

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) "Commission" means the Texas Commission of  
18 Licensing and Regulation.

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

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

24 (B) American Association of Electrodiagnostic

1 Technologists (AAET);

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

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

6 (4) "Department" means the Texas Department of  
7 Licensing and Regulation.

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

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

17 (7) "Electromyography" means the recording and  
18 analysis of electrical activity generated by a needle insertion  
19 into a muscle.

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

25 (9) "Executive director" means the executive director  
26 of the department.

27 (10) "General supervision" means supervision by a

1 responsible physician who is readily available to communicate with  
2 a person performing a neurodiagnostic procedure.

3 (11) "Intraoperative monitoring" means the use of a  
4 neurophysiological monitoring technique during surgery that  
5 ensures the safety of a patient by:

6 (A) providing information to the surgeon that  
7 relates to the integrity of the central and peripheral nervous  
8 systems; and

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

12 (12) "License holder" means a person who holds a  
13 license as a neurodiagnostic technologist under this chapter.

14 (13) "Long-term monitoring" means the prolonged  
15 recording, by video recording or digital analysis, of the ongoing  
16 electrical activity of the brain to evaluate and diagnose epilepsy  
17 and other intermittent or infrequent neurological disturbances.

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

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

25 (16) "Neurodiagnostic technologist" means a person  
26 who holds a license issued under this chapter to:

27 (A) use specialized equipment to record and

1 analyze physiological data and electrical activity from the central  
2 and peripheral nervous systems; and

3 (B) perform one or more of the following  
4 neurodiagnostic procedures under the direct or general supervision  
5 of a physician:

6 (i) electroencephalography;

7 (ii) evoked potentials;

8 (iii) continuous electroencephalography  
9 monitoring;

10 (iv) intraoperative neuromonitoring;

11 (v) long-term monitoring;

12 (vi) nerve conduction studies;

13 (vii) polysomnography; or

14 (viii) autonomic reflex testing.

15 (17) "Polysomnography" means the recording of the  
16 biophysiological changes that occur during sleep by monitoring the  
17 ongoing electrical activity of the brain, eye movements, muscle  
18 activity, heart rhythm, and respiratory effort to diagnose and  
19 treat sleep disorders.

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

21 (1) a physician licensed in this state;

22 (2) a person performing a neurodiagnostic procedure:

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

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

27 (C) as an employee under the direct supervision

1 of a physician as part of the employee's job training; or

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

5 SUBCHAPTER B. POWERS AND DUTIES OF COMMISSION AND DEPARTMENT

6 Sec. 606.051. GENERAL POWERS AND DUTIES; RULES. (a) The  
7 department shall administer and enforce this chapter.

8 (b) The commission shall adopt rules necessary to  
9 administer and enforce this chapter.

10 (c) In its rules under this section, the commission shall  
11 list the specific offenses for which a conviction would constitute  
12 grounds for the commission to take action under Chapter 53.

13 Sec. 606.052. FEES. (a) The commission by rule shall  
14 establish reasonable and necessary fees in amounts sufficient to  
15 cover the costs of administering and enforcing this chapter.

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

19 SUBCHAPTER C. LICENSE REQUIREMENTS

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

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

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

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

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

6           (c) A license:

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

9           (2) authorizes the license holder to engage in the  
10 neurodiagnostic procedure for which the license holder has a  
11 credential issued by a credentialing organization.

12           (d) A license issued under this chapter is not transferable  
13 or assignable.

14           Sec. 606.102. LICENSING APPLICATION. (a) An applicant for  
15 a license must:

16           (1) apply to the department on a form prescribed by the  
17 executive director and under rules adopted by the commission;

18           (2) submit with the application a nonrefundable  
19 application fee in an amount set by the commission; and

20           (3) pass a credentialing organization examination  
21 administered or accepted by the department.

22           (b) The commission by rule shall specify the information  
23 that must be included on an application submitted to the  
24 department. The rules must require:

25           (1) each application to include the name and address  
26 of the applicant; and

27           (2) each applicant for a license by examination to

1 present satisfactory evidence to the commission that the applicant  
2 is:

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

4 (B) of good moral character.

5 Sec. 606.103. EXAMINATIONS ADMINISTERED OR ACCEPTED BY  
6 DEPARTMENT. The department may administer or accept for licensing  
7 a credentialing organization examination as determined by rule.

