

By: Kuempel

H.B. No. 4007

Substitute the following for H.B. No. 4007:

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C.S.H.B. No. 4007

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the licensing and regulation of health-related  
3 occupations transferred to the Texas Department of Licensing and  
4 Regulation.

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

6 ARTICLE 1. MIDWIFERY

7 SECTION 1.001. Section 203.157(c), Occupations Code, is  
8 amended to read as follows:

9 (c) The department shall post a list of licensed midwives on  
10 the department's Internet website [~~provide each county clerk and~~  
11 ~~each local registrar of births in a county with the name of each~~  
12 ~~midwife practicing in the county~~].

13 SECTION 1.002. The heading to Subchapter K, Chapter 203,  
14 Occupations Code, is amended to read as follows:

15 SUBCHAPTER K. [~~OTHER PENALTIES AND~~] ENFORCEMENT PROVISIONS

16 SECTION 1.003. The following provisions of the Occupations  
17 Code are repealed:

18 (1) Section 203.501; and

19 (2) Section 203.504.

20 ARTICLE 2. SPEECH-LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS

21 SECTION 2.001. Section 401.102(b), Occupations Code, is  
22 amended to read as follows:

23 (b) Advisory board members must:

24 (1) [~~have been a resident of this state for the two~~

1 ~~years preceding the date of appointment;~~

2           ~~[(2)]~~ be from the various geographic regions of the  
3 state; and

4           (2) ~~[(3)]~~ be from varying employment settings.

5           SECTION 2.002. Section 401.305(b), Occupations Code, is  
6 amended to read as follows:

7           (b) The department shall administer or provide for the  
8 administration of an examination at least twice each year.

9           SECTION 2.003. Section 401.402(b), Occupations Code, is  
10 amended to read as follows:

11           (b) A person licensed as a speech-language pathologist  
12 under this chapter may not fit or ~~dispense~~ ~~[, or sell]~~ hearing  
13 instruments unless the person meets the specific requirements for  
14 fitting and dispensing hearing instruments under this chapter or  
15 Chapter 402.

16           SECTION 2.004. The following provisions of the Occupations  
17 Code are repealed:

18           (1) Section 401.253;

19           (2) Section 401.307;

20           (3) Section 401.310;

21           (4) Section 401.453;

22           (5) Section 401.503; and

23           (6) Subchapter L, Chapter 401.

24           SECTION 2.005. (a) A temporary certificate of registration  
25 issued under former Section 401.310, Occupations Code, that is in  
26 effect on the effective date of this Act continues to be valid until  
27 the certificate expires and former Section 401.310, Occupations

1 Code, is continued in effect for that purpose. Chapter 401,  
2 Occupations Code, as amended by this Act, continues to apply to a  
3 holder of an unexpired temporary certificate of registration.

4 (b) On or after the effective date of this Act, the Texas  
5 Department of Licensing and Regulation may not renew or extend a  
6 temporary certificate of registration.

7 (c) A proceeding under Chapter 401, Occupations Code, that  
8 is pending against a holder of a temporary certificate of  
9 registration on the date the certificate expires is terminated on  
10 that date.

11 ARTICLE 3. HEARING INSTRUMENT FITTERS AND DISPENSERS

12 SECTION 3.001. Section 402.003, Occupations Code, is  
13 amended by amending Subsections (a) and (b) and adding Subsection  
14 (a-1) to read as follows:

15 (a) Except as provided by Subsections (a-1) and (b) and  
16 Section 402.451(a), this chapter applies only to a person who  
17 engages or offers to engage in fitting and dispensing hearing  
18 instruments.

