 191, Health and Safety Code, is amended by adding Subchapter D to read as follows:

SUBCHAPTER D. ACCESS TO RECORDS

Sec. 191.071. CRIMINAL BACKGROUND CHECK REQUIRED. (a) A person may not access vital records maintained by the department under this chapter and may not access the department's vital records electronic registration system unless the department, or another person acting on behalf of the department, has conducted a fingerprint-based criminal background check, using state and federal databases, on the person in accordance with department policy and the person's record is satisfactory as determined under department policy.

(b) The department may adopt a policy waiving the requirement of a fingerprint-based background check for a person who previously submitted to a fingerprint-based background check as a condition of licensure by a state agency.

SECTION 5.004. Section 411.110(a), Government Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(a) The Department of State Health Services is entitled to obtain from the department criminal history record information maintained by the department that relates to:

(1) a person who is:
(A) an applicant for a license or certificate under the Emergency Health Care Act (Chapter 773, Health and Safety Code);

(B) an owner or manager of an applicant for an emergency medical services provider license under that Act; or

(C) the holder of a license or certificate under that Act;

(2) an applicant for a license or a license holder under Subchapter N, Chapter 431, Health and Safety Code;

(3) an applicant for a license, the owner or manager of an applicant for a massage establishment license, or a license holder under Chapter 455, Occupations Code;

(4) an applicant for employment at or current employee of:

(A) a public health hospital as defined by Section 13.033, Health and Safety Code; or

(B) the South Texas Health Care System; 

(5) an applicant for employment at, current employee of, or person who contracts or may contract to provide goods or services with:

(A) the vital statistics unit of the Department of State Health Services; or

(B) the Council on Sex Offender Treatment or other division or component of the Department of State Health Services that monitors sexually violent predators as described by Section 841.003(a), Health and Safety Code; or

(6) a person authorized to access vital records or the
vital records electronic registration system under Chapter 191, Health and Safety Code, including an employee of or contractor for the Department of State Health Services, a local registrar, a medical professional, or a funeral director.

SECTION 5.005. In prescribing the initial requirements for local registrar self-assessment reports under Section 191.022(g), Health and Safety Code, as added by this article, the Department of State Health Services shall solicit comment from local registrars in this state.

SECTION 5.006. The Department of State Health Services shall prescribe policies necessary to implement Subchapter D, Chapter 191, Health and Safety Code, as added by this article, to take effect March 1, 2016.

ARTICLE 6. TEXAS HEALTH CARE INFORMATION COLLECTION PROGRAM

SECTION 6.001. Section 108.009, Health and Safety Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended by amending Subsection (a) and adding Subsection (d-1) to read as follows:

(a) The department may collect, and, except as provided by Subsections [Subsection] (d) and (d-1), providers shall submit to the department or another entity as determined by the department, all data required by this section. The data shall be collected according to uniform submission formats, coding systems, and other technical specifications necessary to make the incoming data substantially valid, consistent, compatible, and manageable using electronic data processing, if available.

(d-1) A facility that has been granted a waiver by the
department under this subsection is not required to submit data as required by this section. The executive commissioner shall adopt rules to establish a process by which the department may grant a waiver to exempt a facility from the requirements of this section if the facility conducts not more than 600 procedures a year and does not have information systems capable of automated reporting of claims under this section. A waiver may be valid for not more than a year and may be reissued upon a showing of evidence that the facility continues to qualify for the waiver under this subsection.

SECTION 6.002. Chapter 108, Health and Safety Code, is amended by adding Section 108.0145 to read as follows:

Sec. 108.0145. PROVIDER NOT LIABLE FOR RELEASE OF INFORMATION. A provider that submits data under Section 108.009 is not civilly or criminally liable for the use of the data under this chapter or for a subsequent release of the data by the department or another person.

SECTION 6.003. Section 108.016, Health and Safety Code, is repealed.

ARTICLE 7. ABOLITION OF CERTAIN ADVISORY COMMITTEES, PANELS, AND BOARDS

SECTION 7.001. (a) The Worksite Wellness Advisory Board is abolished.

(b) Section 664.052, Government Code, is amended to read as follows:

Sec. 664.052. RULES. The executive commissioner shall adopt rules for the administration of this subchapter[, including rules prescribing the frequency and location of board meetings].
Sec. 664.058. DONATIONS. The department may receive in-kind and monetary gifts, grants, and donations from public and private donors to be used for the purposes of this subchapter.

(d) Section 664.061(a), Government Code, is amended to read as follows:

(a) A state agency may:

(1) allow each employee 30 minutes during normal working hours for exercise three times each week;

(2) allow all employees to attend on-site wellness seminars when offered;

(3) provide eight hours of additional leave time each year to an employee who:

(A) receives a physical examination; and

(B) completes either an online health risk assessment tool provided by the department or a similar health risk assessment conducted in person by a worksite wellness coordinator;

(4) provide financial incentives, notwithstanding Section 2113.201, for participation in a wellness program developed under Section 664.053(e) after the agency establishes a written policy with objective criteria for providing the incentives;

(5) offer on-site clinic or pharmacy services in accordance with Subtitles B and J, Title 3, Occupations Code, including the requirements regarding delegation of certain medical
acts under Chapter 157, Occupations Code; and

(6) adopt additional wellness policies, as determined by the agency.

e) Sections 664.051(1), 664.054, 664.055, 664.056, 664.057, 664.059, and 664.060(c) and (f), Government Code, are repealed.

SECTION 7.002. (a) The Sickle Cell Advisory Committee is abolished.

(b) Section 33.052, Health and Safety Code, is amended to read as follows:

Sec. 33.052. DUTIES OF DEPARTMENT. The department shall:
[(1) identify efforts related to the expansion and coordination of education, treatment, and continuity of care programs for individuals with sickle cell trait and sickle cell disease[;
[(2) assist the advisory committee created under Section 33.053; and
[(3) provide the advisory committee created under Section 33.053 with staff support necessary for the advisory committee to fulfill its duties].

(c) Section 33.053, Health and Safety Code, is repealed.

SECTION 7.003. (a) The Arthritis Advisory Committee is abolished.

(b) Section 97.007, Health and Safety Code, is repealed.

SECTION 7.004. (a) The Advisory Panel on Health Care-Associated Infections and Preventable Adverse Events is abolished.
Section 536.002(b), Government Code, is amended to read as follows:

The executive commissioner shall appoint the members of the advisory committee. The committee must consist of physicians and other health care providers, representatives of health care facilities, representatives of managed care organizations, and other stakeholders interested in health care services provided in this state, including:

1. at least one member who is a physician with clinical practice experience in obstetrics and gynecology;
2. at least one member who is a physician with clinical practice experience in pediatrics;
3. at least one member who is a physician with clinical practice experience in internal medicine or family medicine;
4. at least one member who is a physician with clinical practice experience in geriatric medicine;
5. at least three members who are or who represent a health care provider that primarily provides long-term services and supports; and
6. at least one member who is a consumer representative;

7. at least one member who is a member of the Advisory Panel on Health Care-Associated Infections and Preventable Adverse Events who meets the qualifications prescribed by Section 98.052(a)(4), Health and Safety Code.

The heading to Subchapter C, Chapter 98, Health and
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Safety Code, is amended to read as follows:

SUBCHAPTER C. DUTIES OF DEPARTMENT [AND ADVISORY PANEL]; REPORTING SYSTEM

(d) Section 98.1045(b), Health and Safety Code, is amended to read as follows:

(b) The executive commissioner may exclude an adverse event described by Subsection (a)(2) from the reporting requirement of Subsection (a) if the executive commissioner [in consultation with the advisory panel,] determines that the adverse event is not an appropriate indicator of a preventable adverse event.

(e) Section 98.105, Health and Safety Code, is amended to read as follows:

Sec. 98.105. REPORTING SYSTEM MODIFICATIONS. The [Based on the recommendations of the advisory panel, the] executive commissioner by rule may modify in accordance with this chapter the list of procedures that are reportable under Section 98.103. The modifications must be based on changes in reporting guidelines and in definitions established by the federal Centers for Disease Control and Prevention.

(f) Section 98.106(c), Health and Safety Code, is amended to read as follows:

(c) The [In consultation with the advisory panel, the] department shall publish the departmental summary in a format that is easy to read.

(g) Section 98.108(a), Health and Safety Code, is amended to read as follows:

(a) The [In consultation with the advisory panel, the]
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executive commissioner by rule shall establish the frequency of
reporting by health care facilities required under Sections 98.103
and 98.1045.

(h) The following provisions are repealed:

(1) Sections 98.001(1) and 98.002, Health and Safety
Code; and


SECTION 7.005. (a) The Youth Camp Training Advisory
Committee is abolished.

(b) Section 141.0095(d), Health and Safety Code, as amended
by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is
amended to read as follows:

(d) In accordance with this section [and the criteria and
guidelines developed by the training advisory committee
established under Section 141.0096], the executive commissioner by
rule shall establish criteria and guidelines for training and
examination programs on sexual abuse and child molestation. The
department may approve training and examination programs offered by
trainers under contract with youth camps or by online training
organizations or may approve programs offered in another format
authorized by the department.

(c) Section 141.0096, Health and Safety Code, as amended by
S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is
repealed.

SECTION 7.006. (a) The Texas Medical Child Abuse Resources
and Education System (MEDCARES) Advisory Committee is abolished.

(b) Section 1001.155, Health and Safety Code, as added by
Chapter 1238 (S.B. 2080), Acts of the 81st Legislature, Regular Session, 2009, is reenacted and amended to read as follows:

Sec. 1001.155. REQUIRED REPORT. Not later than December 1 of each even-numbered year, the department [with the assistance of the advisory committee established under this subchapter] shall submit a report to the governor and the legislature regarding the grant activities of the program and grant recipients, including the results and outcomes of grants provided under this subchapter.

(c) Section 1001.153, Health and Safety Code, as added by Chapter 1238 (S.B. 2080), Acts of the 81st Legislature, Regular Session, 2009, is repealed.

SECTION 7.007. If an entity that is abolished by this article has property, records, or other assets, the Health and Human Services Commission shall take custody of the entity's property, records, or other assets.

ARTICLE 8. REGULATORY PROGRAMS TRANSFERRED TO THE TEXAS DEPARTMENT OF LICENSING AND REGULATION

PART 1. TRANSFERS DURING BIENNIAL ENDING AUGUST 31, 2017

SECTION 8.001. Section 203.002, Occupations Code, is amended by adding Subdivision (1) and amending Subdivisions (3), (4), (4-a), (6), and (9) to read as follows:

(1) "Advisory board" means the Midwives Advisory Board.

(3) "Commission" ["Commissioner"] means the Texas Commission of Licensing and Regulation [commissioner of state health services].

(4) "Department" means the Texas Department of


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1 Licensing and Regulation [State Health Services].
2
3     (4-a) "Executive director" [commissioner] means the
4     executive director of the department [commissioner of the Health
5     and Human Services Commission].
6
7     (6) "Midwife" means a person who practices midwifery
8     and has met the licensing requirements established by this chapter
9     and commission [midwifery board] rules.
10
11     (9) "Normal" means, as applied to pregnancy, labor,
12     delivery, the postpartum period, and the newborn period, and as
13     defined by commission [midwifery board] rule, circumstances under
14     which a midwife has determined that a client is at a low risk of
15     developing complications.
16
17     SECTION 8.002. Section 203.005, Occupations Code, is
18     amended to read as follows:
19
20     Sec. 203.005. EFFECT ON LOCAL ORDINANCES. This chapter
21     does not prohibit a municipality from adopting a local ordinance or
22     rule to regulate the practice of midwifery in the municipality if
23     the ordinance or rule is compatible with and at least as strict as
24     this chapter and commission [midwifery board] rules.
25
26     SECTION 8.003. The heading to Subchapter B, Chapter 203,
27     Occupations Code, is amended to read as follows:
28
29     SUBCHAPTER B. MIDWIVES ADVISORY [MIDWIFERY] BOARD
30
31     SECTION 8.004. Section 203.052, Occupations Code, is
32     amended to read as follows:
33
34     Sec. 203.052. ADVISORY [APPOINTMENT OF MIDWIFERY] BOARD
35     MEMBERSHIP. (a) The advisory [midwifery] board consists of nine
36     members appointed by the presiding officer of the commission with

37
the approval of the commission as follows:

(1) five licensed midwife members each of whom has at least three years' experience in the practice of midwifery;

(2) one physician member who is certified by a national professional organization of physicians that certifies obstetricians and gynecologists;

(3) one physician member who is certified by a national professional organization of physicians that certifies family practitioners or pediatricians; and

(4) two members who represent the public and who are not practicing or trained in a health care profession, one of whom is a parent with at least one child born with the assistance of a midwife.

(b) Appointments to the advisory board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.

SECTION 8.005. Subchapter B, Chapter 203, Occupations Code, is amended by adding Section 203.0521 to read as follows:

Sec. 203.0521. DUTIES OF ADVISORY BOARD. The advisory board shall provide advice and recommendations to the department on technical matters relevant to the administration of this chapter.

SECTION 8.006. Section 203.055, Occupations Code, is amended to read as follows:

Sec. 203.055. TERMS; VACANCIES. (a) Members of the advisory board serve for staggered terms of six years. The terms of three members expire on January 31 of each odd-numbered year.
(b) If a vacancy occurs during a member's term, the presiding officer of the commission, with the commission's approval, shall appoint a replacement who meets the qualifications for the vacant position to serve for the remainder of the term.

SECTION 8.007. Section 203.056, Occupations Code, is amended to read as follows:

Sec. 203.056. PRESIDING OFFICER [OFFICERS]. The presiding officer of the commission [commissioner] shall designate a public member of the advisory [midwifery] board to serve as the presiding officer of the advisory [midwifery] board to serve for a term of one year [in that capacity at the pleasure of the commissioner]. The presiding officer of the advisory board may vote on any matter before the advisory board [midwifery board shall elect one of the other members of the midwifery board as vice presiding officer].

SECTION 8.008. Section 203.059, Occupations Code, is amended to read as follows:

Sec. 203.059. MEETINGS. [(a)] The advisory [midwifery] board shall meet at [least semiannually.

[(b)] The midwifery board shall meet at other times at] the call of the presiding officer of the commission or the executive director [midwifery board or the commissioner].

SECTION 8.009. The heading to Subchapter D, Chapter 203, Occupations Code, is amended to read as follows:

SUBCHAPTER D. POWERS AND DUTIES [OF MIDWIFERY BOARD, EXECUTIVE COMMISSIONER, AND DEPARTMENT]

SECTION 8.010. The heading to Section 203.151, Occupations Code, is amended to read as follows:
Sec. 203.151. GENERAL POWERS AND DUTIES [RULEMAKING AUTHORITY OF MIDWIFERY BOARD].

SECTION 8.011. Section 203.151, Occupations Code, is amended by amending Subsection (a) and adding Subsections (a-1) and (a-2) to read as follows:

(a) The executive director shall administer and enforce this chapter.

(a-1) The commission [Subject to the approval of the executive commissioner, the midwifery board] shall:

(1) [adopt substantive and procedural rules necessary for the licensing of midwives;]

(2) [adopt rules prescribing the standards for the practice of midwifery in this state, including standards for:

(A) the delineation of findings that preclude a woman or newborn from being classified as having a normal pregnancy, labor, delivery, postpartum period, or newborn period; and

(B) administration of oxygen by a midwife to a mother or newborn;

(2) [adopt rules prescribing:

(A) the type of courses and number of hours required to meet the basic midwifery education course and continuing midwifery education course requirements; and

(B) minimum standards for the approval and revocation of approval of:

(i) basic midwifery education courses and continuing midwifery education courses; and

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(ii) instructors or facilities used in basic midwifery education courses and continuing midwifery education courses; and

(3) adopt rules prescribing a procedure for reporting and processing complaints relating to the practice of midwifery in this state;

(4) adopt and implement substantive and procedural rules as necessary to discipline midwives determined to be in violation of this chapter or otherwise a threat to the public health and safety;

(5) adopt rules as necessary to establish eligibility for reciprocity for initial licensing under this chapter; and

(6) adopt other rules necessary to implement a duty imposed on the executive commissioner or the department under this chapter.

(a-2) The department shall:

(1) implement rules governing:

(A) basic midwifery education courses and continuing midwifery education courses; and

(B) approval of instructors or facilities used in offering basic midwifery education courses and continuing midwifery education courses;

(2) prepare and distribute basic midwifery information and instructor manuals;

(3) enter into agreements necessary to carry out this chapter; and
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(4) establish a program for licensure as a midwife as prescribed by commission rules.

SECTION 8.012. Section 203.152(b), Occupations Code, is amended to read as follows:

(b) The commission [midwifery board] may not set a fee for an amount less than the amount of that fee on September 1, 1993.

SECTION 8.013. Sections 203.153(a) and (c), Occupations Code, are amended to read as follows:

(a) The [Subject to the approval of the] department [the midwifery board] shall issue basic information manuals for the practice of midwifery [The midwifery board shall approve the basic information manuals] and instructor manuals that may be used in basic midwifery education courses.

(c) A basic information manual must include information about:

(1) the knowledge necessary to practice as a midwife;
(2) the basic education and continuing education requirements for a midwife;
(3) the legal requirements and procedures relating to midwifery;
(4) the standards of practice as a midwife; and
(5) other information or procedures required by the commission [midwifery board] or the department.

SECTION 8.014. Section 203.154, Occupations Code, is amended to read as follows:

Sec. 203.154. REPORTS ON MIDWIFERY. (a) [] The department [midwifery board] shall prepare and publish reports on
the practice of midwifery in this state.

(b) The Department of State Health Services shall publish a statistical report of infant fetal morbidity and mortality.

SECTION 8.015. The heading to Section 203.155, Occupations Code, is amended to read as follows:

Sec. 203.155. COMPLAINTS [COMPLAINT PROCEDURE AND INVESTIGATION].

SECTION 8.016. Sections 203.155(b) and (d), Occupations Code, are amended to read as follows:

(b) For purposes of Section 51.252, the commission must adopt the rules to adopt under Subsection (a) must:

(1) distinguish among categories of complaints;

(2) ensure that a person who files a complaint has an opportunity to explain the allegations made in the complaint; and

(3) provide for the release of any relevant midwifery or medical record to the department, without the necessity of consent by the midwife's client, as necessary to conduct an investigation of a complaint.

(d) The department shall provide reasonable assistance to a person who wishes to file a complaint with the department regarding a person or activity regulated by this chapter.

SECTION 8.017. Section 203.252(a), Occupations Code, is amended to read as follows:

(a) A person qualifies to become a licensed midwife under this chapter if the person provides the department.
coordinator with documentary evidence that the person has:

(1) satisfied each requirement for basic midwifery education; and

(2) passed the comprehensive midwifery examination and jurisprudence examination required by this chapter.

SECTION 8.018. Section 203.253, Occupations Code, is amended to read as follows:

Sec. 203.253. LICENSE APPLICATION. A person who practices midwifery must apply to the department to be licensed as a midwife in the manner and on a form prescribed by the executive director. The application must:

(1) be accompanied by a nonrefundable application fee; and

(2) include information required by commission [midwifery board] rules.

SECTION 8.019. Section 203.254, Occupations Code, is amended to read as follows:

Sec. 203.254. BASIC MIDWIFERY EDUCATION. The commission [Subject to the approval of the executive commissioner, the midwifery board] shall establish requirements for basic midwifery education.

SECTION 8.020. Section 203.255(a), Occupations Code, is amended to read as follows:

(a) The department [midwifery board, with the approval of the executive commissioner] shall:

(1) adopt a comprehensive midwifery examination for persons regulated under this chapter that must be passed before the
initial license may be issued; and

(2) establish eligibility requirements for persons taking a comprehensive midwifery examination.

SECTION 8.021. Section 203.2555, Occupations Code, is amended to read as follows:

Sec. 203.2555. JURISPRUDENCE EXAMINATION. (a) The department shall develop and administer at least twice each calendar year a jurisprudence examination to determine an applicant's knowledge of this chapter, commission rules under this chapter, and any other applicable laws of this state affecting the applicant's midwifery practice.

(b) The commission shall adopt rules to implement this section, including rules related to the development and administration of the examination, examination fees, guidelines for reexamination, grading the examination, and providing notice of examination results.

SECTION 8.022. Section 203.256, Occupations Code, is amended to read as follows:

Sec. 203.256. TRAINING IN NEWBORN SCREENING AND BASIC LIFE SUPPORT CARDIOPULMONARY RESUSCITATION. A person who practices midwifery in this state must provide the department with satisfactory evidence that the person:

(1) is trained to perform the newborn screening tests under Section 203.354 or has made arrangements for the performance of those tests; and

(2) holds:
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(A) a current certificate issued by the American Heart Association in basic life support cardiopulmonary resuscitation; or

(B) another form of certification acceptable to the department that demonstrates proficiency in basic life support cardiopulmonary resuscitation for adults and children.

SECTION 8.023. Section 203.304, Occupations Code, is amended to read as follows:

Sec. 203.304. CONTINUING MIDWIFERY EDUCATION. (a) The commission by rule shall establish requirements for continuing midwifery education, including a minimum number of hours of continuing education required to renew a license under this chapter.

(b) On renewal of the license, a midwife must provide the department with evidence, acceptable under commission rules, of completion of continuing midwifery education as prescribed by the commission by rule.

(c) The commission by rule shall develop a process to evaluate and approve continuing education courses.

SECTION 8.024. Section 203.305, Occupations Code, is amended to read as follows:

Sec. 203.305. REQUIRED ATTENDANCE AT SPECIFIC MIDWIFERY EDUCATION COURSES. The department may assess the continuing education needs of licensed midwives and may require licensed midwives to attend continuing midwifery education courses
SECTION 8.025. Section 203.306, Occupations Code, is amended to read as follows:

Sec. 203.306. GROUNDS FOR REFUSING RENEWAL. The department may refuse to renew the license of a person who fails to pay an administrative penalty imposed under Subchapter J, unless enforcement of the penalty is stayed or a court has ordered that the administrative penalty is not owed.

SECTION 8.026. Section 203.351(b), Occupations Code, is amended to read as follows:

(b) The department shall prescribe the form of the informed choice and disclosure statement required to be used by a midwife under this chapter. The form must include:

(1) statistics of the midwife's experience as a midwife;

(2) the date the midwife's license expires;

(3) the date the midwife's cardiopulmonary resuscitation certification expires;

(4) the midwife's compliance with continuing education requirements;

(5) a description of medical backup arrangements; and

(6) the legal responsibilities of a midwife, including statements concerning newborn blood screening, ophthalmia neonatorum prevention, and prohibited acts under Sections 203.401-203.403.

SECTION 8.027. Section 203.352, Occupations Code, is amended to read as follows:
Sec. 203.352. PRENATAL AND CERTAIN MEDICAL CARE ENCOURAGED. A midwife shall encourage a client to seek:

(1) prenatal care; and

(2) medical care through consultation or referral, as specified by commission [midwifery board] rules, if the midwife determines that the pregnancy, labor, delivery, postpartum period, or newborn period of a woman or newborn may not be classified as normal for purposes of this chapter.

SECTION 8.028. Section 203.354(b), Occupations Code, is amended to read as follows:

(b) A midwife may collect blood specimens for the newborn screening tests if the midwife has been approved by the department to collect the specimen. The commission [Subject to the approval of the executive commissioner, the midwifery board] shall adopt rules establishing the standards for approval. The standards must recognize completion of a course of instruction that includes the blood specimen collection procedure or verification by appropriately trained health care providers that the midwife has been instructed in the blood collection procedures.

SECTION 8.029. Section 203.355(b), Occupations Code, is amended to read as follows:

(b) The Department of State Health Services [department] and a local health department, a public health district, or a local health unit shall provide clinical and laboratory support services to a pregnant woman or a newborn who is a client of a midwife if the midwife is required to provide the services under this chapter.

SECTION 8.030. Section 203.356(a), Occupations Code, is
amended to read as follows:

(a) A physician, a registered nurse, or other person who, on the order of a physician, instructs a midwife in the approved techniques for collecting blood specimens to be used for newborn screening tests is immune from liability arising out of the failure or refusal of the midwife to:

(1) collect the specimens in the approved manner; or

(2) submit the specimens to the Department of State Health Services in a timely manner.

SECTION 8.031. Sections 203.357(a) and (b), Occupations Code, are amended to read as follows:

(a) The department may require information in addition to that required by Section 203.253 if it determines the additional information is necessary and appropriate to ascertain the nature and extent of midwifery in this state. The department may not require information regarding any act that is prohibited under this chapter.

(b) The department shall prescribe forms for the additional information and shall distribute those forms directly to each midwife. Each midwife must complete and return the forms to the department as requested.

SECTION 8.032. Section 203.401, Occupations Code, is amended to read as follows:

Sec. 203.401. PROHIBITED PRACTICES. A midwife may not:

(1) provide midwifery care in violation of commission [midwifery board] rule, except in an emergency that poses an
immediate threat to the life of a woman or newborn;

(2) administer a prescription drug to a client other than:

(A) a drug administered under the supervision of a licensed physician in accordance with state law;

(B) prophylaxis approved by the Department of State Health Services to prevent ophthalmia neonatorum; or

(C) oxygen administered in accordance with commission rule;

(3) use forceps or a surgical instrument for a procedure other than cutting the umbilical cord or providing emergency first aid during delivery;

(4) remove placenta by invasive techniques;

(5) use a mechanical device or medicine to advance or retard labor or delivery; or

(6) make on a birth certificate a false statement or false record in violation of Section 195.003, Health and Safety Code.

SECTION 8.033. Section 203.404, Occupations Code, is amended to read as follows:

Sec. 203.404. GROUNDS FOR DISCIPLINARY ACTION. (a) The commission or executive director may discipline a licensed midwife, refuse to renew a midwife's license, or refuse to issue a license to an applicant if the person:

(1) violates this chapter or a rule adopted under this chapter;
(2) submits false or misleading information to the [midwifery board or the] department;

(3) is convicted of a misdemeanor involving moral turpitude or a felony;

(4) uses alcohol or drugs intemperately;

(5) engages in unprofessional or dishonorable conduct that may reasonably be determined to deceive or defraud the public;

(6) is unable to practice midwifery with reasonable skill and safety because of illness, disability, or psychological impairment;

(7) is determined by a court judgment to be mentally impaired;

(8) submits a birth or death certificate known by the person to be false or fraudulent or engages in another act that violates Title 3, Health and Safety Code, or a rule adopted under that title;

(9) violates Chapter 244, Health and Safety Code, or a rule adopted under that chapter; or

(10) fails to practice midwifery in a manner consistent with the public health and safety.

(b) The commission or executive director [midwifery board] may discipline a licensed midwife and may refuse to issue a license to an applicant for a disciplinary action taken by another jurisdiction that affects the person's authority to practice midwifery, including a suspension, a revocation, or another action.
Sec. 203.406. REFUND. (a) Subject to Subsection (b), the commission or executive director [midwifery board] may order a licensed midwife to pay a refund to a consumer as provided in an agreed settlement, default order, or commission order [agreement resulting from an informal settlement conference] instead of or in addition to imposing an administrative penalty against the license holder [under this chapter].

(b) The amount of a refund ordered [as provided in an agreement resulting from an informal settlement conference] may not exceed the amount the consumer paid to the licensed midwife for a service regulated by this chapter. The commission or executive director [midwifery board] may not require payment of other damages or estimate harm in a refund order.

SECTION 8.035. Section 203.501(a), Occupations Code, is amended to read as follows:

(a) A person is liable for a civil penalty if the person is required to be licensed under this chapter and the person knowingly or intentionally practices midwifery:

(1) without a license or while the license is suspended or revoked; or

(2) in violation of a commission [midwifery board] order.

SECTION 8.036. Section 203.502(b), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(b) If the executive director [department] or a health authority determines that a person has violated this chapter, the
executive director may institute an action described by Section 51.352 and that the violation creates an immediate threat to the health and safety of the public, the department, or the health authority with the concurrence of the department, may request the attorney general or a district, county, or city attorney to bring an action in a district court for a restraining order to restrain the violation.

SECTION 8.037. Section 203.503(a), Occupations Code, is amended to read as follows:

(a) Venue for a civil action arising out of the imposition of an administrative penalty [brought under Section 203.451 or 203.452] is in the county in which the defendant resides or in the county in which the violation occurred.

SECTION 8.038. Section 203.505(b), Occupations Code, is amended to read as follows:

(b) A violation of a cease and desist [an] order issued by the executive director [under this section] constitutes grounds for imposing an administrative penalty [under Subchapter J].

SECTION 8.039. Section 401.001, Occupations Code, is amended by amending Subdivisions (1), (3), (4), and (4-a) and adding Subdivisions (1-a) and (4-b) to read as follows:

(1) "Advisory board" means the Speech-Language Pathologists and Audiologists Advisory Board.

(1-a) "Audiologist" means a person who meets the qualifications of this chapter to practice audiology.

(3) "Commission" ["Board"] means the Texas Commission of Licensing and Regulation [State Board of Examiners for
Speech-Language Pathology and Audiology].

(4) "Department" means the Texas Department of Licensing and Regulation [State Health Services].

(4-a) "Executive director" means the executive director of the department.

(4-b) "Hearing instrument" has the meaning assigned by Section 402.001.

SECTION 8.040. Section 401.052, Occupations Code, is amended to read as follows:

Sec. 401.052. NURSES. This chapter does not prevent or restrict a communication, speech, language, or hearing screening, as defined by commission [board] rule, from being conducted by a registered nurse:

(1) licensed in this state; and

(2) practicing in accordance with the standards of professional conduct and ethics established by rules adopted by the Texas Board of Nursing.

SECTION 8.041. Section 401.053, Occupations Code, is amended to read as follows:

Sec. 401.053. PERSONS TRAINED BY DEPARTMENT OF STATE HEALTH SERVICES. (a) This chapter does not apply to a person who shows evidence of having received training by the Department of State Health Services [department] in a communication, speech, language, or hearing screening training program approved by that [the] department if the person’s activity is limited to screening as defined by commission [board] rule.

(b) A person who has received training by the Department of...
State Health Services [department] in a program under Subsection (a) may not:

(1) practice speech-language pathology or audiology;

or

(2) represent that the person is a speech-language pathologist or audiologist.

SECTION 8.042. Sections 401.054(b), (c), and (d), Occupations Code, are amended to read as follows:

(b) The Texas Education Agency certificate in speech-language pathology must require an applicant to:

(1) hold a master's degree in communicative disorders or the equivalent from a university program accredited by the American Speech-Language-Hearing Association; and

(2) pass a national examination in speech-language pathology or audiology approved by the department [board].

(c) A person affected by this section who performs work as a speech-language pathologist or audiologist in addition to performing the person's duties within an agency, institution, or organization under the jurisdiction of the Texas Education Agency is required to hold a license issued by the department [board] unless that work is limited to speech and hearing screening procedures performed without compensation.

(d) For the purposes of Subsection (b)(1), an applicant's educational credentials are equivalent to a master's degree in communicative disorders if the credentials:

(1) consist of graduate-level course work and practicum from a program accredited by the American
Speech-Language-Hearing Association; and
(2) meet requirements that are the same as those established by the department for a license in speech-language pathology or audiology.

SECTION 8.043. The heading to Subchapter C, Chapter 401, Occupations Code, is amended to read as follows:

SUBCHAPTER C. [STATE BOARD OF EXAMINERS FOR] SPEECH-LANGUAGE PATHOLOGISTS [PATHOLOGY] AND AUDIOLOGISTS ADVISORY BOARD

SECTION 8.044. Section 401.102, Occupations Code, is amended to read as follows:

Sec. 401.102. ADVISORY BOARD MEMBERSHIP. (a) The advisory board consists of nine members appointed by the presiding officer of the commission with the approval of the commission as follows:

(1) three audiologist members;
(2) three speech-language pathologist members; and
(3) three members who represent the public.

(b) Advisory board members must:

(1) have been a resident of this state for the two years preceding the date of appointment;
(2) be from the various geographic regions of the state; and
(3) be from varying employment settings.

(c) The advisory board members appointed under Subsections (a)(1) and (2) must:

(1) have been engaged in teaching, research, or
providing services in speech-language pathology or audiology for at least five years; and

(2) be licensed under this chapter.

(d) One of the public advisory board members must be a physician licensed in this state and certified in otolaryngology or pediatrics.

(e) Appointments to the advisory board shall be made without regard to the race, creed, sex, religion, or national origin of the appointee.

SECTION 8.045. Subchapter C, Chapter 401, Occupations Code, is amended by adding Section 401.10205 to read as follows:

Sec. 401.10205. DUTIES OF ADVISORY BOARD. The advisory board shall provide advice and recommendations to the department on technical matters relevant to the administration of this chapter.

SECTION 8.046. The heading to Section 401.105, Occupations Code, is amended to read as follows:

Sec. 401.105. TERMS; VACANCIES.

SECTION 8.047. Section 401.105(b), Occupations Code, is amended to read as follows:

(b) If a vacancy occurs during a member's term, the presiding officer of the commission, with the commission's approval, shall appoint a replacement who meets the qualifications for the vacant position to serve for the remainder of the term [A person may not be appointed to serve more than two consecutive terms].

SECTION 8.048. Section 401.107, Occupations Code, is amended to read as follows:
Sec. 401.107. PRESIDING OFFICER [BOARD OFFICERS]. (a) The presiding officer of the commission [governor] shall designate a member of the advisory board to serve as the presiding officer of the advisory board for a term of one year [to serve in that capacity at the will of the governor].

(b) The presiding officer of the advisory board may vote on any matter before the advisory board [must hold a license under this chapter].

SECTION 8.049. Section 401.108, Occupations Code, is amended to read as follows:

Sec. 401.108. MEETINGS. [(a)] The advisory board shall meet [hold at least two regular meetings each year].

[(b) Additional meetings may be held] at the call of the presiding officer of the commission or the executive director [on the written request of any three members of the board].

SECTION 8.050. The heading to Subchapter E, Chapter 401, Occupations Code, is amended to read as follows:

SUBCHAPTER E. [BOARD AND DEPARTMENT] POWERS AND DUTIES

SECTION 8.051. Section 401.201, Occupations Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) The executive director shall administer and enforce this chapter.

(a-1) The [With the assistance of the] department [, the board] shall:

(1) [administer, coordinate, and enforce this chapter].
evaluate the qualifications of license applicants;

(2) provide for the examination of license applicants;

(3) in connection with a hearing under this chapter [Section 401.454], issue subpoenas, examine witnesses, and administer oaths under the laws of this state; and

(4) conduct hearings and keep records and minutes necessary to the orderly administration of this chapter; and

(5) investigate persons engaging in practices that violate this chapter.

SECTION 8.052. Section 401.202, Occupations Code, is amended to read as follows:

Sec. 401.202. STANDARDS OF ETHICAL PRACTICE [RULEMAKING AUTHORITY]. The commission [board] shall adopt rules under [necessary to administer and enforce] this chapter[, including rules] that establish standards of ethical practice.

SECTION 8.053. Section 401.2021, Occupations Code, is amended to read as follows:

Sec. 401.2021. [JOINT] RULES FOR HEARING INSTRUMENTS. With the assistance of the advisory [department, the] board and the Hearing Instrument Fitters and Dispensers Advisory Board, the commission [State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments] shall [jointly] adopt rules to establish requirements for each sale of a hearing instrument for purposes of this chapter and Chapter 402. The rules
must:

(1) address:

(A) the information and other provisions required in each written contract for the purchase of a hearing instrument;

(B) records that must be retained under this chapter or Chapter 402; and

(C) guidelines for the 30-day trial period during which a person may cancel the purchase of a hearing instrument; and

(2) require that the written contract and 30-day trial period information provided to a purchaser of a hearing instrument be in plain language designed to be easily understood by the average consumer.

SECTION 8.054. Section 401.2022, Occupations Code, is amended to read as follows:

Sec. 401.2022. [JOINT] RULES FOR FITTING AND DISPENSING OF HEARING INSTRUMENTS BY TELEPRACTICE. (a) In this section, "telepractice" means the use of telecommunications technology by a license holder for an assessment, intervention, or consultation regarding a speech-language pathology or audiology client.

(b) With the assistance of the advisory [department, the] board and the Hearing Instrument Fitters and Dispensers Advisory Board, the commission [State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments] shall [jointly] adopt rules to establish requirements for the fitting and dispensing of hearing instruments by the use of telepractice for purposes of this chapter and Chapter 402, including rules that establish the qualifications

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CHAPTER 8. LICENSE AND REGISTRATION

SECTION 8.055. The heading to Section 401.203, Occupations Code, is amended to read as follows:

Sec. 401.203. ASSISTANCE FILING COMPLAINT [BOARD DUTIES REGARDING COMPLAINTS].

SECTION 8.056. Section 401.203(c), Occupations Code, is amended to read as follows:

(c) The department [board] shall provide reasonable assistance to a person who wishes to file a complaint with the department regarding a person or activity regulated under this chapter [board].

SECTION 8.057. Section 401.251, Occupations Code, is amended to read as follows:

Sec. 401.251. TELEPHONE NUMBER FOR COMPLAINTS. The department [board] shall list with its regular telephone number any toll-free telephone number established under other state law that may be called to present a complaint about a health professional.

SECTION 8.058. The heading to Section 401.253, Occupations Code, is amended to read as follows:

Sec. 401.253. [GENERAL] RULES REGARDING USE OF PRIVATE INVESTIGATOR [REGARDING COMPLAINT INVESTIGATION AND DISPOSITION].

SECTION 8.059. Section 401.253(a), Occupations Code, is amended to read as follows:

(a) For purposes of Section 51.252, the commission must [The board shall] adopt rules to [concerning the investigation of a complaint filed with the board]. The rules must:

(1) distinguish among categories of complaints,
ensure that a complaint is not dismissed without appropriate consideration; (3) require that the board be advised of a complaint that is dismissed and that a letter be sent to the person who filed the complaint explaining the action taken on the dismissed complaint; (4) ensure that the person who filed the complaint has an opportunity to explain the allegations made in the complaint; and (5) prescribe guidelines concerning the categories of complaints under this chapter that require the use of a private investigator and the procedures for the department [board] to obtain the services of a private investigator.

SECTION 8.060. The heading to Section 401.2535, Occupations Code, is amended to read as follows:

Sec. 401.2535. CONFIDENTIALITY OF COMPLAINT AND DISCIPLINARY INFORMATION [INVESTIGATION; SUBPOENA].

SECTION 8.061. Sections 401.2535(h) and (i), Occupations Code, are amended to read as follows:

(h) All information and materials subpoenaed or compiled by the department [board] in connection with a complaint and investigation are confidential and not subject to disclosure under Chapter 552, Government Code, and not subject to disclosure, discovery, subpoena, or other means of legal compulsion for their release to anyone other than the department [board] or its employees or agents involved in discipline of the holder of a license, except that this information may be disclosed to:
persons involved with the department [board] in a
disciplinary action against the holder of a license;
(2) professional speech-language pathologist and
audiologist licensing or disciplinary boards in other
jurisdictions;
(3) peer assistance programs approved by the
commission [board] under Chapter 467, Health and Safety Code;
(4) law enforcement agencies; and
(5) persons engaged in bona fide research, if all
individual-identifying information has been deleted.
(i) The filing of formal charges by the department [board]
against a holder of a license, the nature of those charges,
disciplinary proceedings of the department, commission, or
executive director [board], and final disciplinary actions,
including warnings and reprimands, by the department, commission,
or executive director [board] are not confidential and are subject
to disclosure in accordance with Chapter 552, Government Code.

SECTION 8.062. Section 401.302, Occupations Code, is
amended to read as follows:
Sec. 401.302. ISSUANCE OF LICENSE. (a) The department
shall issue a license to an applicant who meets the
requirements of this chapter and who pays to the department [board]
the initial nonrefundable license fee.
(b) The department [board] may issue to an applicant a
license in either speech-language pathology or audiology.
(c) The department [board] may issue a license in both
speech-language pathology and audiology to an applicant.
The commission by rule shall establish qualifications for dual licensing in speech-language pathology and audiology and may develop a full range of licensing options and establish rules for qualifications.

SECTION 8.063. Section 401.303(a), Occupations Code, is amended to read as follows:

(a) A person who desires a license under this chapter must apply to the department on a form and in the manner prescribed by the executive director.

SECTION 8.064. Sections 401.304(a) and (c), Occupations Code, are amended to read as follows:

(a) To be eligible for licensing as a speech-language pathologist or audiologist, an applicant must:

(1) if the application is for a license in:

(A) speech-language pathology, possess at least a master's degree with a major in at least one of the areas of communicative sciences or disorders from a program accredited by a national accrediting organization that is approved by the commission or department and recognized by the United States secretary of education under the Higher Education Act of 1965 (20 U.S.C. Section 1001 et seq.) in an accredited or approved college or university; or

(B) audiology, possess at least a doctoral degree in audiology or a related hearing science from a program accredited by a national accrediting organization that is approved by the commission or department and recognized by the United States secretary of education under the Higher Education Act of

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1965 (20 U.S.C. Section 1001 et seq.) in an accredited or approved college or university;

(2) submit a transcript from a public or private institution of higher learning showing successful completion of course work in amounts set by the commission by rule [board] in:

(A) normal development and use of speech, language, and hearing;

(B) evaluation, habilitation, and rehabilitation of speech, language, and hearing disorders; and

(C) related fields that augment the work of clinical practitioners of speech-language pathology and audiology;

(3) have successfully completed at least 36 semester hours in courses that are acceptable toward a graduate degree by the college or university in which the courses are taken, at least 24 of which must be in the professional area for which the license is requested;

(4) have completed the minimum number of hours, established by the commission by rule [board], of supervised clinical experience with persons who present a variety of communication disorders; and

(5) have completed the full-time supervised professional experience, as defined by commission [board] rule, in which clinical work has been accomplished in the major professional area for which the license is being sought.

