

By: Bonnen of Galveston

H.B. No. 2978

Substitute the following for H.B. No. 2978:

By: Crownover

C.S.H.B. No. 2978

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the licensing and regulation of neurodiagnostic
3 technologists; requiring an occupational license; creating an
4 offense; providing penalties and authorizing fees.

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

6 SECTION 1. Subtitle K, Title 3, Occupations Code, is
7 amended by adding Chapter 606 to read as follows:

8 CHAPTER 606. NEURODIAGNOSTIC TECHNOLOGISTS

9 SUBCHAPTER A. GENERAL PROVISIONS

10 Sec. 606.001. DEFINITIONS. In this chapter:

11 (1) "Autonomic reflex testing" means a test used to
12 measure how autonomic nerves work in controlling involuntary body
13 functions, including blood pressure, heart rate, and sweating, in
14 response to different maneuvers, such as deep breathing, blowing
15 into a mouthpiece, sweating, and lying for several minutes on a
16 table that is tilted to a near standing position.

17 (2) "Board" means the Texas Medical Board.

18 (3) "Credentialing organization" means a national
19 accrediting organization that administers and awards
20 neurodiagnostic technologist credentials, including the:

21 (A) ABRET Neurodiagnostic Credentialing and
22 Accreditation (ABRET);

23 (B) American Association of Electrodiagnostic
24 Technologists (AAET);

1 (C) American Board of Electrodiagnostic Medicine
2 (ABEM); or

3 (D) Board of Registered Polysomnographic
4 Technologists (BRPT).

5 (4) "Direct supervision" means supervision by a
6 responsible neurodiagnostic technologist or physician who is
7 physically present and immediately available to provide assistance
8 and direction while a neurodiagnostic procedure is being performed.

9 (5) "Electroencephalography" means the recording and
10 analysis of the ongoing electrical activity of the brain using a
11 digital or analog instrument with a minimum of 16 channels and 21
12 electrodes and is used to assist in the diagnosis of epilepsy and
13 other neurological symptoms.

14 (6) "Electromyography" means the recording and
15 analysis of electrical activity generated by a needle insertion
16 into a muscle.

17 (7) "Evoked potentials" means the recording of
18 electrical activity from the brain, spinal nerves, or sensory
19 receptors that occurs in direct response to auditory, visual, or
20 electrical stimulation using surface electrodes and computer
21 equipment to average the electrical potentials generated.

22 (8) "Intraoperative monitoring" means the use of a
23 neurophysiological monitoring technique during surgery that
24 ensures the safety of a patient by:

25 (A) providing information to the surgeon that
26 relates to the integrity of the central and peripheral nervous
27 systems; and

1 (B) using real-time electrographic information
2 or stimulus evoked recordings of auditory, visual, somatosensory,
3 or motor pathways via surface or subdermal needle electrodes.

4 (9) "License holder" means a person who holds a
5 license as a neurodiagnostic technologist under this chapter.

6 (10) "Long-term monitoring" means the prolonged
7 recording, by video recording or digital analysis, of the ongoing
8 electrical activity of the brain to evaluate and diagnose epilepsy
9 and other intermittent or infrequent neurological disturbances.

10 (11) "Nerve conduction study" means a recording
11 obtained from electrical stimulation of peripheral nerves using
12 surface electrodes and standard equipment with oscilloscopes for
13 waveform analysis to evaluate and diagnose a disorder of the
14 peripheral nervous system.

15 (12) "Neurodiagnostic student" means a person who is
16 enrolled in a neurodiagnostics program.

17 (13) "Neurodiagnostic technologist" means a person
18 who holds a license issued under this chapter to:

19 (A) use specialized equipment to record and
20 analyze physiological data and electrical activity from the central
21 and peripheral nervous systems; and

22 (B) perform one or more of the following
23 neurodiagnostic procedures under the direct supervision of a
24 physician:

25 (i) electroencephalography;

26 (ii) evoked potentials;

27 (iii) continuous electroencephalography

1 monitoring;

2 (iv) intraoperative neuromonitoring;

3 (v) long-term monitoring;

4 (vi) nerve conduction studies;

5 (vii) polysomnography; or

6 (viii) autonomic reflex testing.