8 Sec. 606.1031. REDUCED LICENSE REQUIREMENTS. (a) A person  
9 who applies for a license under this chapter not later than June 1,  
10 2016, is exempt from the examination required under this chapter if  
11 the person presents satisfactory evidence to the department that  
12 the person:

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

15 (2) actively performs neurodiagnostic procedures.

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

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

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

24 Sec. 606.104. TEMPORARY LICENSES. (a) The commission may  
25 adopt rules and set fees relating to granting temporary licenses.

26 (b) A temporary license under this chapter expires on the  
27 second anniversary of the date the temporary license is issued or

1 the date the applicant presents satisfactory evidence to the  
2 department that the applicant has passed the examination required  
3 under this chapter, whichever date occurs first.

4 (c) The commission by rule may extend the expiration date of  
5 a temporary license by not more than an additional 12 months.

6 SUBCHAPTER D. LICENSE RENEWAL

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

9 (b) The commission by rule may adopt a system under which  
10 licenses expire on various dates during the year.

11 (c) A person may renew an unexpired license by paying the  
12 required renewal fee to the department before the license  
13 expiration date.

14 (d) To renew a license under this chapter, a person must  
15 submit proof satisfactory to the department that the person has:

16 (1) maintained the appropriate credentials issued by a  
17 credentialing organization; and

18 (2) complied with the continuing education  
19 requirements prescribed by the commission.

20 Sec. 606.152. CONTINUING EDUCATION. (a) The commission  
21 shall establish for the renewal of a license or temporary license  
22 uniform continuing education requirements of not less than 24  
23 continuing education hours for each renewal period.

24 (b) The commission shall adopt a procedure to assess a  
25 license holder's participation in continuing education programs.

26 SUBCHAPTER E. PRACTICE BY LICENSE HOLDER

27 Sec. 606.201. ADVERTISING. (a) A license holder shall



1 include the license holder's license number in each advertisement.

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

5 SUBCHAPTER F. PROHIBITED PRACTICES AND ENFORCEMENT PROVISIONS

6 Sec. 606.251. PROHIBITED PRACTICES. (a) A license holder  
7 may not engage in a neurodiagnostic procedure for which the license  
8 holder does not hold the proper credential issued by a  
9 credentialing organization.

10 (b) A license holder may not:

11 (1) interpret neurodiagnostic data, including making  
12 a determination of normal or abnormal findings and identifying the  
13 presence, absence, type, severity, or likelihood of an illness,  
14 injury, or other condition;

15 (2) provide clinical correlation of data, including  
16 making statements about the meaning of test results based on a  
17 person's symptoms, medical history, physical examination, or other  
18 clinical test results; or

19 (3) perform needle insertion electromyography in a  
20 clinical setting.

21 Sec. 606.252. INVESTIGATION OF COMPLAINTS. (a) The  
22 department shall investigate any complaint alleging that a  
23 violation of this chapter or a rule or order adopted under this  
24 chapter has occurred.

25 (b) A complaint must be filed in a manner prescribed by the  
26 department.

27 Sec. 606.253. SANCTIONS. The commission may impose

1 sanctions as provided by Sections 51.352 and 51.353.

2 SUBCHAPTER G. PENALTIES

3 Sec. 606.301. ADMINISTRATIVE PENALTY. The commission or  
4 executive director may impose an administrative penalty on a person  
5 under Subchapter F, Chapter 51, regardless of whether the person  
6 holds a license under this chapter, if the person violates this  
7 chapter or a rule or order adopted under this chapter.

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

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

11 SECTION 2. Not later than February 1, 2016, the Texas  
12 Commission of Licensing and Regulation, the Texas Department of  
13 Licensing and Regulation, and the executive director of the Texas  
14 Department of Licensing and Regulation, as appropriate, shall adopt  
15 rules and forms necessary to implement Chapter 606, Occupations  
16 Code, as added by this Act.

17 SECTION 3. The Texas Department of Licensing and Regulation  
18 shall issue a neurodiagnostic technologist license under Chapter  
19 606, Occupations Code, as added by this Act, to an applicant who:

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

22 (2) submits to the department the information required  
23 by rule;

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

26 (4) pays the application fee established by the  
27 commission.

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

3           (b) Section 606.101 and Subchapter G, Chapter 606,  
4 Occupations Code, as added by this Act, take effect September 1,  
5 2016.