(c) Supervised professional experience under Subsection (a)(5) must:

(1) be under the supervision of a qualified person
acceptable to the department \[board\] under guidelines approved by
the commission \[board\]; and

(2) begin after completion of the academic and
clinical experience required by this section.

SECTION 8.065. Section 401.3041, Occupations Code, is
amended to read as follows:

Sec. 401.3041. CRIMINAL HISTORY RECORD INFORMATION
REQUIREMENT FOR LICENSE ISSUANCE. (a) The department \[board\]
shall require that an applicant for a license submit a complete and
legible set of fingerprints, on a form prescribed by the department
\[board\], to the department \[board\] or to the Department of Public
Safety for the purpose of obtaining criminal history record
information from the Department of Public Safety and the Federal
Bureau of Investigation.

(b) The department \[board\] may not issue a license to a
person who does not comply with the requirement of Subsection (a).

(c) The department \[board\] shall conduct a criminal history
check of each applicant for a license using information:

(1) provided by the individual under this section; and

(2) made available to the department \[board\] by the
Department of Public Safety, the Federal Bureau of Investigation,
and any other criminal justice agency under Chapter 411, Government
Code.

(d) The department [Department of State Health Services on
behalf of the board] may:

(1) enter into an agreement with the Department of
Public Safety to administer a criminal history check required under
(2) authorize the Department of Public Safety to collect from each applicant the costs incurred by the Department of Public Safety in conducting the criminal history check.

SECTION 8.066. Section 401.305, Occupations Code, is amended to read as follows:

Sec. 401.305. EXAMINATION. (a) To obtain a license, an applicant must:

(1) pass an examination approved by the commission by rule; and

(2) pay fees in a manner prescribed by the commission by rule.

(b) The department shall administer an examination at least twice each year.

(b-1) The commission shall determine standards for acceptable performance on the examination and maintain a record of all examination scores for at least two years after the date of examination.

(c) The commission by rule may:

(1) establish procedures for the administration of the examination; and

(2) require a written or oral examination, or both.

(d) The commission by rule may require the examination of an applicant in any theoretical or applied field of speech-language pathology or audiology it considers
appropriate. The commission by rule [board] may require the examination of an applicant on professional skills and judgment in the use of speech-language pathology or audiology techniques or methods.

SECTION 8.067. Section 401.307(b), Occupations Code, is amended to read as follows:
(b) An applicant who fails two examinations may not be reexamined until the person:
(1) submits a new application accompanied by a nonrefundable application fee; and
(2) presents evidence acceptable to the department [board] of additional study in the area for which a license is sought.

SECTION 8.068. Section 401.308, Occupations Code, is amended to read as follows:
Sec. 401.308. PROVISIONAL LICENSE; CERTIFICATE OF CLINICAL COMPETENCE WAIVER. (a) The department [board] may grant a provisional license to an applicant who:
(1) is licensed in good standing as a speech-language pathologist or an audiologist in another state that has licensing requirements that are substantially equivalent to the requirements of this chapter;
(2) has passed a national or other examination recognized by the department [board] relating to speech-language pathology or audiology; and
(3) is sponsored by a license holder with whom the provisional license holder may practice under this section.
(b) An applicant for a provisional license may be excused from the requirement of Subsection (a)(3) if the department [board] determines that compliance with that requirement is a hardship to the applicant.

(c) A provisional license is valid until the date the department [board] approves or denies the provisional license holder's application for a license.

(d) The department [board] shall issue a license under this chapter to a provisional license holder:

1. who passes the examination required by Section 401.305;
2. for whom the department [board] verifies satisfaction of the academic and experience requirements for a license under this chapter; and
3. who satisfies any other license requirements under this chapter.

(e) The department [board] shall complete the processing of a provisional license holder's application for a license not later than the 180th day after the date the provisional license is issued.

(f) The department [board] may waive the examination requirement and issue a license to an applicant who holds the Certificate of Clinical Competence of the American Speech-Language-Hearing Association.

SECTION 8.069. Section 401.310(a), Occupations Code, is amended to read as follows:

(a) The department [board] shall issue a temporary certificate of registration to an applicant who:
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1. (1) satisfies the requirements of Section 401.304;
2. (2) has not previously applied to take the examination; and
3. (3) pays the nonrefundable application fee.

SECTION 8.070. Section 401.311(c), Occupations Code, is amended to read as follows:

(c) The commission [board] by rule shall:
1. (1) prescribe the terms governing a person's practice as an intern under this section; and
2. (2) establish general guidelines and renewal procedures for the holder of an intern license.

SECTION 8.071. Sections 401.312(a) and (b), Occupations Code, are amended to read as follows:

(a) The commission by rule [board] may establish minimum qualifications for licensed assistants in speech-language pathology and in audiology.

(b) A licensed assistant in speech-language pathology or in audiology must meet the minimum qualifications established by the commission [board].

SECTION 8.072. Section 401.351, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 401.351. LICENSE TERM [EXPIRATION]. [(a)] A license issued under this chapter is valid for two years. [The board by rule may adopt a system under which licenses expire on various dates during the year.

(b) For the year in which the license expiration date is
changed, license fees payable on the original expiration date shall
be prorated on a monthly basis so that each license holder pays only
the portion of the license fee that is allocable to the number of
months during which the license is valid. On renewal of the license
on the new expiration date, the total license renewal fee is
payable."

SECTION 8.073. Section 401.352(a), Occupations Code, as
amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
2015, is amended to read as follows:
(a) Each licensed speech-language pathologist or
audiologist must pay the nonrefundable fee for license renewal.
The board shall allow a 60-day grace period. After expiration of
the grace period, the board may renew a license on payment of a
penalty set by board rule.

SECTION 8.074. Section 401.355, Occupations Code, is
amended to read as follows:
Sec. 401.355. CONTINUING EDUCATION. (a) The commission by
rule [board] shall establish uniform mandatory continuing
education requirements. A license holder may not renew the
person's license unless the person meets the continuing education
requirements.
(b) The commission [board] shall establish the requirements
in a manner that allows a license holder to comply without an
extended absence from the license holder's county of residence.

SECTION 8.075. Section 401.401(c), Occupations Code, is
amended to read as follows:
(c) The commission [board] shall adopt rules necessary to
enforce this section.

SECTION 8.076. Section 401.403(b), Occupations Code, is amended to read as follows:

(b) A person who meets the requirements of this chapter for licensing as an audiologist or audiologist intern and who fits and dispenses hearing instruments must:

(1) register with the department [board] the person's intention to fit and dispense hearing instruments;

(2) comply with the profession's code of ethics;

(3) comply with the federal Food and Drug Administration guidelines for fitting and dispensing hearing instruments;

(4) when providing services in this state, use a written contract that contains the department's [board's] name, mailing address, and telephone number; and

(5) follow the guidelines adopted by commission [board] rule for a 30-day trial period on every hearing instrument purchased.

SECTION 8.077. Section 401.451(a), Occupations Code, is amended to read as follows:

(a) After a hearing, the commission or executive director [board] may deny a license to an applicant or may suspend or revoke a person's license or place on probation a license holder if the applicant or license holder:

(1) violates this chapter or an order issued or rule adopted under this chapter [of the board];

(2) obtains a license by means of fraud,
misrepresentation, or concealment of a material fact;
(3) sells, barters, or offers to sell or barter a license or certificate of registration; or
(4) engages in unprofessional conduct that:
   (A) endangers or is likely to endanger the health, welfare, or safety of the public as defined by commission [board] rule; or
   (B) violates the code of ethics adopted and published by the commission [board].

SECTION 8.078. Section 401.453(a), Occupations Code, is amended to read as follows:
(a) The commission or department [board] may deny a license or may suspend or revoke a license if the applicant or license holder has been convicted of a misdemeanor involving moral turpitude or a felony. The commission or department [board] may take action authorized by this section when:
   (1) the time for appeal of the person's conviction has elapsed;
   (2) the judgment or conviction has been affirmed on appeal; or
   (3) an order granting probation is made suspending the imposition of the person's sentence, without regard to whether a subsequent order:
      (A) allows a withdrawal of a plea of guilty;
      (B) sets aside a verdict of guilty; or
      (C) dismisses an information or indictment.

SECTION 8.079. Section 401.5021, Occupations Code, is
amended to read as follows:

Sec. 401.5021. [BOARD-ORDERED] REFUND. The commission or executive director [board] may order an audiologist to pay a refund to a consumer who returns a hearing instrument during the 30-day trial period required by rules adopted under Section 401.2021.

SECTION 8.080. Section 401.552(a), Occupations Code, is amended to read as follows:

(a) The amount of an [the] administrative penalty imposed for a violation of this chapter or a rule adopted or order issued under this chapter may not be less than $50 or more than $5,000 for each violation. Each day a violation continues or occurs is a separate violation for the purpose of imposing a penalty.

SECTION 8.081. Section 402.001, Occupations Code, is amended by amending Subdivisions (2), (3), and (6), amending Subdivision (3-a), as added by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, and adding Subdivision (1) to read as follows:

(1) "Advisory board" means the Hearing Instrument Fitters and Dispensers Advisory Board.

(2) "Commission" ["Committee"] means the Texas Commission of Licensing and Regulation [State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments].

(3) "Department" means the Texas Department of Licensing and Regulation [State Health Services].

(3-a) "Executive director [commissioner]" means the executive director [commissioner] of the department [Health and Human Services Commission].
(6) "License" means a license issued by the department under this chapter to a person authorized to fit and dispense hearing instruments.

SECTION 8.082. The heading to Subchapter B, Chapter 402, Occupations Code, is amended to read as follows:

SUBCHAPTER B. HEARING INSTRUMENT FITTERS AND DISPENSERS ADVISORY BOARD [STATE COMMITTEE OF EXAMINERS IN THE FITTING AND DISPENSING OF HEARING INSTRUMENTS]

SECTION 8.083. Section 402.051, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 402.051. ADVISORY BOARD [COMMITTEE] MEMBERSHIP. (a) The advisory board [State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments] is part of the department and consists of nine members appointed by the presiding officer of the commission [governor] with the approval [advice and consent] of the commission [senate] as follows:

(1) six members licensed under this chapter who have been residents of this state actually engaged in fitting and dispensing hearing instruments for at least five years preceding appointment, not more than one of whom may be licensed under Chapter 401;

(2) one member who is actively practicing as a physician licensed by the Texas Medical Board and who:

(A) has been a resident of this state for at least two years preceding appointment;

(B) is a citizen of the United States; and
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(C) specializes in the practice of otolaryngology; and

(3) two members of the public.

(b) Appointments to the advisory board [committee] shall be made without regard to the race, creed, sex, religion, or national origin of the appointee.

SECTION 8.084. Subchapter B, Chapter 402, Occupations Code, is amended by adding Section 402.0511 to read as follows:

Sec. 402.0511. DUTIES OF ADVISORY BOARD. The advisory board shall provide advice and recommendations to the department on technical matters relevant to the administration of this chapter.

SECTION 8.085. Section 402.055, Occupations Code, is amended to read as follows:

Sec. 402.055. TERMS; VACANCIES. (a) Members of the advisory board [committee] serve staggered six-year terms. The terms of three members expire on February 1 of each odd-numbered year.

(b) If a vacancy occurs during a member's term, the presiding officer of the commission, with the commission's approval, shall appoint a replacement who meets the qualifications for the vacant position to serve for the remainder of the term [A member who has served two full consecutive terms on the committee is not eligible for reappointment to the committee for the 12 months following the expiration of the second full term].

[(c) In the event of the death, resignation, or removal of a member, the governor shall fill the vacancy of the unexpired term in the same manner as other appointments.]

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SECTION 8.086. Section 402.057, Occupations Code, is amended to read as follows:

Sec. 402.057. PRESIDING OFFICER [OFFICERS]. [(a) The] presiding officer of the commission [governor] shall designate a member of the advisory board to serve [committee] as the presiding officer of the advisory board for a term of [committee to serve in that capacity at the will of the governor.

[(b) The term of office as an officer of the committee is] one year. The presiding officer of the advisory board may vote on any matter before the advisory board.

SECTION 8.087. Section 402.058, Occupations Code, is amended to read as follows:

Sec. 402.058. MEETINGS. [(a) The] advisory board [committee] shall meet [hold regular meetings at least twice a year.

[(b) A special meeting of the committee shall be held] at the call of the presiding officer of the commission or the executive director [a majority of the members].

SECTION 8.088. The heading to Subchapter C, Chapter 402, Occupations Code, is amended to read as follows:

SUBCHAPTER C. [COMMITTEE] POWERS AND DUTIES

SECTION 8.089. Section 402.101, Occupations Code, is amended to read as follows:

Sec. 402.101. GENERAL POWERS AND DUTIES. (a) The executive director [With the assistance of the department, the committee] shall[.]

[(b) administer [coordinate,] and enforce this
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chapter.

(b)  The department shall:

(1)  evaluate the qualifications of applicants;

(2)  examine applicants; and

(3)  in connection with a hearing under this chapter [Section 402.502], issue subpoenas, examine witnesses, and administer oaths under the laws of this state; and

(4)  conduct hearings and keep records and minutes necessary to the orderly administration of this chapter.

SECTION 8.090.  Section 402.1021, Occupations Code, is amended to read as follows:

Sec. 402.1021.  [JOINT] RULES FOR HEARING INSTRUMENTS.  With the assistance of the advisory board and the Speech-Language Pathologists and Audiologists Advisory Board [department], the commission [committee and the State Board of Examiners for Speech-Language Pathology and Audiology] shall [jointly] adopt rules to establish requirements for each sale of a hearing instrument for purposes of this chapter and Chapter 401.

The rules must:

(1)  address:

(A)  the information and other provisions required in each written contract for the purchase of a hearing instrument;

(B)  records that must be retained under this chapter or Chapter 401; and

(C)  guidelines for the 30-day trial period during
which a person may cancel the purchase of a hearing instrument; and
(2) require that the written contract and 30-day trial period information provided to a purchaser of a hearing instrument be in plain language designed to be easily understood by the average consumer.

SECTION 8.091. Section 402.1023, Occupations Code, is amended to read as follows:

Sec. 402.1023. [JOINT] RULES FOR FITTING AND DISPENSING OF HEARING INSTRUMENTS BY TELEPRACTICE. (a) In this section, "telepractice" means the use of telecommunications technology by a license holder for the fitting and dispensing of hearing instruments.

(b) With the assistance of the advisory board and the Speech-Language Pathologists and Audiologists Advisory Board [department], the commission [committee and the State Board of Examiners for Speech-Language Pathology and Audiology] shall [jointly] adopt rules to establish requirements for the fitting and dispensing of hearing instruments by the use of telepractice for purposes of this chapter and Chapter 401, including rules that establish the qualifications and duties of license holders who use telepractice.

SECTION 8.092. The heading to Section 402.103, Occupations Code, is amended to read as follows:

Sec. 402.103. FALSE, MISLEADING, OR DECEPTIVE [RULES RESTRICTING] ADVERTISING [OR COMPETITIVE BIDDING].

SECTION 8.093. Section 402.103(c), Occupations Code, is amended to read as follows:
For purposes of Section 51.204, an advertisement is false, misleading, or deceptive if the advertisement:

1. contains a misrepresentation of fact;
2. contains a false statement as to the license holder's professional achievements, education, skills, or qualifications in the hearing instrument dispensing profession;
3. makes a partial disclosure of relevant fact, including the advertisement of:
   A. a discounted price of an item without identifying in the advertisement or at the location of the item:
      i. the specific product being offered at the discounted price; or
      ii. the usual price of the item; and
   B. the price of a specifically identified hearing instrument, if more than one hearing instrument appears in the same advertisement without an accompanying price;
4. contains a representation that a product innovation is new, if the product was first offered by the manufacturer to the general public in this state not less than 12 months before the date of the advertisement;
5. states that the license holder manufactures hearing instruments at the license holder's office location unless the next statement discloses that the instruments are manufactured by a specified manufacturer and remanufactured by the license holder; or
6. contains any other representation, statement, or claim that is inherently misleading or deceptive.
SECTION 8.094. Sections 402.104(a) and (e), Occupations Code, are amended to read as follows:
(a) The department [committee] shall develop and maintain an examination that may include written, oral, or practical tests. The department shall administer or arrange for the administration of the examination.
(e) The commission [committee] by rule shall establish the qualifications for a proctor. The rules must:
(1) require a proctor to be licensed in good standing as a hearing instrument fitter and dispenser;
(2) specify the number of years a proctor must be licensed as a hearing instrument fitter and dispenser; and
(3) specify the disciplinary actions or other actions that disqualify a person from serving as a proctor.

SECTION 8.095. Section 402.152, Occupations Code, is amended to read as follows:
Sec. 402.152. COMPLAINTS. (a) Each license or permit holder under this chapter shall at all times prominently display in the person's place of business a sign containing:
(1) the name, mailing address, e-mail address, and telephone number of the department [committee]; and
(2) a statement informing consumers that a complaint against a license or permit holder may be directed to the department [committee].
(b) Each written contract for services in this state of a license holder [licensed hearing instrument dispenser] must contain the department's [committee's] name, mailing address,
e-mail address, and telephone number.

SECTION 8.096. The heading to Section 402.154, Occupations Code, is amended to read as follows:

Sec. 402.154. CONFIDENTIALITY OF COMPLAINT AND DISCIPLINARY INFORMATION [INVESTIGATION, SUBPOENA].

SECTION 8.097. Section 402.154, Occupations Code, is amended by amending Subsection (h), as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, and Subsection (i) to read as follows:

(h) All information and materials subpoenaed or compiled by the department [committee] in connection with a complaint and investigation are confidential and not subject to disclosure under Chapter 552, Government Code, and not subject to disclosure, discovery, subpoena, or other means of legal compulsion for their release to anyone other than the department [committee] or its agents or employees who are involved in discipline of the holder of a license, except that this information may be disclosed to:

(1) persons involved with the department [committee] in a disciplinary action against the holder of a license;

(2) professional licensing or disciplinary boards for the fitting and dispensing of hearing instruments in other jurisdictions;

(3) peer assistance programs approved by the commission [executive commissioner] under Chapter 467, Health and Safety Code;

(4) law enforcement agencies; and

(5) persons engaged in bona fide research, if all
individual-identifying information has been deleted.

(i) The filing of formal charges by the department against a holder of a license, the nature of those charges, disciplinary proceedings of the department, commission, or executive director, and final disciplinary actions, including warnings and reprimands, by the department, commission, or executive director are not confidential and are subject to disclosure in accordance with Chapter 552, Government Code.

SECTION 8.098. Section 402.202(a), Occupations Code, is amended to read as follows:

(a) To engage in fitting and dispensing hearing instruments in this state a person must pass an examination required by the department.

SECTION 8.099. Sections 402.203(a) and (c), Occupations Code, are amended to read as follows:

(a) An applicant for examination must:

(1) apply to the department in the manner and on a form prescribed by the executive director;

(2) provide on the form:

(A) documentation that the applicant is at least 18 years of age and has graduated from an accredited high school or equivalent; and

(B) other information determined necessary by the department; and
(3) pay any required fees for application and examination.

(c) The department may refuse to examine an applicant who has been convicted of a misdemeanor that involves moral turpitude or a felony.

SECTION 8.100. Section 402.205(b), Occupations Code, is amended to read as follows:

(b) An examination shall be conducted in writing and by other means the department determines adequate to ascertain the qualifications of applicants.

SECTION 8.101. Section 402.207, Occupations Code, is amended to read as follows:

Sec. 402.207. ISSUANCE OF APPRENTICE PERMIT. (a) The department shall issue an apprentice permit to fit and dispense hearing instruments to a temporary training permit holder who has:

(1) passed all parts of the examination with a score of 70 percent or greater;

(2) paid the required fees; and

(3) met all requirements of this chapter.

(b) An apprentice permit is valid for one year. The department may extend the apprentice permit for an additional period not to exceed one year.

(c) An apprentice permit holder shall work under the supervision of a license holder [licensed hearing instrument dispenser] for at least one year. During the apprentice year, the apprentice permit holder shall complete 20 hours of classroom
continuing education as required by Section 402.303 for a license holder.

SECTION 8.102. Section 402.208, Occupations Code, is amended to read as follows:

Sec. 402.208. ISSUANCE OF LICENSE. The department [committee] shall issue a [hearing instrument dispenser’s] license to an apprentice permit holder when the department [committee] has received sufficient evidence that the apprentice permit holder has met all the licensing requirements of this chapter.

SECTION 8.103. Sections 402.209(a), (c), (e), (f), and (i), Occupations Code, are amended to read as follows:

(a) A person licensed to fit and dispense hearing instruments in another state may apply for a license under this chapter by submitting a completed [an] application on a form prescribed by the department [committee].

(c) An applicant for a license under this section shall provide as part of the application:

(1) written verification that the applicant is licensed in good standing as a fitter and dispenser of hearing instruments in another state and has held the license for at least three years preceding the date of application;

(2) written verification that:

(A) the requirements to obtain a license to fit and dispense hearing instruments in the state in which the applicant is licensed include passing an examination approved by the commission [committee] by rule; or

(B) the applicant holds a certification from a
professional organization approved by the commission [committee] by rule;

(3) a written statement from the licensing entity in the state in which the applicant is licensed that details any disciplinary action taken by the entity against the applicant; and

(4) a statement of the applicant's criminal history acceptable to the department [committee].

(e) If the department approves an application, on the next regularly scheduled examination date the applicant may take the practical section of the examination required under Section 402.202 and a written examination of Texas law administered by the department. If the applicant passes the examinations required under this section, the department [committee] shall issue to the applicant a license under this chapter.

(f) The department may allow an applicant under this section who satisfies all application requirements other than the requirement under Subsection (c)(2) to take all sections of the examination required under Section 402.202. If the applicant passes the examination, the department [committee] shall issue to the applicant a license under this chapter.

(i) The department [committee] may not issue a license under this section to an applicant who is a licensed audiologist in another state. The department [committee] shall inform [refer] the applicant of [to] the licensing requirements of Chapter 401 [State Board of Examiners for Speech-Language Pathology and Audiology].

SECTION 8.104. Section 402.210, Occupations Code, is amended to read as follows:
Sec. 402.210. CRIMINAL HISTORY RECORD INFORMATION

REQUIREMENT FOR LICENSE ISSUANCE. (a) The department shall require that an applicant for a license submit a complete and legible set of fingerprints, on a form prescribed by the department, to the department or to the Department of Public Safety for the purpose of obtaining criminal history record information from the Department of Public Safety and the Federal Bureau of Investigation.

(b) The department may not issue a license to a person who does not comply with the requirement of Subsection (a).

(c) The department shall conduct a criminal history check of each applicant for a license using information:

(1) provided by the individual under this section; and

(2) made available to the department by the Department of Public Safety, the Federal Bureau of Investigation, and any other criminal justice agency under Chapter 411, Government Code.

(d) The department may:

(1) enter into an agreement with the Department of Public Safety to administer a criminal history check required under this section; and

(2) authorize the Department of Public Safety to collect from each applicant the costs incurred by the Department of Public Safety in conducting the criminal history check.

SECTION 402.251. TEMPORARY TRAINING PERMIT QUALIFICATIONS.
(a) The department [committee] shall issue a temporary training permit to a person who:

(1) has never taken the examination administered under this chapter;

(2) possesses the qualifications required under Section 402.203(a);

(3) submits a written application on a form prescribed by the department [committee] furnishing documentation [sworn evidence] that the applicant satisfies the requirements of Subdivisions (1) and (2); and

(4) pays any required [the temporary training permit] fee.

(b) The department [committee] may issue a new temporary training permit under this section to a person on or after the 365th day after the person’s previous temporary training permit expired.

SECTION 8.106. Section 402.252, Occupations Code, is amended to read as follows:

Sec. 402.252. SUPERVISION STATEMENT [AFFIDAVIT]. (a) An application for a temporary training permit must be accompanied by the statement [affidavit] of a person licensed to fit and dispense hearing instruments under this chapter or Chapter 401, other than a person licensed under Section 401.311 or 401.312.

(b) The statement must be on a form prescribed by the department and [affidavit must] state that:

(1) the person will supervise the applicant [if granted a temporary training permit, will be supervised by the affiant] in all work done by the applicant under the temporary
(2) the person [affiant] will notify the department [committee] not later than the 10th day after the date of the applicant's termination of supervision by the person [affiant]; and

(3) if the person [affiant] is licensed under Chapter 401, the person [affiant] will comply with all provisions of this chapter and rules adopted under this chapter that relate to the supervision and training of a temporary training permit holder.

SECTION 8.107. Sections 402.253(b) and (c), Occupations Code, are amended to read as follows:

(b) A temporary training permit automatically expires on the first anniversary of the date of issuance unless the department [committee] extends the permit for an additional period not to exceed one year [six months].

(c) The department [committee] may not extend a temporary training permit more than once.

SECTION 8.108. Section 402.254(a), Occupations Code, is amended to read as follows:

(a) The commission by rule [committee] shall establish formal and practical education guidelines for the training of temporary training permit holders.

SECTION 8.109. Section 402.255(d), Occupations Code, is amended to read as follows:

(d) The supervisor shall maintain a log of the contact hours by practicum category on a form prescribed [provided] by the department [committee]. After the temporary training permit holder has completed 150 contact hours, the supervisor and the permit...
SECTION 8.110. Section 402.256, Occupations Code, is amended to read as follows:

Sec. 402.256. AUTHORITY OF TEMPORARY TRAINING PERMIT HOLDER. (a) A temporary training permit holder may provide routine fitting and dispensing of hearing instruments that have been ordered by the supervisor. The supervisor is the sole judge of whether the permit holder has the qualifications necessary to perform routine fitting and dispensing. A supervisor is accountable to the department for the actions and misdeeds of a temporary training permit holder acting at the supervisor's discretion.

(b) A temporary training permit holder may not:

   (1) own, manage, or independently operate a business that engages in the fitting or sale of hearing instruments; or

   (2) advertise or otherwise represent that the permit holder holds a license under this chapter as a hearing instrument dispenser.

SECTION 8.111. Sections 402.257(a), (c), and (d), Occupations Code, are amended to read as follows:

(a) On the request of a supervisor or temporary training permit holder, the department may approve a transfer of a permit holder from the permit holder's supervisor to another eligible supervisor before completion of the training.

(c) The department may approve a second transfer request before completion of the training only under
exceptional circumstances. The department [committee] may not approve more than two transfers.

(d) If a transfer is approved, credit may be transferred at the discretion of the department [committee].

SECTION 8.112. Sections 402.301(a) and (f), Occupations Code, are amended to read as follows:

(a) A license under this chapter is valid for two years. The department [committee] shall renew the license every two years on payment of the renewal fee unless the license is suspended or revoked.

(f) The department [committee] may not renew a license unless the license holder provides proof that all equipment that is used by the license holder to produce a measurement in the testing of hearing acuity has been properly calibrated or certified by a qualified technician.

SECTION 8.113. Sections 402.303(a), (b), (c), (d), and (e-1), Occupations Code, are amended to read as follows:

(a) The commission [committee] by rule shall adopt requirements for the continuing education of a license holder, including online continuing education requirements and a requirement that a license holder complete 20 hours of continuing education every two years. The department [committee] may not renew a license unless the license holder demonstrates compliance with the continuing education requirements established by the commission by rule [committee].

(b) A license holder shall provide written proof of attendance or completion of an approved course on a form prescribed
by the department [committee].

(c) The department [committee] may waive compliance with the continuing education requirement for license renewal for a license holder who provides evidence of hardship or inability to meet the requirement. The waiver may be granted after review by the department [committee] on an annual basis.

(d) The commission [committee] shall adopt rules to establish reasonable requirements for continuing education sponsors and courses and to clearly define what constitutes a manufacturer or nonmanufacturer sponsor. The department shall review and approve continuing education sponsor and course applications. The department may request assistance from licensed members of the advisory board [committee] in approving a sponsor or course. The department must provide a list of approved continuing education sponsors and continuing education courses, including online courses. The list must be revised and updated periodically. Any continuing education activity must be provided by an approved sponsor. The department shall approve at least five hours of specific courses each year.

(e-1) The department [committee] must allow a license holder to report at least 10 hours of online continuing education credit hours in a single reporting period.

SECTION 8.114. Section 402.304(b), Occupations Code, is amended to read as follows:

(b) A license holder may be credited with continuing education credit hours for a published book or article written by the license holder that contributes to the license holder's
professional competence. The department [continuing education committee] may grant credit hours based on the degree to which the published book or article advances knowledge regarding the fitting and dispensing of hearing instruments. A license holder may claim in a reporting period not more than five credit hours for preparation of a publication.

SECTION 8.115. Section 402.305, Occupations Code, is amended to read as follows:

Sec. 402.305. CONTINUING EDUCATION EXEMPTIONS. The department [committee] may renew the license of a license holder who does not comply with the continuing education requirements of Section [Sections] 402.303 or 402.304 if the license holder:

(1) was licensed for the first time during the 24 months before the reporting date;

(2) has served in the regular armed forces of the United States during part of the 24 months before the reporting date; or

(3) submits proof from an attending physician that the license holder suffered a serious or disabling illness or physical disability that prevented compliance with the continuing education requirements during the 24 months before the reporting date.

SECTION 8.116. Section 402.306, Occupations Code, is amended to read as follows:

Sec. 402.306. DUPLICATE LICENSE. The department [committee] shall issue a duplicate license to a license holder whose license has been lost or destroyed. The department [committee] may prescribe the procedure and requirements for
issuance of a duplicate license.

SECTION 8.117. Section 402.351, Occupations Code, is amended to read as follows:

Sec. 402.351. DISPLAY OF LICENSE. A person engaged in fitting and dispensing hearing instruments shall display the person's license in a conspicuous place in the person's principal office and, when required, shall exhibit the license to the department or its authorized representative.

SECTION 8.118. Section 402.353(c), Occupations Code, is amended to read as follows:

(c) The commission shall adopt rules necessary to enforce this section.

SECTION 8.119. Section 402.401, Occupations Code, is amended to read as follows:

Sec. 402.401. TRIAL PERIOD. The commission by rule shall establish guidelines for a 30-day trial period during which a person may cancel the purchase of a hearing instrument.

SECTION 8.120. Section 402.403, Occupations Code, is amended to read as follows:

Sec. 402.403. WRITTEN CONTRACT. The owner of a hearing instrument fitting and dispensing practice shall ensure that each client receives a written contract at the time of purchase of a hearing instrument that contains:

(1) the signature of the license holder who dispensed the hearing instrument;

(2) the printed name of the license holder who...
dispensed the hearing instrument;

(3) the address of the principal office of the license holder who dispensed the hearing instrument;

(4) the license number of the license holder who dispensed the hearing instrument;

(5) a description of the make and model of the hearing instrument;

(6) the amount charged for the hearing instrument;

(7) a statement of whether the hearing instrument is new, used, or rebuilt;

(8) notice of the 30-day trial period under Section 402.401; and

(9) the name, mailing address, e-mail address, and telephone number of the department [committee].

SECTION 8.121. Section 402.404, Occupations Code, is amended to read as follows:

Sec. 402.404. SURETY BONDING. (a) A sole proprietor, partnership, corporation, or other legal entity engaged in the fitting and dispensing of hearing instruments shall file with the department [committee] security in a form provided by Subsection (b) in the amount of $10,000 and conditioned on the promise to pay all:

(1) taxes and contributions owed to the state and political subdivisions of the state by the entity; and

(2) judgments that the entity may be required to pay for:

(A) negligently or improperly dispensing hearing
instruments; or

(b) Breaching a contract relating to the dispensing of hearing instruments.

(b) The security may be a bond, a cash deposit, or another negotiable security acceptable to the department [committee].

(c) A bond required by this section remains in effect until canceled by action of the surety, the principal, or the department [committee]. A person must take action on the bond not later than the third anniversary of the date the bond is canceled.

SECTION 8.122. Section 402.451(a), Occupations Code, is amended to read as follows:

(a) A person may not:

(1) Buy, sell, or fraudulently obtain a license or aid another person to do so;

(2) Alter a license with the intent to defraud;

(3) Wilfully make a false statement in an application to the department [committee] for a license, a temporary training permit, or the renewal of a license;

(4) Falsely impersonate a license holder;

(5) Engage in the fitting and dispensing of hearing instruments when the person's license is suspended or revoked;

(6) Dispense or fit a hearing instrument on a person who has ordered the hearing instrument or device by mail unless the person dispensing or fitting is a license holder under this chapter or under Chapter 401; or

(7) Sell a hearing instrument by mail.

SECTION 8.123. Section 402.501, Occupations Code, as
amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 402.501. GROUNDS FOR LICENSE DENIAL AND DISCIPLINARY ACTION. The commission or executive director [committee] may refuse to issue or renew a license, revoke or suspend a license or permit, place on probation a person whose license or permit has been suspended, or reprimand a license or permit holder who:

(1) makes a material misstatement in furnishing information to the department [committee] or to another state or federal agency;

(2) violates this chapter or a rule adopted under this chapter;

(3) is convicted of a felony or misdemeanor that includes dishonesty as an essential element or of a crime directly related to the practice of fitting and dispensing hearing instruments;

(4) makes a misrepresentation for the purpose of obtaining or renewing a license, including falsifying the educational requirements under this chapter;

(5) is professionally incompetent or engages in malpractice or dishonorable, unethical, or unprofessional conduct that is likely to deceive, defraud, or harm the public;

(6) aids or assists another person in violating this chapter or a rule adopted under this chapter;

(7) does not provide information in response to a written request made by the department within 60 days;

(8) directly or indirectly knowingly employs, hires,
procures, or induces a person not licensed under this chapter to fit
and dispense hearing instruments unless the person is exempt under
this chapter;

(9) aids a person not licensed under this chapter in
the fitting or dispensing of hearing instruments unless the person
is exempt under this chapter;

(10) is habitually intoxicated or addicted to a
controlled substance;

(11) directly or indirectly gives to or receives from
a person a fee, commission, rebate, or other form of compensation
for a service not actually provided;

(12) violates a term of probation;

(13) wilfully makes or files a false record or report;

(14) has a physical illness that results in the
inability to practice the profession with reasonable judgment,
skill, or safety, including the deterioration or loss of motor
skills through aging;

(15) solicits a service by advertising that is false
or misleading;

(16) participates in subterfuge or misrepresentation
in the fitting or dispensing of a hearing instrument;

(17) knowingly advertises for sale a model or type of
hearing instrument that cannot be purchased;

(18) falsely represents that the service of a licensed
physician or other health professional will be used or made
available in the fitting, adjustment, maintenance, or repair of a
hearing instrument;
(19) falsely uses the term "doctor," "audiologist," "clinic," "clinical audiologist," "state licensed," "state certified," "licensed hearing instrument dispenser," "board certified hearing instrument specialist," "hearing instrument specialist," or "certified hearing aid audiologist," or uses any other term, abbreviation, or symbol that falsely gives the impression that:

(A) a service is being provided by a person who is licensed or has been awarded a degree or title; or

(B) the person providing a service has been recommended by a government agency or health provider;

(20) advertises a manufacturer's product or uses a manufacturer's name or trademark in a way that implies a relationship between a license or permit holder and a manufacturer that does not exist;

(21) directly or indirectly gives or offers to give, or permits or causes to be given, money or another thing of value to a person who advises others in a professional capacity as an inducement to influence the person to influence the others to:

(A) purchase or contract to purchase products sold or offered for sale by the license or permit holder; or

(B) refrain from purchasing or contracting to purchase products sold or offered for sale by another license or permit holder under this chapter;

(22) with fraudulent intent fits and dispenses a hearing instrument under any name, including a false name or alias;

(23) does not adequately provide for the service or
repair of a hearing instrument fitted and sold by the license
holder; or

(24) violates a regulation of the federal Food and
Drug Administration or the Federal Trade Commission relating to
hearing instruments.

SECTION 8.124. The heading to Section 402.551, Occupations
Code, is amended to read as follows:

Sec. 402.551. AMOUNT OF ADMINISTRATIVE PENALTY.

SECTION 8.125. Section 402.551(b), Occupations Code, is
amended to read as follows:

(b) The amount of an administrative penalty imposed
for a violation of this chapter or a rule adopted or order issued
under this chapter may not exceed $250 plus costs for the first
violation and $1,000 plus costs for each subsequent violation.

SECTION 8.126. Section 402.5521, Occupations Code, is
amended to read as follows:

Sec. 402.5521. COMMITTEE-ORDERED REFUND FOR HEARING
INSTRUMENT. The commission or executive director [committee] may
order a license holder to pay a refund to a consumer who returns a
hearing instrument during the 30-day trial period required by rules
adopted under Section 402.1021.

SECTION 8.127. Section 402.553(a), Occupations Code, is
amended to read as follows:

(a) A person who violates this chapter or a rule adopted or
order issued adopted by the committee under this chapter is
liable for a civil penalty not to exceed $5,000 a day.

SECTION 8.128. Section 451.001, Occupations Code, is
amended by amending Subdivision (2), amending Subdivisions (5) and (6), as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, and adding Subdivision (7) to read as follows:

(2) "Athletic trainer" means a person who practices athletic training, is licensed by the department [board], and may use the initials "LAT," "LATC," and "AT" to designate the person as an athletic trainer. The terms "sports trainer" and "licensed athletic trainer" are equivalent to "athletic trainer."

(5) "Commission" ["Commissioner"] means the Texas Commission of Licensing and Regulation [commissioner of state health services].

(6) "Department" means the Texas Department of Licensing and Regulation [State Health Services].

(7) "Executive director" means the executive director of the department.

SECTION 8.129. Section 451.003, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 451.003. APPLICABILITY. This chapter does not apply to:

(1) a physician licensed by the Texas Medical Board;

(2) a dentist, licensed under the laws of this state, engaged in the practice of dentistry;

(3) a licensed optometrist or therapeutic optometrist engaged in the practice of optometry or therapeutic optometry as defined by statute;

(4) an occupational therapist engaged in the practice
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of occupational therapy;

(5) a nurse engaged in the practice of nursing;

(6) a licensed podiatrist engaged in the practice of podiatry as defined by statute;

(7) a physical therapist engaged in the practice of physical therapy;

(8) a registered massage therapist engaged in the practice of massage therapy;

(9) a commissioned or contract physician, physical therapist, or physical therapist assistant in the United States Army, Navy, Air Force, or Public Health Service; or

(10) an athletic trainer who does not live in this state, who is licensed, registered, or certified by an authority recognized by the department, and who provides athletic training in this state for a period determined by the department.

SECTION 8.130. Section 451.051(b), Occupations Code, is amended to read as follows:

(b) The board consists of five members appointed by the presiding officer of the commission [governor] with the approval [advice and consent] of the commission [senate] as follows:

(1) three members who are athletic trainers; and

(2) two members who represent the public.

SECTION 8.131. Subchapter B, Chapter 451, Occupations Code, is amended by adding Section 451.0521 to read as follows:

Sec. 451.0521. DUTIES OF BOARD. The board shall provide advice and recommendations to the department on technical matters
re relevant to the administration of this chapter.

SECTION 8.132. Section 451.053(b), Occupations Code, is amended to read as follows:

(b) If a vacancy occurs on the board, the presiding officer of the commission, with the commission's approval, [governor] shall appoint a replacement who meets the qualifications for the vacant position [successor] to serve for the unexpired portion of the term.

SECTION 8.133. Section 451.055, Occupations Code, is amended to read as follows:

Sec. 451.055. PRESIDING OFFICER [OFFICERS]. (a) The presiding officer of the commission [governor] shall designate a member of the board [as the board's presiding officer] to serve as the presiding officer of the board for [in that capacity at the will of the governor. The board shall elect an assistant presiding officer and secretary-treasurer from its members. The assistant presiding officer and secretary-treasurer serve] a one-year term. The presiding officer of the board may vote on any matter before the board.

SECTION 8.134. Section 451.056, Occupations Code, is amended to read as follows:

Sec. 451.056. MEETINGS. The board shall meet at [least twice a year. The board may hold additional meetings on] the call of the presiding officer of the commission or the executive director [at the written request of any three members of the board].

SECTION 8.135. The heading to Subchapter C, Chapter 451, Occupations Code, is amended to read as follows:
SUBCHAPTER C. BOARD POWERS AND DUTIES

SECTION 8.136. Section 451.101, Occupations Code, is amended by amending Subsection (a) and adding Subsections (a-1) and (a-2) to read as follows:

(a) The executive director shall administer and enforce this chapter.

(a-1) The department shall:

1. adopt an official seal;
2. prescribe the application form for a license applicant;
3. prescribe a suitable form for a license certificate;
4. prepare and conduct an examination for license applicants;
5. maintain a complete record of all licensed athletic trainers; and
6. annually prepare a roster showing the names and addresses of all licensed athletic trainers.

(a-2) The department shall make a copy of the roster available to any person requesting it on payment of a fee established by the department in an amount sufficient to cover the cost of the roster.

SECTION 8.137. The heading to Section 451.110, Occupations Code, is amended to read as follows:

Sec. 451.110. CONFIDENTIALITY OF COMPLAINT AND DISCIPLINARY INFORMATION [SUBPOENAS].

SECTION 8.138. Sections 451.110(h) and (i), Occupations
Code, are amended to read as follows:

(h) All information and materials subpoenaed or compiled by the department [board] in connection with a complaint and investigation are confidential and not subject to disclosure under Chapter 552, Government Code, and not subject to disclosure, discovery, subpoena, or other means of legal compulsion for their release to anyone other than the department [board] or its employees or agents involved in discipline of the holder of a license, except that this information may be disclosed to:

(1) persons involved with the department [board] in a disciplinary action against the holder of a license;

(2) athletic trainer licensing or disciplinary boards in other jurisdictions;

(3) peer assistance programs approved by the commission [board] under Chapter 467, Health and Safety Code;

(4) law enforcement agencies; and

(5) persons engaged in bona fide research, if all individual-identifying information has been deleted.