7 (14) "Polysomnography" means the recording of the
8 biophysiological changes that occur during sleep by monitoring the
9 ongoing electrical activity of the brain, eye movements, muscle
10 activity, heart rhythm, and respiratory effort to diagnose and
11 treat sleep disorders.

12 Sec. 606.002. EXEMPTIONS. This chapter does not apply to:

13 (1) a physician licensed in this state;

14 (2) a person performing a neurodiagnostic procedure:

15 (A) for research if the results of the procedure
16 are not used to diagnose or treat a patient;

17 (B) as a neurodiagnostic student under the direct
18 supervision of a neurodiagnostic technologist or physician; or

19 (C) as an employee under the direct supervision
20 of a physician as part of the employee's job training; or

21 (3) a faculty member of an accredited school or
22 university with a neurodiagnostics, allied health, or health
23 education program.

24 SUBCHAPTER B. POWERS AND DUTIES OF BOARD

25 Sec. 606.051. GENERAL POWERS AND DUTIES; RULES. (a) The
26 board shall administer and enforce this chapter.

27 (b) The board shall adopt rules necessary to implement this

1 chapter.

2 Sec. 606.052. FEES. (a) The board by rule shall establish
3 reasonable and necessary fees in amounts sufficient to cover the
4 costs of administering and enforcing this chapter.

5 (b) The board may increase the fee for the issuance or
6 renewal of a license as necessary to cover the costs of enforcing
7 this chapter in an amount not to exceed \$1,000.

8 SUBCHAPTER C. LICENSE REQUIREMENTS

9 Sec. 606.101. LICENSE REQUIRED. (a) A person may not act
10 as or offer to act as a neurodiagnostic technologist unless the
11 person holds a license issued under this chapter.

12 (b) A person who is not licensed under this chapter, or
13 whose license has been suspended or revoked, may not:

14 (1) use the word "neurodiagnostic" on a sign, name
15 tag, or any form of advertising unless the person is expressly
16 exempt from the licensing requirements of this chapter;

17 (2) use in connection with the person's practice any
18 abbreviations or credentials indicating or implying that the person
19 is a neurodiagnostic technologist; or

20 (3) directly or by implication represent in any way
21 that the person is a neurodiagnostic technologist.

22 (c) A license:

23 (1) is valid only with respect to the person named on
24 the license; and

25 (2) authorizes the license holder to engage in the
26 neurodiagnostic procedure for which the license holder has a
27 credential issued by a credentialing organization.

1 (d) A license issued under this chapter is not transferable
2 or assignable.

3 Sec. 606.102. LICENSING APPLICATION. (a) An applicant for
4 a license must:

5 (1) apply to the board on a form prescribed by the
6 board and under rules adopted by the board;

7 (2) submit with the application a nonrefundable
8 application fee in an amount set by the board; and

9 (3) pass a credentialing organization examination
10 administered or accepted by the board.

11 (b) The board by rule shall specify the information that
12 must be included on an application submitted to the board. The
13 rules must require:

14 (1) each application to include the name and address
15 of the applicant; and

16 (2) each applicant for a license by examination to
17 present satisfactory evidence to the board that the applicant is:

18 (A) at least 18 years of age; and

19 (B) of good moral character.

20 Sec. 606.103. EXAMINATIONS ADMINISTERED OR ACCEPTED BY
21 BOARD. The board may administer or accept for licensing a
22 credentialing organization examination as determined by rule.

23 Sec. 606.1031. REDUCED LICENSE REQUIREMENTS. (a) A person
24 who applies for a license under this chapter not later than June 1,
25 2016, is exempt from the examination required under this chapter if
26 the person presents satisfactory evidence to the board that the
27 person:

1 (1) holds unexpired credentials issued by a
2 credentialing organization; or

3 (2) actively performs neurodiagnostic procedures.

4 (b) Satisfactory evidence under Subsection (a)(2) must be
5 in the form of a signed letter submitted by the employer or
6 supervising physician of the applicant.

7 (c) A person who qualifies under this section for an
8 exemption from the requirement to take the examination required
9 under this chapter must comply with all other requirements under
10 this chapter for issuance of a license.

11 (d) This section expires June 1, 2017.

12 Sec. 606.104. TEMPORARY LICENSES. (a) The board may adopt
13 rules and set fees relating to granting temporary licenses.