(i) The filing of formal charges by the department [board] against a holder of a license, the nature of those charges, disciplinary proceedings of the department, commission, or executive director [board], and final disciplinary actions, including warnings and reprimands, by the department, commission, or executive director [board] are not confidential and are subject to disclosure in accordance with Chapter 552, Government Code.

SECTION 8.139. Section 451.152, Occupations Code, is amended to read as follows:
Sec. 451.152. LICENSE APPLICATION. An applicant for an athletic trainer license must submit to the department:

(1) an application in the manner and on a form prescribed by the executive director; and

(2) the required examination fee.

SECTION 8.140. Section 451.153, Occupations Code, is amended to read as follows:

Sec. 451.153. APPLICANT QUALIFICATIONS. (a) An applicant for an athletic trainer license must:

(1) have met the athletic training curriculum requirements of a college or university approved by the commission and give proof of graduation;

(2) hold a degree or certificate in physical therapy and have completed:

(A) a basic athletic training course from an accredited college or university; and

(B) an apprenticeship described by Subsection (b); or

(3) have a degree in corrective therapy with at least a minor in physical education or health that includes a basic athletic training course and meet the apprenticeship requirement or any other requirement established by the commission.

(b) The apprenticeship required to be completed by an applicant consists of 720 hours completed in two years under the direct supervision of a licensed athletic trainer acceptable to the department. Actual working hours include a minimum of 20 hours a week during each fall semester.
SECTION 8.141. Section 451.156, Occupations Code, is amended to read as follows:

Sec. 451.156. REQUIREMENTS FOR LICENSE ISSUANCE. An applicant for an athletic trainer license is entitled to receive the license if the applicant:

(1) satisfies the requirements of Section 451.153 or 451.154;

(2) passes [satisfactorily completes] the examination required [administered] by the department [board];

(3) pays the required license fee; and

(4) has not committed an act that constitutes grounds for refusal of a license under Section 451.251.

SECTION 8.142. Section 451.157, Occupations Code, is amended to read as follows:

Sec. 451.157. TEMPORARY LICENSE. (a) The department [board] may issue a temporary license to an applicant if the applicant satisfies:

(1) the requirements of Section 451.153 or 451.154; and

(2) any other requirement established by the commission [board].

(b) The commission [board] by rule shall prescribe the time during which a temporary license is valid.

SECTION 8.143. The heading to Section 451.201, Occupations Code, is amended to read as follows:

Sec. 451.201. LICENSE EXPIRATION; RENEWAL.

SECTION 8.144. Section 451.201(a), Occupations Code, as
amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(a) A license issued under Section 451.156 expires on the second anniversary of the date of issuance and may be renewed biennially.

SECTION 8.145. Section 451.251(a), Occupations Code, is amended to read as follows:

(a) The commission or executive director [board] may refuse to issue a license to an applicant and shall reprimand a license holder or suspend, revoke, or refuse to renew a person's license if the person:

(1) has been convicted of a misdemeanor involving moral turpitude or a felony;
(2) obtained the license by fraud or deceit;
(3) violated or conspired to violate this chapter or a rule adopted under this chapter; or
(4) provided services outside the scope of practice of athletic training.

SECTION 8.146. The heading to Section 451.351, Occupations Code, is amended to read as follows:

Sec. 451.351. AMOUNT [IMPOSITION] OF ADMINISTRATIVE PENALTY.

SECTION 8.147. Section 451.351(c), Occupations Code, is amended to read as follows:

(c) The amount of an administrative [the] penalty imposed for a violation of this chapter or a rule adopted or order issued under this chapter may not exceed $500 for each violation, and each
day a violation continues or occurs is a separate violation for purposes of imposing a penalty. The total amount of the penalty assessed for a violation continuing or occurring on separate days under this subsection may not exceed $2,500.

SECTION 8.148. Section 605.002, Occupations Code, is amended by amending Subdivision (1), amending Subdivision (5), as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, and adding Subdivisions (2) and (5-a) to read as follows:

(1) "Advisory board" ["Board"] means the Orthotists and Prosthetists Advisory [Texas] Board [of Orthotics and Prosthetics].

(2) "Commission" means the Texas Commission of Licensing and Regulation.

(5) "Department" means the Texas Department of Licensing and Regulation [State Health Services].

(5-a) "Executive director" means the executive director of the department.

SECTION 8.149. The heading to Subchapter B, Chapter 605, Occupations Code, is amended to read as follows:

SUBCHAPTER B. ORTHOTISTS AND PROSTHETISTS ADVISORY [TEXAS] BOARD [OF ORTHOTICS AND PROSTHETICS]

SECTION 8.150. Section 605.052, Occupations Code, is amended to read as follows:

Sec. 605.052. ADVISORY [APPOINTMENT OF] BOARD [†] MEMBERSHIP. (a) The advisory board consists of seven members appointed by the presiding officer of the commission [governor] with the approval [advice and consent] of the commission [senate]
as follows:

(1) one licensed orthotist member who has practiced orthotics for the five years preceding the date of appointment;

(2) one licensed prosthetist member who has practiced prosthetics for the five years preceding the date of appointment;

(3) one licensed prosthetist orthotist member who has practiced orthotics and prosthetics for the five years preceding the date of appointment;

(4) one member who is a representative of the public who uses an orthosis;

(5) one member who is a representative of the public who uses a prosthesis; and

(6) two members who are representatives of the public who do not use an orthosis or prosthesis.

(b) Appointments to the advisory board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.

SECTION 8.151. Subchapter B, Chapter 605, Occupations Code, is amended by adding Section 605.0521 to read as follows:

Sec. 605.0521. DUTIES OF ADVISORY BOARD. The advisory board shall provide advice and recommendations to the department on technical matters relevant to the administration of this chapter.

SECTION 8.152. Section 605.055, Occupations Code, is amended to read as follows:

Sec. 605.055. TERMS; VACANCY. (a) Members of the advisory board serve staggered six-year terms. The terms of two or three members expire on February 1 of each odd-numbered year.
(b) If a vacancy occurs during a member's term, the presiding officer of the commission, with the commission's approval, shall appoint a replacement who meets the qualifications for the vacant position to serve for the remainder of the term.

SECTION 8.153. Section 605.056, Occupations Code, is amended to read as follows:

Sec. 605.056. PRESIDING OFFICER. The presiding officer of the commission shall designate a member of the advisory board to serve as the presiding officer of the advisory board for a term of one year. The presiding officer of the advisory board may vote on any matter before the advisory board, as a secretary, and other officers as required to conduct the board's business.

SECTION 8.154. Section 605.059(b), Occupations Code, is amended to read as follows:

(b) The advisory board shall meet at the call of the presiding officer of the commission or the executive director or on the written request of any three members.

SECTION 8.155. Section 605.151, Occupations Code, is amended to read as follows:

Sec. 605.151. GENERAL POWERS AND DUTIES. The executive director shall administer and enforce this chapter.

[(1) investigate complaints;]
[(2) issue, suspend, deny, and revoke licenses;]
Areprimand license holders and place license holders on probation;

in connection with a hearing under Section 605.353, issue subpoenas;

hold hearings; and

use personnel, facilities, furniture, equipment, and other items supplied by the department to administer this chapter.

SECTION 8.156. Section 605.155, Occupations Code, is amended to read as follows:

Sec. 605.155. EXAMINATIONS. The department must approve any examination required for a license under this chapter. Each examination shall be offered at least once each year.

SECTION 8.157. The heading to Subchapter E, Chapter 605, Occupations Code, is amended to read as follows:

SUBCHAPTER E. [PUBLIC INTEREST INFORMATION AND] COMPLAINT INFORMATION [PROCEDURES]

SECTION 8.158. The heading to Section 605.2021, Occupations Code, is amended to read as follows:

Sec. 605.2021. CONFIDENTIALITY OF COMPLAINT AND DISCIPLINARY INFORMATION [SUBPOENAS].

SECTION 8.159. Sections 605.2021(h) and (i), Occupations Code, are amended to read as follows:

(h) All information and materials subpoenaed or compiled by the department in connection with a complaint and investigation are confidential and not subject to disclosure under Chapter 552, Government Code, and not subject to disclosure,
discovery, subpoena, or other means of legal compulsion for their release to anyone other than the department [board] or its employees or agents involved in discipline of the holder of a license, except that this information may be disclosed to:

1. persons involved with the department [board] in a disciplinary action against the holder of a license;
2. professional orthotist or prosthetist disciplinary boards in other jurisdictions;
3. peer assistance programs approved by the commission [board] under Chapter 467, Health and Safety Code;
4. law enforcement agencies; and
5. persons engaged in bona fide research, if all individual-identifying information has been deleted.

(i) The filing of formal charges by the department [board] against a holder of a license, the nature of those charges, disciplinary proceedings of the department, commission, or executive director [board], and final disciplinary actions, including warnings and reprimands, by the department, commission, or executive director [board] are not confidential and are subject to disclosure in accordance with Chapter 552, Government Code.

SECTION 8.160. Section 605.251, Occupations Code, is amended to read as follows:

Sec. 605.251. LICENSE REQUIRED. A person may not practice, attempt to practice, or offer to practice orthotics or prosthetics, act as an assistant to a person who practices orthotics or prosthetics, or in any way hold the person out as being able to practice orthotics or prosthetics unless the person holds a license
SECTION 8.161. Section 605.252, Occupations Code, is amended to read as follows:

Sec. 605.252. LICENSE ELIGIBILITY. (a) To be eligible for a license to practice orthotics or prosthetics in this state, a person must:

1. submit an [file a written] application in the manner and [with the board] on the form prescribed by the executive director [board];
2. pay the nonrefundable application fee;
3. be a resident of this state;
4. have completed formal training, including the required hours of classroom education and clinical practice, in an area of study the commission [board] by rule determines to be necessary and appropriate;
5. have completed a clinical residency in the professional area for which a license is sought that complies with the standards, guidelines, or procedures established by the department [board] for a clinical residency that is offered in this state or another state; and
6. have passed each written and practical examination approved and required by the department [board].

(b) The requirements for a license established by commission [board] rule must include the requirement that the applicant hold:

1. a bachelor's or graduate degree in orthotics and prosthetics from:
(A) a bachelor's degree in another subject and an orthotic or prosthetic certificate issued by a practitioner education program:

(A) recognized and accredited by the Commission on Accreditation of Allied Health Education Programs; or

(B) that has education standards that are equivalent to or exceed the standards adopted by the Commission on Accreditation of Allied Health Education Programs.

(c) To meet the clinical residency requirements for a license, the applicant must complete a professional clinical residency that meets the requirements established by commission [board] rule and is conducted under the direct supervision of a licensed orthotist, licensed prosthetist, or a licensed prosthetist orthotist in the discipline for which licensure is sought. The clinical residency requirements adopted by the commission [board] must be equivalent to or exceed the standards set by the National Commission on Orthotic and Prosthetic Education.

(d) The department [board] may accept as a substitute for
the examination requirement proof that the license applicant holds
a license in a state that has licensing requirements that are equal
to or exceed the requirements of this chapter.

SECTION 8.162. Sections 605.254(a) and (c), Occupations
Code, are amended to read as follows:

(a) A person is entitled to an exemption from the license
requirements established [by the board] under Section 605.252 if
the person is a resident of this state who [(1)][(1)]
[181st day after the date on which the board's initial rules are
finally adopted and:

[(A)] has provided comprehensive orthotic or
prosthetic care for at least three years before the date of the
application, including practicing orthotics or prosthetics in this
state for the year preceding that date; or

[(B)] has provided comprehensive orthotic and
prosthetic care for at least six years, including practicing
orthotics and prosthetics in this state for the year preceding the
application date; or

[(2)] presents evidence satisfactory to the
department [board] that the person possesses unique qualifications
to practice orthotics, prosthetics, or orthotics and prosthetics.

(c) The department [board] shall issue a license to a person
who is determined to be eligible for a license under Subsection (a)
or (b). A person to whom a license is issued under this
subsection is entitled to the same license privileges as if the
person met the educational and vocational requirements of Section
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605.252. The license holder is subject to the license renewal requirements established by the commission [board], other than the academic, clinical training, and examination requirements, which the commission [board] may not impose as a condition of the person's license.

SECTION 8.163. Sections 605.255(a) and (b), Occupations Code, are amended to read as follows:

(a) An applicant for a license as an orthotist assistant or prosthetist assistant must:

(1) submit an application in the manner and [file a written application with the board] on a form prescribed [provided] by the executive director [board];

(2) pay the nonrefundable application fee established [prescribed] by the commission by rule [board]; and

(3) present evidence satisfactory to the department [board] that the applicant has completed an education program, including courses in the anatomical, biological, and physical sciences, and a clinical residency as prescribed and adopted by the commission by rule [board].

(b) An assistant licensed under this section may provide only ancillary patient care services, as defined by the commission by rule [board], in the discipline in which the assistant's supervisor is licensed under this chapter.

SECTION 8.164. Sections 605.256(a) and (b), Occupations Code, are amended to read as follows:

(a) The department [board] may issue a license or registration certificate under this chapter only to an individual.
(b) The department [board] shall issue a license in orthotics or prosthetics to an applicant who meets the requirements provided under this chapter. A license may be granted in either orthotics or prosthetics, or in both, if the person meets the requirements established by the department [board].

SECTION 8.165. Section 605.257, Occupations Code, is amended to read as follows:

Sec. 605.257. TEMPORARY LICENSE. (a) The department [board] may issue a temporary license to an individual who:

(1) has recently become a resident of this state;

(2) has applied for a license as an orthotist, prosthetist, or both; and

(3) has:

(A) practiced orthotics regularly since January 1, 1996; or

(B) been licensed by the state in which the person formerly resided if that state has license requirements that are equal to or exceed the requirements of this chapter.

(b) A temporary license is valid for one year from the date issued. A temporary license may be renewed for not more than one additional year if the applicant presents evidence sufficient to the department [board] of good cause for renewal.

SECTION 8.166. Section 605.258(a), Occupations Code, is amended to read as follows:

(a) The department [board] may issue a student registration certificate to an individual who is working toward fulfilling the requirements for a license as an orthotist, prosthetist, or
prosthetist orthotist and:

(1) holds either:

(A) a bachelor's or graduate degree in orthotics and prosthetics from:

(i) an education program recognized and accredited by the Commission on Accreditation of Allied Health Education Programs that is offered at an institution of higher education; or

(ii) a practitioner education program that has education standards that are equivalent to or exceed the standards adopted by the Commission on Accreditation of Allied Health Education Programs; or

(B) a bachelor's degree in another subject and an orthotic or prosthetic certificate issued by a practitioner education program:

(i) recognized and accredited by the Commission on Accreditation of Allied Health Education Programs; or

(ii) that has education standards that are equivalent to or exceed the standards adopted by the Commission on Accreditation of Allied Health Education Programs; or

(2) is a student who:

(A) is currently enrolled in a graduate program in this state in orthotics and prosthetics that:

(i) is recognized and accredited by the Commission on Accreditation of Allied Health Education Programs; and

(ii) incorporates a professional clinical
residency that meets the requirements of rules adopted under
Section 605.252(c); and

(B) submits to the department [board] a written
certification from the graduate program in which the student is
enrolled that the student has successfully completed the academic
prerequisites to enter a professional clinical residency.

SECTION 8.167. Section 605.259(a), Occupations Code, is
amended to read as follows:

(a) The department [board] may issue a registered orthotic
technician or registered prosthetic technician certificate to an
applicant who:

(1) submits an [files a written] application in the
manner and [with the board] on a form prescribed [provided] by the
executive director [board];

(2) pays the nonrefundable application fee; and

(3) presents evidence satisfactory to the department
[board] that the applicant has completed an education program and
laboratory experience as prescribed by the commission by rule
[board].

SECTION 8.168. Sections 605.260(a), (b), and (c),
Occupations Code, are amended to read as follows:

(a) The commission [board] by rule shall establish
requirements for the accreditation and the renewal of an
accreditation of an orthotic or prosthetic facility in which
orthotics or prosthetics are conducted. The department [board] may
issue an accreditation only to an orthotic or prosthetic facility.

(b) If a person owns more than one facility, the department
[board] may require only one application for the accreditation of each of the person's facilities. Each orthotic or prosthetic facility must meet the requirements established by commission rule [the board].

(c) An orthotic or prosthetic facility must be under the on-site direction of an orthotist or prosthetist licensed by the department [board] in the discipline for which accreditation is sought.

SECTION 8.169. Section 605.261, Occupations Code, is amended to read as follows:

Sec. 605.261. CONTINUING EDUCATION. (a) The commission [board] shall:

(1) adopt rules that require a license holder to participate in an approved continuing education program to renew a license issued under this chapter; and

(2) prepare or approve continuing education programs for license holders.

(b) To renew a license under this chapter, an applicant must submit to the department [board] evidence of satisfactory completion of the continuing education requirements required by the commission [board].

(c) The department [board] shall notify a license holder who has failed to comply with the [board's] continuing education requirements of the license holder's failure to comply and that failure to obtain the required continuing education before the expiration of three months after the date the notice is given constitutes grounds for the commission or executive director...
SECTION 8.170. Section 605.353, Occupations Code, is amended to read as follows:

Sec. 605.353. DISCIPLINARY ACTIONS. (a) After notice and opportunity for a hearing, the commission or executive director [board] may revoke, suspend, or refuse to renew a license issued under this chapter on a finding that:

(1) the license was obtained by fraud, misrepresentation, or concealment of a material fact;

(2) the person engaged in fraud or deceit in connection with services provided by the person;

(3) the person engaged in unprofessional or unethical conduct;

(4) the person engaged in gross negligence or malpractice; or

(5) the person violated this chapter or a rule adopted under this chapter.

(b) The commission or executive director [board] may reinstate a license revoked under Subsection (a) after the first anniversary of the date of the revocation on terms the commission or executive director [board] determines to be necessary.

SECTION 8.171. Section 605.354(c), Occupations Code, is amended to read as follows:

(c) The attorney general shall bring an action in the name of the state at the department's [board's] request to collect a civil penalty under this section.

SECTION 8.172. Section 605.402(a), Occupations Code, is
amended to read as follows:

(a) The amount of an [the] administrative penalty imposed for a violation of this chapter or a rule adopted or order issued under this chapter may not be less than $50 or more than $5,000 for each violation. Each day a violation continues or occurs is a separate violation for the purpose of imposing a penalty.

SECTION 8.173. Section 701.002, Occupations Code, is amended by amending Subdivisions (1), (2), and (4) and adding Subdivision (1-a) to read as follows:

(1) "Advisory board" means the Dietitians Advisory Board.

(1-a) "Commission" ["Commissioner"] means the Texas Commission of Licensing and Regulation [commissioner of state health services].

(2) "Department" means the Texas Department of Licensing and Regulation [State Health Services].

(4) "Executive director" ["Dietitians board"] means the executive director of the department [Texas State Board of Examiners of Dietitians].

SECTION 8.174. The heading to Subchapter B, Chapter 701, Occupations Code, is amended to read as follows:

SUBCHAPTER B. [TEXAS STATE BOARD OF EXAMINERS OF] DIETITIANS ADVISORY BOARD

SECTION 8.175. Section 701.051, Occupations Code, is amended to read as follows:

Sec. 701.051. DIETITIANS ADVISORY BOARD MEMBERSHIP. (a) The advisory board [Texas State Board of Examiners of Dietitians]
consists of nine members appointed by the presiding officer of the commission with the approval of the commission as follows:
(1) six licensed dietitian members, each of whom has been licensed under this chapter for not less than three years before the member's date of appointment; and
(2) three members who represent the public.
(b) In appointing dietitian members to the advisory board, the presiding officer of the commission shall attempt to maintain balanced representation among the following primary areas of expertise included in the professional discipline of dietetics:
(1) clinical;
(2) educational;
(3) management;
(4) consultation; and
(5) community.
(c) Appointments to the advisory board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.

SECTION 118.176. Subchapter B, Chapter 701, Occupations Code, is amended by adding Section 701.0511 to read as follows:
Sec. 701.0511. DUTIES OF ADVISORY BOARD. The advisory board shall provide advice and recommendations to the department on technical matters relevant to the administration of this chapter.
SECTION 118.177. Section 701.054, Occupations Code, is amended to read as follows:
Sec. 701.054. TERMS; VACANCIES. (a) Members of the advisory board serve staggered six-year terms. The terms of three members begin on September 1 of each odd-numbered year.

(b) If a vacancy occurs during a member's term, the presiding officer of the commission, with the commission's approval, shall appoint a replacement who meets the qualifications for the vacant position to serve for the remainder of the term.

SECTION 8.178. Section 701.057, Occupations Code, is amended to read as follows:

Sec. 701.057. PRESIDING OFFICER.[OFFICERS]. (a) The presiding officer of the commission shall designate a member of the advisory board as the presiding officer of the advisory board to serve for a term of one year in that capacity at the pleasure of the governor. The presiding officer of the advisory board may vote on any matter before the advisory board.

(b) Not later than the 30th day after the date the governor appoints new board members, the dietitians board shall meet to elect an assistant presiding officer, who holds office according to board rules.

SECTION 8.179. Section 701.058, Occupations Code, is amended to read as follows:

Sec. 701.058. MEETINGS. The advisory board shall meet at the call of the presiding officer of the commission or the executive director [held at least two regular meetings each year as provided by board rules].

SECTION 8.180. Section 701.151, Occupations Code, is
Sec. 701.151. GENERAL POWERS AND DUTIES [OF DIETITIANS BOARD]. (a) The executive director shall administer and enforce this chapter. 

(b) The department [dietitians board] shall:

(1) adopt an official seal;

(2) adopt and publish a code of ethics;

(3) establish the qualifications and fitness of applicants for licenses, including renewed and reciprocal licenses;

(4) revoke, suspend, or deny a license, probate a license suspension, or reprimand a license holder for a violation of this chapter, a [board] rule adopted under this chapter, or the code of ethics; and 

(5) request and receive any necessary assistance from state educational institutions or other state agencies [spend money necessary to properly administer the board's duties; and 

(6) establish reasonable and necessary fees to administer this chapter].

SECTION 8.181. Subchapter D, Chapter 701, Occupations Code, is amended by adding Section 701.1511 to read as follows:

Sec. 701.1511. REGISTRY. The department shall prepare a registry of licensed dietitians and provisional licensed dietitians and make the registry available to the public, license holders, and appropriate state agencies.

SECTION 8.182. Section 701.154, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
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2015, is amended to read as follows:

Sec. 701.154. AMOUNT OF FEES. The commission [(a)] After consulting the department, the dietitians board by rule shall set fees in amounts reasonable and necessary to cover the cost of administering this chapter. The fees for issuing or renewing a license must be in amounts designed to allow the department and the dietitians board to recover from the license holders all of the direct and indirect costs to the department and to the dietitians board in administering and enforcing this chapter.

[(b) The dietitians board] may not set a fee that existed on September 1, 1993, in an amount that is less than the amount of that fee on that date.

SECTION 8.183. Section 701.155, Occupations Code, is amended to read as follows:

Sec. 701.155. SEAL. (a) The commission [(dietitians board)] by rule may require a license holder to:

(1) obtain a seal authorized by the department [(board)] bearing the license holder's name and the legend "Licensed Dietitian"; and

(2) affix the seal to formal documentation of nutrition services provided by the license holder, as determined necessary and appropriate by the department [(board)].

(b) If the commission [(dietitians board)] adopts rules under Subsection (a), the rules must authorize a license holder to comply with Subsection (a)(2) by maintaining a facsimile of the license holder's seal on file at the location where services are provided if:
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(1) the services are provided:
   (A) in a facility licensed under the Health and Safety Code;
   (B) on behalf of a local, state, or federal government agency; or
   (C) under other circumstances determined reasonable and necessary by the department [board]; and
   (2) the facsimile is maintained on file at all times during which the services are provided.

SECTION 8.184. The heading to Subchapter E, Chapter 701, Occupations Code, is amended to read as follows:

SUBCHAPTER E. [PUBLIC INTEREST INFORMATION AND] COMPLAINT PROCEDURES

SECTION 8.185. The heading to Section 701.2041, Occupations Code, is amended to read as follows:

Sec. 701.2041. CONFIDENTIALITY OF COMPLAINT AND DISCIPLINARY INFORMATION [SUBPOENAS].

SECTION 8.186. Sections 701.2041(h) and (i), Occupations Code, are amended to read as follows:

(h) All information and materials subpoenaed or compiled by the department [dieticians board] in connection with a complaint and investigation are confidential and not subject to disclosure under Chapter 552, Government Code, and not subject to disclosure, discovery, subpoena, or other means of legal compulsion for their release to anyone other than the department [board] or its employees or agents involved in discipline of the holder of a license, except that this information may be disclosed to:
(1) persons involved with the department [board] in a disciplinary action against the holder of a license;
(2) professional dietitian licensing or disciplinary boards in other jurisdictions;
(3) peer assistance programs approved by the commission [board] under Chapter 467, Health and Safety Code;
(4) law enforcement agencies; and
(5) persons engaged in bona fide research, if all individual-identifying information has been deleted.

(i) The filing of formal charges by the department [dietitians board] against a holder of a license, the nature of those charges, disciplinary proceedings of the department, commission, or executive director [board], and final disciplinary actions, including warnings and reprimands, by the department, commission, or executive director [board] are not confidential and are subject to disclosure in accordance with Chapter 552, Government Code.

SECTION 8.187. Section 701.252, Occupations Code, is amended to read as follows:
Sec. 701.252. LICENSE APPLICATION. (a) Each applicant for a dietitian license must submit an [a sworn] application in the manner and on a form prescribed by the executive director accompanied by the application fee.
(b) The commission [dietitians board shall prescribe the application form and may] by rule shall determine the information and documentation required to be submitted as part of an application [establish dates by which applications and fees must be

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SECTION 8.188. Sections 701.253(c), (e), and (f), Occupations Code, are amended to read as follows:

(c) The department shall prepare or approve an examination. An examination prescribed by the department may be or may include an examination given by the Commission on Dietetic Registration or by a national or state testing service instead of an examination prepared by the department or the department's designee.

(e) The department shall administer an examination to qualified applicants at least twice each calendar year.

(f) The department shall waive the examination requirement for an applicant who, at the time of application, is a dietitian registered by the Commission on Dietetic Registration.

SECTION 8.189. Section 701.254, Occupations Code, is amended to read as follows:

Sec. 701.254. QUALIFICATIONS FOR EXAMINATION. To qualify for the licensing examination under this chapter, an applicant must:

(1) possess a baccalaureate or postbaccalaureate degree, conferred by a college or university regionally accredited at the time of conferral, with:

(A) a major course of study in human nutrition, food and nutrition, nutrition education, dietetics, or food systems management; or
(B) an equivalent major course of study approved by the department [dietitians board]; and

(2) have completed an internship or preplanned, documented, professional experience program in dietetics practice of not less than 900 hours under the supervision of a licensed dietitian or a registered dietitian approved by the department [board].

SECTION 8.190. Section 701.255(a), Occupations Code, is amended to read as follows:

(a) Not later than the 45th day after the date a properly submitted and timely application is received and not later than the 30th day before the next examination date, the department shall notify an applicant in writing of the receipt and investigation of the applicant's application and any other relevant evidence relating to applicant qualifications established by commission [dietitians board] rule.

SECTION 8.191. Sections 701.2575(a) and (c), Occupations Code, are amended to read as follows:

(a) The department [dietitians board] shall develop and administer at least twice each calendar year a jurisprudence examination to determine an applicant's knowledge of this chapter, commission [board] rules under this chapter, and any other applicable laws of this state affecting the applicant's dietetics practice.

(c) The commission [dietitians board] shall adopt rules to implement this section, including rules related to the development and administration of the examination, examination fees,
guidelines for reexamination, grading the examination, and providing notice of examination results.

SECTION 8.192. Section 701.258, Occupations Code, is amended to read as follows:

Sec. 701.258. QUALIFIED PERSON ENTITLED TO LICENSE. The department [dietitians board] shall issue a license [certificate] as a licensed dietitian to a person qualified for a license under this chapter.

SECTION 8.193. Sections 701.259(a), (b), (c), and (d), Occupations Code, are amended to read as follows:

(a) The department [dietitians board] may issue a license to use the title "provisional licensed dietitian" to an applicant who files an application, pays an application fee, and submits evidence of successful completion of the education requirement under Section 701.254.

(b) A provisional licensed dietitian must practice under the supervision and direction of a licensed dietitian. The supervising licensed dietitian must be designated in [sign] the applicant's initial application for a provisional license.

(c) The department [dietitians board] shall issue a license [certificate] as a provisional licensed dietitian to a person qualified for a provisional license under this chapter.

(d) A provisional license expires on the first anniversary of the date of issuance and, if the supervising licensed dietitian signs the renewal application, may be renewed annually not more than twice [by complying with the renewal procedures under Section 701.301].
Section 701.260, Occupations Code, is amended to read as follows:

Sec. 701.260. TEMPORARY LICENSE. (a) On receipt of an application and payment of an application fee, the department [dietitians board] may grant a temporary license to an applicant who:

(1) is licensed in good standing as a dietitian in another state that has licensing requirements that are substantially equivalent to the requirements of this chapter;

(2) has passed a national or other examination that is recognized by the department [board] and relates to dietetics; and

(3) is sponsored by a person licensed by the department [board] under this chapter with whom the temporary license holder may practice.

(b) The department [dietitians board] may waive the requirement of Subsection (a)(3) if the department [board] determines that compliance with that provision is a hardship to an applicant.

(c) A temporary license is valid until the date the department [dietitians board] approves or denies the temporary license holder's application for a license. The department [board] shall issue a license under this chapter to the holder of a temporary license if:

(1) the temporary license holder passes the competency examination required by Section 701.253;

(2) the department [board] verifies that the temporary license holder meets the academic and experience requirements for a
license under this chapter; and

(3) the temporary license holder satisfies any other license requirements under this chapter.

(d) The department [dietitians board] must complete the processing of a temporary license holder's application for a license not later than the 180th day after the date the department [board] issues the temporary license. The department [board] may extend this deadline to receive pending examination results.

SECTION 8.195. Section 701.303, Occupations Code, is amended to read as follows:

Sec. 701.303. CONTINUING EDUCATION. (a) The commission [dietitians board] by rule shall establish a minimum number of hours of continuing education required for license renewal under this chapter.

(b) The commission or department [dietitians board] may assess the continuing education needs of license holders and may require license holders to attend continuing education courses specified by the commission or department [board]. The department [board] shall develop a process to evaluate and approve continuing education courses.

(c) The commission or department [dietitians board] shall identify key factors for a license holder's competent performance of professional duties. The department [board] shall adopt a procedure to assess the license holder's participation in continuing education programs.

SECTION 8.196. Section 701.304, Occupations Code, is amended to read as follows:
Sec. 701.304. GROUNDS FOR REFUSING RENEWAL. The commission or department [dietitians board] may refuse to renew the license of a person who fails to pay an administrative penalty imposed under Subchapter K, unless enforcement of the penalty is stayed or a court has ordered that the administrative penalty is not owed.

SECTION 8.197. Section 701.351, Occupations Code, is amended to read as follows:

Sec. 701.351. DISPLAY OF LICENSE [CERTIFICATE]. (a) A license holder shall display the person's license [certificate] in an appropriate and public manner as prescribed by commission rule.

(b) A license [certificate] issued by the department [dietitians board] is the property of the department [board] and shall be surrendered on demand.

SECTION 8.198. Section 701.352, Occupations Code, is amended to read as follows:

Sec. 701.352. LICENSE HOLDER INFORMATION. A license holder shall keep the department informed of the license holder's current address as provided by commission rule.

SECTION 8.199. Section 701.353(a), Occupations Code, is amended to read as follows:

(a) A person may not use a seal authorized by the department [dietitians board] unless the person holds a license issued under this chapter.

SECTION 8.200. Section 701.401, Occupations Code, is amended to read as follows:

Sec. 701.401. GROUNDS FOR DISCIPLINARY ACTION. The commission or executive director [dietitians board] shall refuse to
renew a license, revoke or suspend a license, place on probation a
person whose license has been suspended, or reprimand a license
holder for a violation of this chapter, a rule or code of
ethics adopted under this chapter, or an order of the
commission or executive director.

SECTION 8.201. Section 701.403, Occupations Code, is
amended to read as follows:

Sec. 701.403. SANCTIONS. The State Office of
Administrative Hearings shall use the schedule of sanctions adopted
by the commission by rule for a sanction imposed
as the result of a hearing conducted by the office.

SECTION 8.202. Section 701.502(a), Occupations Code, is
amended to read as follows:

(a) The amount of an administrative penalty imposed
for a violation of this chapter or a rule adopted or order issued
under this chapter may not be less than $50 or more than $5,000 for
each violation. Each day a violation continues or occurs is a
separate violation for the purpose of imposing a penalty.

SECTION 8.203. Section 701.512, Occupations Code, is
amended to read as follows:

Sec. 701.512. REFUND. (a) Subject to Subsection (b), the
commission or executive director may order a
license holder to pay a refund to a consumer as provided in an
agreement resulting from an informal settlement conference instead
of or in addition to imposing an administrative penalty under this
chapter.

(b) The amount of a refund ordered as provided in an
agreement resulting from an informal settlement conference may not exceed the amount the consumer paid to the license holder for a service regulated by this chapter. The commission or executive director [board] may not require payment of other damages or estimate harm in a refund order.

SECTION 8.204. The following provisions of the Occupations Code, including provisions amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, are repealed:

(1) Section 203.006;
(2) Section 203.051;
(3) Section 203.053;
(4) Section 203.054;
(5) Section 203.057;
(6) Section 203.058;
(7) Section 203.060;
(8) Subchapter C, Chapter 203;
(9) Section 203.151(b);
(10) Section 203.1515;
(11) Section 203.152(a);
(12) Sections 203.155(a) and (c);
(13) Section 203.156;
(14) Section 203.158;
(15) Section 203.159;
(16) Section 203.160;
(17) Section 203.161;
(18) Subchapter E, Chapter 203;
(19) Section 203.255(b);
1. (20) Section 203.2556;
2. (21) Section 203.302;
3. (22) Section 203.303;
4. (23) Section 203.405;
5. (24) Subchapter J, Chapter 203;
6. (25) Section 203.502(c);
7. (26) Section 203.505(a);
8. (27) Section 401.002;
9. (28) Section 401.101;
10. (29) Section 401.103;
11. (30) Section 401.104;
12. (31) Section 401.106;
13. (32) Section 401.109;
14. (33) Section 401.110;
15. (34) Subchapter D, Chapter 401;
16. (35) Section 401.201(b);
17. (36) Sections 401.203(a) and (b);
18. (37) Section 401.204;
19. (38) Section 401.205;
20. (39) Section 401.206;
21. (40) Section 401.207;
22. (41) Section 401.252;
23. (42) Sections 401.253(b), (c), (d), and (e);
24. (43) Sections 401.2535(a), (b), (c), (d), (e), (f), and (g);
25. (44) Section 401.254;
26. (45) Section 401.306;
(46) Section 401.307(c);
(47) Section 401.313;
(48) Section 401.315;
(49) Sections 401.352(b) and (c);
(50) Section 401.353;
(51) Section 401.354;
(52) Section 401.405;
(53) Section 401.451(b);
(54) Section 401.452;
(55) Section 401.4531;
(56) Section 401.454;
(57) Section 401.455;
(58) Section 401.456;
(59) Section 401.457;
(60) Section 401.458;
(61) Section 401.459;
(62) Section 401.460;
(63) Section 401.502;
(64) Section 401.5022;
(65) Section 401.551;
(66) Section 401.553;
(67) Section 401.554;
(68) Section 401.555;
(69) Section 401.556;
(70) Section 401.557;
(71) Section 401.558;
(72) Section 401.559;
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1. (73) Section 401.560;

2. (74) Section 401.561;

3. (75) Section 402.002;

4. (76) Section 402.052;

5. (77) Section 402.053;

6. (78) Section 402.054;

7. (79) Section 402.056;

8. (80) Section 402.0581;

9. (81) Section 402.059;

10. (82) Section 402.060;

11. (83) Section 402.061;

12. (84) Section 402.102;

13. (85) Section 402.1022;

14. (86) Sections 402.103(a) and (b);

15. (87) Section 402.105;

16. (88) Section 402.106;

17. (89) Section 402.151;

18. (90) Section 402.1511;

19. (91) Section 402.153;

20. (92) Sections 402.154(a), (b), (c), (d), (e), (f), and (g);

21. (93) Section 402.205(d);

22. (94) Section 402.206;

23. (95) Sections 402.209(b) and (g);

24. (96) Section 402.257(b);

25. (97) Sections 402.301(b), (c), (d), and (e);

26. (98) Section 402.303(f);
(99) Section 402.354;
(100) Section 402.452;
(101) Section 402.502;
(102) Section 402.503;
(103) Section 402.504;
(104) Section 402.505;
(105) Section 402.506;
(106) Sections 402.551(a) and (c);
(107) Section 402.552;
(108) Section 402.5522;
(109) Section 402.553(b);
(110) Section 451.051(a);
(111) Section 451.0511;
(112) Section 451.0512;
(113) Section 451.0513;
(114) Section 451.052;
(115) Section 451.054;
(116) Section 451.057;
(117) Sections 451.101(b) and (c);
(118) Section 451.1015;
(119) Section 451.1016;
(120) Section 451.102;
(121) Section 451.103;
(122) Section 451.1035;
(123) Section 451.104;
(124) Section 451.105;
(125) 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;
1 (151) Section 605.152;
2 (152) Section 605.153;
3 (153) Section 605.154;
4 (154) Section 605.201;
5 (155) Section 605.202;
6 (156) Sections 605.2021(a), (b), (c), (d), (e), (f), and (g);
7 and (g);
8 (157) Section 605.203;
9 (158) Section 605.253;
10 (159) Section 605.254(b);
11 (160) Section 605.255(c);
12 (161) Section 605.259(b);
13 (162) Section 605.3535;
14 (163) Section 605.355;
15 (164) Section 605.401;
16 (165) Section 605.403;
17 (166) Section 605.404;
18 (167) Section 605.405;
19 (168) Section 605.406;
20 (169) Section 605.407;
21 (170) Section 605.408;
22 (171) Section 605.409;
23 (172) Section 605.410;
24 (173) Section 605.411;
25 (174) Section 701.003;
26 (175) Section 701.052;
27 (176) Section 701.053;
1    (177) Section 701.055;
2    (178) Section 701.056;
3    (179) Section 701.059;
4    (180) Subchapter C, Chapter 701;
5    (181) Section 701.152;
6    (182) Section 701.153;
7    (183) Section 701.1535;
8    (184) Section 701.156;
9    (185) Section 701.157;
10   (186) Section 701.159;
11   (187) Section 701.160;
12   (188) Section 701.161;
13   (189) Section 701.201;
14   (190) Section 701.202;
15   (191) Section 701.203;
16   (192) Section 701.204;
17   (193) Sections 701.2041(a), (b), (c), (d), (e), (f), and (g);
18
19   (194) Section 701.205;
20   (195) Section 701.206;
21   (196) Section 701.256;
22   (197) Section 701.261;
23   (198) Sections 701.301(b), (c), (d), (e), and (f);
24   (199) Section 701.302;
25   (200) Section 701.402;
26   (201) Section 701.404;
27   (202) Section 701.405;
PART 2. TRANSFERS DURING BIENNium ENDING AUGUST 31, 2019

SECTION 8.205. Sections 106.115(a), (b-1), and (b-3), Alcoholic Beverage Code, are amended to read as follows:

(a) On the placement of a minor on deferred disposition for an offense under Section 49.02, Penal Code, or under Section 106.02, 106.025, 106.04, 106.041, 106.05, or 106.07, the court shall require the defendant to attend an alcohol awareness program approved by the Texas Department of Licensing and Regulation [State Health Services] under this section or a drug and alcohol driving awareness program approved by the Texas Education Agency. On conviction of a minor of an offense under one or more of those
sections, the court, in addition to assessing a fine as provided by those sections, shall require a defendant who has not been previously convicted of an offense under one of those sections to attend an alcohol awareness program or a drug and alcohol driving awareness program described by this subsection. If the defendant has been previously convicted once or more of an offense under one or more of those sections, the court may require the defendant to attend an alcohol awareness program or a drug and alcohol driving awareness program described by this subsection. If the defendant is younger than 18 years of age, the court may require the parent or guardian of the defendant to attend the program with the defendant. The Texas Department of Licensing and Regulation or Texas Commission of Licensing and Regulation, as appropriate [State Health Services]:

(1) is responsible for the administration of the certification of approved alcohol awareness programs;
(2) may charge a nonrefundable application fee for:
   (A) initial certification of the approval; or
   (B) renewal of the certification;
(3) shall adopt rules regarding alcohol awareness programs approved under this section; and
(4) shall monitor, coordinate, and provide training to a person who provides an alcohol awareness program.

(b-1) If the defendant resides in a county with a population of 75,000 or less and access to an alcohol awareness program is not readily available in the county, the court may allow the defendant to take an online alcohol awareness program if the Texas Department
of Licensing and Regulation [State Health Services] approves online courses or require the defendant to perform not less than eight hours of community service related to alcohol abuse prevention or treatment and approved by the Texas Department of Licensing and Regulation [State Health Services] under Subsection (b-3) instead of attending the alcohol awareness program. Community service ordered under this subsection is in addition to community service ordered under Section 106.071(d).

(b-3) The Texas Department of Licensing and Regulation [State Health Services] shall create a list of community services related to alcohol abuse prevention or treatment in each county in the state to which a judge may sentence a defendant under Subsection (b-1).

SECTION 8.206. Sections 13(h) and (j), Article 42.12, Code of Criminal Procedure, are amended to read as follows:

(h) If a person convicted of an offense under Sections 49.04-49.08, Penal Code, is placed on community supervision, the judge shall require, as a condition of the community supervision, that the defendant attend and successfully complete before the 181st day after the day community supervision is granted an educational program jointly approved by the Texas Department of Licensing and Regulation [Commission on Alcohol and Drug Abuse], the Department of Public Safety, the Traffic Safety Section of the Texas Department of Transportation, and the community justice assistance division of the Texas Department of Criminal Justice designed to rehabilitate persons who have driven while intoxicated. The Texas Department of Licensing and Regulation [Commission on
Alcohol and Drug Abuse [shall publish the jointly approved rules and shall monitor, coordinate, and provide training to persons providing the educational programs. The Texas Department of Licensing and Regulation [Commission on Alcohol and Drug Abuse] is responsible for the administration of the certification of approved educational programs and may charge a nonrefundable application fee for the initial certification of approval and for renewal of a certificate. The judge may waive the educational program requirement or may grant an extension of time to successfully complete the program that expires not later than one year after the beginning date of the person's community supervision, however, if the defendant by a motion in writing shows good cause. In determining good cause, the judge may consider but is not limited to: the defendant's school and work schedule, the defendant's health, the distance that the defendant must travel to attend an educational program, and the fact that the defendant resides out of state, has no valid driver's license, or does not have access to transportation. The judge shall set out the finding of good cause for waiver in the judgment. If a defendant is required, as a condition of community supervision, to attend an educational program or if the court waives the educational program requirement, the court clerk shall immediately report that fact to the Department of Public Safety, on a form prescribed by the department, for inclusion in the person's driving record. If the court grants an extension of time in which the person may complete the program, the court clerk shall immediately report that fact to the Department of Public Safety on a form prescribed by the
department. The report must include the beginning date of the person's community supervision. Upon the person's successful completion of the educational program, the person's instructor shall give notice to the Department of Public Safety for inclusion in the person's driving record and to the community supervision and corrections department. The community supervision and corrections department shall then forward the notice to the court clerk for filing. If the Department of Public Safety does not receive notice that a defendant required to complete an educational program has successfully completed the program within the period required by this section, as shown on department records, the department shall revoke the defendant's driver's license, permit, or privilege or prohibit the person from obtaining a license or permit, as provided by Sections 521.344(e) and (f), Transportation Code. The Department of Public Safety may not reinstate a license suspended under this subsection unless the person whose license was suspended makes application to the department for reinstatement of the person's license and pays to the department a reinstatement fee of $100. The Department of Public Safety shall remit all fees collected under this subsection to the comptroller for deposit in the general revenue fund. This subsection does not apply to a defendant if a jury recommends community supervision for the defendant and also recommends that the defendant's driver's license not be suspended.

(j) The judge shall require a defendant who is punished under Section 49.09, Penal Code, as a condition of community supervision, to attend and successfully complete an educational
program for repeat offenders approved by the Texas Department of Licensing and Regulation [Commission on Alcohol and Drug Abuse]. The Texas Commission of Licensing and Regulation [Commission on Alcohol and Drug Abuse] shall adopt rules and shall monitor, coordinate, and provide training to persons providing the educational programs. The Texas Department of Licensing and Regulation [Commission on Alcohol and Drug Abuse] is responsible for the administration of the certification of approved educational programs and may charge a nonrefundable application fee for initial certification of approval or for renewal of the certification. The judge may waive the educational program requirement only if the defendant by a motion in writing shows good cause. In determining good cause, the judge may consider the defendant's school and work schedule, the defendant's health, the distance that the defendant must travel to attend an educational program, and whether the defendant resides out of state or does not have access to transportation. The judge shall set out the finding of good cause in the judgment. If a defendant is required, as a condition of community supervision, to attend an educational program, the court clerk shall immediately report that fact to the Department of Public Safety, on a form prescribed by the department, for inclusion in the defendant's driving record. The report must include the beginning date of the defendant's community supervision. On the defendant's successful completion of the educational program for repeat offenders, the defendant's instructor shall give notice to the Department of Public Safety for inclusion in the defendant's driving record and to the community supervision and corrections department. The
community supervision and corrections department shall then forward the notice to the court clerk for filing. If the Department of Public Safety does not receive notice that a defendant required to complete an educational program has successfully completed the program for repeat offenders within the period required by the judge, as shown on department records, the department shall revoke the defendant's driver's license, permit, or privilege or prohibit the defendant from obtaining a license or permit, as provided by Sections 521.344(e) and (f), Transportation Code.

SECTION 8.207. Section 401.501, Health and Safety Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended by amending Subdivision (1) and adding Subdivisions (1-a) and (2) to read as follows:

(1) "Commission" means the Texas Commission of Licensing and Regulation.

(1-a) "Department" means the Texas Department of Licensing and Regulation [State Health Services].

(2) "Executive director" means the executive director of the department.

SECTION 8.208. Subchapter M, Chapter 401, Health and Safety Code, is amended by adding Section 401.5011 to read as follows:

Sec. 401.5011. GENERAL POWERS AND DUTIES. The executive director shall administer and enforce this chapter.

SECTION 8.209. Section 401.502, Health and Safety Code, is amended to read as follows:

Sec. 401.502. EXAMINATION. The commission [executive commissioner] may adopt rules to govern the development and
SECTION 8.210. Section 401.503, Health and Safety Code, is amended to read as follows:

Sec. 401.503. APPLICATION PROCESS. (a) An application for a certificate or license under this subchapter must be submitted in the manner and [made] on a form prescribed [and provided] by the executive director [department].

(b) The application must require an applicant to provide sworn statements relating to the applicant's education and to provide other information required by the commission [department].

SECTION 8.211. Section 401.505(a), Health and Safety Code, is amended to read as follows:

(a) An applicant for a laser hair removal professional certificate must:

(1) be certified by a recognized certifying agency, including the Society for Clinical and Medical Hair Removal or another certification entity approved by the department;

(2) meet the requirements for a senior laser hair removal technician certificate under Section 401.506; and

(3) pass an examination required [administered] by the department.

SECTION 8.212. The heading to Section 401.512, Health and Safety Code, is amended to read as follows:

Sec. 401.512. TERM [RENEWAL] OF CERTIFICATE OR LICENSE.

SECTION 8.213. Section 401.512(a), Health and Safety Code, is amended to read as follows:
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(a) A certificate or license expires on the second anniversary of the date of issuance and may be renewed.

SECTION 8.214. Section 401.515(b), Health and Safety Code, is amended to read as follows:

(b) The commission shall adopt rules relating to the customer notice.

SECTION 8.215. Sections 401.516(a) and (b), Health and Safety Code, are amended to read as follows:

(a) A laser hair removal facility shall post a warning sign as prescribed by the commission in a conspicuous location readily visible to a person entering the facility. The sign must provide a toll-free telephone number and e-mail address for the department and inform the customer that the customer may contact the department.

(b) The commission shall adopt rules specifying the size, content, and design of the sign, with wording listing the potential dangers involved.

SECTION 8.216. Section 401.518(a), Health and Safety Code, is amended to read as follows:

(a) A laser hair removal facility operator is responsible for maintaining the laser hair removal facility's compliance with the requirements of this subchapter and commission rules relating to laser and pulsed light devices.

SECTION 8.217. Section 401.519(b), Health and Safety Code, is amended to read as follows:

(b) Under the rules of the commission, a laser hair removal facility must document with the department the
facility's contractual relationship with the consulting physician.

SECTION 8.218. Section 401.521(b), Health and Safety Code, is amended to read as follows:

(b) A person who violates Subsection (a) is practicing medicine in violation of Subtitle B, Title 3, Occupations Code, and is subject to the penalties under that subtitle and Subchapter F, Chapter 51, Occupations Code [under Section 401.522].

SECTION 8.219. The heading to Section 401.522, Health and Safety Code, is amended to read as follows:

Sec. 401.522. AMOUNT OF ADMINISTRATIVE PENALTY [ENFORCEMENT; PENALTIES].

SECTION 8.220. Section 401.522(a), Health and Safety Code, is amended to read as follows:

(a) The amount of [department may impose] an administrative penalty imposed for a violation of this subchapter or a rule adopted or order issued [on a person who violates this subchapter or a rule adopted] under this subchapter [The amount of the penalty] may not exceed $5,000 for each violation.

SECTION 8.221. Section 455.001, Occupations Code, is amended by amending Subdivisions (1) and (2) and adding Subdivision (1-a) to read as follows:

(1) "Commission" means the Texas Commission of Licensing and Regulation.

(1-a) "Department" means the Texas Department of Licensing and Regulation [State Health Services].

(2) "Executive director" [commissioner] means the executive director [commissioner] of the department [Health and
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SECTION 8.222. The heading to Subchapter B, Chapter 455, Occupations Code, is amended to read as follows:

SUBCHAPTER B. POWERS AND DUTIES [OF EXECUTIVE COMMISSIONER]

SECTION 8.223. Section 455.053, Occupations Code, is amended to read as follows:

Sec. 455.053. RULES REGARDING MASSAGE SCHOOLS. Rules adopted under this chapter relating to a massage school must contain minimum standards for:

(1) the issuance, denial, renewal, suspension, revocation, or probation of a license under this chapter;
(2) the qualifications of professional personnel;
(3) the supervision of professional personnel;
(4) the equipment essential to the education, health, and safety of students, massage school personnel, and the public;
(5) the sanitary and hygienic conditions of a massage school;
(6) the provision of massage therapy or other massage services by a massage school or student;
(7) the maximum number of hours a student may accumulate in a massage school's internship program before the student is required to be licensed under this chapter;
(8) the educational and clinical records kept by a massage school;
(9) the organizational structure of a massage school, including the lines of authority and the delegation of responsibility;
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(10) fire prevention and safety in a massage school;
(11) the massage school's curriculum and educational material;
(12) massage school inspections; and
(13) any other aspect of the operation of a massage school that the commission considers necessary to protect students, massage school personnel, or the public.

SECTION 8.224. The heading to Subchapter C, Chapter 455, Occupations Code, is amended to read as follows:

SUBCHAPTER C. POWERS AND DUTIES [OF DEPARTMENT]

SECTION 8.225. Section 455.101, Occupations Code, is amended to read as follows:

Sec. 455.101. GENERAL POWERS AND DUTIES [OF DEPARTMENT].

(a) The executive director [department] shall [administer and enforce this chapter].

(b) The department shall:

(1) [investigate a person who may be engaging in a practice that violates this chapter;]

(2) [regulate the number and content of school hours provided by a massage school or a massage therapy instructor; and]

(3) [prepare and administer a state examination under this chapter.]

SECTION 8.226. Section 455.103, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
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2015, is amended to read as follows:

Sec. 455.103. MEMORANDUM OF UNDERSTANDING REGARDING MASSAGE SCHOOLS. (a) The commission [department] may enter into a memorandum of understanding with the Texas Education Agency to regulate massage schools.

(b) A memorandum must:

(1) be adopted by the commissioner by rule; and

(2) limit the total amount of the fees charged by the department and the Texas Education Agency for licensing a massage school to an amount equal to the amount of the fees the department would charge for licensing the massage school in the absence of the memorandum.

SECTION 8.227. Section 455.151(d), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(d) The department may issue one or more types of licenses not otherwise provided for by this chapter that authorize the license holder to perform a service described by Subsection (c). The commissioner [executive commissioner] may adopt rules governing a license issued under this subsection.

SECTION 8.228. Section 455.153, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 455.153. APPLICATION FOR LICENSE. An applicant for a license under this chapter must:

(1) submit an application in the manner and on a form
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prescribed [provided] by the executive director [department]; and

(2) include with the application the application fee
set by the commission [executive commissioner] by rule.

SECTION 8.229. Sections 455.1572(c) and (e), Occupations
Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular
Session, 2015, are amended to read as follows:

(c) A provisional license is valid until the date the
department approves or denies the provisional license holder's
application for licensing. The department shall issue a license
under this chapter to the provisionally licensed person if the
person:

(1) is eligible for a license under Section 51.404
[455.1571]; or

(2) passes the part of the examination under Section
455.101 that relates to the applicant's knowledge and understanding
of the laws and rules relating to the practice of massage therapy in
this state and:

(A) the department verifies that the person meets
the academic and experience requirements for licensing under this
chapter; and

(B) the person satisfies any other licensing
requirements under this chapter.

(e) The commission [executive commissioner] by rule may
establish a fee for a provisional license.

SECTION 8.230. The heading to Section 455.160, Occupations
Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular
Session, 2015, is amended to read as follows:
Sec. 455.160. LICENSE TERM AND RENEWAL.

SECTION 8.231. Section 455.160(a), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(a) A license issued under this chapter is valid for two years. A license holder must renew the license biennially. [The license expires unless the license holder submits an application for renewal accompanied by the renewal fee prescribed by the executive commissioner by rule or by the late fee prescribed by this section.]

SECTION 8.232. Sections 455.203(a) and (b), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, are amended to read as follows:

(a) A massage school must meet the minimum standards of operation established by commission [department] rule.

(b) An instructor must meet the minimum requirements established by commission [department] rule.

SECTION 8.233. Section 455.251, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 455.251. GROUNDS FOR LICENSE DENIAL OR DISCIPLINARY ACTION. (a) The commission or executive director [department] may refuse to issue a license to a person and shall suspend, revoke, or refuse to renew the license of a person or shall reprimand a person licensed under this chapter if the person:

(1) obtains a license by fraud, misrepresentation, or concealment of material facts;
(2) sells, barters, or offers to sell or barter a license;

(3) violates a rule adopted by the commission under this chapter;

(4) engages in unprofessional conduct as defined by commission rule that endangers or is likely to endanger the health, welfare, or safety of the public;

(5) violates an order or ordinance adopted by a political subdivision under Chapter 243, Local Government Code; or

(6) violates this chapter.

(b) The commission or executive director shall revoke the license of a person licensed as a massage therapist or massage therapy instructor if:

(1) the person is convicted of, enters a plea of nolo contendere or guilty to, or receives deferred adjudication for an offense involving prostitution or another sexual offense; or

(2) the commission or executive director determines the person has practiced or administered massage therapy at or for a sexually oriented business.

(c) The commission or executive director shall revoke the license of a person licensed as a massage school or massage establishment if the commission or executive director determines that:

(1) the school or establishment is a sexually oriented business; or

(2) an offense involving prostitution or another sexual offense that resulted in a conviction for the offense, a plea
of nolo contendere or guilty to the offense, or a grant of deferred
adjudication for the offense occurred on the premises of the school
or establishment.

SECTION 8.234. The heading to Section 455.302, Occupations
Code, is amended to read as follows:

Sec. 455.302. AMOUNT OF ADMINISTRATIVE PENALTY.

SECTION 8.235. Section 455.302(a), Occupations Code, is
amended to read as follows:

(a) The amount of an administrative penalty imposed for a
violation of this chapter or a rule adopted or order issued under
this chapter may not exceed $1,000 for each violation. Each day a
violation continues or occurs is a separate violation for purposes
of imposing a penalty.

SECTION 8.236. Section 1952.001, Occupations Code, as
amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
2015, is amended by adding Subdivision (2-a) and amending
Subdivisions (3) and (4) to read as follows:

(2-a) "Commission" means the Texas Commission of
Licensing and Regulation.

(3) "Department" means the Texas Department of
Licensing and Regulation [State Health Services].

(4) "Executive director [commissioner]" means the
executive director [commissioner] of the department [Health and
Human Services Commission].

SECTION 8.237. The heading to Subchapter B, Chapter 1952,
Occupations Code, as amended by S.B. 219, Acts of the 84th
Legislature, Regular Session, 2015, is amended to read as follows:
SUBCHAPTER B. POWERS AND DUTIES [EXECUTIVE COMMISSIONER AND DEPARTMENT]

SECTION 8.238. Section 1952.051, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 1952.051. GENERAL POWERS AND DUTIES [RULES]. (a) The executive director shall administer and enforce this chapter.

(b) The commission [executive commissioner] by rule shall [adopt standards and education requirements consistent with those established under Chapter 654, Government Code, for the registration of:

(1) code enforcement officers; and

(2) code enforcement officers in training and

(2) prescribe application forms for original and renewal certificates of registration].

SECTION 8.239. Section 1952.053(b), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(b) The register must include:

(1) the name, residence, date of birth, and social security number of the applicant;

(2) the name and address of the employer or business of the applicant;

(3) the date of the application;

(4) the education and experience qualifications of the applicant;
the action taken by the department regarding the
application and the date of the action;

(6) the serial number of any certificate of
registration issued to the applicant; and

(7) any other information required by commission
[department] rule.

SECTION 8.240. Subchapter B, Chapter 1952, Occupations
Code, is amended by adding Section 1952.055 to read as follows:

Sec. 1952.055. ADVISORY COMMITTEE. The department may
establish an advisory committee to provide advice and
recommendations to the department on technical matters relevant to
the administration of this chapter.

SECTION 8.241. Section 1952.102, Occupations Code, as
amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
2015, is amended to read as follows:

Sec. 1952.102. ELIGIBILITY TO REGISTER AS CODE ENFORCEMENT
OFFICER. To be eligible to receive a certificate of registration as
a code enforcement officer, a person must:

(1) submit an application in the manner and on the form
prescribed by the executive director;

(2) have at least one year of full-time experience in
the field of code enforcement;

(3) [removed] pass the examination required [conducted]
by the department [or the department’s designee];

(4) [removed] pay the application, examination, and
registration fees; and

(5) [removed] meet any other requirements prescribed by
SECTION 8.242. Section 1952.103(a), Occupations Code, is amended to read as follows:

(a) An applicant for a certificate of registration under this chapter who has less than one year of full-time experience in code enforcement is entitled to receive a certificate of registration as a code enforcement officer in training on:

(1) passing the examination described by Section 1952.102(3); and

(2) paying the required fees; and

(3) meeting any other requirement prescribed by this chapter or by commission rule.

SECTION 8.243. The heading to Section 1952.105, Occupations Code, is amended to read as follows:

Sec. 1952.105. TERM [RENEWAL OR REINSTATEMENT] OF CERTIFICATE; RENEWAL.

SECTION 8.244. Section 1952.105(a), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(a) A certificate of registration issued under this chapter expires on the second anniversary of the date of issuance and may be renewed biennially on payment of the required renewal fee and on completion of the continuing education requirements prescribed by commission [department] rule.

SECTION 8.245. Section 1952.1051, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:
Sec. 1952.1051. CONTINUING EDUCATION. The commission by rule shall prescribe continuing education requirements for code enforcement officers and code enforcement officers in training that:

(1) establish the number of hours of continuing education required for renewal of a certificate of registration;

(2) establish an approved curriculum that includes material regarding changes in applicable law; and

(3) provide that the approved curriculum may be taught by suitable public agencies and by private entities approved by the department.

SECTION 8.246. Section 1952.151, Occupations Code, is amended to read as follows:

Sec. 1952.151. DENIAL OF CERTIFICATE; DISCIPLINARY ACTION.

(a) The commission or executive director may deny a person's application for a certificate of registration if the person's certificate or license to engage in code enforcement or a related profession has been revoked by another licensing entity in this state or another state for:

(1) unprofessional conduct;

(2) fraud, deceit, or negligence; or

(3) misconduct in the practice of code enforcement or a related profession.

(b) The commission or executive director shall suspend or revoke a certificate of registration issued under this chapter if the commission or executive director determines that the certificate holder:

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(1) engaged in fraud or deceit in obtaining a
certificate; or
(2) is grossly negligent, incompetent, or guilty of
misconduct in the practice of code enforcement.

SECTION 8.247. Section 1952.252(a), Occupations Code, is
amended to read as follows:

(a) The amount of an [the] administrative penalty imposed
for a violation of this chapter or a rule adopted or order issued
under this chapter may not be less than $50 or more than $5,000 for
each violation. Each day a violation continues or occurs is a
separate violation for the purpose of imposing a penalty.

SECTION 8.248. Section 1953.001, Occupations Code, as
amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
2015, is amended by amending Subdivisions (1) and (2) and adding
Subdivision (1-a) to read as follows:

(1) "Commission" means the Texas Commission of
Licensing and Regulation.

(1-a) "Department" means the Texas Department of
Licensing and Regulation [State Health Services].

(2) "Executive director [commissioner]" means the
executive director [commissioner] of the department [Health and
Human Services Commission].

SECTION 8.249. The heading to Subchapter B, Chapter 1953,
Occupations Code, as amended by S.B. 219, Acts of the 84th
Legislature, Regular Session, 2015, is amended to read as follows:

SUBCHAPTER B. POWERS AND DUTIES [OF EXECUTIVE COMMISSIONER AND
DEPARTMENT]
SEC. 8.250. Section 1953.051, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 1953.051. GENERAL POWERS AND DUTIES [OF DEPARTMENT].

(a) The executive director shall administer and enforce this chapter.

(b) The department shall:

(1) administer continuing education requirements; and

(2) prescribe necessary forms.

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SEC. 8.251. Subchapter B, Chapter 1953, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended by adding Section 1953.0512 to read as follows:

Sec. 1953.0512. ADVISORY COMMITTEE. The department may establish an advisory committee to provide advice and recommendations to the department on technical matters relevant to the administration of this chapter.

SEC. 8.252. Section 1953.102, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 1953.102. ELIGIBILITY REQUIREMENTS. (a) To be eligible to receive a certificate of registration as a professional sanitarian, a person must:

(1) hold at least a bachelor's degree from an accredited college or university that includes at least 30 semester hours in basic or applied science;

(2) complete any additional training in the basic
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1 sciences or public health the department [executive commissioner] determines necessary to effectively serve as a professional sanitarian; and
2
3 (3) have at least two years of full-time experience in sanitation.
4
5 (b) The commission [executive commissioner] by rule may establish other qualifications for registration.

SECTION 8.253. Section 1953.104(a), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(a) The department shall issue a certificate of registration as a professional sanitarian to a person who:

1 applies in the manner and on the form prescribed by the executive director [department];
2 pays the registration fee set by the commission [executive commissioner] by rule;
3 meets the eligibility requirements prescribed by Section 1953.102; and
4 passes an examination under Subchapter D.

SECTION 8.254. Section 1953.105(a), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(a) The department shall issue a certificate of registration as a sanitarian in training to a person who:

1 is employed in sanitation;
2 meets the eligibility requirements prescribed by Section 1953.102, other than the requirements relating to
experience;

(3) pays a registration fee prescribed by the commission [executive commissioner] by rule for a sanitarian in training; and

(4) passes an examination under Subchapter D.

SECTION 8.255. The heading to Section 1953.106, Occupations Code, is amended to read as follows:

Sec. 1953.106. RENEWAL [OR REINSTATEMENT] OF CERTIFICATE.

SECTION 8.256. Section 1953.106(a), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(a) To renew a certificate of registration under this chapter, a professional sanitarian must:

(1) pay to the department a renewal fee prescribed by the commission [executive commissioner] by rule; and

(2) provide proof of completion of continuing education requirements [contact hours as] prescribed by the commission by rule [executive commissioner].

SECTION 8.257. Section 1953.151(b), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(b) An applicant for a certificate of registration may not take the examination unless the applicant pays the examination fee prescribed by the commission [executive commissioner] by rule.

SECTION 8.258. Section 1953.201, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:
Sec. 1953.201. DENIAL OF CERTIFICATE; DISCIPLINARY ACTION.

(a) The commission or executive director [department] may deny a person's application for a certificate of registration if:

(1) the person's certificate or license to engage in a profession in this state or elsewhere has been revoked for unprofessional conduct, fraud, deceit, negligence, or misconduct in the practice of the profession; or

(2) satisfactory proof is presented to the commission or executive director [department] establishing that the person has been found guilty of unprofessional conduct, fraud, deceit, negligence, or misconduct in the practice of a profession.

(b) The commission or executive director [department] may suspend or revoke a certificate of registration if the certificate holder:

(1) practiced fraud or deceit in obtaining the certificate; or

(2) acted in a manner constituting gross negligence, incompetency, or misconduct in the practice of sanitation.

SECTION 8.259. Section 1953.302(a), Occupations Code, is amended to read as follows:

(a) The amount of an [the] administrative penalty imposed for a violation of this chapter or a rule adopted or order issued under this chapter may not be less than $50 or more than $5,000 for each violation. Each day a violation continues or occurs is a separate violation for the purpose of imposing a penalty.

SECTION 8.260. Section 1958.001, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
2015, is amended by amending Subdivisions (1) and (2) and adding Subdivision (1-a) to read as follows:

(1) "Commission" means the Texas Commission of Licensing and Regulation.

(1-a) "Department" means the Texas Department of Licensing and Regulation [State Health Services].

(2) "Executive director (commissioner)" means the executive director (commissioner) of the department [Health and Human Services Commission].

SECTION 8.261. Section 1958.051, Occupations Code, is amended to read as follows:

Sec. 1958.051. GENERAL POWERS AND DUTIES [OF DEPARTMENT; SCOPE OF AUTHORITY]. The executive director (department) shall administer and enforce this chapter to protect the public from the adverse health effects of mold.

SECTION 8.262. Section 1958.054, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 1958.054. RULES REGARDING PERFORMANCE STANDARDS AND WORK PRACTICES. The commission (executive commissioner) by rule shall establish minimum performance standards and work practices for conducting a mold assessment or mold remediation in this state.

SECTION 8.263. Section 1958.056(b), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(b) The commission (executive commissioner) shall adopt rules regarding compliance investigations.
 SECTION 8.264. Section 1958.058, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 1958.058. SAFETY STANDARDS. The commission [executive commissioner] by rule may develop and establish mold safety standards for license holders if appropriate scientific information exists regarding the effect of mold.

SECTION 8.265. Section 1958.059, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 1958.059. CODE OF ETHICS. The commission [executive commissioner] by rule shall adopt a code of ethics for license holders that promotes the education of mold assessors and mold remediators concerning the ethical, legal, and business principles that should govern their conduct.

SECTION 8.266. Section 1958.101(b), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(b) The commission [executive commissioner] shall adopt rules regarding:

(1) the scope of mold-related work for which a license is required, including the supervision of employees or other persons by license holders; and

(2) renewal requirements for a license issued under this chapter.

SECTION 8.267. Section 1958.103, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
Sec. 1958.103. REGISTRATION REQUIREMENTS FOR EMPLOYEES. The commission may adopt rules to require the registration of employees supervised by license holders.

SECTION 8.268. Section 1958.104, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 1958.104. RULES REGARDING LICENSE APPLICATION. The commission shall adopt rules regarding a license application. The commission shall adopt rules that establish minimum requirements for a license, including:

(1) the type of license;

(2) the qualifications for the license, including any previous training required under Section 1958.106;

(3) renewal requirements for the license, including ongoing continuing education required under Section 1958.106; and

(4) liability insurance requirements for the license.

SECTION 8.269. Section 1958.106(a), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(a) The commission shall adopt rules regarding training required under this chapter and continuing education required for a license holder under this chapter.

SECTION 8.270. Section 1958.153(c), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:
(c) The commission shall adopt rules to implement this section, including rules:

(1) describing the information that must be provided in the notice; and

(2) authorizing verbal notification to the department in an emergency.

SECTION 8.271. Section 1958.154(c), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(c) The commission shall adopt rules to implement this section, other than rules described by Subsection (d).

SECTION 8.272. Section 1958.155(c), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(c) A license holder who is not an individual shall disclose to the department the name, address, and occupation of each person that has an ownership interest in the license holder. The license holder shall report any changes in ownership to the department. The commission shall adopt rules to implement this section, including rules regarding the form of the disclosure and the time required to make disclosures or to report a change in ownership.

SECTION 8.273. Section 1958.201, Occupations Code, is amended to read as follows:

Sec. 1958.201. DISCIPLINARY ACTION. If a license holder violates this chapter or an order or rule adopted under this
chapter, the commission or executive director [department], after
providing the person with notice and an opportunity for a hearing,
shall take one or more of the following actions:

(1) revoke, suspend, or refuse to renew the license;
(2) impose an administrative penalty;
(3) bring an action to collect a civil penalty; or
(4) reprimand the person.

SECTION 8.274. Section 1958.252, Occupations Code, as
amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
2015, is amended to read as follows:

Sec. 1958.252. AMOUNT OF PENALTY. (a) The amount of an
administrative penalty imposed for a violation of this chapter or a
rule adopted or order issued under this chapter may not exceed
$5,000 for each violation. Each day a violation continues under
Section 1958.101 or 1958.155 may be considered a separate violation
for purposes of imposing a penalty.

(b) The amount shall be based on [In determining the amount
of the penalty, the department shall consider]:

(1) whether the violation was committed knowingly,
intentionally, or fraudulently;
(2) the seriousness of the violation;
(3) any hazard created to the health and safety of the
public;
(4) the person's history of previous violations; and
(5) any other matter that justice may require.

SECTION 8.275. Section 1958.253(a), Occupations Code, as
amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
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2015, is amended to read as follows:

(a) The commission or executive director [department] may choose not to impose an administrative penalty under this subchapter if, not later than the 10th day after the date of written notice of the violation [under Section 1958.254], the person provides conclusive evidence that the circumstances giving rise to the violation have been corrected and all actual damages are paid.

SECTION 8.276. Section 521.374(a), Transportation Code, is amended to read as follows:

(a) A person whose license is suspended under Section 521.372 may attend an educational program, approved by the Texas Department of Licensing and Regulation [Commission on Alcohol and Drug Abuse] under rules adopted by the Texas Commission of Licensing and Regulation [commission] and the department, that is designed to educate persons on the dangers of drug abuse.

SECTION 8.277. Section 521.375, Transportation Code, is amended to read as follows:

Sec. 521.375. JOINT ADOPTION OF RULES. (a) The Texas Commission of Licensing and Regulation [on Alcohol and Drug Abuse] and the department shall jointly adopt rules for the qualification and approval of providers of educational programs under Section 521.374.

(b) The Texas Department of Licensing and Regulation [Commission on Alcohol and Drug Abuse] shall publish the jointly adopted rules.

SECTION 8.278. Section 521.376, Transportation Code, is amended to read as follows:
Sec. 521.376. DUTIES OF TEXAS DEPARTMENT OF LICENSING AND REGULATION [COMMISSION ON ALCOHOL AND DRUG ABUSE]; APPLICATION AND RENEWAL FEES. The Texas Department of Licensing and Regulation [Commission on Alcohol and Drug Abuse]:

(1) shall monitor, coordinate, and provide training to persons who provide educational programs under Section 521.374;
(2) shall administer the approval of those educational programs; and
(3) may charge a nonrefundable application fee for:
       (A) initial certification of approval; and
       (B) renewal of the certification.

SECTION 8.279. The following provisions of the Health and Safety Code are repealed:

(1) Section 401.509;
(2) Section 401.511;
(3) Sections 401.512(b) and (c); and
(4) Sections 401.522(b) and (c).

SECTION 8.280. The following provisions of the Occupations Code, including provisions amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, are repealed:

(1) Section 455.051;
(2) Section 455.056;
(3) Section 455.057;
(4) Section 455.058;
(5) Section 455.1565;
(6) Section 455.1571;
(7) Sections 455.160(b), (c), (d), (e), (f), and (g);
(8) Section 455.161;
(9) Section 455.252;
(10) Section 455.253;
(11) Section 455.254;
(12) Section 455.301;
(13) Section 455.303;
(14) Section 455.304;
(15) Section 455.305;
(16) Section 455.306;
(17) Section 455.307;
(18) Section 455.308;
(19) Section 455.309;
(20) Section 455.310;
(21) Section 455.311;
(22) Section 1952.052;
(23) Section 1952.054;
(24) Section 1952.105(b);
(25) Section 1952.152;
(26) Section 1952.251;
(27) Section 1952.253;
(28) Section 1952.254;
(29) Section 1952.255;
(30) Section 1952.256;
(31) Section 1952.257;
(32) Section 1952.258;
(33) Section 1952.259;
(34) 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;

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PART 3. TRANSITION PROVISIONS

SECTION 8.281. (a) A rule or fee of the Department of State Health Services that relates to a program transferred under this article and that is in effect on the effective date of the transfer remains in effect until changed by the Texas Commission of Licensing and Regulation.

(b) A license, permit, certificate of registration, or other authorization issued by the Department of State Health Services for a program transferred under this article is continued in effect as a license, permit, certificate, or other authorization of the Texas Department of Licensing and Regulation after the effective date of the transfer.

(c) A complaint, investigation, contested case, or other proceeding before the Department of State Health Services relating to a program transferred under this article that is pending on the effective date of the transfer is transferred without change in status to the Texas Commission of Licensing and Regulation or Texas Department of Licensing and Regulation, as appropriate.

SECTION 8.282. (a) As soon as practicable after the effective date of a transfer under this article, the Department of State Health Services and the Texas Department of Licensing and Regulation shall adopt a transition plan to provide for the orderly transfer of powers, duties, functions, programs, and activities under this article. The transition plan must provide for the
transfer to be completed:

(1) not later than August 31, 2017, for a program transferred under Part 1 of this article; or

(2) not later than August 31, 2019, for a program transferred under Part 2 of this article.

(b) The Department of State Health Services shall provide the Texas Department of Licensing and Regulation with access to any systems or information necessary for the Texas Department of Licensing and Regulation to accept a program transferred under this article.

(c) On the date specified in the transition plan required under Subsection (a) of this section for the transfer of a particular program to the Texas Department of Licensing and Regulation, if applicable, the existing board associated with the program is abolished and the Texas Department of Licensing and Regulation shall, as soon as practicable after that date, appoint the advisory board for the program.

(d) Not later than August 31, 2017, the Texas Department of Licensing and Regulation shall create a health professions division to oversee programs transferred under this article and to ensure the department develops the necessary health-related expertise.

ARTICLE 9. REGULATORY PROGRAMS TRANSFERRED TO THE TEXAS MEDICAL BOARD

SECTION 9.001. Section 151.004, Occupations Code, is amended to read as follows:

Sec. 151.004. APPLICATION OF SUNSET ACT. The Texas Medical Board is subject to Chapter 325, Government Code (Texas Sunset
Unless continued in existence as provided by that chapter, the board is abolished and this subtitle and Chapters 204, 205, [and] 206, 601, 602, 603, and 604 expire September 1, 2017.

SECTION 9.002. Section 601.002, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended by amending Subdivisions (1), (3), and (4) and adding Subdivisions (1-a), (4-a), and (4-b) to read as follows:

(1) "Advisory board" means the Texas Board of Medical Radiologic Technology.

(1-a) "Authorized person" means a person who meets or exceeds the minimum educational standards of the advisory board [department] under Section 601.201.

(3) "Direct supervision" means supervision and control by a medical radiologic technologist or a practitioner who:

(A) assumes legal liability for a student employed to perform a radiologic procedure and enrolled in a program that meets the requirements adopted under Section 601.052 [601.053]; and

(B) is physically present during the performance of the radiologic procedure to provide consultation or direct the action of the student.

(4) "Education program" means clinical training or any other program offered by an organization approved by the advisory board [department] that:

(A) has a specified objective;

(b) includes planned activities for participants; and

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Uses an approved method for measuring the progress of participants.

(4-a) “Hospital” has the meaning assigned by Section 157.051.

(4-b) “Medical board” means the Texas Medical Board.

SECTION 9.003. Chapter 601, Occupations Code, is amended by adding Subchapter A-1 to read as follows:

SUBCHAPTER A-1. TEXAS BOARD OF MEDICAL RADIOLOGIC TECHNOLOGY

Sec. 601.021. TEXAS BOARD OF MEDICAL RADIOLOGIC TECHNOLOGY.
The Texas Board of Medical Radiologic Technology is an advisory board to the Texas Medical Board.

Sec. 601.022. APPOINTMENT OF ADVISORY BOARD. (a) The advisory board consists of nine members appointed by the governor with the advice and consent of the senate as follows:

(1) four medical radiologic technologists who each have at least five years of experience as a medical radiologic technologist;

(2) two physicians licensed in this state who supervise medical radiologic technologists; and

(3) three members who represent the public.

(b) Appointments to the advisory board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.

Sec. 601.023. MEMBERSHIP ELIGIBILITY AND RESTRICTIONS. (a) In this section, “Texas trade association” means a cooperative and voluntarily joined statewide association of business or professional competitors in this state designed to assist its
members and its industry or profession in dealing with mutual
business or professional problems and in promoting their common
interest.

(b) A person may not be a public member of the advisory board
if the person or the person's spouse:

(1) is registered, certified, or licensed by a
regulatory agency in a health care profession;

(2) is employed by or participates in the management
of a business entity or other organization regulated by or
receiving money from the medical board or advisory board;

(3) owns or controls, directly or indirectly, more
than a 10 percent interest in a business entity or other
organization regulated by or receiving money from the medical board
or advisory board; or

(4) uses or receives a substantial amount of tangible
goods, services, or money from the medical board or advisory board
other than compensation or reimbursement authorized by law for
advisory board membership, attendance, or expenses.

(c) A person may not be a member of the advisory board if:

(1) the person is an officer, employee, or paid
consultant of a Texas trade association in the field of health care;

or

(2) the person's spouse is an officer, manager, or paid
consultant of a Texas trade association in the field of health care.

(d) A person may not be a member of the advisory board or act
as the general counsel to the advisory board if the person is
required to register as a lobbyist under Chapter 305, Government
Code, because of the person's activities for compensation on behalf of a profession related to the operation of the medical board or advisory board.

Sec. 601.024. TERMS; VACANCIES. (a) Members of the advisory board are appointed for staggered six-year terms. The terms of three members expire on February 1 of each odd-numbered year.

(b) A member may not serve more than:

(1) two consecutive full terms; or

(2) a total of three full terms.

(c) If a vacancy occurs during a member's term, the governor shall appoint a new member to fill the unexpired term.

Sec. 601.025. OFFICERS. The governor shall designate a member of the advisory board as the presiding officer of the advisory board to serve in that capacity at the will of the governor. The advisory board shall select from its membership an assistant presiding officer and other officers as the advisory board considers necessary to carry out the advisory board's duties.

Sec. 601.026. GROUNDS FOR REMOVAL. (a) It is a ground for removal from the advisory board that a member:

(1) does not have at the time of taking office the qualifications required by Sections 601.022 and 601.023;

(2) does not maintain during service on the advisory board the qualifications required by Sections 601.022 and 601.023;

(3) is ineligible for membership under Section 601.023;

(4) cannot, because of illness or disability,
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1 discharge the member's duties for a substantial part of the member's
2 term; or
3
4 (5) is absent from more than half of the regularly
5 scheduled advisory board meetings that the member is eligible to
6 attend during a calendar year without an excuse approved by a
7 majority vote of the advisory board.
8
9 (b) The validity of an action of the advisory board is not
10 affected by the fact that it is taken when a ground for removal of an
11 advisory board member exists.
12
13 (c) If the executive director of the medical board has
14 knowledge that a potential ground for removal exists, the executive
15 director shall notify the presiding officer of the advisory board
16 of the potential ground. The presiding officer shall then notify
17 the governor and the attorney general that a potential ground for
18 removal exists. If the potential ground for removal involves the
19 presiding officer, the executive director shall notify the next
20 highest ranking officer of the advisory board, who shall then
21 notify the governor and the attorney general that a potential
22 ground for removal exists.
23
24 Sec. 601.027. PER DIEM. A member of the advisory board is
25 entitled to receive a per diem as set by legislative appropriation
26 for each day that the member engages in the business of the advisory
27 board.
28
29 Sec. 601.028. APPLICATION OF OPEN MEETINGS, OPEN RECORDS,
30 AND ADMINISTRATIVE PROCEDURE LAWS. Except as otherwise provided
31 by this chapter, the advisory board is subject to Chapters 551, 552,
Sec. 601.029. MEETINGS; QUORUM REQUIREMENTS. (a) The advisory board shall conduct regular meetings at least three times a year at the times and places the advisory board considers most convenient for applicants and advisory board members.

(b) The advisory board may hold special meetings in accordance with rules adopted by the advisory board and approved by the medical board.

(c) A majority of the advisory board members constitutes a quorum for all purposes except for an advisory board activity related to examining the credentials of applicants, acting as a panel for disciplinary action under Section 601.306, or conducting an informal meeting under Section 601.311.

Sec. 601.030. TRAINING. (a) A person who is appointed to and qualifies for office as a member of the advisory board may not vote, deliberate, or be counted as a member in attendance at a meeting of the advisory board until the person completes a training program that complies with this section.

(b) The training program must provide the person with information regarding:

(1) this chapter and the advisory board’s programs, functions, rules, and budget;

(2) the results of the most recent formal audit of the advisory board;

(3) the requirements of laws relating to open meetings, public information, administrative procedure, and conflicts of interest; and

(4) any applicable ethics policies adopted by the

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2 advisory board shall conduct regular meetings at least three times
3 a year at the times and places the advisory board considers most
4 convenient for applicants and advisory board members.
5
6 (b) The advisory board may hold special meetings in
7 accordance with rules adopted by the advisory board and approved by
8 the medical board.
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10 (c) A majority of the advisory board members constitutes a
11 quorum for all purposes except for an advisory board activity
12 related to examining the credentials of applicants, acting as a
13 panel for disciplinary action under Section 601.306, or conducting
14 an informal meeting under Section 601.311.
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16 Sec. 601.030. TRAINING. (a) A person who is appointed to
17 and qualifies for office as a member of the advisory board may not
18 vote, deliberate, or be counted as a member in attendance at a
19 meeting of the advisory board until the person completes a training
20 program that complies with this section.
21
22 (b) The training program must provide the person with
23 information regarding:
24
25 (1) this chapter and the advisory board’s programs,
26 functions, rules, and budget;
27
28 (2) the results of the most recent formal audit of the
29 advisory board;
30
31 (3) the requirements of laws relating to open
32 meetings, public information, administrative procedure, and
33 conflicts of interest; and
34
35 (4) any applicable ethics policies adopted by the
36
advisory board or the Texas Ethics Commission.