14 (b) A temporary license under this chapter expires on the
15 second anniversary of the date the temporary license is issued or
16 the date the applicant presents satisfactory evidence to the board
17 that the applicant has passed the examination required under this
18 chapter, whichever date occurs first.

19 (c) The board by rule may extend the expiration date of a
20 temporary license by not more than an additional 12 months.

21 SUBCHAPTER D. LICENSE RENEWAL

22 Sec. 606.151. LICENSE RENEWAL. (a) A license is valid for
23 two years from the date of issuance and may be renewed biennially.

24 (b) The board by rule may adopt a system under which
25 licenses expire on various dates during the year.

26 (c) A person may renew an unexpired license by paying the
27 required renewal fee to the board before the license expiration

1 date.

2 (d) To renew a license under this chapter, a person must
3 submit proof satisfactory to the board that the person has:

4 (1) maintained the appropriate credentials issued by a
5 credentialing organization; and

6 (2) complied with the continuing education
7 requirements prescribed by the board.

8 Sec. 606.152. CONTINUING EDUCATION. (a) The board shall
9 establish for the renewal of a license or temporary license uniform
10 continuing education requirements of not less than 24 continuing
11 education hours for each renewal period.

12 (b) The board shall adopt a procedure to assess a license
13 holder's participation in continuing education programs.

14 SUBCHAPTER E. PRACTICE BY LICENSE HOLDER

15 Sec. 606.201. ADVERTISING. (a) A license holder shall
16 include the license holder's license number in each advertisement.

17 (b) A person who advertises that the person is a
18 neurodiagnostic technologist is presumed to be engaging in conduct
19 regulated by this chapter.

20 SUBCHAPTER F. PROHIBITED PRACTICES AND ENFORCEMENT PROVISIONS

21 Sec. 606.251. PROHIBITED PRACTICES. (a) A license holder
22 may not engage in a neurodiagnostic procedure for which the license
23 holder does not hold the proper credential issued by a
24 credentialing organization.

25 (b) A license holder may not:

26 (1) interpret neurodiagnostic data, including making
27 a determination of normal or abnormal findings and identifying the

1 presence, absence, type, severity, or likelihood of an illness,
2 injury, or other condition;

3 (2) provide clinical correlation of data, including
4 making statements about the meaning of test results based on a
5 person's symptoms, medical history, physical examination, or other
6 clinical test results;

7 (3) perform needle insertion electromyography in a
8 clinical setting; or

9 (4) meet with a patient except under the direct
10 supervision of a physician.

11 Sec. 606.252. INVESTIGATION OF COMPLAINTS. (a) The board
12 shall investigate any complaint alleging that a violation of this
13 chapter or a rule or order adopted under this chapter has occurred.

14 (b) A complaint must be filed in a manner prescribed by the
15 board.

16 Sec. 606.253. SANCTIONS. The board may impose sanctions
17 under this chapter in the same manner as provided by Chapter 164 for
18 imposition of sanctions against a physician.

19 SUBCHAPTER G. PENALTIES

20 Sec. 606.301. ADMINISTRATIVE PENALTY. The board may impose
21 an administrative penalty on a person under this chapter in the same
22 manner as provided by Subchapter A, Chapter 165, against a
23 physician, regardless of whether the person holds a license under
24 this chapter, if the person violates this chapter or a rule or order
25 adopted under this chapter.

26 Sec. 606.302. CRIMINAL PENALTY. (a) A person commits an
27 offense if the person violates this chapter.

1 (b) An offense under this section is a Class A misdemeanor.

2 SECTION 2. Not later than February 1, 2016, the Texas
3 Medical Board shall adopt rules and forms necessary to implement
4 Chapter 606, Occupations Code, as added by this Act.

5 SECTION 3. The Texas Medical Board shall issue a
6 neurodiagnostic technologist license under Chapter 606,
7 Occupations Code, as added by this Act, to an applicant who:

8 (1) applies for a license under this section not later
9 than June 1, 2016;

10 (2) submits to the board the information required by
11 rule;

12 (3) meets the requirements of Section 606.1031,
13 Occupations Code, as added by this Act; and

14 (4) pays the application fee established by the board.

15 SECTION 4. (a) Except as provided by Subsection (b) of this
16 section, this Act takes effect September 1, 2015.

17 (b) Section 606.101 and Subchapter G, Chapter 606,
18 Occupations Code, as added by this Act, take effect September 1,
19 2016.