(c) A person appointed to the advisory board is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

SECTION 9.004. The heading to Subchapter B, Chapter 601, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

SUBCHAPTER B. POWERS AND DUTIES OF ADVISORY BOARD [EXECUTIVE COMMISSIONER] AND MEDICAL BOARD [DEPARTMENT]

SECTION 9.005. Section 601.052, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 601.052. GENERAL POWERS AND DUTIES OF ADVISORY BOARD [RULES]. The advisory board shall:

(1) [executive commissioner may] adopt rules that are reasonable and necessary for the performance of the advisory board's duties under [to implement] this chapter, as provided by Chapter 2001, Government Code, including rules to establish:

(A) the certification program required by Subchapter C, including minimum standards for issuing, renewing, suspending, or revoking a certificate;

(B) certification renewal dates;

(C) the registry required by Subchapter E;

(D) procedures for disciplinary actions;

(E) minimum standards for approving and
rescinding approval of curricula and education programs to train
individuals, registered nurses, and physician assistants to
perform radiologic procedures; and
(F) minimum standards for approving and
rescinding approval of instructors to teach approved curricula or
education programs to train individuals to perform radiologic
procedures;
(2) review and approve or reject each application for
the issuance or renewal of a certificate;
(3) issue each certificate;
(4) deny, suspend, or revoke a certificate or
otherwise discipline a certificate holder; and
(5) take any action necessary to carry out the
functions and duties of the advisory board under this chapter.
SECTION 9.006. Subchapter B, Chapter 601, Occupations Code,
as amended by S.B. 219, Acts of the 84th Legislature, Regular
Session, 2015, is amended by adding Sections 601.0521 and 601.0522
to read as follows:
Sec. 601.0521. GUIDELINES FOR EARLY INVOLVEMENT IN
RULEMAKING PROCESS. (a) The advisory board shall adopt guidelines
to establish procedures for receiving input during the rulemaking
process from individuals and groups that have an interest in
matters under the advisory board's jurisdiction. The guidelines
must provide an opportunity for those individuals and groups to
provide input before the advisory board submits the rule to the
medical board for approval.
(b) A rule adopted under this chapter may not be challenged
on the grounds that the advisory board did not comply with this
section. If the advisory board was unable to solicit a significant
amount of input from the public or affected persons early in the
rulemaking process, the advisory board shall state in writing the
reasons why it was unable to do so.

Sec. 601.0522. POWERS AND DUTIES OF MEDICAL BOARD RELATING
TO RADIOLOGIC PROCEDURES. (a) The medical board shall adopt rules
consistent with this chapter to regulate individuals who:

(1) perform radiologic procedures; and

(2) are licensed by the medical board and supervise an
individual who performs radiologic procedures.

(b) The medical board, by a majority vote, shall approve or
reject each rule adopted by the advisory board. If approved, the
rule may take effect. If the rule is rejected, the medical board
shall return the rule to the advisory board for revision.

SECTION 9.007. Section 601.054, Occupations Code, as
amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
2015, is amended to read as follows:

Sec. 601.054. APPROVAL AND REVIEW OF CURRICULA AND TRAINING
PROGRAMS. (a) An applicant for approval of a curriculum or
training program must apply to the advisory board [department] on a
form [prescribed by the department] and under rules adopted by the
advisory board [executive commissioner].

(b) The advisory board [department] shall approve a
curriculum or training program that meets the minimum standards
adopted under Section 601.052 [601.053]. The advisory board
[department] may review the approval annually.
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(c) The advisory board [executive commissioner] may set a fee for approval of a curriculum or training program not to exceed the estimated amount that the advisory board [department] projects to be required for the evaluation of the curriculum or training program.

SECTION 9.008. Section 601.055, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 601.055. APPROVAL AND REVIEW OF INSTRUCTOR APPROVAL.

(a) An applicant for approval of an instructor must apply to the advisory board [department] on a form [prescribed by the department] and under rules adopted by the advisory board [executive commissioner].

(b) The advisory board [department] shall approve an instructor who meets the minimum standards adopted under Section 601.052 [601.053]. The advisory board [department] may review the approval annually.

SECTION 9.009. Sections 601.056(a) and (b), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, are amended to read as follows:

(a) The advisory board [executive commissioner] with the assistance of appropriate state agencies shall identify by rule radiologic procedures, other than radiologic procedures described by Subsection (c), that are dangerous or hazardous and that may be performed only by a practitioner or a medical radiologic technologist certified under this chapter.

(b) In adopting rules under Subsection (a), the advisory
board [executive commissioner] may consider whether the radiologic procedure will be performed by a registered nurse or a licensed physician assistant.

SECTION 9.010. Section 601.057, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 601.057. FEES. The advisory board by rule [executive commissioner] may set fees for examination, certificate issuance, registration of a person under Section 601.202, and application processing under Section 601.203 in amounts that are reasonable to cover the costs of administering this chapter without the use of additional general revenue. [The fees for issuing or renewing a certificate must be in amounts designed to allow the department to recover from the certificate holders all of the department's direct and indirect costs in administering and enforcing this chapter.]

SECTION 9.011. Subchapter B, Chapter 601, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended by adding Sections 601.0571 and 601.0572 to read as follows:

Sec. 601.0571. FEE REFUND ON CANCELLATION. The advisory board may adopt rules relating to the refund of a fee for the issuance or renewal of a certificate after the cancellation of a certificate.

Sec. 601.0572. RULES ON CONSEQUENCES OF CRIMINAL CONVICTION. The advisory board shall adopt rules and guidelines as necessary to comply with Chapter 53, except to the extent the requirements of this chapter are stricter than the requirements of
Chapter 53.

SECTION 9.012. Section 601.058, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 601.058. RULES RESTRICTING ADVERTISING OR COMPETITIVE BIDDING. (a) The advisory board [executive commissioner] may not adopt rules restricting advertising or competitive bidding by a medical radiologic technologist except to prohibit false, misleading, or deceptive practices.

(b) In adopting rules to prohibit false, misleading, or deceptive practices, the advisory board [executive commissioner] may not include a rule that:

1. restricts the use of any medium for advertising;
2. restricts the use of a medical radiologic technologist's personal appearance or voice in an advertisement;
3. relates to the size or duration of an advertisement by the medical radiologic technologist; or
4. restricts the medical radiologic technologist's advertisement under a trade name.

SECTION 9.013. Subchapter B, Chapter 601, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended by adding Sections 601.059 and 601.060 to read as follows:

Sec. 601.059. ASSISTANCE BY MEDICAL BOARD; DIVISION OF RESPONSIBILITIES. (a) The medical board shall provide administrative and clerical employees as necessary to enable the advisory board to administer this chapter.
Subject to the advice and approval of the medical board, the advisory board shall develop and implement policies that clearly separate the policy-making responsibilities of the advisory board and the management responsibilities of the executive director and staff of the medical board.

Sec. 601.060. PUBLIC PARTICIPATION. Subject to the advice and approval of the medical board, the advisory board shall develop and implement policies that provide the public with a reasonable opportunity to appear before the advisory board and to speak on any issue under the jurisdiction of the advisory board.

SECTION 9.014. Section 601.102, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 601.102. CLASSES OF CERTIFICATES. (a) The advisory board shall establish classes of certificates to include all radiologic procedures used in the course and scope of the practice of practitioners licensed in this state.

(b) The advisory board may issue to a person:

(1) a general certificate to perform radiologic procedures; or

(2) a limited certificate that authorizes the person to perform radiologic procedures only on specific parts of the human body.

(c) The advisory board may issue to a person a temporary general certificate or a temporary limited certificate that authorizes the person to perform radiologic procedures for a
period not to exceed one year.

SECTION 9.015. Subchapter C, Chapter 601, Occupations Code, is amended by adding Section 601.1031 to read as follows:

Sec. 601.1031. CRIMINAL HISTORY RECORD INFORMATION REQUIREMENT FOR REGISTRATION. (a) The advisory board shall require that an applicant for a certificate submit a complete and legible set of fingerprints, on a form prescribed by the advisory board, to the advisory board or to the Department of Public Safety for the purpose of obtaining criminal history record information from the Department of Public Safety and the Federal Bureau of Investigation.

(b) The advisory board may not issue a certificate to a person who does not comply with the requirement of Subsection (a).

(c) The advisory board shall conduct a criminal history check of each applicant for a certificate using information:

(1) provided by the individual under this section; and

(2) made available to the advisory board by the Department of Public Safety, the Federal Bureau of Investigation, and any other criminal justice agency under Chapter 411, Government Code.

(d) The advisory board may:

(1) enter into an agreement with the Department of Public Safety to administer a criminal history check required under this section; and

(2) authorize the Department of Public Safety to collect from each applicant the costs incurred by the Department of Public Safety in conducting the criminal history check.
SECTION 9.016. Section 601.104, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 601.104. EXAMINATION. (a) The advisory board [executive commissioner] may adopt rules providing for the preparation and administration of an examination for applicants for a certificate.

(b) An applicant for a certificate must pass a jurisprudence examination approved by the advisory board.

SECTION 9.017. Section 601.1041, Occupations Code, is amended to read as follows:

Sec. 601.1041. NOTIFICATION OF EXAMINATION RESULTS. (a) Not later than the 30th day after the date a person takes an examination for a certificate under this chapter, the advisory board [department] shall notify the person of the results of the examination.

(b) If the examination is graded or reviewed by a testing service, the advisory board [department] shall notify the person of the results of the examination not later than the 14th day after the date the advisory board [department] receives the results from the testing service. If notice of the examination results will be delayed for longer than 90 days after the examination date, the advisory board [department] shall notify the person of the reason for the delay before the 90th day.

(c) The advisory board [department] may require a testing service to notify a person of the results of the person's examination.
(d) If requested in writing by a person who fails an examination for a certificate administered under this chapter, the advisory board [department] shall furnish the person with an analysis of the person's performance on the examination.

SECTION 9.018. Section 601.105, Occupations Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) The advisory board [department] shall issue a certificate to an applicant who:

(1) meets the minimum standards for certification established under Section 601.052;

(2) passes the required examinations;

(3) complies with the criminal history record information requirement of Section 601.1031;

(4) submits an application on a form prescribed by the advisory board;

(5) pays the required application fee;

(6) certifies that the applicant is mentally and physically able to perform radiologic procedures; and

(7) submits to the advisory board any other information the advisory board considers necessary to evaluate the applicant's qualifications [601.053].

(c) The advisory board may delegate authority to medical board employees to issue certificates under this chapter to applicants who clearly meet all certification requirements. If the medical board employees determine that the applicant does not clearly meet all certification requirements, the application must
be returned to the advisory board. A certificate issued under this subsection does not require formal advisory board approval.

SECTION 9.019. Section 601.107, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 601.107. CERTIFICATION BY ENDORSEMENT. In adopting minimum standards for certifying medical radiologic technologists, the advisory board [executive commissioner] may establish criteria for issuing a certificate to a person licensed or otherwise registered as a medical radiologic technologist by the American Registry of Radiologic Technologists, the American Registry of Clinical Radiography Technologists, or another state whose requirements for licensure or registration were on the date of licensing or registration substantially equal to the requirements of this chapter.

SECTION 9.020. Section 601.108, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 601.108. CONTINUING EDUCATION AND OTHER GUIDELINES. (a) The advisory board [executive commissioner] may establish guidelines.

(b) The advisory board [executive commissioner] shall provide for the preparation, recognition, or administration of continuing education programs for medical radiologic technologists in which participation is required, to the extent required by the advisory board [department], to keep the person's certificate.

SECTION 9.021. Section 601.109, Occupations Code, as
amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 601.109. PROVISIONAL CERTIFICATE. (a) The advisory board [department] may issue a provisional certificate to an applicant currently licensed or certified in another jurisdiction who seeks certification in this state and who:

1. has been licensed or certified in good standing as a medical radiologic technologist for at least two years in another jurisdiction, including a foreign country, that has licensing or certification requirements substantially equivalent to the requirements of this chapter;
2. has passed a national or other examination recognized by the advisory board [department] relating to the practice of radiologic technology; and
3. is sponsored by a medical radiologic technologist certified by the advisory board [department] under this chapter with whom the provisional certificate holder will practice during the time the person holds a provisional certificate.

(b) The advisory board [department] may waive the requirement of Subsection (a)(3) for an applicant if the advisory board [department] determines that compliance with that subsection would be a hardship to the applicant.

(c) A provisional certificate is valid until the date the advisory board [department] approves or denies the provisional certificate holder's application for a certificate. The advisory board [department] shall issue a certificate under this chapter to the provisional certificate holder if:
(1) the provisional certificate holder is eligible to be certified under Section 601.107; or

(2) the provisional certificate holder passes the part of the examination under Section 601.104 that relates to the applicant's knowledge and understanding of the laws and rules relating to the practice of radiologic technology in this state and:

(A) the advisory board [department] verifies that the provisional certificate holder meets the academic and experience requirements for a certificate under this chapter; and

(B) the provisional certificate holder satisfies any other licensing requirements under this chapter.

(d) The advisory board [department] must approve or deny a provisional certificate holder's application for a certificate not later than the 180th day after the date the provisional certificate is issued. The advisory board [department] may extend the 180-day period if the results of an examination have not been received by the advisory board [department] before the end of that period.

(e) The advisory board [executive commissioner] by rule may establish a fee for a provisional certificate in an amount reasonable and necessary to cover the cost of issuing the certificate [designed to allow the department to recover from the certificate holders all of the department's direct and indirect costs in administering and enforcing this chapter].

SECTION 9.022. Section 601.110, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:
Sec. 601.110. CERTIFICATE EXPIRATION. (a) Not later than the 30th day before the date a person's certificate is scheduled to expire, the advisory board shall send written notice of the impending expiration to the person at the person's last known address according to the records of the advisory board.

(b) The advisory board by rule may adopt a system under which certificates expire on various dates during the year. For the year in which the certificate expiration date is changed, the advisory board shall prorate certificate fees on a monthly basis so that each certificate holder pays only that portion of the certificate fee that is allocable to the number of months during which the certificate is valid. On renewal of the certificate on the new expiration date, the total certificate renewal fee is payable.

SECTION 9.023. Section 601.111, Occupations Code, is amended to read as follows:

Sec. 601.111. CERTIFICATE RENEWAL PROCEDURE. (a) On notification from the advisory board, a person who is otherwise eligible to renew a certificate may renew an unexpired certificate by:

(1) paying the required renewal fee to the advisory board before the expiration date of the certificate;

(2) submitting the appropriate form; and

(3) meeting any other requirement established by advisory board rule.

(a-1) A person whose certificate has expired may not engage
in activities that require a certificate until the certificate has
been renewed.

(b) A person whose certificate has been expired for 90 days
or less may renew the certificate by paying to the advisory board [department] a renewal fee that is equal to 1-1/2 times the normally required renewal fee.

(c) A person whose certificate has been expired for more than 90 days but less than one year may renew the certificate by paying to the advisory board [department] a renewal fee that is equal to two times the normally required renewal fee.

(d) A person whose certificate has been expired for one year or more may not renew the certificate. The person may obtain a new certificate by complying with the requirements and procedures, including the examination requirements, for an original certificate.

SECTION 9.024. Subchapter C, Chapter 601, Occupations Code, is amended by adding Section 601.1111 to read as follows:

Sec. 601.1111. CRIMINAL HISTORY RECORD INFORMATION REQUIREMENT FOR RENEWAL. (a) An applicant for renewal of a certificate shall submit a complete and legible set of fingerprints for purposes of performing a criminal history check of the applicant as provided by Section 601.1031.

(b) The advisory board may not renew the certificate of a person who does not comply with the requirement of Subsection (a).

(c) A certificate holder is not required to submit fingerprints under this section for the renewal of the certificate if the holder has previously submitted fingerprints under:
(1) Section 601.1031 for the initial issuance of the certificate of registration; or

(2) this section as part of a prior renewal of a certificate of registration.

SECTION 9.025. The heading to Section 601.112, Occupations Code, is amended to read as follows:

Sec. 601.112. RENEWAL OF CERTIFICATE BY OUT-OF-STATE PERSON [PRACTITIONER].

SECTION 9.026. Section 601.112(b), Occupations Code, is amended to read as follows:

(b) The person must pay to the advisory board [department] a fee that is equal to two times the normally required renewal fee for the certificate.

SECTION 9.027. Section 601.154, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 601.154. HOSPITAL PROCEDURES. A person is not required to hold a certificate issued under this chapter to perform a radiologic procedure in a hospital if:

(1) the hospital participates in the federal Medicare program or is accredited by the Joint Commission on Accreditation of Hospitals; and

(2) the person has completed a training program approved by the advisory board [department] under Section 601.201.

SECTION 9.028. Section 601.156, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:
Sec. 601.156. PROCEDURE PERFORMED AS PART OF CONTINUING EDUCATION PROGRAM. A person is not required to hold a certificate issued under this chapter or to comply with the registration requirements adopted under Section 601.252 if the person is:

(1) licensed or otherwise registered as a medical radiologic technologist by another state, the American Registry of Radiologic Technologists, the American Registry of Clinical Radiography Technologists, or a professional organization or association recognized by the advisory board [department];

(2) enrolled in a continuing education program that meets the requirements adopted under Section 601.108; and

(3) performing a radiologic procedure as part of the continuing education program for not more than 10 days.

SECTION 9.029. Subchapter E, Chapter 601, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

SUBCHAPTER E. MANDATORY TRAINING FOR CERTAIN AUTHORIZED PERSONS

Sec. 601.201. MANDATORY TRAINING. (a) The minimum standards of the advisory board [department] for approval of a curriculum or an education program under Section 601.052 [601.053] must include mandatory training guidelines for a person, other than a practitioner or a medical radiologic technologist, who intentionally uses radiologic technology, including a person who does not hold a certificate issued under this chapter and who is performing a radiologic procedure at a hospital or under the direction of a practitioner, other than a dentist.

(b) The training program approved by the advisory board
must contain an appropriate number of hours of education that must be completed before the person may perform a radiologic procedure.

Sec. 601.202. REGISTRY. The advisory board [executive commissioner] by rule shall establish a registry of persons required to comply with this subchapter.

Sec. 601.203. HARDSHIP EXEMPTION. (a) On application to the advisory board [department] by a hospital, a federally qualified health center as defined by 42 U.S.C. Section 1396d, or a practitioner, the advisory board [department] shall exempt the applicant from the requirements of Section 601.201 in employing a person certified under this chapter or trained as required by Section 601.201 if the applicant shows a hardship in employing a person certified under this chapter or trained as required by Section 601.201.

(b) The following conditions are considered to be a hardship for the purposes of Subsection (a):

(1) that the applicant reports an inability to attract and retain medical radiologic technologists;

(2) that the applicant is located at a great distance from a school of medical radiologic technology;

(3) that there is a list of qualified persons who have applied to a school of medical radiologic technology whose admissions are pending because of a lack of faculty or space;

(4) that the school of medical radiologic technology produces an insufficient number of graduates in medical radiologic technology to meet the needs of the applicant; or
(5) any other criteria determined by advisory board rule.

SECTION 9.030. Chapter 601, Occupations Code, is amended by adding Subchapter F-1 to read as follows:

SUBCHAPTER F-1. COMPLAINTS AND INVESTIGATIVE INFORMATION

Sec. 601.271. COMPLAINT INFORMATION AND STATUS. (a) The advisory board shall maintain a system to promptly and efficiently act on complaints filed with the advisory board. The advisory board shall maintain:

(1) information about the parties to the complaint and the subject matter of the complaint;

(2) a summary of the results of the review or investigation of the complaint; and

(3) information about the disposition of the complaint.

(b) The advisory board shall make information available describing its procedures for complaint investigation and resolution.

(c) If a written complaint is filed with the advisory board relating to a certificate holder or a person approved under Section 601.054 or 601.055, the advisory board, as often as quarterly and until final determination of the action to be taken on the complaint, shall notify the parties to the complaint of the status of the complaint unless the notice would jeopardize an active investigation.

Sec. 601.272. CONDUCT OF INVESTIGATION. The advisory board shall complete a preliminary investigation of a complaint filed
with the advisory board not later than the 45th day after the date
of receiving the complaint. The advisory board shall first
determine whether the person constitutes a continuing threat to the
public welfare. On completion of the preliminary investigation,
the advisory board shall determine whether to officially proceed on
the complaint. If the advisory board fails to complete the
preliminary investigation in the time required by this section, the
advisory board's official investigation of the complaint is
considered to commence on that date.

Sec. 601.273. ACCESS TO COMPLAINT INFORMATION. (a) Except
as provided by Subsection (b), the advisory board shall provide a
person who is the subject of a formal complaint filed under this
chapter with access to all information in its possession that the
advisory board intends to offer into evidence in presenting its
case in chief at the contested hearing on the complaint, subject to
any other privilege or restriction established by rule, statute, or
legal precedent. The advisory board shall provide the information
not later than the 30th day after receipt of a written request from
the person or the person's counsel, unless good cause is shown for
delay.

(b) The advisory board is not required to provide:

(1) advisory board investigative reports;
(2) investigative memoranda;
(3) the identity of a nontestifying complainant;
(4) attorney-client communications;
(5) attorney work product; or
(6) other material covered by a privilege recognized
by the Texas Rules of Civil Procedure or the Texas Rules of Evidence.

(c) Providing information under this section does not constitute a waiver of privilege or confidentiality under this chapter or other law.

Sec. 601.274. HEALTH CARE ENTITY REQUEST FOR INFORMATION. On the written request of a health care entity, the advisory board shall provide to the entity:

(1) information about a complaint filed against a person that was resolved after investigation by:

(A) a disciplinary order of the advisory board; or

(B) an agreed settlement; and

(2) the basis of and current status of any complaint that has been referred by the executive director of the medical board for enforcement action.

Sec. 601.275. CONFIDENTIALITY OF INVESTIGATIVE INFORMATION. A complaint, adverse report, investigation file, other report, or other investigative information in the possession of or received or gathered by the advisory board, the medical board, or an employee or agent of the medical board relating to a certificate holder, a person approved under Section 601.054 or 601.055, an application for certification or approval, or a criminal investigation or proceeding is privileged and confidential and is not subject to discovery, subpoena, or other means of legal compulsion for release to any person other than the advisory board, the medical board, or an employee or agent of the
advisory board or medical board involved in discipline under this chapter. For purposes of this section, "investigative information" includes information related to the identity of a person performing or supervising compliance monitoring for the advisory board or medical board and a report prepared by the person related to compliance monitoring.

Sec. 601.276. PERMITTED DISCLOSURE OF INVESTIGATIVE INFORMATION. (a) Investigative information in the possession of the advisory board, the medical board, or an employee or agent of the medical board that relates to the discipline of a certificate holder or a person approved under Section 601.054 or 601.055, may be disclosed to:

(1) a licensing authority in another state or country in which the certificate holder or person is licensed, certified, or permitted or has applied for a license, certification, or permit; or

(2) a medical peer review committee reviewing:

(A) an application for privileges; or

(B) the qualifications of the certificate holder or person with respect to retaining privileges.

(b) If investigative information in the possession of the advisory board, the medical board, or an employee or agent of the medical board indicates that a crime may have been committed, the advisory board or medical board, as appropriate, shall report the information to the proper law enforcement agency. The advisory board and medical board shall cooperate with and assist each law enforcement agency conducting a criminal investigation of a
Confidential information disclosed to a law enforcement agency under this subsection remains confidential and may not be disclosed by the law enforcement agency except as necessary to further the investigation.

SECTION 9.031. Subchapter G, Chapter 601, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

SUBCHAPTER G. CERTIFICATE DENIAL AND DISCIPLINARY ACTION

Sec. 601.301. CERTIFICATE DENIAL AND DISCIPLINARY ACTION.

The advisory board [department] may, for a violation of this chapter or a rule adopted under this chapter:

(1) suspend, revoke, or refuse to renew a certificate;
(2) rescind approval of a curriculum, training program, or instructor;
(3) deny an application for certification or approval;
(4) issue a reprimand; or
(5) place the offender's certificate on probation and require compliance with a requirement of the advisory board [department], including requiring the offender to:
   (A) submit to medical or psychological treatment;
   (B) meet additional education requirements;
   (C) pass an examination; or
   (D) work under the supervision of a medical radiologic technologist or other practitioner.
Sec. 601.302. GROUNDS FOR CERTIFICATE DENIAL OR DISCIPLINARY ACTION. The advisory board [department] may take action under Section 601.301 against a person subject to this chapter for:

1. obtaining or attempting to obtain a certificate issued under this chapter by bribery or fraud;
2. making or filing a false report or record made in the person's capacity as a medical radiologic technologist;
3. intentionally or negligently failing to file a report or record required by law;
4. intentionally obstructing or inducing another to intentionally obstruct the filing of a report or record required by law;
5. engaging in unprofessional conduct, including the violation of the standards of practice of radiologic technology established by the advisory board [department];
6. developing an incapacity that prevents the practice of radiologic technology with reasonable skill, competence, and safety to the public as the result of:
   A. an illness;
   B. drug or alcohol dependency; or
   C. another physical or mental condition or illness;
7. failing to report to the advisory board [department] the violation of this chapter by another person;
8. employing, for the purpose of applying ionizing radiation to a person, a person who is not certified under or in
(9) violating this chapter, a rule adopted under this chapter, an order of the advisory board previously entered in a disciplinary proceeding, or an order to comply with a subpoena issued by the advisory board;

(10) having a certificate revoked, suspended, or otherwise subjected to adverse action or being denied a certificate by another certification authority in another state, territory, or country; or

(11) being convicted of or pleading nolo contendere to a crime directly related to the practice of radiologic technology.

Sec. 601.303. STUDENT PRACTICING WITHOUT DIRECT SUPERVISION. The advisory board may take disciplinary action against a student for intentionally practicing radiologic technology without direct supervision.

Sec. 601.304. ADMINISTRATIVE PROCEDURE. The procedure by which the advisory board takes a disciplinary action and the procedure by which a disciplinary action is appealed are governed by:

(1) advisory board rules for a contested case hearing; and


Sec. 601.305. SURRENDER OF CERTIFICATE [REINSTATEMENT].

(a) The advisory board may accept the voluntary surrender of a certificate. A person who has surrendered a certificate may not engage in activities that require a certificate, and the advisory board may not return the certificate to the person, until the person...
demonstrates to the satisfaction of the advisory board [subject to disciplinary action under Section 601.302(6) shall, at reasonable intervals, be given an opportunity to demonstrate] that the person is able to resume the practice of radiologic technology.

(b) The advisory board shall by rule establish guidelines for determining when a person is competent to resume [department may not reinstate a certificate to a holder or issue a certificate to an applicant previously denied a certificate unless the department is satisfied that the holder or applicant has complied with requirements set by the department and is capable of engaging in] the practice of radiologic technology.

Sec. 601.306. EMERGENCY SUSPENSION. (a) The presiding officer of the advisory board shall appoint a three-member disciplinary panel consisting of advisory board members to determine whether a certificate should be temporarily suspended.

(a-1) The disciplinary panel [department] shall temporarily suspend the certificate of a certificate holder if the panel [department] determines from the evidence or information presented to it that continued practice by the certificate holder would constitute a continuing [and imminent] threat to the public welfare.

(b) A certificate may be suspended under this section without notice or hearing on the complaint if:

(1) action is taken to initiate proceedings for a hearing before the advisory board [State Office of Administrative Hearings] simultaneously with the temporary suspension; and

(2) a hearing is held as soon as practicable under this

(c) Notwithstanding Chapter 551, Government Code, the disciplinary panel may hold a meeting by telephone conference call if immediate action is required and convening of the panel at one location is inconvenient for any member of the panel. The State Office of Administrative Hearings shall hold a preliminary hearing not later than the 14th day after the date of the temporary suspension to determine if there is probable cause to believe that a continuing and imminent threat to the public welfare still exists. A final hearing on the matter shall be held not later than the 61st day after the date of the temporary suspension.

Sec. 601.307. DELEGATION OF CERTAIN COMPLAINT DISPOSITIONS. (a) The advisory board may delegate to a committee of medical board employees the authority to dismiss or enter into an agreed settlement of a complaint that does not relate directly to patient care or that involves only administrative violations. The disposition determined by the committee must be approved by the advisory board at a public meeting.

(b) A complaint delegated under this section shall be referred for an informal proceeding under Section 601.311 if:

(1) the committee of employees determines that the complaint should not be dismissed or settled;

(2) the committee is unable to reach an agreed settlement; or

(3) the affected person requests that the complaint be referred for an informal proceeding.

Sec. 601.308. SUBPOENA. (a) The executive director of the
medical board, the director’s designee, or the secretary-treasurer of the medical board may issue a subpoena or subpoena duces tecum for the advisory board:

(1) to conduct an investigation or a contested proceeding related to:

(A) alleged misconduct by a certificate holder or a person approved under Section 601.054 or 601.055;

(B) an alleged violation of this chapter or other law related to radiologic technology; or

(C) the provision of health care under this chapter; or

(2) for purposes of determining whether to issue, suspend, restrict, or revoke a certificate or approval under this chapter.

(b) Failure to timely comply with a subpoena issued under this section is a ground for:

(1) disciplinary action by the advisory board or another licensing or regulatory agency with jurisdiction over the person subject to the subpoena; and

(2) denial of an application for certification or approval.

Sec. 601.309. PROTECTION OF PATIENT IDENTITY. In a disciplinary investigation or proceeding conducted under this chapter, the advisory board shall protect the identity of each patient whose medical records are examined and used in a public proceeding unless the patient:

(1) testifies in the public proceeding; or
Sec. 601.310. REQUIRED SUSPENSION OF LICENSE OF INCARCERATED CERTIFICATE HOLDER. Regardless of the offense, the advisory board shall suspend the certificate or approval of a person serving a prison term in a state or federal penitentiary during the term of the incarceration.

Sec. 601.311. INFORMAL PROCEEDINGS. (a) The advisory board by rule shall adopt procedures governing:

(1) informal disposition of a contested case under Section 2001.056, Government Code; and

(2) informal proceedings held in compliance with Section 2001.054, Government Code.

(b) Rules adopted under this section must require that:

(1) an informal meeting in compliance with Section 2001.054, Government Code, be scheduled and the advisory board give notice to the person who is the subject of a complaint of the time and place of the meeting not later than the 45th day before the date the meeting is held;

(2) the complainant and the person who is the subject of the complaint be provided an opportunity to be heard;

(3) at least one of the advisory board members participating in the informal meeting as a panelist be a member who represents the public;

(4) a member of the medical board's staff be at the meeting to present to the advisory board's representative the facts the staff reasonably believes it could prove by competent evidence.
or qualified witnesses at a hearing; and

(5) the advisory board's legal counsel or a representative of the attorney general be present to advise the advisory board or the medical board's staff.

(c) The person who is the subject of the complaint is entitled to:

(1) reply to the staff's presentation; and

(2) present the facts the person reasonably believes the person could prove by competent evidence or qualified witnesses at a hearing.

(d) After ample time is given for the presentations, the advisory board representative shall recommend that the investigation be closed or shall attempt to mediate the disputed matters and make a recommendation regarding the disposition of the case in the absence of a hearing under applicable law concerning contested cases.

(e) If the person who is the subject of the complaint has previously been the subject of disciplinary action by the advisory board, the advisory board shall schedule the informal meeting as soon as practicable.

Sec. 601.312. ADVISORY BOARD REPRESENTATION IN INFORMAL PROCEEDINGS. (a) In an informal meeting under Section 601.311, at least two panelists shall be appointed to determine whether an informal disposition is appropriate.

(b) Notwithstanding Subsection (a) and Section 601.311(b)(3), an informal proceeding may be conducted by one panelist if the person who is the subject of the complaint waives
the requirement that at least two panelists conduct the informal
proceeding. If the person waives that requirement, the panelist
may be any member of the advisory board.
(c) Except as provided by Subsection (d), the panel
requirements described by Subsections (a) and (b) apply to an
informal proceeding conducted by the advisory board under Section
601.311, including a proceeding to:
(1) consider a disciplinary case to determine if a
violation has occurred; or
(2) request modification or termination of an order.
(d) The panel requirements described by Subsections (a) and
(b) do not apply to an informal proceeding conducted by the advisory
board under Section 601.311 to show compliance with an order of the
advisory board.

Sec. 601.313. ROLES AND RESPONSIBILITIES OF PARTICIPANTS IN
INFORMAL PROCEEDINGS. (a) An advisory board member who serves as a
panelist at an informal meeting under Section 601.311 shall make
recommendations for the disposition of a complaint or
allegation. The member may request the assistance of a medical
board employee at any time.
(b) Medical board employees shall present a summary of the
allegations against the person who is the subject of the complaint
and of the facts pertaining to the allegation that the employees
reasonably believe may be proven by competent evidence at a formal
hearing.
(c) An attorney for the advisory board or medical board
shall act as counsel to the panel and, notwithstanding Subsection
(e), shall be present during the informal meeting and the panel's deliberations to advise the panel on legal issues that arise during the proceeding. The attorney may ask questions of a participant in the informal meeting to clarify any statement made by the participant. The attorney shall provide to the panel a historical perspective on comparable cases that have appeared before the advisory board or medical board, keep the proceedings focused on the case being discussed, and ensure that the medical board's employees and the person who is the subject of the complaint have an opportunity to present information related to the case. During the panel's deliberations, the attorney may be present only to advise the panel on legal issues and to provide information on comparable cases that have appeared before the advisory board or medical board.

(d) The panel and medical board employees shall provide an opportunity for the person who is the subject of the complaint and the person's authorized representative to reply to the medical board employees' presentation and to present oral and written statements and facts that the person and representative reasonably believe could be proven by competent evidence at a formal hearing.

(e) An employee of the medical board who participated in the presentation of the allegation or information gathered in the investigation of the complaint, the person who is the subject of the complaint, the person's authorized representative, the complainant, the witnesses, and members of the public may not be present during the deliberations of the panel. Only the members of the panel and the attorney serving as counsel to the panel may be
present during the deliberations.

(f) The panel shall recommend the dismissal of the complaint or allegations or, if the panel determines that the person has violated a statute or advisory board rule, the panel may recommend advisory board action and terms for an informal settlement of the case.

(g) The panel's recommendations under Subsection (f) must be made in a written order and presented to the affected person and the person's authorized representative. The person may accept the proposed settlement within the time established by the panel at the informal meeting. If the person rejects the proposed settlement or does not act within the required time, the advisory board may proceed with the filing of a formal complaint with the State Office of Administrative Hearings.

Sec. 601.314. LIMIT ON ACCESS TO INVESTIGATION FILES. The advisory board shall prohibit or limit access to an investigation file relating to a person subject to an informal proceeding in the manner provided by Sections 164.007(c) and 601.275.

Sec. 601.315. REFUND. (a) Subject to Subsection (b), the advisory board may order a certificate holder to pay a refund to a consumer as provided in an agreement resulting from an informal settlement conference instead of or in addition to imposing an administrative penalty under Subchapter H.

(b) The amount of a refund ordered as provided in an agreement resulting from an informal settlement conference may not exceed the amount the consumer paid to the certificate holder for a service regulated by this chapter. The advisory board may not
require payment of other damages or estimate harm in a refund order.

Sec. 601.316. EXPERT IMMUNITY. An expert who assists the advisory board is immune from suit and judgment and may not be subjected to a suit for damages for any investigation, report, recommendation, statement, evaluation, finding, or other action taken in the course of assisting the advisory board in a disciplinary proceeding. The attorney general shall represent the expert in any suit resulting from a service provided by the person in good faith to the advisory board.

SECTION 9.032. Section 601.351, Occupations Code, is amended to read as follows:

Sec. 601.351. IMPOSITION OF PENALTY. The advisory board [department] may impose an administrative penalty against a person who violates this chapter or a rule adopted under this chapter.

SECTION 9.033. Section 601.353(a), Occupations Code, is amended to read as follows:

(a) If, after investigating a possible violation and the facts surrounding that possible violation, the advisory board [department] determines that a violation occurred, the advisory board [department] shall give written notice of the violation to the person alleged to have committed the violation.

SECTION 9.034. Section 601.354, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 601.354. PENALTY TO BE PAID OR HEARING REQUESTED. (a) Not later than the 20th day after the date the person receives the notice, the person may:
(1) accept the [department's] determination, including the proposed administrative penalty; or
(2) make a written request for a hearing on that determination.

(b) If the person accepts the [department's] determination, the advisory board [department] by order shall approve the determination and impose the proposed penalty.

SECTION 9.035. Section 601.355, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 601.355. HEARING. (a) If the person timely requests a hearing, the advisory board [department] shall:

(1) set a hearing;
(2) give written notice of the hearing to the person; and
(3) designate a hearings examiner to conduct the hearing.

(b) The hearings examiner shall make findings of fact and conclusions of law and promptly issue to the advisory board [department] a proposal for decision as to the occurrence of the violation and the amount of any proposed administrative penalty.

SECTION 9.036. Section 601.356, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 601.356. DECISION BY ADVISORY BOARD [DEPARTMENT]. (a) Based on the findings of fact and conclusions of law and the recommendations of the hearings examiner, the advisory board
by order may determine that:

(1) a violation has occurred and may impose an administrative penalty; or

(2) a violation did not occur.

(b) The advisory board [department] shall give notice of the order to the person. The notice must include:

(1) separate statements of the findings of fact and conclusions of law;

(2) the amount of any penalty imposed; and

(3) a statement of the right of the person to judicial review of the order.

SECTION 9.037. Sections 601.357(b) and (c), Occupations Code, are amended to read as follows:

(b) Within the 30-day period, a person who acts under Subsection (a)(3) may:

(1) stay enforcement of the penalty by:

(A) paying the penalty to the court for placement in an escrow account; or

(B) giving to the court a supersedeas bond that is approved by the court for the amount of the penalty and that is effective until all judicial review of the order is final; or

(2) request the court to stay enforcement of the penalty by:

(A) filing with the court a sworn affidavit of the person stating that the person is financially unable to pay the penalty and is financially unable to give the supersedeas bond; and

(B) giving a copy of the affidavit to the
advisory board [department] by certified mail.

(c) If the advisory board [department] receives a copy of an affidavit as provided by Subsection (b)(2), the advisory board may file with the court a contest to the affidavit not later than the fifth day after the date the copy is received.

SECTION 9.038. Section 601.358, Occupations Code, is amended to read as follows:

Sec. 601.358. COLLECTION OF PENALTY. If the person does not pay the administrative penalty and the enforcement of the penalty is not stayed, the advisory board [department] may refer the matter to the attorney general for collection.

SECTION 9.039. Section 601.360(a), Occupations Code, is amended to read as follows:

(a) If, after judicial review, the administrative penalty is reduced or not imposed by the court, the court shall, after the judgment becomes final:

(1) order the appropriate amount, plus accrued interest, be remitted to the person by the advisory board [department] if the person paid the penalty under Section 601.357(a)(2); or

(2) if the person paid the penalty under Section 601.357(b)(1)(A) or posted a supersedeas bond, order the advisory board [department] to:

(A) execute a complete release of the escrow account or bond, as appropriate, if the penalty is not imposed; or

(B) release the escrow account or bond, as appropriate, after the reduced penalty has been paid from the
SECTION 9.040. Section 601.361, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 601.361. EXPENSES AND COSTS. (a) In this section, "reasonable expenses and costs" includes expenses incurred by the advisory board [department] and the attorney general in the investigation, initiation, or prosecution of an action, including reasonable investigative costs, court costs, attorney's fees, witness fees, and deposition expenses.

(b) The advisory board [department] may assess reasonable expenses and costs against a person in an administrative hearing if, as a result of the hearing, an administrative penalty is assessed against the person. The person shall pay expenses and costs assessed under this subsection not later than the 30th day after the date the order of the advisory board [department] requiring the payment of expenses and costs is final. The advisory board [department] may refer the matter to the attorney general for collection of the expenses and costs.

(c) If the attorney general brings an action against a person to enforce an administrative penalty assessed under this chapter and the person is found liable for an administrative penalty, the attorney general may recover, on behalf of the attorney general and the advisory board [department], reasonable expenses and costs.

SECTION 9.041. Sections 601.401(a) and (c), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular
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Session, 2015, are amended to read as follows:

(a) If it appears that a person has violated, is violating, or is threatening to violate this chapter or a rule adopted under this chapter, the advisory board [department] may bring an action to enjoin the continued or threatened violation.

(c) At the request of the advisory board [department], the attorney general shall bring an action in the name of the state for the injunctive relief, to recover the civil penalty, or both.

SECTION 9.042. Section 601.402(a), Occupations Code, is amended to read as follows:

(a) A person who is required to be certified under this chapter commits an offense if the person:

(1) knowingly administers a radiologic procedure to another person without holding a valid certificate issued by the advisory board [department];

(2) practices radiologic technology without holding a certificate under this chapter;

(3) uses or attempts to use a suspended or revoked certificate;

(4) knowingly allows a student enrolled in an education program to perform a radiologic procedure without direct supervision;

(5) obtains or attempts to obtain a certificate through bribery or fraudulent misrepresentation;

(6) uses the title or name "certified medical radiologic technologist" or any other name or title that implies the person is certified to practice radiologic technology, unless
the person is certified under this chapter;

(7) knowingly conceals information relating to enforcement of this chapter or a rule adopted under this chapter; or

(8) employs a person not certified by or in compliance with this chapter for the purpose of applying ionizing radiation to a person.

SECTION 9.043. Section 602.002, Occupations Code, is amended by amending Subdivision (1), as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, amending Subdivision (4), and adding Subdivision (5-a) to read as follows:

(1) "Advisory committee" ["Board"] means the Medical Physicist [Texas Board of Licensure Advisory Committee [for Professional Medical Physicists]].

(4) "License" means a certificate issued by the medical board that authorizes the holder to engage in the practice of medical physics.

(5-a) "Medical board" means the Texas Medical Board.

SECTION 9.044. The heading to Subchapter B, Chapter 602, Occupations Code, is amended to read as follows:

SUBCHAPTER B. MEDICAL PHYSICIST [TEXAS BOARD OF LICENSURE ADVISORY COMMITTEE [FOR PROFESSIONAL MEDICAL PHYSICISTS]]

SECTION 9.045. Section 602.051, Occupations Code, is amended to read as follows:

Sec. 602.051. ADVISORY COMMITTEE [BOARD]. (a) The advisory committee [Texas Board of Licensure for Professional Medical Physicists] is an informal advisory committee to the medical board and is not subject to Chapter 2110, Government Code [the division of
the department responsible for regulating the practice of medical physics].

(b) The advisory committee has no independent rulemaking authority.

SECTION 9.046. The heading to Section 602.052, Occupations Code, is amended to read as follows:

Sec. 602.052. APPOINTMENT OF ADVISORY COMMITTEE [BOARD MEMBERS].

SECTION 9.047. Sections 602.052(a) and (d), Occupations Code, are amended to read as follows:

(a) The advisory committee [board] consists of seven [nine] members appointed by the president of the medical board [governor with the advice and consent of the senate] as follows:

(1) four [five licensed] medical physicists licensed in this state who each have at least five years of experience as a medical physicist [, with at least one board certified representative of each of the following specialties:

[(4A) diagnostic radiological physics;
[(4B) medical health physics;
[(4C) medical nuclear physics; and
[(4D) therapeutic radiological physics];

(2) two [three] physicians licensed in this state who each have at least five years of clinical experience related to medical physics [, with a board certified representative of each of the following specialties:

[(4A) diagnostic radiology;
[(4B) nuclear medicine; and
[(C) radiation therapy]; and

(3) one member who represents the public.

(d) Appointments to the advisory committee [board] shall be made without regard to the race, color, disability, creed, sex, religion, age, or national origin of the appointee.

SECTION 9.048. The heading to Section 602.053, Occupations Code, is amended to read as follows:

Sec. 602.053. PUBLIC MEMBER [BOARD MEMBERSHIP;]

ELIGIBILITY.

SECTION 9.049. Section 602.053(d), Occupations Code, is amended to read as follows:

(d) An advisory committee [public] member representing the public must be a resident of this [the] state for a period of not less than four years preceding appointment. A person may not be a [public] member of the advisory committee representing the public [board] if the person or the person's spouse:

(1) is registered, certified, or licensed by a regulatory agency in a health care profession [the field of medical physics];

(2) is employed by or participates in the management of a business entity or other organization regulated by or receiving money from the medical board;

(3) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by or receiving money from the medical board; or

(4) uses or receives a substantial amount of tangible
goods, services, or money from the medical board other than compensation or reimbursement authorized by law for medical board membership, attendance, or expenses.

SECTION 9.050. Sections 602.054(b) and (c), Occupations Code, are amended to read as follows:

(b) A person may not be a member of the advisory committee [board] if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of medicine; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of medicine.

(c) A person may not serve as a member of the advisory committee [board] if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the advisory committee or medical board.

SECTION 9.051. Section 602.055, Occupations Code, is amended to read as follows:

Sec. 602.055. TERMS; VACANCY. (a) Members of the advisory committee [board] serve two-year [staggered six-year] terms. The terms of the [three] members expire on February 1 of each odd-numbered year.

(b) A person is not eligible to serve more than two [one] consecutive full terms [six-year term]. [A person may serve consecutively one six-year term and a shorter term that arises because of filling an unexpired vacancy.]
(c) If a vacancy occurs during a member's term [on the board], the president of the medical board [governor] shall appoint a person to serve for the unexpired term.

SECTION 9.052. Sections 602.056(a) and (b), Occupations Code, are amended to read as follows:

(a) It is a ground for removal from the advisory committee [board] that a member:

(1) does not have at the time of appointment the qualifications required by Section 602.052 [602.053] for appointment to the board;

(2) does not maintain during service on the board the qualifications required by Section 602.052 [602.053] for appointment to the board;

(3) is ineligible for membership under Section 602.053(d) or Section 602.054; or

(4) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term;

(5) does not attend at least half of the regularly scheduled board meetings held in a calendar year, excluding meetings held while the person was not a board member, without an excuse approved by the board].

(b) The validity of an [board] action of the advisory committee is not affected by the fact that it is taken while a ground for removal of a member of the advisory committee [board] exists [is not invalid for that reason].

SECTION 9.053. Section 602.057, Occupations Code, is
amended to read as follows:

Sec. 602.057. COMPENSATION. A member of the advisory committee [board] is entitled to a per diem in an amount set by the legislature for each day that the member engages in the business of the advisory committee [board].

SECTION 9.054. Section 602.058, Occupations Code, is amended to read as follows:

Sec. 602.058. ADVISORY COMMITTEE [BOARD] OFFICERS;
MEETINGS. (a) The president of the medical board [governor] shall biennially designate a member of the advisory committee [board] as the presiding officer of the advisory committee [board] to serve in that capacity at the will of the president [governor]. The advisory committee may [At the first regularly scheduled meeting of each calendar year, the board shall] elect from its members additional officers as necessary [an assistant presiding officer].

(b) The advisory committee [board] shall meet as requested by the medical board. A meeting may be held by telephone conference call [held a meeting at least once a year and at other times in accordance with board rule].

SECTION 9.055. The heading to Subchapter D, Chapter 602, Occupations Code, is amended to read as follows:

SUBCHAPTER D. MEDICAL BOARD POWERS AND DUTIES

SECTION 9.056. Section 602.151, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 602.151. GENERAL POWERS AND DUTIES. The medical board shall:
(1) adopt [and revise, with the approval of the executive commissioner of the Health and Human Services Commission,] rules reasonably necessary to properly perform its duties under this chapter;

(2) establish [adopt an official seal;]

(3) determine the qualifications for a medical physicist to practice in this state [and fitness of each applicant for a license or licence renewal];

(3) establish minimum education and training requirements necessary for a license under this chapter;

(4) establish requirements for [charge a fee for processing and issuing or renewing a license;]

(5) conduct examinations for licensure;

(5) prescribe the application form for a license under this chapter; and

(6) [issue, deny, renew, revoke, and suspend licenses;]

(7) adopt and publish a code of ethics[

(8) conduct hearings on complaints concerning violations of this chapter or rules adopted under this chapter].

SECTION 9.057. Section 602.152, Occupations Code, is amended to read as follows:

Sec. 602.152. CONSUMER INTEREST INFORMATION; COMPLAINTS.

(a) The medical board shall prepare information of consumer interest describing the regulatory functions of the medical board and the procedures by which complaints are filed with and resolved by the medical board.

(b) The medical board shall maintain a file on each written
complaint filed with the **medical** board. The file must include:

1. the name of the person who filed the complaint;
2. the date the complaint is received by the **medical** board;
3. the subject matter of the complaint;
4. the name of each person contacted in relation to the complaint;
5. a summary of the results of the review or investigation of the complaint; and
6. an explanation of the reason the file was closed, if the **medical** board closed the file without taking action other than to investigate the complaint.

(c) The **medical** board shall provide to the person filing the complaint and to each person who is a subject of the complaint a copy of the **medical** board's policies and procedures relating to complaint investigation and resolution.

(d) The **medical** board, at least quarterly until final disposition of the complaint, shall notify the person filing the complaint and each person who is a subject of the complaint of the status of the complaint unless the notice would jeopardize an undercover investigation.

SECTION 9.058. Section 602.1521, Occupations Code, is amended to read as follows:

Sec. 602.1521. PUBLIC PARTICIPATION. The **medical** board shall develop and implement policies that provide the public with a reasonable opportunity to appear before the **medical** board and to speak on any issue relating to medical physicists [under the
The heading to Section 602.1525, Occupations Code, is amended to read as follows:

Sec. 602.1525. SUBPOENAS; CONFIDENTIALITY OF INFORMATION.

SECTION 9.060. Section 602.1525, Occupations Code, is amended by amending Subsection (a), as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, amending Subsections (h) and (i), and adding Subsection (a-1) to read as follows:

(a) The executive director of the medical board, the director's designee, or the secretary-treasurer of the medical board may issue [In an investigation of a complaint filed with the board, the board may request that the commissioner or the commissioner's designee approve the issuance of] a subpoena or subpoena duces tecum:

(1) to conduct an investigation or a contested case proceeding related to:

(A) alleged misconduct by a medical physicist;

(B) an alleged violation of this chapter or another law related to the practice of medical physics; or

(C) the provision of health care under this chapter; or

(2) for purposes of determining whether to issue, suspend, restrict, or revoke a license under this chapter[. If the request is approved, the board may issue a subpoena to compel the attendance of a relevant witness or the production, for inspection or copying, of relevant evidence that is in this state].

(a-1) Failure to timely comply with a subpoena issued under
this section is a ground for:

(1) disciplinary action by the medical board or another licensing or regulatory agency with jurisdiction over the person subject to the subpoena; and

(2) denial of a license application.

(h) All information and materials subpoenaed or compiled by the medical board in connection with a complaint and investigation are confidential and not subject to disclosure under Chapter 552, Government Code, and not subject to disclosure, discovery, subpoena, or other means of legal compulsion for their release to anyone other than the medical board or its agents or employees who are involved in discipline of the holder of a license, except that this information may be disclosed to:

(1) persons involved with the medical board in a disciplinary action against the holder of a license;

(2) professional medical physics licensing or disciplinary boards in other jurisdictions;

(3) peer assistance programs approved by the medical board under Chapter 467, Health and Safety Code;

(4) law enforcement agencies; and

(5) persons engaged in bona fide research, if all individual-identifying information has been deleted.

(i) The filing of formal charges by the medical board against a holder of a license, the nature of those charges, disciplinary proceedings of the medical board, and final disciplinary actions, including warnings and reprimands, by the medical board are not confidential and are subject to disclosure in
accompany with Chapter 552, Government Code.

SECTION 9.061. Section 602.153, Occupations Code, is amended to read as follows:

Sec. 602.153. CONTINUING EDUCATION. The medical board shall recognize, prepare, or administer continuing education programs for persons licensed under this chapter [by the board]. A license holder must participate in the programs to the extent required by the medical board to keep the person's license.

SECTION 9.062. Section 602.154, Occupations Code, is amended to read as follows:

Sec. 602.154. RULES RELATING TO ADVERTISING OR COMPETITIVE BIDDING. (a) The medical board may not adopt rules restricting advertising or competitive bidding by a license holder except to prohibit false, misleading, or deceptive practices.

(b) In its rules to prohibit false, misleading, or deceptive practices, the medical board may not include a rule that:

(1) restricts the use of any medium for advertising;

(2) restricts the use of a license holder's personal appearance or voice in an advertisement;

(3) relates to the size or duration of an advertisement by the license holder; or

(4) restricts the license holder's advertisement under a trade name.

SECTION 9.063. Subchapter D, Chapter 602, Occupations Code, is amended by adding Section 602.156 to read as follows:

Sec. 602.156. RULES ON CONSEQUENCES OF CRIMINAL CONVICTION. The medical board shall adopt rules and guidelines as necessary to
comply with Chapter 53, except to the extent the requirements of this chapter are stricter than the requirements of Chapter 53.

SECTION 9.064. Section 602.203, Occupations Code, is amended to read as follows:

Sec. 602.203. LICENSE APPLICATION. (a) A person may apply for a license by filing an application with the medical board.

(b) An application must be on a form prescribed by the medical board and must include:

(1) evidence of relevant work experience, including a description of the duties performed;

(2) an official transcript from the college or university granting the applicant's degree;

(3) a statement of the medical physics specialty for which the application is submitted;

(4) three professional references; and

(5) any additional information required by medical board rule.

(c) The applicant must submit with the application the fee prescribed by the medical board.

(d) The medical board [or the executive secretary] may require an applicant to appear before the medical board [or secretary] to present additional information in support of the application.

SECTION 9.065. Section 602.205, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 602.205. TEMPORARY LICENSE. The medical board may
issue a temporary license to an applicant who has satisfied the educational requirements for a license but who has not yet completed the experience and examination requirements of Section 602.207. A temporary license is valid for one year from the date of issuance.

SECTION 9.066. Section 602.206(a), Occupations Code, is amended to read as follows:

(a) The medical board shall administer a written examination for a license to qualified applicants at least two times each year.

SECTION 9.067. Section 602.207(a), Occupations Code, is amended to read as follows:

(a) To be eligible to take an examination for a license, an applicant must:

(1) have a master's or doctoral degree from an accredited college or university that signifies the completion of courses approved by the medical board in physics, medical physics, biophysics, radiological physics, medical health physics, or equivalent courses;

(2) have demonstrated, to the medical board's satisfaction, completion of at least two years of full-time work experience in the five years preceding the date of application in the medical physics specialty for which application is made; and

(3) submit a completed application as required by Section 602.203.

SECTION 9.068. Section 602.208, Occupations Code, is amended to read as follows:
Sec. 602.208. EXAMINATION RESULTS; REEXAMINATION. (a) The medical board shall notify each examinee of the results of the examination not later than the 30th day after the date the examination is administered. If an examination is graded or reviewed by a national or state testing service, the medical board shall notify each examinee of the results of the examination not later than the 14th day after the date the medical board receives the results from the testing service.

(b) If the medical board learns that the notice of the examination results will be delayed for more than 90 days after the examination date, the medical board shall notify each examinee of the reason for the delay not later than the 90th day.

(c) If requested by a person who fails the examination, the medical board shall provide to the person an analysis of the person's performance on the examination.

(d) The medical board by rule shall establish procedures and requirements for reexamination of an applicant who fails the examination.

SECTION 9.069. Subchapter E, Chapter 602, Occupations Code, is amended by adding Section 602.2081 to read as follows:

Sec. 602.2081. CRIMINAL HISTORY RECORD INFORMATION REQUIREMENT FOR LICENSE. (a) The medical board shall require that an applicant for a license submit a complete and legible set of fingerprints, on a form prescribed by the medical board, to the medical board or to the Department of Public Safety for the purpose of obtaining criminal history record information from the Department of Public Safety and the Federal Bureau of
Investigation.

(b) The medical board may not issue a license to a person who does not comply with the requirement of Subsection (a).

(c) The medical board shall conduct a criminal history check of each applicant for a license using information:

(1) provided by the individual under this section; and

(2) made available to the medical board by the Department of Public Safety, the Federal Bureau of Investigation, and any other criminal justice agency under Chapter 411, Government Code.

(d) The medical board may:

(1) enter into an agreement with the Department of Public Safety to administer a criminal history check required under this section; and

(2) authorize the Department of Public Safety to collect from each applicant the costs incurred by the Department of Public Safety in conducting the criminal history check.

SECTION 9.070. Sections 602.209(a), (b), (c), and (e), Occupations Code, are amended to read as follows:

(a) The medical board may issue a license to an eligible applicant who:

(1) passes the examination under Section 602.206; and

(2) meets all other license requirements.

(b) Not later than the 30th day after the date the medical board makes a decision on an application submitted under Section 602.203, the medical board shall notify the applicant of the decision.
(c) If the medical board approves the application, the medical board shall issue a license to the applicant. If the medical board denies the application, the medical board shall include in the notice of decision a description of the areas of deficiency.

(e) A license certificate is the medical board's property and must be surrendered on demand.

SECTION 9.071. Section 602.210, Occupations Code, is amended by amending Subsections (b), (c), (d), (e), and (f) and adding Subsection (g) to read as follows:

(b) The medical board by rule may adopt a system under which licenses expire on various dates during the year.

(c) A person may renew an unexpired license by paying the required renewal fee to the medical board before the expiration date of the license.

(d) If a person's license has been expired for 90 days or less, the person may renew the license by paying to the medical board the required renewal fee and a penalty fee in an amount equal to one-half of the amount of the renewal fee.

(e) If a person's license has been expired for longer than 90 days but less than one year [two years], the person may renew the license by paying to the medical board the renewal fee that was due at expiration and a penalty fee in an amount equal to the amount of the renewal fee.

(f) If a person's license has been expired for one year [two years] or longer, the person may not renew the license. To obtain a new license, a person must comply with the requirements and
procedures for obtaining an original license, including the examination requirement [application requirements of this chapter and must submit to the board:

[(1) a supplemental experience record as required by the board;

[(2) a description of professional activities undertaken during the expiration period;

[(3) a list of current professional references; and

[(4) a transcript for any degree or college credit earned since the person’s previous license application].

(g) Not later than the 30th day before the date a person's license expires, the medical board shall send written notice of the impending license expiration to the person at the license holder's last known address according to the records of the medical board.

SECTION 9.072. Subchapter E, Chapter 602, Occupations Code, is amended by adding Section 602.2101 to read as follows:

Sec. 602.2101. CRIMINAL HISTORY RECORD INFORMATION REQUIREMENT FOR RENEWAL. (a) An applicant renewing a license shall submit a complete and legible set of fingerprints for purposes of performing a criminal history check of the applicant as provided by Section 602.2081.

(b) The medical board may not renew the license of a person who does not comply with the requirement of Subsection (a).

(c) A license holder is not required to submit fingerprints under this section for the renewal of the license if the license holder has previously submitted fingerprints under:

(1) Section 602.2081 for the initial issuance of the
license; or

(2) this section as part of a prior renewal of the license.

SECTION 9.073. Section 602.211, Occupations Code, is amended to read as follows:

Sec. 602.211. LICENSE BY ENDORSEMENT OR RECIPROCITY. (a) On receipt of an application and fee under Section 602.203, the medical board may waive any prerequisite for obtaining a license to a person who holds a license to practice medical or radiological physics in another state, territory, or jurisdiction acceptable to the medical board that has requirements for the licensing of medical or radiological physicists that are substantially the same as the requirements of this chapter.

(b) The medical board may waive any prerequisite for obtaining a license to practice medical physics in this state for an applicant who holds a license issued by another jurisdiction with which this state has a reciprocity agreement. The medical board may make an agreement, subject to the approval of the governor, with another state to allow for licensing by reciprocity.

SECTION 9.074. Section 602.212, Occupations Code, is amended to read as follows:

Sec. 602.212. LICENSE HOLDER DUTIES. A license holder shall:

(1) publicly display the license holder's license in an appropriate manner; and

(2) report immediately to the medical board any change in the license holder's address.
SECTION 9.075. Section 602.213, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 602.213. PROVISIONAL LICENSE. (a) The medical board may issue a provisional license to an applicant currently licensed or certified in another jurisdiction who seeks a license in this state and who:

(1) has been licensed or certified in good standing as a practitioner of medical or radiologic physics for at least two years in another jurisdiction, including a foreign country, that has licensing or certification requirements substantially equivalent to the requirements of this chapter;

(2) has passed a national or other examination recognized by the medical board relating to the practice of medical or radiologic physics; and

(3) is sponsored by a person licensed by the medical board under this chapter with whom the provisional license holder will practice during the time the person holds a provisional license.

(b) The medical board may waive the requirement of Subsection (a)(3) for an applicant if the medical board determines that compliance with that subsection would be a hardship to the applicant.

(c) A provisional license is valid until the date the medical board approves or denies the provisional license holder's application for a license. The medical board shall issue a license under this chapter to the provisional license holder if:
(1) the provisional license holder is eligible to be certified under Section 602.211; or
(2) the provisional license holder passes the part of the examination under Section 602.206 that relates to the applicant's knowledge and understanding of the laws and rules relating to the practice of medical physics in this state and:
(A) the medical board verifies that the provisional license holder meets the academic and experience requirements for a license under this chapter; and
(B) the provisional license holder satisfies any other licensing requirements under this chapter.
(d) The medical board must approve or deny a provisional license holder's application for a license not later than the 180th day after the date the provisional license is issued. The medical board may extend the 180-day period if the results of an examination have not been received by the medical board before the end of that period.
(e) The medical board may establish a fee for provisional licenses.

SECTION 9.076. Section 602.251, Occupations Code, is amended to read as follows:
Sec. 602.251. GROUNDS FOR LICENSE DENIAL OR DISCIPLINARY ACTION. The medical board shall refuse to issue or renew a license, suspend or revoke a license, or reprimand a license holder for:
(1) obtaining or renewing a license by means of fraud, misrepresentation, or concealment of a material fact;
(2) having previously applied for or held a license
issued by the licensing authority of another state, territory, or jurisdiction that was denied, suspended, or revoked by that licensing authority;

(3) engaging in unprofessional conduct that endangered or is likely to endanger the health, safety, or welfare of the public as defined by medical board rule;

(4) violating this chapter, a lawful order or rule of the medical board, or the medical board's code of ethics; or

(5) being convicted of:

(A) a felony; or

(B) a misdemeanor involving moral turpitude or that directly relates to the person's duties as a licensed medical physicist.

SECTION 9.077. Section 602.252, Occupations Code, is amended to read as follows:

Sec. 602.252. ADMINISTRATIVE PROCEDURE. Chapters 2001 and 2002, Government Code, and medical board rules for a contested hearing apply to a proceeding by the medical board under this subchapter.

SECTION 9.078. Subchapter F, Chapter 602, Occupations Code, is amended by adding Section 602.2521 to read as follows:

Sec. 602.2521. INFORMAL PROCEDURES. (a) The medical board by rule shall adopt procedures governing:

(1) informal disposition of a contested case under Section 2001.056, Government Code; and

(2) informal proceedings held in compliance with Section 2001.054, Government Code.
(b) Rules adopted under Subsection (a) must:

(1) provide the complainant, if applicable and permitted by law, an opportunity to be heard;

(2) provide the license holder an opportunity to be heard; and

(3) require the medical board's legal counsel or a representative of the attorney general to be present to advise the medical board or the medical board's employees.

SECTION 9.079. Section 602.253, Occupations Code, is amended to read as follows:

Sec. 602.253. PROBATION. The medical board may place on probation a person whose license is suspended. If a license suspension is probated, the medical board may require the person to:

(1) report regularly to the medical board on matters that are the basis of the probation;

(2) limit practice to the areas prescribed by the medical board; or

(3) continue or review professional education until the person attains a degree of skill satisfactory to the medical board in those areas that are the basis of the probation.

SECTION 9.080. Section 602.254(a), Occupations Code, is amended to read as follows:

(a) The medical board or a three-member panel of medical board members designated by the president of the medical board shall temporarily suspend the license of a license holder if the medical board or panel determines from the evidence
or information presented to it that continued practice by the
license holder would constitute a continuing and imminent threat to
the public welfare.

SECTION 9.081. Section 602.301, Occupations Code, is
amended to read as follows:
Sec. 602.301. INJUNCTION. The medical board shall
prosecute or file suit to enjoin a violation of this chapter or a
rule adopted under this chapter.

SECTION 9.082. Section 602.3015, Occupations Code, is
amended to read as follows:
Sec. 602.3015. CIVIL PENALTY. (a) A person who violates
this chapter or a rule adopted or order issued under this chapter is liable for a civil penalty not to
exceed $5,000 a day.
(b) At the request of the medical board, the attorney
general shall bring an action to recover a civil penalty authorized
under this section.

SECTION 9.083. Sections 602.351(a), (e), (g), (h), (i),
(j), (k), and (l), Occupations Code, are amended to read as follows:
(a) The medical board may impose an administrative penalty
on a person licensed under this chapter who violates this chapter or
a rule adopted or order issued under this chapter. A
penalty collected under this subchapter shall be deposited in the
state treasury in the general revenue fund.
(e) If the medical board determines that a violation occurred, the medical board shall give written notice
of the report by certified mail to the

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person.

(g) Within 20 days after the date the person receives the notice under Subsection (e), the person in writing may:

1. accept the determination and recommended penalty [of the executive secretary]; or
2. make a request for a hearing on the occurrence of the violation, the amount of the penalty, or both.

(h) If the person accepts the determination and recommended penalty or if the person fails to respond to the notice, the medical board by order shall approve the determination and impose the recommended penalty.

(i) If the person requests a hearing, the medical board shall refer the matter to the State Office of Administrative Hearings, which shall promptly set a hearing date and give written notice of the time and place of the hearing to the person. An administrative law judge of the State Office of Administrative Hearings shall conduct the hearing.

(j) The administrative law judge shall make findings of fact and conclusions of law and promptly issue to the medical board a proposal for a decision about the occurrence of the violation and the amount of a proposed penalty.

(k) Based on the findings of fact, conclusions of law, and proposal for a decision, the medical board by order may determine that:

1. a violation occurred and impose a penalty; or
2. a violation did not occur.

(l) The notice of the medical board's order under Subsection
(k) that is sent to the person in accordance with Chapter 2001, Government Code, must include a statement of the right of the person to judicial review of the order.

SECTION 9.084. Sections 602.352(a), (b), and (c), Occupations Code, are amended to read as follows:

(a) Within 30 days after the date an order of the medical board under Section 602.351(k) that imposes an administrative penalty becomes final, the person shall:

(1) pay the penalty; or

(2) file a petition for judicial review of the medical board's order contesting the occurrence of the violation, the amount of the penalty, or both.

(b) Within the 30-day period prescribed by Subsection (a), a person who files a petition for judicial review may:

(1) stay enforcement of the penalty by:

(A) paying the penalty to the court for placement in an escrow account; or

(B) giving the court a supersedeas bond approved by the court that is:

(i) for the amount of the penalty; and

(ii) effective until all judicial review of the medical board's order is final; or

(2) request the court to stay enforcement of the penalty by:

(A) filing with the court a sworn affidavit of the person stating that the person is financially unable to pay the penalty and is financially unable to give the supersedeas bond; and
(B) sending a copy of the affidavit to the medical board by certified mail.

(c) If the medical board receives a copy of an affidavit under Subsection (b)(2), the medical board may file with the court, within five days after the date the copy is received, a contest to the affidavit. The court shall hold a hearing on the facts alleged in the affidavit as soon as practicable and shall stay the enforcement of the penalty on finding that the alleged facts are true. The person who files an affidavit has the burden of proving that the person is financially unable to pay the penalty or to give a supersedeas bond.

SECTION 9.085. Sections 603.002(2) and (3), Occupations Code, are amended to read as follows:

(2) "Advisory committee" ["Committee"] means the [Texas State] Perfusionist Licensure Advisory Committee.

(3) "Medical board" ["Department"] means the Texas Medical Board [Department of State Health Services].

SECTION 9.086. Section 603.006, Occupations Code, is amended to read as follows:

Sec. 603.006. APPLICABILITY OF OTHER LAW. Chapter 2110, Government Code, does not apply to the advisory committee.

SECTION 9.087. The heading to Subchapter B, Chapter 603, Occupations Code, is amended to read as follows:

SUBCHAPTER B. [TEXAS STATE] PERFUSIONIST LICENSURE ADVISORY COMMITTEE

SECTION 9.088. Section 603.051, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
Sec. 603.051. ADVISORY COMMITTEE MEMBERSHIP. (a) The advisory committee is an informal advisory committee to the medical board. The advisory committee has no independent rulemaking authority.

(a-1) The advisory committee [Texas State Perfusionist Advisory Committee] consists of seven [five] members appointed by the president of the medical board [commissioner] as follows:

(1) four perfusionists licensed in this state [two licensed perfusionist members] who each have [been licensed under this chapter for] at least five [three] years of experience as a perfusionist [before the date of appointment];

(2) two physicians [one physician member] licensed in this state [by the Texas Medical Board] who supervise perfusionists [is certified by that board in cardiovascular surgery]; and

(3) one member [two members] who represents [represent] the public.

(b) Appointments to the advisory committee shall reflect the historical and cultural diversity of the inhabitants of this state.

(c) Appointments to the advisory committee shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.

SECTION 9.089. Section 603.0511, Occupations Code, is amended to read as follows:

Sec. 603.0511. PUBLIC MEMBER ELIGIBILITY [OF PUBLIC MEMBERS]. A person may not be a public member of the advisory
committee if the person or the person's spouse:

(1) is registered, certified, or licensed by a regulatory agency in a [the field of] health care profession;

(2) is employed by or participates in the management of a business entity or other organization regulated by or receiving money from the medical board [department];

(3) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by or receiving money from the medical board [department]; or

(4) uses or receives a substantial amount of tangible goods, services, or money from the medical board [department] other than compensation or reimbursement authorized by law for advisory committee membership, attendance, or expenses.

SECTION 9.090. Sections 603.052(b) and (c), Occupations Code, are amended to read as follows:

(b) A person may not be an advisory [a] committee member [and may not be a department employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.)] if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of health care; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of health care.
(c) A person may not be a member of the advisory committee or act as the general counsel to the advisory committee [or the department] if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the advisory committee or medical board [department].

SECTION 9.091. Section 603.053, Occupations Code, is amended to read as follows:

Sec. 603.053. TERMS; VACANCY. (a) Members of the advisory committee serve two-year [staggered six-year] terms. The terms of the [one or two] members [, as appropriate,] expire on February 1 of each odd-numbered year.

(b) If a vacancy occurs during a member’s term, the president of the medical board shall appoint a person to serve for the unexpired term.

SECTION 9.092. Sections 603.054(a) and (b), Occupations Code, are amended to read as follows:

(a) It is a ground for removal from the advisory committee that a member:

(1) does not have at the time of taking office the qualifications required by Section 603.051;

(2) does not maintain during service on the advisory committee the qualifications required by Section 603.051;

(3) is ineligible for membership under Section 603.051 or 603.052; or

(4) cannot, because of illness or disability,
discharge the member's duties for a substantial part of the member's term [; or
(5) is absent from more than half of the regularly scheduled committee meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the committee].

(b) The validity of an action of the advisory committee is not affected by the fact that it is taken when a ground for removal of a member of the advisory committee exists.

SECTION 9.093. Section 603.056, Occupations Code, is amended to read as follows:

Sec. 603.056. OFFICERS. (a) The president of the medical board [Not later than the 30th day after the date the commissioner appoints new committee members, the commissioner] shall designate biennially an advisory committee member as the [a] presiding officer of the advisory committee to serve in that capacity at the will of the president. [The presiding officer serves at the pleasure of the commissioner.]

(b) The advisory committee may appoint additional officers as necessary.

SECTION 9.094. Section 603.057, Occupations Code, is amended to read as follows:

Sec. 603.057. MEETINGS. The advisory committee shall meet as requested by the medical board [subject to the call of the commissioner]. A meeting may be held by telephone conference call.

SECTION 9.095. The heading to Subchapter D, Chapter 603, Occupations Code, is amended to read as follows:
SUBCHAPTER D. MEDICAL BOARD POWERS AND DUTIES

SECTION 9.096. Section 603.151, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 603.151. GENERAL POWERS AND DUTIES [OF DEPARTMENT]. The medical board [department] shall:

(1) establish the qualifications for a perfusionist to practice in this state [and fitness of applicants for licenses, including renewed and reciprocal licenses];

(2) establish requirements for an examination for a license under this chapter [revoke, suspend, or deny a license, probate a license suspension, or reprimand a license holder for a violation of this chapter, a rule adopted by the executive commissioner under this chapter, or the code of ethics adopted by the executive commissioner];

(3) establish minimum education and training requirements necessary for a license under this chapter [spend money necessary to administer the department’s duties];

(4) prescribe the application form for a license under this chapter; and [request and receive necessary assistance from another state agency, including a state educational institution];

(5) adopt [an official seal] and

(6) publish a [the] code of ethics [adopted by the executive commissioner].

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SECTION 9.097. Section 603.152, Occupations Code, is amended to read as follows:

Sec. 603.152. GENERAL RULEMAKING AUTHORITY. The medical
board [executive commissioner] may adopt rules necessary to:

(1) regulate the practice of perfusion;
(2) enforce this chapter; and
(3) perform medical board [department] duties under this chapter.

SECTION 9.098. Section 603.153, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 603.153. RULES RESTRICTING ADVERTISING OR COMPETITIVE BIDDING. (a) The medical board [executive commissioner] may not adopt a rule restricting advertising or competitive bidding by a person regulated by the medical board [department] under this chapter except to prohibit a false, misleading, or deceptive practice.

(b) The medical board [executive commissioner] may not include in rules to prohibit a false, misleading, or deceptive practice by a person regulated by the medical board [department] under this chapter a rule that:

(1) restricts the person's use of any medium for advertising;
(2) restricts the person's personal appearance or use of the person's voice in an advertisement;
(3) relates to the size or duration of any advertisement by the person; or
(4) restricts the use by the person of a trade name in advertising.

SECTION 9.099. Section 603.1535, Occupations Code, as
amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 603.1535. RULES ON CONSEQUENCES OF CRIMINAL CONVICTION. (a) The medical board [executive commissioner] shall adopt rules necessary to comply with Chapter 53, except to the extent the requirements of this chapter are stricter than the requirements of Chapter 53.

(b) In rules under this section, the medical board [executive commissioner] shall list the specific offenses for which a conviction would constitute grounds for the medical board [department] to take action under Section 53.021.

SECTION 9.100. Section 603.154, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended by amending Subsection (a) to read as follows:

(a) The medical board [After consulting the commissioner or the department, the executive commissioner] shall set fees in amounts reasonable and necessary to cover the costs of administering this chapter.

SECTION 9.101. Section 603.155, Occupations Code, is amended to read as follows:

Sec. 603.155. [EXECUTIVE COMMISSIONER AND DEPARTMENT] DUTIES REGARDING COMPLAINTS. (a) The medical board [executive commissioner] by rule shall:

(1) adopt a form to standardize information concerning complaints made to the medical board [department]; and

(2) prescribe information to be provided to a person when the person files a complaint with the medical board
(b) The medical board [department] shall provide reasonable assistance to a person who wishes to file a complaint with the medical board [department].

SECTION 9.102. Section 603.156, Occupations Code, is amended to read as follows:

Sec. 603.156. REGISTRY. The medical board [department] shall prepare a registry of licensed perfusionists and provisionally licensed perfusionists that is available to the public, license holders, and appropriate state agencies.

SECTION 9.103. Section 603.201, Occupations Code, is amended to read as follows:

Sec. 603.201. PUBLIC INTEREST INFORMATION. (a) The medical board [department] shall prepare information of consumer interest describing the profession of perfusion, the regulatory functions of the medical board [department], and the procedures by which consumer complaints are filed with and resolved by the medical board [department].

(b) The medical board [department] shall make the information available to the public and appropriate state agencies.

SECTION 9.104. Section 603.202, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 603.202. COMPLAINTS. (a) The medical board [executive commissioner] by rule shall establish methods by which consumers and service recipients are notified of the name, mailing address, and telephone number of the medical board [department] for
the purpose of directing complaints under this chapter to the medical board [department]. The medical board [department] may provide for that notice:

(1) on each license form, application, or written contract for services of a person licensed under this chapter;

(2) on a sign prominently displayed in the place of business of each person licensed under this chapter; or

(3) in a bill for services provided by a person licensed under this chapter.

(b) The medical board [department] shall list with its regular telephone number any toll-free telephone number established under other state law that may be called to present a complaint about a health professional.

SECTION 9.105. Section 603.203, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 603.203. RECORDS OF COMPLAINTS. (a) The medical board [department] shall maintain a system to promptly and efficiently act on complaints filed [with the department] under this chapter. The medical board [department] shall maintain:

(1) information about the parties to the complaint and the subject matter of the complaint;

(2) a summary of the results of the review or investigation of the complaint; and

(3) information about the disposition of the complaint.

(b) The medical board [department] shall make information
available describing its procedures for complaint investigation and resolution.

(c) The medical board [department] shall periodically notify the parties of the status of the complaint until final disposition of the complaint.

SECTION 9.106. Section 603.204, Occupations Code, is amended by amending Subsections (a) and (d), as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, and amending Subsection (b) to read as follows:

(a) The medical board [executive commissioner] shall adopt rules concerning the investigation of a complaint filed [with the department] under this chapter. The rules shall:

(1) distinguish among categories of complaints;

(2) ensure that a complaint is not dismissed without appropriate consideration;

(3) require that if [the department be advised of] a complaint [that] is dismissed, [and that] a letter shall be sent to the person who filed the complaint explaining the action taken on the dismissed complaint;

(4) ensure that the person who filed the complaint has an opportunity to explain the allegations made in the complaint; and

(5) prescribe guidelines concerning the categories of complaints that require the use of a private investigator and the procedures for the medical board [department] to obtain the services of a private investigator.

(b) The medical board [department] shall:
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(1) dispose of each complaint in a timely manner; and
(2) establish, not later than the 30th day after the date the medical board [department] receives a complaint, a schedule for conducting each phase of the complaint resolution process that is under the control of the medical board [department].

(d) The executive director of the medical board [secretary] shall notify the president of the medical board [department] of a complaint that is not resolved within the time prescribed by the medical board [department] for resolving the complaint so that the president [department] may take necessary action on the complaint.

SECTION 9.107. The heading to Section 603.2041, Occupations Code, is amended to read as follows:

Sec. 603.2041. SUBPOENAS; CONFIDENTIALITY OF INFORMATION.

SECTION 9.108. Section 603.2041, Occupations Code, is amended by amending Subsections (a), (h), and (i), as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, and adding Subsection (a-1) to read as follows:

(a) The executive director of the medical board, the director's designee, or the secretary-treasurer of the medical board [in an investigation of a complaint filed with the department, the department] may issue a subpoena or subpoena duces tecum:

(1) to conduct an investigation or a contested case proceeding related to:

(A) alleged misconduct by a perfusionist;

(B) an alleged violation of this chapter or
another law related to the practice of perfusion; or

(C) the provision of health care under this chapter; or

(2) for purposes of determining whether to issue, suspend, restrict, or revoke a license under this chapter [to compel the attendance of a relevant witness or the production, for inspection or copying, of relevant evidence that is in this state].

(a-1) Failure to timely comply with a subpoena issued under this section is a ground for:

(1) disciplinary action by the medical board or another licensing or regulatory agency with jurisdiction over the person subject to the subpoena; and

(2) denial of a license application.

(h) All information and materials subpoenaed or compiled by the medical board [department] in connection with a complaint and investigation under this chapter are confidential and not subject to disclosure under Chapter 552, Government Code, and not subject to disclosure, discovery, subpoena, or other means of legal compulsion for their release to anyone other than the medical board [department] or its agents or employees involved in discipline of the holder of a license, except that this information may be disclosed to:

(1) persons involved with the medical board [department] in a disciplinary action against the holder of a license under this chapter;

(2) professional perfusionist licensing or disciplinary boards in other jurisdictions;
(3) peer assistance programs approved by the medical board [department] under Chapter 467, Health and Safety Code;

(4) law enforcement agencies; and

(5) persons engaged in bona fide research, if all individual-identifying information has been deleted.

(i) The filing of formal charges by the medical board [department] against a holder of a license under this chapter, the nature of those charges, disciplinary proceedings of the medical board [department], and final disciplinary actions, including warnings and reprimands, by the medical board [department] are not confidential and are subject to disclosure in accordance with Chapter 552, Government Code.

SECTION 9.109. Section 603.205, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 603.205. PUBLIC PARTICIPATION. (a) The medical board [department] shall develop and implement policies that provide the public with a reasonable opportunity to appear before the medical board [department] and to speak on any issue related to the practice of perfusion.

(b) The medical board [department] shall prepare and maintain a written plan that describes how a person who does not speak English or who has a physical, mental, or developmental disability may be provided reasonable access to the medical board's [department's] programs under this chapter.

SECTION 9.110. Section 603.252(b), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
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2015, is amended to read as follows:

(b) The medical board [department] shall prescribe the application form and [the executive commissioner] by rule may establish dates by which applications and fees must be received.

SECTION 9.111. Sections 603.253(b), (c), (d), and (e), Occupations Code, are amended to read as follows:

(b) The medical board [department] shall prepare or approve an examination. The medical board [department] may prescribe an examination that consists of or includes a written examination given by the American Board of Cardiovascular Perfusion or by a national or state testing service.

(c) The medical board [department] shall have any written portion of the examination validated by an independent testing professional.

(d) The medical board [department] shall administer an examination to qualified applicants at least once each calendar year.

(e) On receipt of an application and application fee, the medical board [department] shall waive the examination requirement for an applicant who, at the time of application:

(1) is licensed or certified by another state that has licensing or certification requirements the medical board [department] determines to be substantially equivalent to the requirements of this chapter; or

(2) holds a certificate as a certified clinical perfusionist issued by the American Board of Cardiovascular Perfusion before January 1, 1994, authorizing the holder to
practice perfusion in a state that does not license or certify perfusionists.

SECTION 9.112. Sections 603.2535(b) and (c), Occupations Code, are amended to read as follows:

(b) The medical board shall develop and administer at least twice each calendar year a jurisprudence examination to determine an applicant's knowledge of this chapter, rules adopted under this chapter [by the executive commissioner], and any other applicable laws of this state affecting the applicant's practice of perfusion.

(c) The medical board shall adopt rules to implement this section, including rules related to the development and administration of the examination, examination fees, guidelines for reexamination, grading the examination, and providing notice of examination results.

SECTION 9.113. Section 603.254, Occupations Code, is amended to read as follows:

Sec. 603.254. QUALIFICATION FOR EXAMINATION. (a) To qualify for the licensing examinations under this chapter, an applicant must have successfully completed a perfusion education program approved by the medical board [department].

(b) The medical board [department] may approve a perfusion education program only if the program has educational standards that are:

(1) at least as stringent as those established by the Accreditation Committee for Perfusion Education of the American Medical Association or its successor; and
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(2) approved by the Commission on Accreditation of the Allied Health Education Program of the American Medical Association or its successor.

SECTION 9.114. Section 603.255(a), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(a) The medical board [department] shall notify an applicant in writing of the receipt and investigation of the applicant's application and any other relevant evidence relating to qualifications established by [department] rule not later than:

(1) the 45th day after the date a properly submitted and timely application is received; and

(2) the 30th day before the next examination date.

SECTION 9.115. Section 603.256, Occupations Code, is amended to read as follows:

Sec. 603.256. EXAMINATION RESULTS. (a) The medical board [department] shall notify each examinee of the examination results not later than the 30th day after the date the examination is administered. If an examination is graded or reviewed by a national or state testing service, the medical board [department] shall notify each examinee of the examination results not later than the 14th day after the date the medical board [department] receives the results from the testing service.

(b) If the notice of the results of an examination graded or reviewed by a national or state testing service will be delayed for longer than 90 days after the examination date, the medical board [department] shall notify each examinee of the reason for the delay.
before the 90th day.

(c) If requested in writing by a person who fails the examination, the medical board shall provide to the person an analysis of the person's performance on the examination.

SECTION 9.116. Section 603.257, Occupations Code, is amended to read as follows:

Sec. 603.257. REEXAMINATION AND ALTERNATIVES TO EXAMINATION. The medical board by rule shall establish:

(1) a limit on the number of times an applicant who fails an examination may retake the examination;

(2) requirements for retaking an examination; and

(3) alternative methods of examining competency.

SECTION 9.117. Subchapter F, Chapter 603, Occupations Code, is amended by adding Section 603.2571 to read as follows:

Sec. 603.2571. CRIMINAL HISTORY RECORD INFORMATION REQUIREMENT FOR LICENSE. (a) The medical board shall require that an applicant for a license submit a complete and legible set of fingerprints, on a form prescribed by the medical board, to the medical board or to the Department of Public Safety for the purpose of obtaining criminal history record information from the Department of Public Safety and the Federal Bureau of Investigation.

(b) The medical board may not issue a license to a person who does not comply with the requirement of Subsection (a).

(c) The medical board shall conduct a criminal history check of each applicant for a license using information:
(1) provided by the individual under this section; and
(2) made available to the medical board by the Department of Public Safety, the Federal Bureau of Investigation, and any other criminal justice agency under Chapter 411, Government Code.

(d) The medical board may:
(1) enter into an agreement with the Department of Public Safety to administer a criminal history check required under this section; and
(2) authorize the Department of Public Safety to collect from each applicant the costs incurred by the Department of Public Safety in conducting the criminal history check.

SECTION 9.118. Section 603.259, Occupations Code, is amended by amending Subsections (a) and (d) and Subsection (c), as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, to read as follows:

(a) The medical board [department] may issue a provisional license to an applicant who files an application, pays an application fee, and submits evidence satisfactory to the medical board [department] of successful completion of the education requirement under Section 603.254.

(c) A provisionally licensed perfusionist must practice under the supervision and direction of a licensed perfusionist while performing perfusion. If the medical board [department] finds that a licensed perfusionist is not reasonably available to provide supervision and direction and if the medical board [department] approves an application submitted [to the department]
by the provisionally licensed perfusionist, supervision and
direction may be provided by a physician who is licensed by the
medical board [Texas Medical Board] and certified by the American
Board of Thoracic Surgery or certified in cardiovascular surgery by
the American Osteopathic Board of Surgery.

(d) The medical board [executive commissioner] may not
adopt a rule governing supervision and direction that requires the
immediate physical presence of the supervising person.

SECTION 9.119. Sections 603.301(b), (c), (d), and (f),
Occupations Code, are amended to read as follows:

(b) The medical board [executive commissioner] by rule may
adopt a system under which licenses expire on various dates during
the year.

(c) A person may renew an unexpired license by paying the
required renewal fee to the medical board [department] before the
license expiration date.

(d) A person whose license has been expired for 90 days or
less may renew the license by paying to the medical board
[department] a fee that is equal to 1-1/4 times the amount of the
renewal fee. If a license has been expired for more than 90 days
but less than one year, the person may renew the license by paying
to the medical board [department] a fee that is equal to 1-1/2 times
the amount of the renewal fee.

(f) Before the 30th day before a person's license expiration
date, the medical board [department] shall send written notice of
the impending license expiration to the person at the person's last
known address according to medical board [department] records.
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SECTION 9.120. Section 603.303, Occupations Code, is amended to read as follows:

Sec. 603.303. RENEWAL OF EXPIRED LICENSE BY OUT-OF-STATE PRACTITIONER. (a) The medical board [department] may renew without reexamination an expired license of a person who was licensed as a perfusionist in this state, moved to another state, and is licensed or certified and has been in practice in the other state for the two years preceding the date the person applies for renewal.

(b) The person must pay to the medical board [department] a fee that is equal to the amount of the renewal fee for the license.

SECTION 9.121. Subchapter G, Chapter 603, Occupations Code, is amended by adding Section 603.3031 to read as follows:

Sec. 603.3031. CRIMINAL HISTORY RECORD INFORMATION REQUIREMENT FOR RENEWAL. (a) An applicant renewing a license shall submit a complete and legible set of fingerprints for purposes of performing a criminal history check of the applicant as provided by Section 603.2571.

(b) The medical board may not renew the license of a person who does not comply with the requirement of Subsection (a).

(c) A license holder is not required to submit fingerprints under this section for the renewal of the license if the license holder has previously submitted fingerprints under:

(1) Section 603.2571 for the initial issuance of the license; or

(2) this section as part of a prior renewal of the license.
SECTION 9.122. Section 603.304, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 603.304. CONTINUING EDUCATION. (a) To renew a license under this chapter, a person must submit proof satisfactory to the medical board [department] that the person has complied with the continuing education requirements prescribed by the medical board [executive commissioner].

(b) The medical board [executive commissioner] shall establish continuing education programs for licensed perfusionists and provisionally licensed perfusionists under this chapter. The standards of the programs must be at least as stringent as the standards of the American Board of Cardiovascular Perfusion or its successor.

(c) The medical board [executive commissioner] shall:

(1) establish a minimum number of hours of continuing education required for license renewal under this chapter; and

(2) develop a process to evaluate and approve continuing education courses.

(d) The medical board [executive commissioner] shall identify key factors for a license holder's competent performance of professional duties. The medical board [executive commissioner] shall adopt a procedure to assess a license holder's participation in continuing education programs.

SECTION 9.123. Section 603.305, Occupations Code, is amended to read as follows:

Sec. 603.305. GROUNDS FOR REFUSING RENEWAL. The medical
board [department] may refuse to renew the license of a person who
does not pay an administrative penalty imposed under Subchapter K
unless enforcement of the penalty is stayed or a court has ordered
that the administrative penalty is not owed.

SECTION 9.124. Section 603.352, Occupations Code, is
amended to read as follows:
Sec. 603.352. LICENSE HOLDER INFORMATION. A person
licensed under this chapter shall keep the medical board
[department] informed of any change in the license holder's
address.

SECTION 9.125. Section 603.353, Occupations Code, is
amended to read as follows:
Sec. 603.353. SURRENDER OF LICENSE. A license certificate
issued by the medical board [department] is the property of the
medical board [department] and shall be surrendered on demand.

SECTION 9.126. Section 603.401, Occupations Code, is
amended to read as follows:
Sec. 603.401. GROUNDS FOR DISCIPLINARY ACTION. If a
license holder violates this chapter or a rule or code of ethics
adopted under this chapter [by the executive commissioner], the
medical board [department] shall:
(1) revoke or suspend the license;
(2) place on probation the person if the person's
license has been suspended;
(3) reprimand the license holder; or
(4) refuse to renew the license.

SECTION 9.127. Section 603.402, Occupations Code, as
amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 603.402. HEARING. (a) If the medical board [department] proposes to revoke, suspend, or refuse to renew a person's license, the person is entitled to a hearing before a hearings officer appointed by the State Office of Administrative Hearings.

(b) The medical board [executive commissioner] shall prescribe procedures for appealing [to the department] a decision to revoke, suspend, or refuse to renew a license.

SECTION 9.128. Section 603.404(a), Occupations Code, is amended to read as follows:

(a) The medical board [executive commissioner] by rule shall adopt a broad schedule of sanctions for a violation of this chapter.

SECTION 9.129. Section 603.405, Occupations Code, is amended to read as follows:

Sec. 603.405. PROBATION. The medical board [department] may require a person whose license suspension is probated to:

(1) report regularly to the medical board [department] on matters that are the basis of the probation;

(2) limit practice to areas prescribed by the medical board [department]; or

(3) continue the person's professional education until the license holder attains a degree of skill satisfactory to the medical board [department] in those areas that are the basis of the probation.
SECTION 9.130. Section 603.406, Occupations Code, is amended to read as follows:

Sec. 603.406. MONITORING OF LICENSE HOLDER. (a) The medical board [executive commissioner] by rule shall develop a system for monitoring a license holder's compliance with the requirements of this chapter.

(b) Rules adopted under this section must include procedures to:

(1) monitor for compliance a license holder who is ordered by the medical board [department] to perform certain acts; and

(2) identify and monitor license holders who represent a risk to the public.

SECTION 9.131. Section 603.407, Occupations Code, is amended to read as follows:

Sec. 603.407. INFORMAL PROCEDURES. (a) The medical board [executive commissioner] by rule shall adopt procedures governing:

(1) informal disposition of a contested case under Section 2001.056, Government Code; and

(2) an informal proceeding held in compliance with Section 2001.054, Government Code.

(b) Rules adopted under Subsection (a) must:

(1) provide the complainant, if applicable and permitted by law, an opportunity to be heard;

(2) provide [and] the license holder an opportunity to be heard; and

(3) [42+] require the presence of a representative of
SECTION 9.132. Section 603.408(a), Occupations Code, is amended to read as follows:

(a) The medical board or a three-member panel of medical board members designated by the president of the medical board shall temporarily suspend the license of a license holder if the medical board or panel determines from the evidence or information presented to it that continued practice by the license holder would constitute a continuing and imminent threat to the public welfare.

SECTION 9.133. Section 603.409, Occupations Code, is amended to read as follows:

Sec. 603.409. REFUND. (a) Subject to Subsection (b), the medical board may order a license holder to pay a refund to a consumer as provided in an agreement resulting from an informal settlement conference instead of or in addition to imposing an administrative penalty under this chapter.

(b) The amount of a refund ordered as provided in an agreement resulting from an informal settlement conference may not exceed the amount the consumer paid to the license holder for a service regulated by this chapter. The medical board may not require payment of other damages or estimate harm in a refund order.

SECTION 9.134. Section 603.451(a), Occupations Code, is amended to read as follows:
(a) The medical board [department] may request the attorney general or the appropriate county or district attorney to commence an action to enjoin a violation of this chapter.

SECTION 9.135. Section 603.4515, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 603.4515. CIVIL PENALTY. (a) A person who violates this chapter or [a rule adopted by the executive commissioner under this chapter,] or an order issued [adopted by the department] under this chapter is liable for a civil penalty not to exceed $5,000 a day.

(b) At the request of the medical board [department], the attorney general shall bring an action to recover a civil penalty authorized under this section.

SECTION 9.136. Section 603.453(a), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(a) If it appears to the medical board [department] that a person who is not licensed under this chapter is violating this chapter, a rule adopted under this chapter, or another state statute or rule relating to the practice of perfusion, the medical board [department] after notice and an opportunity for a hearing may issue a cease and desist order prohibiting the person from engaging in the activity.

SECTION 9.137. Section 603.501, Occupations Code, is amended to read as follows:

Sec. 603.501. IMPOSITION OF ADMINISTRATIVE PENALTY. The
medical board [department] may impose an administrative penalty on
a person licensed under this chapter who violates this chapter or a
rule or order adopted under this chapter.

SECTION 9.138. Section 603.502(c), Occupations Code, as
amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
2015, is amended to read as follows:

(c) The medical board [executive commissioner] by rule
shall adopt an administrative penalty schedule based on the
criteria listed in Subsection (b) for violations of this chapter or
applicable rules to ensure that the amounts of penalties imposed
are appropriate to the violation. The medical board [department]
shall provide the administrative penalty schedule to the public on
request.

SECTION 9.139. Section 603.503, Occupations Code, as
amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
2015, is amended to read as follows:

Sec. 603.503. NOTICE OF VIOLATION AND PENALTY. If the
medical board [department] determines that a violation occurred,
the medical board [department] shall give written notice of the
violation to the person. The notice must:

(1) include a brief summary of the alleged violation;
(2) state the amount of the recommended administrative
penalty [recommended by the department]; and
(3) inform the person of the person's right to a
hearing on the occurrence of the violation, the amount of the
penalty, or both.

SECTION 9.140. Section 603.504, Occupations Code, as
amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 603.504. PENALTY TO BE PAID OR HEARING REQUESTED. (a) Within 10 days after the date the person receives the notice, the person in writing may:

(1) accept the determination and recommended administrative penalty of the medical board [department]; or

(2) make a request for a hearing on the occurrence of the violation, the amount of the penalty, or both.

(b) If the person accepts the determination and recommended penalty of the medical board [department], the medical board [department] by order shall approve the determination and impose the recommended penalty.

SECTION 9.141. Sections 603.505(a) and (c), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, are amended to read as follows:

(a) If the person requests a hearing or fails to respond in a timely manner to the notice, the medical board [department] shall set a hearing and give written notice of the hearing to the person.

(c) The administrative law judge shall make findings of fact and conclusions of law and promptly issue to the medical board [department] a proposal for a decision about the occurrence of the violation and the amount of a proposed administrative penalty.

SECTION 9.142. Section 603.506, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 603.506. DECISION BY MEDICAL BOARD [DEPARTMENT]. (a)
Based on the findings of fact, conclusions of law, and proposal for
decision, the medical board [department] by order may determine
that:

(1) a violation occurred and impose an administrative
penalty; or

(2) a violation did not occur.

(b) The notice of the medical board's [department's] order
given to the person must include a statement of the right of the
person to judicial review of the order.

SECTION 9.143. Sections 603.507(a), (b), and (c),
Occupations Code, as amended by S.B. 219, Acts of the 84th
Legislature, Regular Session, 2015, are amended to read as follows:

(a) Within 30 days after the date the medical board's
[department's] order becomes final, the person shall:

(1) pay the administrative penalty; or

(2) file a petition for judicial review contesting the
occurrence of the violation, the amount of the penalty, or both.

(b) Within the 30-day period prescribed by Subsection (a), a
person who files a petition for judicial review may:

(1) stay enforcement of the penalty by:

(A) paying the penalty to the court for placement
in an escrow account; or

(B) giving the court a supersedeas bond approved
by the court that:

(i) is for the amount of the penalty; and

(ii) is effective until all judicial review
of the medical board's [department's] order is final; or
request the court to stay enforcement of the penalty by:

(A) filing with the court a sworn affidavit of the person stating that the person is financially unable to pay the penalty and is financially unable to give the supersedeas bond; and

(B) giving a copy of the affidavit to the [medical board] by certified mail.

(c) If the [medical board] receives a copy of an affidavit under Subsection (b)(2), the [medical board] may file with the court, within five days after the date the copy is received, a contest to the affidavit.

SECTION 9.144. Sections 604.001(1) and (2), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, are amended to read as follows:

(1) "Advisory board" means the Texas Board of Respiratory Care ["Department" means the Department of State Health Services].

(2) "Medical board" means the Texas Medical Board ["Executive commissioner" means the executive commissioner of the Health and Human Services Commission].

SECTION 9.145. Section 604.003, Occupations Code, is amended to read as follows:

Sec. 604.003. EFFECT OF CHAPTER. This chapter does not prohibit:

(1) the practice of respiratory care as an integral part of the program of study by a student enrolled in a respiratory care education program approved by the [advisory board] [department];
the employment by a health care facility of a person to deliver limited respiratory care support services under the supervision of another person who holds a certificate issued under this chapter, if the person delivering the services does not perform an invasive procedure related to critical respiratory care, including a therapeutic, diagnostic, or palliative procedure, as part of the person's employment and if that person:

(A) is enrolled for credit in the clinical portion of an approved respiratory care education program; or

(B) has completed all of the clinical portion of an approved respiratory care education program within the preceding 12 months and is actively pursuing a course of study leading to graduation from the program;

(3) the care of an ill person provided without charge by a friend or family member;

(4) care provided in an emergency by a person who does not claim to be a respiratory care practitioner;

(5) the performance by a respiratory care practitioner of an advance in the art and techniques of respiratory care learned through formal or specialized training;

(6) the practice of respiratory care by health care personnel who have been formally trained in the care used and who are:

(A) licensed under the law regulating their professions; or

(B) acting under the delegated authority of a licensed physician;
(7) the practice of a legally qualified respiratory care practitioner who is discharging the practitioner's official duties as an employee of the United States government; or

(8) the practice by a person of a profession or occupation for which the person is licensed, registered, or certified under another law of this state.

SECTION 9.146. Chapter 604, Occupations Code, is amended by adding Subchapter A-1 to read as follows:

SUBCHAPTER A-1. TEXAS BOARD OF RESPIRATORY CARE

Sec. 604.021. TEXAS BOARD OF RESPIRATORY CARE. The Texas Board of Respiratory Care is an advisory board to the Texas Medical Board.

Sec. 604.022. APPOINTMENT OF ADVISORY BOARD. (a) The advisory board consists of nine members appointed by the governor with the advice and consent of the senate as follows:

(1) four respiratory care practitioners who each have at least five years of experience as a respiratory care practitioner;

(2) two physicians licensed in this state who supervise respiratory care practitioners; and

(3) three members who represent the public.

(b) Appointments to the advisory board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.

Sec. 604.023. MEMBERSHIP ELIGIBILITY AND RESTRICTIONS. (a) In this section, "Texas trade association" means a cooperative and voluntarily joined statewide association of business or
professional competitors in this state designed to assist its
members and its industry or profession in dealing with mutual
business or professional problems and in promoting their common
interest.

(b) A person may not be a public member of the advisory board
if the person or the person's spouse:

(1) is registered, certified, or licensed by a
regulatory agency in a health care profession;

(2) is employed by or participates in the management
of a business entity or other organization regulated by or
receiving money from the medical board or advisory board;

(3) owns or controls, directly or indirectly, more
than a 10 percent interest in a business entity or other
organization regulated by or receiving money from the medical board
or advisory board; or

(4) uses or receives a substantial amount of tangible
goods, services, or money from the medical board or advisory board
other than compensation or reimbursement authorized by law for
advisory board membership, attendance, or expenses.

(c) A person may not be a member of the advisory board if:

(1) the person is an officer, employee, or paid
consultant of a Texas trade association in the field of health care;

or

(2) the person's spouse is an officer, manager, or paid
consultant of a Texas trade association in the field of health care.

(d) A person may not be a member of the advisory board or act
as the general counsel to the advisory board if the person is
required to register as a lobbyist under Chapter 305, Government
Code, because of the person's activities for compensation on behalf
of a profession related to the operation of the medical board or
advisory board.

Sec. 604.024. TERMS; VACANCIES. (a) Members of the
advisory board are appointed for staggered six-year terms. The
terms of three members expire on February 1 of each odd-numbered
year.

(b) A member may not serve more than:

(1) two consecutive full terms; or

(2) a total of three full terms.

(c) If a vacancy occurs during a member's term, the governor
shall appoint a new member to fill the unexpired term.

Sec. 604.025. OFFICERS. The governor shall designate a
member of the advisory board as the presiding officer of the
advisory board to serve in that capacity at the will of the
governor. The advisory board shall select from its membership an
assistant presiding officer and other officers as the advisory
board considers necessary to carry out the advisory board's duties.

Sec. 604.026. GROUNDS FOR REMOVAL. (a) It is a ground for
removal from the advisory board that a member:

(1) does not have at the time of taking office the
qualifications required by Sections 604.022 and 604.023;

(2) does not maintain during service on the advisory
board the qualifications required by Sections 604.022 and 604.023;

(3) is ineligible for membership under Section
604.023;
cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term; or

is absent from more than half of the regularly scheduled advisory board meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the advisory board.

(b) The validity of an action of the advisory board is not affected by the fact that it is taken when a ground for removal of an advisory board member exists.

(c) If the executive director of the medical board has knowledge that a potential ground for removal exists, the executive director shall notify the presiding officer of the advisory board of the potential ground. The presiding officer shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the executive director shall notify the next highest ranking officer of the advisory board, who shall then notify the governor and the attorney general that a potential ground for removal exists.

Sec. 604.027. PER DIEM. A member of the advisory board is entitled to receive a per diem as set by legislative appropriation for each day that the member engages in the business of the advisory board.

Sec. 604.028. APPLICATION OF OPEN MEETINGS, OPEN RECORDS, AND ADMINISTRATIVE PROCEDURE LAWS. Except as otherwise provided by this chapter, the advisory board is subject to Chapters 551, 552,
Sec. 604.029. MEETINGS; QUORUM REQUIREMENTS. (a) The advisory board shall conduct regular meetings at least three times a year at the times and places the advisory board considers most convenient for applicants and advisory board members.

(b) The advisory board may hold special meetings in accordance with rules adopted by the advisory board and approved by the medical board.

(c) A majority of the advisory board members constitutes a quorum for all purposes except for an advisory board activity related to examining the credentials of applicants, acting as a panel for disciplinary action under Section 604.202, or conducting an informal meeting under Section 604.209.

Sec. 604.030. TRAINING. (a) A person who is appointed to and qualifies for office as a member of the advisory board may not vote, deliberate, or be counted as a member in attendance at a meeting of the advisory board until the person completes a training program that complies with this section.

(b) The training program must provide the person with information regarding:

(1) this chapter and the advisory board’s programs, functions, rules, and budget;

(2) the results of the most recent formal audit of the advisory board;

(3) the requirements of laws relating to open meetings, public information, administrative procedure, and conflicts of interest; and
(4) any applicable ethics policies adopted by the advisory board or the Texas Ethics Commission.

(c) A person appointed to the advisory board is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

SECTION 9.147. The heading to Subchapter B, Chapter 604, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

SUBCHAPTER B. POWERS AND DUTIES OF ADVISORY BOARD [EXECUTIVE COMMISSIONER] AND MEDICAL BOARD [DEPARTMENT]

SECTION 9.148. The heading to Section 604.052, Occupations Code, is amended to read as follows:

Sec. 604.052. GENERAL POWERS AND DUTIES OF ADVISORY BOARD [RULES].

SECTION 9.149. Section 604.052(a), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(a) The advisory board [executive commissioner by rule] shall:

(1) adopt rules that are reasonable and necessary for the performance of the advisory board’s duties under this chapter, as provided by Chapter 2001, Government Code, including rules to establish:

(A) the certification and permitting program; and
(B) minimum qualifications for respiratory care practitioners;
(2) review and approve or reject each application for the issuance or renewal of a certificate or temporary permit;
(3) issue each certificate or permit;
(4) deny, suspend, or revoke [standards for issuing, denying, renewing, suspending, suspending on an emergency basis, or revoking] a certificate or temporary permit or otherwise discipline a certificate or permit holder; and
(5) take any action necessary to carry out the functions and duties of the advisory board under this chapter.

SECTION 9.150. Subchapter B, Chapter 604, Occupations Code, is amended by adding Sections 604.0521 and 604.0522 to read as follows:

Sec. 604.0521. GUIDELINES FOR EARLY INVOLVEMENT IN RULEMAKING PROCESS. (a) The advisory board shall adopt guidelines to establish procedures for receiving input during the rulemaking process from individuals and groups that have an interest in matters under the advisory board's jurisdiction. The guidelines must provide an opportunity for those individuals and groups to provide input before the advisory board submits the rule to the medical board for approval.

(b) A rule adopted under this chapter may not be challenged on the grounds that the advisory board did not comply with this section. If the advisory board was unable to solicit a significant amount of input from the public or affected persons early in the rulemaking process, the advisory board shall state in writing the
reasons why it was unable to do so.

Sec. 604.0522. POWERS AND DUTIES OF MEDICAL BOARD RELATING TO RESPIRATORY CARE PRACTITIONERS. (a) The medical board shall adopt rules consistent with this chapter to regulate:

(1) respiratory care practitioners; and

(2) physicians who supervise respiratory care practitioners.

(b) The medical board, by a majority vote, shall approve or reject each rule adopted by the advisory board. If approved, the rule may take effect. If the rule is rejected, the medical board shall return the rule to the advisory board for revision.

SECTION 9.151. Section 604.053, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 604.053. FEES. (a) The advisory board [executive commissioner] by rule shall set fees for an application, examination, certificate, temporary permit, permit and certificate renewal, and certificate reinstatement.

(b) The advisory board [executive commissioner] by rule shall set fees in reasonable amounts that are sufficient to cover the costs of administering this chapter. [The executive commissioner shall set fees for issuing or renewing a certificate or permit in amounts designed to allow the department to recover from the certificate and permit holders all of the department's direct and indirect costs in administering and enforcing this chapter.]

SECTION 9.152. Section 604.054, Occupations Code, is
amended to read as follows:

Sec. 604.054. APPROVAL OF EDUCATION PROGRAMS. In determining whether to approve a respiratory care education program, the advisory board [department] shall consider relevant information about the quality of the program, including accreditation of the program by a professional medical association, such as the Commission on Accreditation of Allied Health Education Programs.

SECTION 9.153. Section 604.055, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 604.055. PEER ASSISTANCE PROGRAM. The medical board [department] may establish, approve, and fund a peer assistance program in accordance with Section 467.003, Health and Safety Code, and medical board [department] rules.

SECTION 9.154. Section 604.057, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 604.057. RULES REGARDING ADVERTISING OR COMPETITIVE BIDDING. (a) The advisory board [executive commissioner] may not adopt rules restricting advertising or competitive bidding by a temporary permit or certificate holder except to prohibit false, misleading, or deceptive practices.

(b) In adopting rules to prohibit false, misleading, or deceptive practices, the advisory board [executive commissioner] may not include a rule that:

(1) restricts the use of any medium for advertising;
(2) restricts the use of a temporary permit or certificate holder's personal appearance or voice in an advertisement;
(3) relates to the size or duration of an advertisement by the temporary permit or certificate holder; or
(4) restricts the temporary permit or certificate holder's advertisement under a trade name.

SECTION 9.155. Subchapter B, Chapter 604, Occupations Code, is amended by adding Sections 604.058, 604.059, and 604.060 to read as follows:

Sec. 604.058. RULES ON CONSEQUENCES OF CRIMINAL CONVICTION. The advisory board shall adopt rules and guidelines as necessary to comply with Chapter 53, except to the extent the requirements of this chapter are stricter than the requirements of Chapter 53.

Sec. 604.059. ASSISTANCE BY MEDICAL BOARD; DIVISION OF RESPONSIBILITIES. (a) The medical board shall provide administrative and clerical employees as necessary to enable the advisory board to administer this chapter.

(b) Subject to the advice and approval of the medical board, the advisory board shall develop and implement policies that clearly separate the policy-making responsibilities of the advisory board and the management responsibilities of the executive director and staff of the medical board.

Sec. 604.060. PUBLIC PARTICIPATION. Subject to the advice and approval of the medical board, the advisory board shall develop and implement policies that provide the public with a reasonable opportunity to appear before the advisory board and to speak on any
issue under the jurisdiction of the advisory board.

SECTION 9.156. Section 604.101(b), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(b) A person may not practice respiratory care other than under the direction of a qualified medical director or other physician licensed by the medical board [Texas Medical Board].

SECTION 9.157. Section 604.103, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 604.103. APPLICATION; APPLICATION FEE. An applicant for a certificate or temporary permit must:

(1) apply to the advisory board [department] on a form prescribed by [the department] and under rules adopted by the advisory board [executive commissioner]; and

(2) submit a nonrefundable application fee with the application.

SECTION 9.158. Subchapter C, Chapter 604, Occupations Code, is amended by adding Section 604.1031 to read as follows:

Sec. 604.1031. CRIMINAL HISTORY RECORD INFORMATION REQUIREMENT FOR CERTIFICATE OR TEMPORARY PERMIT. (a) The advisory board shall require that an applicant for a certificate or temporary permit submit a complete and legible set of fingerprints, on a form prescribed by the advisory board, to the advisory board or to the Department of Public Safety for the purpose of obtaining criminal history record information from the Department of Public Safety and the Federal Bureau of Investigation.
(b) The advisory board may not issue a certificate or temporary permit to a person who does not comply with the requirement of Subsection (a).

(c) The advisory board shall conduct a criminal history check of each applicant for a certificate or temporary permit using information:

(1) provided by the individual under this section; and

(2) made available to the advisory board by the Department of Public Safety, the Federal Bureau of Investigation, and any other criminal justice agency under Chapter 411, Government Code.

(d) The advisory board may:

(1) enter into an agreement with the Department of Public Safety to administer a criminal history check required under this section; and

(2) authorize the Department of Public Safety to collect from each applicant the costs incurred by the Department of Public Safety in conducting the criminal history check.

SECTION 9.159. Section 604.104, Occupations Code, is amended to read as follows:

Sec. 604.104. REQUIREMENT FOR CERTIFICATE. An applicant for a certificate must submit to the advisory board [department] written evidence, verified by oath, that the applicant has completed:

(1) an approved four-year high school course of study or the equivalent as determined by the appropriate educational agency; and
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(2) a respiratory care education program approved by the advisory board [department].

SECTION 9.160. Section 604.1041, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 604.1041. EXAMINATION. (a) The advisory board [executive commissioner] by rule shall establish examination requirements for a certificate under this chapter. The advisory board [executive commissioner] may use the entry level examination prepared by the National Board for Respiratory Care or an equivalent examination.

(b) An applicant for a certificate or temporary permit must pass a jurisprudence examination approved by the advisory board.

SECTION 9.161. Section 604.1042, Occupations Code, is amended to read as follows:

Sec. 604.1042. NOTIFICATION OF EXAMINATION RESULTS. (a) Not later than the 30th day after the date a person takes a certification examination under this chapter, the advisory board [department] shall notify the person of the results of the examination.

(b) If the examination is graded or reviewed by a testing service, the advisory board [department] shall notify the person of the results of the examination not later than the 14th day after the date the advisory board [department] receives the results from the testing service. If notice of the examination results will be delayed for longer than 90 days after the examination date, the advisory board [department] shall notify the person of the reason
for the delay before the 90th day.

(c) The advisory board [department] may require a testing service to notify a person of the results of the person's examination.

(d) If requested in writing by a person who fails a certification examination administered under this chapter, the advisory board [department] shall furnish the person with an analysis of the person's performance on the examination.

SECTION 9.162. Section 604.105, Occupations Code, is amended to read as follows:

Sec. 604.105. ISSUANCE OF CERTIFICATE. The advisory board [department] shall issue a certificate to an applicant who:

(1) meets the minimum qualifications [standards] adopted under Section 604.052(a);

(2) passes the required examinations;

(3) complies with the criminal history record information requirement of Section 604.1031;

(4) submits an application on a form prescribed by the advisory board;

(5) certifies that the applicant is mentally and physically able to be a respiratory care practitioner;

(6) submits to the advisory board any other information the advisory board considers necessary to evaluate the applicant's qualifications; and

(7) pays the certificate fee.

SECTION 9.163. Section 604.106, Occupations Code, is amended to read as follows:
Sec. 604.106. ISSUANCE OF CERTIFICATE BY RECIPROCITY. The advisory board may issue a certificate to a person who is licensed or certified to practice respiratory care by another state whose requirements for licensure or certification were on the date the license or certificate was issued substantially equal to the requirements of this chapter.

SECTION 9.164. Section 604.107, Occupations Code, is amended to read as follows:

Sec. 604.107. REQUIREMENTS FOR TEMPORARY PERMIT. An applicant for a temporary permit to practice respiratory care must submit to the advisory board:

(1) written evidence, verified by oath, that the applicant is:

(A) practicing or has within the 12-month period preceding the application date practiced respiratory care in another state or country and is licensed to practice respiratory care in that state or country;

(B) a student in an approved respiratory care education program who expects to graduate from the program not later than the 30th day after the date the temporary permit is issued; or

(C) a graduate of an approved respiratory care education program; and

(2) any additional information required by advisory board rules.

SECTION 9.165. Section 604.108, Occupations Code, is amended by amending Subsection (a) and Subsection (b), as amended.
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by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, to
read as follows:

(a) The advisory board [department] shall issue a temporary permit to an applicant who:

(1) meets the requirements of Sections 604.103 and 604.107;

(2) complies with the criminal history record information requirement of Section 604.1031; and

(3) pays the permit fee.

(b) A temporary permit is valid for the period set by advisory board [department] rule. The period may not be less than six months or more than 12 months.

SECTION 9.166. Subchapter C, Chapter 604, Occupations Code, is amended by adding Section 604.110 to read as follows:

Sec. 604.110. DELEGATION OF AUTHORITY TO ISSUE CERTIFICATE OR TEMPORARY PERMIT. The advisory board may delegate authority to medical board employees to issue certificates or temporary permits under this chapter to applicants who clearly meet all applicable requirements. If the medical board employees determine that the applicant does not clearly meet all applicable requirements, the application must be returned to the advisory board. A certificate or temporary permit issued under this section does not require formal advisory board approval.

SECTION 9.167. Section 604.151(b), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(b) The advisory board [executive commissioner] by rule may
adopt a system under which certificates expire on various dates
during the year. For the year in which the certificate expiration
date is changed, the advisory board shall prorate
certificate fees on a monthly basis so that each certificate holder
pays only that portion of the certificate fee that is allocable to
the number of months during which the certificate is valid. On
renewal of the certificate on the new expiration date, the total
certificate renewal fee is payable.

SECTION 9.168. Section 604.152, Occupations Code, is
amended to read as follows:

Sec. 604.152. NOTICE OF CERTIFICATE RENEWAL. (a) Not later
than the 30th day before the expiration date of a person's
certificate, the advisory board shall mail a renewal
notice to the person at the person's last known address.

(b) To renew a certificate, the certificate holder must:

(1) complete the renewal notice and return the notice
with the renewal fee to the advisory board on or before
the expiration date; and

(2) meet any other requirement established by advisory
board rule.

SECTION 9.169. Sections 604.1521(a) and (b), Occupations
Code, are amended to read as follows:

(a) A person whose certificate has been expired for 90 days
or less may renew the certificate by paying to the advisory board
a renewal fee that is equal to 1-1/2 times the normally
required renewal fee.

(b) A person whose certificate has been expired for more
than 90 days but less than one year may renew the certificate by paying to the advisory board [department] a renewal fee that is equal to two times the normally required renewal fee.

SECTION 9.170. Section 604.1522(b), Occupations Code, is amended to read as follows:

(b) The person must pay to the advisory board [department] a fee that is equal to two times the normally required renewal fee for the certificate.

SECTION 9.171. Subchapter D, Chapter 604, Occupations Code, is amended by adding Section 604.1523 to read as follows:

Sec. 604.1523. CRIMINAL HISTORY RECORD INFORMATION

REQUIREMENT FOR RENEWAL. (a) An applicant for renewal of a certificate or temporary permit shall submit a complete and legible set of fingerprints for purposes of performing a criminal history check of the applicant as provided by Section 604.1031.

(b) The advisory board may not renew the certificate or temporary permit of a person who does not comply with the requirement of Subsection (a).

(c) A person is not required to submit fingerprints under this section for the renewal of a certificate or temporary permit if the person has previously submitted fingerprints under:

(1) Section 604.1031 for the initial issuance of the certificate or permit; or

(2) this section as part of a prior renewal of a certificate or permit.

SECTION 9.172. Section 604.153(a), Occupations Code, is amended to read as follows:
(a) The advisory board [department] shall issue to the certificate holder a certificate for the renewal period on receipt of the completed renewal notice and other information required by advisory board rule and payment of the renewal fee.

SECTION 9.173. Section 604.154, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 604.154. CONTINUING EDUCATION REQUIREMENTS. (a) The advisory board [executive commissioner] shall establish for the renewal of a certificate uniform continuing education requirements of not less than 12 or more than 24 continuing education hours for each renewal period.

(b) The advisory board [executive commissioner] may adopt rules relating to meeting the continuing education requirements in a hardship situation.

SECTION 9.174. Section 604.156, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 604.156. INACTIVE STATUS. (a) A respiratory care practitioner who does not practice respiratory care during a renewal period and who notifies the advisory board [department] that the practitioner is not practicing respiratory care is not required to pay the renewal fee until the practitioner resumes practice.

(b) To resume the practice of respiratory care, the practitioner must:

(1) notify the advisory board [department];
(2) satisfy requirements adopted by the advisory board; and

(3) pay the reinstatement fee and the renewal fee for the renewal period in which the practitioner will resume practice.

SECTION 9.175. Section 604.157(b), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(b) The advisory board may renew a temporary permit for not more than one additional period, pending compliance with this chapter and advisory board rules. The additional period may not be less than six months or more than 12 months.

SECTION 9.176. Chapter 604, Occupations Code, is amended by adding Subchapter D-1 to read as follows:

SUBCHAPTER D-1. COMPLAINTS AND INVESTIGATIVE INFORMATION

Sec. 604.171. COMPLAINT INFORMATION AND STATUS. (a) The advisory board shall maintain a system to promptly and efficiently act on complaints filed with the advisory board. The advisory board shall maintain:

(1) information about the parties to the complaint and the subject matter of the complaint;

(2) a summary of the results of the review or investigation of the complaint; and

(3) information about the disposition of the complaint.

(b) The advisory board shall make information available describing its procedures for complaint investigation and
If a written complaint is filed with the advisory board relating to a certificate or temporary permit holder, the advisory board, as often as quarterly and until final determination of the action to be taken on the complaint, shall notify the parties to the complaint of the status of the complaint unless the notice would jeopardize an active investigation.

Sec. 604.172. CONDUCT OF INVESTIGATION. The advisory board shall complete a preliminary investigation of a complaint filed with the advisory board not later than the 45th day after the date of receiving the complaint. The advisory board shall first determine whether the person constitutes a continuing threat to the public welfare. On completion of the preliminary investigation, the advisory board shall determine whether to officially proceed on the complaint. If the advisory board fails to complete the preliminary investigation in the time required by this section, the advisory board's official investigation of the complaint is considered to commence on that date.

Sec. 604.173. ACCESS TO COMPLAINT INFORMATION. (a) Except as provided by Subsection (b), the advisory board shall provide a person who is the subject of a formal complaint filed under this chapter with access to all information in its possession that the advisory board intends to offer into evidence in presenting its case in chief at the contested hearing on the complaint, subject to any other privilege or restriction established by rule, statute, or legal precedent. The advisory board shall provide the information not later than the 30th day after receipt of a written request from
the person or the person's counsel, unless good cause is shown for delay.

(b) The advisory board is not required to provide:

(1) advisory board investigative reports;
(2) investigative memoranda;
(3) the identity of a nontestifying complainant;
(4) attorney-client communications;
(5) attorney work product; or
(6) other material covered by a privilege recognized by the Texas Rules of Civil Procedure or the Texas Rules of Evidence.

(c) Providing information under this section does not constitute a waiver of privilege or confidentiality under this chapter or other law.

Sec. 604.174. HEALTH CARE ENTITY REQUEST FOR INFORMATION. On the written request of a health care entity, the advisory board shall provide to the entity:

(1) information about a complaint filed against a person that was resolved after investigation by:

(A) a disciplinary order of the advisory board;

or

(B) an agreed settlement; and

(2) the basis of and current status of any complaint that has been referred by the executive director of the medical board for enforcement action.

Sec. 604.175. CONFIDENTIALITY OF INVESTIGATIVE INFORMATION. A complaint, adverse report, investigation file,
other report, or other investigative information in the possession
of or received or gathered by the advisory board, the medical board,
or an employee or agent of the medical board relating to a
certificate or temporary permit holder, an application for a
certificate or temporary permit, or a criminal investigation or
proceeding is privileged and confidential and is not subject to
discovery, subpoena, or other means of legal compulsion for release
to any person other than the advisory board, the medical board, or
an employee or agent of the advisory board or medical board involved
in discipline under this chapter. For purposes of this section,
"investigative information" includes information related to the
identity of a person performing or supervising compliance
monitoring for the advisory board or medical board and a report
prepared by the person related to compliance monitoring.

Sec. 604.176. PERMITTED DISCLOSURE OF INVESTIGATIVE
INFORMATION. (a) Investigative information in the possession of
the advisory board, the medical board, or an employee or agent of
the medical board that relates to the discipline of a certificate or
temporary permit holder may be disclosed to:

(1) a licensing authority in another state or country
in which the certificate or temporary permit holder is licensed,
certified, or permitted or has applied for a license,
certification, or permit; or

(2) a medical peer review committee reviewing:

(A) an application for privileges; or

(B) the qualifications of the certificate holder
or person with respect to retaining privileges.
If investigative information in the possession of the advisory board, the medical board, or an employee or agent of the medical board indicates that a crime may have been committed, the advisory board or medical board, as appropriate, shall report the information to the proper law enforcement agency. The advisory board and medical board shall cooperate with and assist each law enforcement agency conducting a criminal investigation of a certificate or temporary permit holder by providing information relevant to the investigation. Confidential information disclosed to a law enforcement agency under this subsection remains confidential and may not be disclosed by the law enforcement agency except as necessary to further the investigation.

SECTION 9.177. Section 604.201, Occupations Code, is amended to read as follows:

Sec. 604.201. DISCIPLINARY ACTION. (a) For a violation of this chapter or a rule adopted under this chapter, the advisory board [department] may:

(1) deny, suspend, suspend on an emergency basis, revoke, or refuse to renew a certificate or temporary permit;

(2) place the certificate or permit holder on probation under conditions set by the advisory board [department]; or

(3) reprimand the certificate or permit holder.

(b) The advisory board [department] shall take disciplinary action authorized under Subsection (a) if the advisory board [department] determines that a person who holds a certificate or temporary permit:
(1) is guilty of fraud or deceit in procuring, renewing, or attempting to procure a certificate or temporary permit;

(2) is unfit or incompetent because of negligence or another cause of incompetency;

(3) is addicted to or has improperly obtained, possessed, used, or distributed a habit-forming drug or narcotic or is habitually intemperate in the use of alcoholic beverages;

(4) is guilty of dishonest or unethical conduct as determined by the advisory board [department];

(5) has practiced respiratory care after the person's certificate or temporary permit has expired;

(6) has practiced respiratory care under a certificate or temporary permit illegally or fraudulently obtained or issued;

(7) has practiced respiratory care without the direction of a qualified medical director or other licensed physician; or

(8) has violated this chapter or aided or abetted another in violating this chapter.

SECTION 9.178. Subchapter E, Chapter 604, Occupations Code, is amended by adding Section 604.2011 to read as follows:

Sec. 604.2011. SURRENDER OF CERTIFICATE OR TEMPORARY PERMIT. (a) The advisory board may accept the voluntary surrender of a certificate or temporary permit. A person who has surrendered a certificate or temporary permit may not engage in activities that require a certificate or permit, and the advisory board may not return the certificate or permit to the person, until the person
demonstrates to the satisfaction of the advisory board that the person is able to resume practice as a respiratory care practitioner.

(b) The advisory board shall by rule establish guidelines for determining when a person is competent to resume practice as a respiratory care practitioner.

SECTION 9.179. Section 604.202, Occupations Code, is amended to read as follows:

Sec. 604.202. EMERGENCY SUSPENSION. (a) The presiding officer of the advisory board shall appoint a three-member disciplinary panel consisting of advisory board members to determine whether a certificate or permit should be temporarily suspended.

(a-1) The disciplinary panel shall temporarily [department may] suspend a certificate or temporary permit issued under this chapter on a determination that continued practice by a certificate or temporary permit holder would constitute a continuing threat to the public welfare [the health and safety of a person is threatened and may make the suspension effective immediately].

(b) A [person whose] certificate or temporary permit may be [is] suspended under this section without notice or hearing on the complaint if:

(1) action is taken to initiate proceedings for [is entitled to] a hearing before the advisory board simultaneously with the temporary suspension; and

(2) a hearing is held as soon as practicable under this chapter and Chapter 2001, Government Code [department not later
than the 10th day after the effective date of the emergency
suspension].

(c) Notwithstanding Chapter 551, Government Code, the
disciplinary panel may hold a meeting by telephone conference call
if immediate action is required and convening of the panel at one
location is inconvenient for any member of the panel.

SECTION 9.180. Section 604.203, Occupations Code, as
amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
2015, is amended to read as follows:

Sec. 604.203. DISCIPLINARY PROCEDURE. The procedure by
which the [advisory board] rules for a contested
case hearing; and


SECTION 9.181. Subchapter E, Chapter 604, Occupations Code,
is amended by adding Sections 604.205 through 604.214 to read as
follows:

Sec. 604.205. DELEGATION OF CERTAIN COMPLAINT
DISPOSITIONS. (a) The [advisory board] may delegate to a committee
of medical board employees the authority to dismiss or enter into an
agreed settlement of a complaint that does not relate directly to
patient care or that involves only administrative violations. The
disposition determined by the committee must be approved by the
advisory board at a public meeting.

(b) A complaint delegated under this section shall be
referred for an informal proceeding under Section 604.209 if:

(1) the committee of employees determines that the complaint should not be dismissed or settled;

(2) the committee is unable to reach an agreed settlement; or

(3) the affected person requests that the complaint be referred for an informal proceeding.

Sec. 604.206. SUBPOENA. (a) The executive director of the medical board, the director's designee, or the secretary-treasurer of the medical board may issue a subpoena or subpoena duces tecum for the advisory board:

(1) to conduct an investigation or a contested proceeding related to:

(A) alleged misconduct by a certificate or temporary permit holder;

(B) an alleged violation of this chapter or other law related to respiratory care; or

(C) the provision of health care under this chapter; or

(2) for purposes of determining whether to issue, suspend, restrict, or revoke a certificate or temporary permit under this chapter.

(b) Failure to timely comply with a subpoena issued under this section is a ground for:

(1) disciplinary action by the advisory board or another licensing or regulatory agency with jurisdiction over the person subject to the subpoena; and
(2) denial of an application for a certificate or temporary permit.

Sec. 604.207. PROTECTION OF PATIENT IDENTITY. In a disciplinary investigation or proceeding conducted under this chapter, the advisory board shall protect the identity of each patient whose medical records are examined and used in a public proceeding unless the patient:

(1) testifies in the public proceeding; or

(2) submits a written release in regard to the patient's records or identity.

Sec. 604.208. REQUIRED SUSPENSION OF LICENSE OF INCARCERATED CERTIFICATE OR TEMPORARY PERMIT HOLDER. Regardless of the offense, the advisory board shall suspend the certificate or temporary permit of a person serving a prison term in a state or federal penitentiary during the term of the incarceration.

Sec. 604.209. INFORMAL PROCEEDINGS. (a) The advisory board by rule shall adopt procedures governing:

(1) informal disposition of a contested case under Section 2001.056, Government Code; and

(2) informal proceedings held in compliance with Section 2001.054, Government Code.

(b) Rules adopted under this section must require that:

(1) an informal meeting in compliance with Section 2001.054, Government Code, be scheduled and the advisory board give notice to the person who is the subject of a complaint of the time and place of the meeting not later than the 45th day before the date the meeting is held;
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(2) the complainant and the person who is the subject of the complaint be provided an opportunity to be heard;

(3) at least one of the advisory board members participating in the informal meeting as a panelist be a member who represents the public;

(4) a member of the medical board's staff be at the meeting to present to the advisory board's representative the facts the staff reasonably believes it could prove by competent evidence or qualified witnesses at a hearing; and

(5) the advisory board's legal counsel or a representative of the attorney general be present to advise the advisory board or the medical board's staff.

(c) The person who is the subject of the complaint is entitled to:

(1) reply to the staff's presentation; and

(2) present the facts the person reasonably believes the person could prove by competent evidence or qualified witnesses at a hearing.

(d) After ample time is given for the presentations, the advisory board representative shall recommend that the investigation be closed or shall attempt to mediate the disputed matters and make a recommendation regarding the disposition of the case in the absence of a hearing under applicable law concerning contested cases.

(e) If the person who is the subject of the complaint has previously been the subject of disciplinary action by the advisory board, the advisory board shall schedule the informal meeting as
soon as practicable.

Sec. 604.210. ADVISORY BOARD REPRESENTATION IN INFORMAL PROCEEDINGS. (a) In an informal meeting under Section 604.209, at least two panelists shall be appointed to determine whether an informal disposition is appropriate.

(b) Notwithstanding Subsection (a) and Section 604.209(b)(3), an informal proceeding may be conducted by one panelist if the person who is the subject of the complaint waives the requirement that at least two panelists conduct the informal proceeding. If the person waives that requirement, the panelist may be any member of the advisory board.

(c) Except as provided by Subsection (d), the panel requirements described by Subsections (a) and (b) apply to an informal proceeding conducted by the advisory board under Section 604.209, including a proceeding to:

(1) consider a disciplinary case to determine if a violation has occurred; or

(2) request modification or termination of an order.

(d) The panel requirements described by Subsections (a) and (b) do not apply to an informal proceeding conducted by the advisory board under Section 604.209 to show compliance with an order of the advisory board.

Sec. 604.211. ROLES AND RESPONSIBILITIES OF PARTICIPANTS IN INFORMAL PROCEEDINGS. (a) An advisory board member who serves as a panelist at an informal meeting under Section 604.209 shall make recommendations for the disposition of a complaint or allegation. The member may request the assistance of a medical
board employee at any time.

(b) Medical board employees shall present a summary of the allegations against the person who is the subject of the complaint and of the facts pertaining to the allegation that the employees reasonably believe may be proven by competent evidence at a formal hearing.

(c) An attorney for the advisory board or medical board shall act as counsel to the panel and, notwithstanding Subsection (e), shall be present during the informal meeting and the panel's deliberations to advise the panel on legal issues that arise during the proceeding. The attorney may ask questions of a participant in the informal meeting to clarify any statement made by the participant. The attorney shall provide to the panel a historical perspective on comparable cases that have appeared before the advisory board or medical board, keep the proceedings focused on the case being discussed, and ensure that the medical board's employees and the person who is the subject of the complaint have an opportunity to present information related to the case. During the panel's deliberations, the attorney may be present only to advise the panel on legal issues and to provide information on comparable cases that have appeared before the advisory board or medical board.

(d) The panel and medical board employees shall provide an opportunity for the person who is the subject of the complaint and the person's authorized representative to reply to the medical board employees' presentation and to present oral and written statements and facts that the person and representative reasonably
believe could be proven by competent evidence at a formal hearing.

(e) An employee of the medical board who participated in the presentation of the allegation or information gathered in the investigation of the complaint, the person who is the subject of the complaint, the person’s authorized representative, the complainant, the witnesses, and members of the public may not be present during the deliberations of the panel. Only the members of the panel and the attorney serving as counsel to the panel may be present during the deliberations.

(f) The panel shall recommend the dismissal of the complaint or allegations or, if the panel determines that the person has violated a statute or advisory board rule, the panel may recommend advisory board action and terms for an informal settlement of the case.

(g) The panel’s recommendations under Subsection (f) must be made in a written order and presented to the affected person and the person’s authorized representative. The person may accept the proposed settlement within the time established by the panel at the informal meeting. If the person rejects the proposed settlement or does not act within the required time, the advisory board may proceed with the filing of a formal complaint with the State Office of Administrative Hearings.

Sec. 604.212. LIMIT ON ACCESS TO INVESTIGATION FILES. The advisory board shall prohibit or limit access to an investigation file relating to a person subject to an informal proceeding in the manner provided by Sections 164.007(c) and 604.175.

Sec. 604.213. REFUND. (a) Subject to Subsection (b), the
advisory board may order a certificate or temporary permit holder to pay a refund to a consumer as provided in an agreement resulting from an informal settlement conference instead of or in addition to imposing an administrative penalty under Subchapter F.

(b) The amount of a refund ordered as provided in an agreement resulting from an informal settlement conference may not exceed the amount the consumer paid to the certificate or temporary permit holder for a service regulated by this chapter. The advisory board may not require payment of other damages or estimate harm in a refund order.

Sec. 604.214. EXPERT IMMUNITY. An expert who assists the advisory board is immune from suit and judgment and may not be subjected to a suit for damages for any investigation, report, recommendation, statement, evaluation, finding, or other action taken in the course of assisting the advisory board in a disciplinary proceeding. The attorney general shall represent the expert in any suit resulting from a service provided by the person in good faith to the advisory board.

SECTION 9.182. Section 604.301, Occupations Code, is amended to read as follows:

Sec. 604.301. IMPOSITION OF PENALTY. The advisory board may impose an administrative penalty on a person who violates this chapter or a rule adopted under this chapter.

SECTION 9.183. Section 604.303, Occupations Code, is amended to read as follows:

Sec. 604.303. NOTICE OF VIOLATION AND PENALTY. If, after investigation of a possible violation and the facts surrounding the
possible violation, the advisory board determines that a violation occurred, the advisory board shall give written notice of the violation to the person alleged to have committed the violation. The notice must:

(1) include a brief summary of the alleged violation;
(2) state the amount of the proposed administrative penalty based on the factors set forth in Section 604.302(b); and
(3) inform the person of the person's right to a hearing on the occurrence of the violation, the amount of the penalty, or both.

SECTION 9.184. Section 604.304, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 604.304. PENALTY TO BE PAID OR HEARING REQUESTED. (a) Not later than the 20th day after the date the person receives the notice under Section 604.303, the person may:

(1) accept the advisory board's determination and proposed administrative penalty; or
(2) make a written request for a hearing on that determination.

(b) If the person accepts the determination, the advisory board by order shall approve the determination and assess the proposed penalty.

SECTION 9.185. Section 604.305, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 604.305. HEARING. (a) If the person requests a
hearing in a timely manner, the advisory board [department] shall:

1. set a hearing; and
2. give written notice of the hearing to the person.

(b) The hearings examiner shall:

1. make findings of fact and conclusions of law; and
2. promptly issue to the advisory board [department] a proposal for decision as to the occurrence of the violation and the amount of any proposed administrative penalty.

SECTION 9.186. Section 604.306, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 604.306. DECISION BY ADVISORY BOARD [DEPARTMENT]. (a) Based on the findings of fact, conclusions of law, and proposal for decision, the advisory board [department] by order may determine that:

1. a violation occurred and impose an administrative penalty; or
2. a violation did not occur.

(b) The advisory board [department] shall give notice of the order to the person. The notice must include:

1. separate statements of the findings of fact and conclusions of law;
2. the amount of any penalty imposed; and
3. a statement of the person's right to judicial review of the order.

SECTION 9.187. Sections 604.307(b) and (c), Occupations Code, are amended to read as follows:
(b) Within the 30-day period, a person who acts under Subsection (a)(3) may:

1. stay enforcement of the penalty by:
   (A) paying the penalty to the court for placement in an escrow account; or
   (B) giving to the court a supersedeas bond approved by the court that:
      (i) is for the amount of the penalty; and
      (ii) is effective until judicial review of the order is final; or

2. request the court to stay enforcement of the penalty by:
   (A) filing with the court a sworn affidavit of the person stating that the person is financially unable to pay the penalty and is financially unable to give the supersedeas bond; and
   (B) giving a copy of the affidavit to the advisory board [department] by certified mail.

(c) If the advisory board [department] receives a copy of an affidavit under Subsection (b)(2), the advisory board [department] may file with the court a contest to the affidavit not later than the fifth day after the date the copy is received.

SECTION 9.188. Section 604.308, Occupations Code, is amended to read as follows:

Sec. 604.308. COLLECTION OF PENALTY. If the person does not pay the penalty and enforcement of the penalty is not stayed, the advisory board [department] may refer the matter to the attorney general for collection of the penalty.
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SECTION 9.189. Section 604.311, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 604.311. ADMINISTRATIVE PENALTY EXPENSES AND COSTS. (a) In this section, "reasonable expenses and costs" includes expenses incurred by the advisory board [department] or the attorney general in the investigation, initiation, or prosecution of an action, including reasonable investigative costs, court costs, attorney's fees, witness fees, and deposition expenses.

(b) The advisory board [department] may assess reasonable expenses and costs against a person in an administrative hearing if, as a result of the hearing, an administrative penalty is assessed against the person. The person shall pay expenses and costs assessed under this subsection not later than the 30th day after the date the order of the advisory board [department] requiring the payment of expenses and costs is final. The advisory board [department] may refer the matter to the attorney general for collection of the expenses and costs.

(c) If the attorney general brings an action against a person to enforce an administrative penalty assessed under this subchapter and the person is found liable for an administrative penalty, the attorney general may recover, on behalf of the attorney general and the advisory board [department], reasonable expenses and costs.

SECTION 9.190. The heading to Subchapter G, Chapter 604, Occupations Code, is amended to read as follows:

SUBCHAPTER G. CRIMINAL PENALTIES AND ENFORCEMENT PROVISIONS
SECTION 9.191. Section 604.352(a), Occupations Code, is amended to read as follows:

(a) A person commits an offense if the person knowingly:

(1) sells, fraudulently obtains, or furnishes a respiratory care diploma, certificate, temporary permit, or record;

(2) practices respiratory care under a respiratory care diploma, certificate, temporary permit, or record illegally or fraudulently obtained or issued;

(3) impersonates in any manner a respiratory care practitioner;

(4) practices respiratory care while the person's certificate or temporary permit is suspended, revoked, or expired;

(5) conducts a formal respiratory care education program to prepare respiratory care personnel other than a program approved by the advisory board [department];

(6) employs a person as a respiratory care practitioner who does not hold a certificate or temporary permit in the practice of respiratory care; or

(7) otherwise practices medicine in violation of Section 604.002.

SECTION 9.192. The following provisions of the Occupations Code are repealed:

(1) Sections 601.002(2) and (5);

(2) Section 601.051;

(3) Section 601.053;

(4) Section 601.103;
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(5) Sections 602.002(1-a) and (2);
(6) Sections 602.052(b) and (c);
(7) Sections 602.053(a), (b), and (c);
(8) Section 602.056(c);
(9) Section 602.059;
(10) Subchapter C, Chapter 602;
(11) Sections 602.1525(b), (c), (d), (e), (f), and (g);
(12) Section 602.155;
(13) Section 602.204;
(14) Sections 603.002(1) and (4);
(15) Section 603.005;
(16) Section 603.054(c);
(17) Section 603.058;
(18) Subchapter C, Chapter 603;
(19) Section 603.154(b);
(20) Section 603.158;
(21) Section 603.159;
(22) Sections 603.2041(b), (c), (d), (f), and (g);
(23) Section 604.051;
(24) Sections 604.052(b) and (c); and
(25) Section 604.056.

SECTION 9.193. Sections 601.1031, 601.1111, 602.2081, 602.2101, 603.2571, 603.3031, 604.1031, and 604.1523, Occupations Code, as added by this article, apply only to an application for the issuance or renewal of a license, certificate, or permit filed under Chapter 601, 602, 603, or 604, Occupations Code, on or after
January 1, 2016. An application filed before that date is governed by the law in effect at the time the application was filed, and the former law is continued in effect for that purpose.

SECTION 9.194. (a) A rule or fee of the Department of State Health Services that relates to a program transferred under this article and that is in effect on the effective date of this Act remains in effect until changed by the Texas Medical Board, the Texas Board of Medical Radiologic Technology, or the Texas Board of Respiratory Care, as appropriate.

(b) A license, certificate, or permit issued by the Department of State Health Services for a program transferred under this article is continued in effect as a license, certificate, or permit of the Texas Medical Board, the Texas Board of Medical Radiologic Technology, or the Texas Board of Respiratory Care, as appropriate, after the effective date of this Act.

(c) A complaint, investigation, contested case, or other proceeding before the Department of State Health Services relating to a program transferred under this article that is pending on the effective date of this Act is transferred without change in status to the Texas Medical Board, the Texas Board of Medical Radiologic Technology, or the Texas Board of Respiratory Care, as appropriate.

SECTION 9.195. (a) As soon as practicable after the effective date of this Act, the Department of State Health Services and the Texas Medical Board shall adopt a transition plan to provide for the orderly transfer of powers, duties, functions, programs, and activities under this article. The transition plan must provide for the transfer to be completed as soon as practicable.
after the effective date of this Act.

(b) The Department of State Health Services shall provide the Texas Medical Board with access to any systems or information necessary for the Texas Medical Board to accept a program transferred under this article.

(c) On the effective date of this Act, the Texas Board of Licensure for Professional Medical Physicists and the Texas State Perfusionist Advisory Committee are abolished and the governor and the president of the Texas Medical Board, as appropriate, shall, as soon as practicable after the effective date of this Act, appoint the members of 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.

ARTICLE 10. DEREGULATION OF CERTAIN ACTIVITIES AND OCCUPATIONS

SECTION 10.001. Section 2165.303(b), Government Code, is amended to read as follows:

(b) The commission shall report the findings and test results obtained under a contract for air monitoring under this section to the office [and the department] in a form and manner prescribed by the office [and the department] for that purpose.

SECTION 10.002. Section 2165.305(c), Government Code, is amended to read as follows:

(c) In developing a seminar required by this section, the office shall receive assistance from:

(1) the commission; and

(2) [the department; and]
an entity that specializes in research and technical assistance related to indoor air quality but does not receive appropriations from the state.

SECTION 10.003. The heading to Subtitle G, Title 2, Health and Safety Code, is amended to read as follows:

**SUBTITLE G. LICENSES AND OTHER REGULATION**

SECTION 10.004. The heading to Subchapter C, Chapter 144, Health and Safety Code, is amended to read as follows:

**SUBCHAPTER C. OPERATING PROCEDURES [FOR ALL LICENSE HOLDERS]**

SECTION 10.005. Section 144.021, Health and Safety Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 144.021. **GENERAL REQUIREMENTS FOR RENDERING OPERATIONS [OPERATING LICENSES]**. (a) Each rendering establishment, related station, transfer station, dead animal hauler, or renderable raw material hauler [applicant for or holder of an operating license] shall adopt operating procedures that:

1. provide for the sanitary performance of rendering operations and processes;
2. prevent the spread of infectious or noxious materials; and
3. ensure that finished products are free from disease-producing organisms.

(b) As a condition of licensure, the department, in accordance with department rules, may prescribe other reasonable and appropriate construction, operational, maintenance, and inspection requirements to ensure compliance with this chapter and
 other applicable rules.]  

SECTION 10.006. Section 144.022, Health and Safety Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 144.022. RECORDS. (a) Each [licensed] rendering establishment, related station, or dead animal hauler shall have a dead animal log that meets the requirements prescribed by department rule. The name of the [licensed] rendering establishment, related station, or dead animal hauler must be on the front of the log.

(b) A rendering establishment, related station, or dead animal hauler that [when a license holder] receives a dead animal shall enter the following information in the log:

(1) the date and time of the pickup of the dead animal;
(2) the name of the driver of the collection vehicle;
(3) a description of the dead animal;
(4) the location of the dead animal, including the county; and
(5) the owner of the dead animal, if known.

(c) The rendering establishment, related station, or dead animal hauler [license holder] shall also keep a record in the log, or in an appendix to the log, of the general route followed in making the collection.

(d) The log is subject to inspection at all reasonable times by the department or a person with written authorization from the department. [Repeated or wilful failure or refusal to produce the
log for inspection or to permit inspection by persons properly
authorized to inspect the log constitutes grounds for license
revocation.]

(e) This section does not apply to a [licensed] renderable
raw material hauler.

SECTION 10.007. The heading to Section 144.023, Health and
Safety Code, is amended to read as follows:

Sec. 144.023. VEHICLES[PERMIT REQUIRED].

SECTION 10.008. Section 144.023(c), Health and Safety Code,
is amended to read as follows:

(c) A truck bed used to transport dead animals or renderable
raw materials shall be thoroughly washed and sanitized before use
for the transport of finished rendered products. A truck bed used to
transport dead animals or renderable raw materials to a rendering
establishment, or to transfer finished rendered products from an
establishment, shall, before being used to transport any product
intended for human consumption, be thoroughly sanitized with a
bactericidal agent that is [determined by the department to be] safe for use in a rendering establishment. A truck bed may not be
used to transport dead animals or renderable raw materials at the
same time the truck bed or any part of the truck bed is used to
transport any product intended for human consumption,
notwithstanding the manner in which part of the truck bed is sealed
or separated from the remainder of the bed.

SECTION 10.009. Section 144.027(c), Health and Safety Code,
is amended to read as follows:

(c) A drinking water supply [approved by the department]
shall be provided at convenient locations in the establishment for
the use of employees.

SECTION 10.010. Section 144.078(a), Health and Safety Code,
is amended to read as follows:

(a) The attorney general may bring an action in any district court of this state that has jurisdiction and venue for an injunction to compel compliance with this chapter or to restrain any actual or threatened violation of this chapter.

SECTION 10.011. Section 144.079(c), Health and Safety Code,
is amended to read as follows:

(c) A renderer, hauler, or any other person may not:

(1) take possession of recyclable cooking oil from an unlicensed hauler or an employee or contractor of an unlicensed hauler; or

(2) knowingly take possession of stolen recyclable cooking oil.

SECTION 10.012. Sections 145.006(a) and (b), Health and Safety Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, are amended to read as follows:

(a) A tanning facility shall post a warning sign in a conspicuous location where it is readily visible by persons entering the establishment. The executive commissioner by rule shall specify the size, design, and graphic design of the sign. The sign must have dimensions of at least 11 inches by 17 inches and must contain the following wording:

Repeated exposure to ultraviolet radiation may cause chronic
sun damage characterized by wrinkling, dryness, fragility, bruising of the skin, and skin cancer.

DANGER: ULTRAVIOLET RADIATION

Failure to use protective eyewear may result in severe burns or permanent injury to the eyes.

Medications or cosmetics may increase your sensitivity to ultraviolet radiation. Consult a physician before using a sunlamp if you are using medications, have a history of skin problems, or believe you are especially sensitive to sunlight. Pregnant women or women taking oral contraceptives who use this product may develop discolored skin.

[A customer may call the Department of State Health Services at (insert toll-free telephone number) to report an alleged injury regarding this tanning facility.]

IF YOU DO NOT TAN IN THE SUN, YOU ARE UNLIKELY TO TAN FROM USE OF AN ULTRAVIOLET LAMP OR SUNLAMP.

(b) A tanning facility operator shall also post a warning sign at each tanning device in a conspicuous location that is readily visible to a person about to use the device. [The executive commissioner by rule shall specify the size, design, and graphic design of the sign.] The sign must have dimensions of at least 11 inches by 17 inches and must contain the following wording:

DANGER: ULTRAVIOLET RADIATION

1. Follow the manufacturer's instructions for use of this device.

2. Avoid too frequent or lengthy exposure. As with natural sunlight, exposure can cause serious eye and skin injuries and
allergic reactions. Repeated exposure may cause skin cancer.

3. Wear protective eyewear. Failure to use protective eyewear may result in severe burns or permanent damage to the eyes.

4. Do not sunbathe before or after exposure to ultraviolet radiation from sunlamps.

5. Medications or cosmetics may increase your sensitivity to ultraviolet radiation. Consult a physician before using a sunlamp if you are using medication, have a history of skin problems, or believe you are especially sensitive to sunlight. Pregnant women or women using oral contraceptives who use this product may develop discolored skin.

[A customer may call the Department of State Health Services at (insert toll-free telephone number) to report an alleged injury regarding this tanning device.]

IF YOU DO NOT TAN IN THE SUN, YOU ARE UNLIKELY TO TAN FROM USE OF THIS DEVICE.

SECTION 10.013. Sections 145.008(i) and (j), Health and Safety Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, are amended to read as follows:

(i) A record of each customer using a tanning device shall be maintained at the tanning facility at least until the third anniversary of the date of the customer's last use of a tanning device. [The executive commissioner by rule shall prescribe the form and content of the records.] The record shall include:

   (1) the date and time of the customer's use of a tanning device;
   (2) the length of time the tanning device was used;
any injury or illness resulting from the use of a tanning device;

any written informed consent statement required to be signed under Subsection (e);

the customer’s skin type, as determined by the customer by using the Fitzpatrick scale for classifying a skin type;

whether the customer has a family history of skin cancer; and

whether the customer has a past medical history of skin cancer.

(j) An operator shall keep an incident log at each tanning facility. The log shall be maintained at the tanning facility at least until the third anniversary of the date of an incident. [The executive commissioner by rule shall prescribe the form and content of the log.] The log shall include each:

(1) alleged injury;

(2) use of a tanning device by a customer not wearing protective eyewear;

(3) mechanical problem with a tanning device; and

(4) customer complaint.

SECTION 10.014. Section 145.0096, Health and Safety Code, is amended by amending Subsections (a) and (b) and adding Subsection (a-1) to read as follows:

(a) This section applies only to a business that:

(1) is operated under a license or permit as a sexually oriented business issued in accordance with Section 243.007, Local
Government Code; or

(2) offers, as its primary business, a service or the sale, rental, or exhibition of a device or other item that is intended to provide sexual stimulation or sexual gratification to a customer.

(a-1) A business to which this section applies [described by Section 145.0095(a)(1) or (2)] may not use the word "tan" or "tanning" in a sign or any other form of advertising.

(b) A person commits an offense if the person violates Subsection (a-1). Except as provided by Subsection (c), an offense under this subsection is a Class C misdemeanor.

SECTION 10.015. The heading to Section 145.011, Health and Safety Code, is amended to read as follows:

Sec. 145.011. ACCESS TO RECORDS [RULES; INSPECTION].

SECTION 10.016. Section 145.011(c), Health and Safety Code, is amended to read as follows:

(c) A person who is required to maintain records under this chapter or a person in charge of the custody of those records shall, at the request of a [an authorized agent or] health authority, permit the [authorized agent or] health authority access to copy or verify the records at reasonable times.

SECTION 10.017. Sections 145.0121(a) and (f), Health and Safety Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, are amended to read as follows:

(a) If it appears that a person has violated or is violating this chapter [or an order issued or a rule adopted under this chapter], [the department may request] the attorney general, or the
district, county, or the municipal attorney in the jurisdiction where the violation is alleged to have occurred or may occur, may institute a civil suit for:

(1) an order enjoining the violation;

(2) a permanent or temporary injunction, a temporary restraining order, or other appropriate remedy [if the department shows that the person has engaged in or is engaging in a violation];

(3) the assessment and recovery of a civil penalty; or

(4) both injunctive relief and a civil penalty.

(f) The attorney general may recover reasonable expenses incurred in obtaining injunctive relief or a civil penalty under this section, including investigation and court costs, reasonable attorney's fees, witness fees, and other expenses. The expenses recovered by the department under this section shall be used for the administration and enforcement of this chapter. The expenses recovered by the attorney general shall be used by the attorney general.

SECTION 10.018. Section 145.016(b), Health and Safety Code, is amended to read as follows:

(b) An operator or other person may disclose a customer record:

(1) if the customer, or a person authorized to act on behalf of the customer, requests the record;

(2) if a health authority requests the record under Section 145.011;

(3) if the customer consents in writing to the disclosure to another person;
in a criminal proceeding in which the customer is a
victim, witness, or defendant;
(5) if the record is requested in a criminal or civil
proceeding by court order or subpoena; or
(6) as otherwise required by law.

SECTION 10.019. Section 437.0057(a), Health and Safety
Code, is amended to read as follows:
(a) A county, a public health district, or the department
may require a food handler be certified through a food handler
program that is accredited by the American National Standards
Institute, if the food handler is employed by a food service
establishment in which food is prepared on-site for sale to the
public and which holds a permit issued by the county, the public
health district, or the department. This section applies without
regard to whether the food service establishment is at a fixed
location or is a mobile food unit.

SECTION 10.020. Section 437.0195(a), Health and Safety
Code, is amended to read as follows:
(a) An individual who operates a cottage food production
operation must have successfully completed a basic food safety
education or training program for food handlers accredited by the
American National Standards Institute and the Conference for Food
Protection.

SECTION 10.021. The heading to Section 438.041, Health and
Safety Code, is amended to read as follows:
Sec. 438.041. DEFINITIONS.
SECTION 10.022. Section 438.041, Health and Safety Code, is amended by adding Subdivision (3) to read as follows:

(3) "Food manager" means an individual who manages or operates a food establishment.

SECTION 10.023. Section 438.042, Health and Safety Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 438.042. DUTIES OF EXECUTIVE COMMISSIONER. (a) The executive commissioner shall adopt standards and procedures for the accreditation of education and training programs for food managers [persons employed in the food service industry].

(b) The executive commissioner shall adopt standards and procedures for the accreditation of education and training programs for recertification of food managers [persons employed in the food service industry] who have previously completed a program accredited in accordance with this subchapter or have been certified by a local health jurisdiction and have completed training and testing requirements substantially similar to those required by this subchapter for program accreditation. The requirements for accreditation in Section 438.043 need not be met by an education or training program for recertification.

SECTION 10.024. Sections 438.046(b) and (c), Health and Safety Code, are amended to read as follows:

(b) A local health jurisdiction that requires training for a food service worker shall accept as sufficient to meet the jurisdiction's training and testing requirements a food manager training course that is accredited by the department or a food
handler training course that is accredited by the American National Standards Institute [and listed with the registry]. A food service worker trained in a course for the employees of a single entity is considered to have met a local health jurisdiction's training and testing requirements only as to food service performed for that entity.

(c) Any fee charged by a local health jurisdiction for a certificate issued to a food service worker trained by an accredited course as provided by Subsection (b) [listed in the registry] may not exceed the lesser of:

1. the reasonable cost incurred by the jurisdiction in issuing the certificate; or
2. the fee charged by the jurisdiction to issue a certificate to a food service worker certified by the jurisdiction as having met the training and testing requirements by any other means.

SECTION 10.025. Section 1001.071(b), Health and Safety Code, as redesignated by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(b) The department is responsible for administering human services programs regarding the public health, including:

1. implementing the state's public health care delivery programs under the authority of the department;
2. administering state health facilities, hospitals, and health care systems;
3. developing and providing health care services, as directed by law;
(4) providing for the prevention and control of communicable diseases;
(5) providing public education on health-related matters, as directed by law;
(6) compiling and reporting health-related information, as directed by law;
(7) acting as the lead agency for implementation of state policies regarding the human immunodeficiency virus and acquired immunodeficiency syndrome and administering programs related to the human immunodeficiency virus and acquired immunodeficiency syndrome;
(8) investigating the causes of injuries and methods of prevention;
(9) administering a grant program to provide appropriated money to counties, municipalities, public health districts, and other political subdivisions for their use to provide or pay for essential public health services;
(10) administering the registration of vital statistics;
(11) licensing, inspecting, and enforcing regulations regarding health facilities, other than long-term care facilities regulated by the Department of Aging and Disability Services;
(12) implementing established standards and procedures for the management and control of sanitation and for health protection measures;
(13) enforcing regulations regarding radioactive materials;
enforcing regulations regarding food, 
and vended drinking water,] drugs, cosmetics, and health devices;
(15) enforcing regulations regarding food service establishments, retail food stores, mobile food units, and roadside food vendors;
(16) enforcing regulations controlling hazardous substances in households and workplaces; and
(17) implementing a mental health program for veterans.

SECTION 10.026. Section 32.074(a), Human Resources Code, is amended to read as follows:

(a) In this section, "personal emergency response system" has the meaning assigned by Section 1702.331, Occupations [781.001, Health and Safety] Code.

SECTION 10.027. Section 843.002(24), Insurance Code, is amended to read as follows:

(24) "Provider" means:

(A) a person, other than a physician, who is licensed or otherwise authorized to provide a health care service in this state, including:

(i) a chiropractor, registered nurse, pharmacist, optometrist, [registered optician,] or acupuncturist; or

(ii) a pharmacy, hospital, or other institution or organization;

(B) a person who is wholly owned or controlled by a provider or by a group of providers who are licensed or otherwise
authorized to provide the same health care service; or

(C) a person who is wholly owned or controlled by one or more hospitals and physicians, including a physician-hospital organization.

SECTION 10.028. Sections 351.005(a) and (d), Occupations Code, are amended to read as follows:

(a) This chapter does not:

(1) apply to an officer or agent of the United States or this state in performing official duties;

(2) prevent or interfere with the right of a physician licensed by the Texas [State Board of] Medical Board [Examiners] to:

(A) treat or prescribe for a patient; or

(B) direct or instruct a person under the physician’s control, supervision, or direction to aid or attend to the needs of a patient according to the physician's specific direction, instruction, or prescription;

(3) prevent a person from selling ready-to-wear eyeglasses as merchandise at retail;

(4) prevent an unlicensed person from making simple repairs to eyeglasses;

(5) prevent or interfere with the right of a dispensing optician registered under Chapter 352 to engage in spectacle or contact lens dispensing under that chapter;

(6) prevent an ophthalmic dispenser who does not practice optometry or therapeutic optometry from measuring interpupillary distances or making facial measurements to dispense
or adapt an ophthalmic prescription, lens, product, or accessory in accordance with the specific directions of a written prescription signed by an optometrist, therapeutic optometrist, or licensed physician;

(6) prevent the administrator or executor of the estate of a deceased optometrist or therapeutic optometrist from employing an optometrist or therapeutic optometrist to continue the practice of the deceased during estate administration; or

(7) prevent an optometrist or therapeutic optometrist from working for the administrator or executor of the estate of a deceased optometrist or therapeutic optometrist to continue the practice of the deceased during estate administration.

(d) Continuation of the practice of a deceased optometrist or therapeutic optometrist by an estate under Subsections (a)(6) and (7) must:

(1) be authorized by the county judge; and

(2) terminate before the first anniversary of the date of death of the optometrist or therapeutic optometrist.

SECTION 10.029. Section 353.004, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 353.004. PUBLIC INFORMATION ON PRESCRIPTION RELEASE. The Texas Optometry Board shall prepare and provide to the public and appropriate state agencies information regarding the release and verification of contact lens prescriptions.
to implement this section.]

SECTION 10.030. Section 353.1015(b), Occupations Code, is amended to read as follows:

(b) A prescription is considered verified under this section if:

(1) the prescribing physician, optometrist, or therapeutic optometrist by a direct communication confirms that the prescription is accurate;

(2) the prescribing physician, optometrist, or therapeutic optometrist informs the person dispensing the contact lenses that the prescription is inaccurate and provides the correct prescription information; or

(3) the prescribing physician, optometrist, or therapeutic optometrist fails to communicate with the person dispensing the contact lenses not later than the eighth business hour after the prescribing physician, optometrist, or therapeutic optometrist receives from the person dispensing the contact lenses the request for verification [or within another similar period specified by rule].

SECTION 10.031. Section 353.103(a), Occupations Code, is amended to read as follows:

(a) If a patient presents a contact lens prescription to be filled or asks a person who dispenses contact lenses [permit holder] to verify a contact lens prescription under Section 353.1015, but requests that fewer than the total number of lenses authorized by the prescription be dispensed, the person dispensing the lenses shall note on the prescription or verification:
(1) the number of lenses dispensed;
(2) the number of lenses that remain eligible to be dispensed under the prescription; and
(3) the name, address, and telephone number[, and license or permit number] of the person dispensing the lenses.

SECTION 10.032. Section 353.104(a), Occupations Code, is amended to read as follows:

(a) If a patient needs an emergency refill of the patient's contact lens prescription, a physician, optometrist, or therapeutic optometrist may telephone or fax the prescription to a person who dispenses [authorized to dispense] contact lenses [under Section 353.051] or may verify a prescription under Section 353.1015.

SECTION 10.033. Section 353.151, Occupations Code, is amended to read as follows:

Sec. 353.151. DIRECTIONS FOR INDEPENDENT DISPENSER [OPTICIAN]; DELEGATION. (a) If a physician's directions, instructions, or orders are to be performed or a physician's prescription is to be filled by a person [an optician] who is independent of the physician's office, the directions, instructions, orders, or prescription must be:

(1) in writing or verified under Section 353.1015;
(2) of a scope and content and communicated to the person [optician] in a form and manner that, in the professional judgment of the physician, best serves the health, safety, and welfare of the physician's patient; and
(3) in a form and detail consistent with the person's
[optician's] skill and knowledge.

(b) A person who dispenses contact lenses [holds a contact lens dispensing permit issued under Subchapter B] may measure the eye or cornea and may evaluate the physical fit of lenses for a particular patient of a physician if the physician has delegated in writing those responsibilities regarding that patient to the person in accordance with Subsection (a) and Section 351.005.

(c) If a physician notes on a spectacle prescription "fit for contacts" or similar language and has, as required by Subsections (a) and (b), specifically delegated to a specific person [optician] the authority to make the additional measurements and evaluations necessary for a fully written contact lens prescription, the person [optician] may dispense contact lenses to the patient even though the prescription is less than a fully written contact lens prescription.

SECTION 10.034. The heading to Subtitle G, Title 3, Occupations Code, is amended to read as follows:

SUBTITLE G. PROFESSIONS RELATED TO HEARING AND [AND] SPEECH [AND] DYSLEXIA

SECTION 10.035. The following provisions of the Government Code are repealed:

(1) Section 2165.301(2);

(2) Section 2165.302; and

(3) Section 2165.304.

SECTION 10.036. The following provisions of the Health and Safety Code are repealed:

(1) Section 144.001;
C.S.H.B. No. 2510

(2) Subchapter B, Chapter 144;
(3) Sections 144.023(d) and (e);
(4) Section 144.031;
(5) Subchapter D, Chapter 144;
(6) Subchapter E, Chapter 144;
(7) Subchapter F, Chapter 144;
(8) Section 144.071;
(9) Section 144.072;
(10) Section 144.073;
(11) Section 144.074;
(12) Section 144.075;
(13) Section 144.076;
(14) Section 144.077;
(15) Section 144.078(c);
(16) Section 144.080;
(17) Section 144.081;
(18) Section 144.082;
(19) Section 144.083;
(20) Section 144.084;
(21) Section 144.085;
(22) Section 145.001;
(23) Section 145.002(1);
(24) Section 145.004(b);
(25) Section 145.006(c);
(26) Section 145.008(k);
(27) Section 145.009;
(28) Section 145.0095;
C.S.H.B. No. 2510

(29) Section 145.010;
(30) Sections 145.011(a) and (b);
(31) Section 145.012;
(32) Section 145.0122;
(33) Section 145.015;
(34) Chapter 345;
(35) Chapter 385;
(36) Section 437.0057(b);
(37) Section 438.0431;
(38) Chapter 441; and
(39) Chapter 781.

SECTION 10.037. The following provisions of the Occupations
Code are repealed:

(1) Section 351.005(c);
(2) Chapter 352;
(3) Sections 353.002(2) and (4);
(4) Section 353.005;
(5) Subchapter B, Chapter 353;
(6) Section 353.202;
(7) Section 353.2025;
(8) Section 353.203;
(9) Section 353.204(b);
(10) Section 353.205; and
(11) Chapter 403.

SECTION 10.038. On the effective date of this Act, a
license, permit, certification of registration, or other
authorization issued under a law that is repealed by this article

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SECTION 10.039. The changes in law made by this article do not affect the validity of a disciplinary action or other proceeding that was initiated before the effective date of this Act and that is pending before a court or other governmental entity on the effective date of this Act.

SECTION 10.040. (a) An offense under or other violation of a law that is repealed by this article is governed by the law in effect when the offense or violation was committed, and the former law is continued in effect for that purpose.

(b) For purposes of this section, an offense or violation was committed before the effective date of this Act if any element of the offense or violation occurred before that date.

SECTION 10.041. The repeal of a law by this article does not entitle a person to a refund of an application, licensing, or other fee paid by the person before the effective date of this Act.

ARTICLE 11. CONTINUATION OF DEPARTMENT OF STATE HEALTH SERVICES

SECTION 11.001. (a) Section 1001.003, Health and Safety Code, is amended to read as follows:

Sec. 1001.003. SUNSET PROVISION. The Department of State Health Services is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the department is abolished and this chapter expires September 1, 2027 [2015].

(b) This section takes effect only if H.B. 2304, S.B. 200, or similar legislation of the 84th Legislature, Regular Session, 2015, providing for the transfer of the functions of the Department
of State Health Services to the Health and Human Services Commission is not enacted or does not become law. If H.B. 2304, S.B. 200, or similar legislation of the 84th Legislature, Regular Session, 2015, is enacted, becomes law, and provides for the transfer of the department's functions to the commission, this section has no effect.

ARTICLE 12. GENERAL PROVISIONS AND EFFECTIVE DATE

SECTION 12.001. To the extent of any conflict, this Act prevails over another Act of the 84th Legislature, Regular Session, 2015, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 12.002. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 2015.

(b) Part 2 of Article 8 of this Act takes effect September 1, 2017.