19 (a-1) This chapter does not apply to:

20 (1) a person engaged in the practice of measuring  
21 human hearing as a part of the academic curriculum of an accredited  
22 institution of higher learning if the person or the person's  
23 employees do not sell hearing instruments;

24 (2) a physician licensed by the Texas Medical Board;

25 (3) a person with a master's degree or doctorate in  
26 audiology from an accredited college or university who does not  
27 sell hearing instruments, to the extent the person engages in the

1 measurement of human hearing by the use of an audiometer or by any  
2 other means to make selections and adaptations of or  
3 recommendations for a hearing instrument and to make impressions  
4 for earmolds to be used as part of a hearing instrument;

5 (4) an audiologist or an audiology intern licensed  
6 under Chapter 401, except as may otherwise be provided by the  
7 following provisions, which refer to Chapter 401:

8 (A) Section 402.051(a)(1);

9 (B) Section 402.202(b);

10 (C) Section 402.252; and

11 (D) Section 402.255(a);

12 [~~(E) Section 402.406(a), and~~

13 [~~(F) Section 402.451(a)(6),~~] and

14 (5) a student of audiology in an accredited college or  
15 university program, if the student's activities and services are  
16 part of the student's supervised course of study or practicum  
17 experience.

18 (b) A student described by Subsection (a-1)(5) [~~(a)(5)~~] is  
19 subject to Chapter 401.

20 SECTION 3.002. Section 402.051(a), Occupations Code, is  
21 amended to read as follows:

22 (a) The advisory board consists of nine members appointed by  
23 the presiding officer of the commission with the approval of the  
24 commission as follows:

25 (1) six members licensed under this chapter who have  
26 been [~~residents of this state actually~~] engaged in fitting and  
27 dispensing hearing instruments for at least five years preceding

1 appointment, not more than one of whom may be licensed under Chapter  
2 401;

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

5 (A) ~~[has been a resident of this state for at~~  
6 ~~least two years preceding appointment];~~

7 ~~[(B)]~~ is a citizen of the United States; and

8 (B) ~~[(C)]~~ specializes in the practice of  
9 otolaryngology; and

10 (3) two members of the public.

11 SECTION 3.003. Section 402.209(c), Occupations Code, is  
12 amended to read as follows:

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

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

19 (2) written verification that:

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

24 (B) the applicant holds a certification from a  
25 professional organization approved by the commission by rule;

26 (3) a written statement from the licensing entity in  
27 the state in which the applicant is licensed that details any

1 disciplinary action taken by the entity against the applicant; and  
2 (4) a statement of the applicant's criminal history  
3 acceptable to the department.

4 SECTION 3.004. Section 402.251, Occupations Code, is  
5 amended to read as follows:

6 Sec. 402.251. TEMPORARY TRAINING PERMIT QUALIFICATIONS.

7 (a) The department shall issue a temporary training permit to a  
8 person who:

9 (1) ~~[has never taken the examination administered~~  
10 ~~under this chapter;~~

11 ~~[(2)]~~ possesses the qualifications required under  
12 Section 402.203(a);

13 (2) ~~[(3)]~~ submits a written application on a form  
14 prescribed by the department furnishing documentation that the  
15 applicant satisfies the requirements of Subdivision ~~[Subdivisions]~~

16 ~~(1) [and (2)]~~; and

17 (3) ~~[(4)]~~ pays any required fee.

18 (b) The commission by rule may provide for the issuance of  
19 ~~[department may issue]~~ a new temporary training permit under this  
20 section ~~[to a person on or after the 365th day]~~ after a ~~[the]~~  
21 person's ~~[previous]~~ temporary training permit expires ~~[expired]~~.

22 SECTION 3.005. Section 402.255(d), Occupations Code, is  
23 amended to read as follows:

24 (d) The supervisor shall maintain a log of the contact hours  
25 by practicum category on a form prescribed by the department. After  
26 the temporary training permit holder has completed 150 contact  
27 hours, the supervisor and the permit holder shall submit

1 verification of compliance [~~sign the form, and the form shall be~~  
2 ~~notarized and mailed~~] to the department.

3 SECTION 3.006. Section 402.304, Occupations Code, is  
4 amended to read as follows:

5 Sec. 402.304. ALTERNATIVE [~~ALTERNATIVES~~] TO CONTINUING  
6 EDUCATION REQUIREMENT. [~~(a) On written request to the department,~~  
7 ~~a license holder may take the state examination. A license holder~~  
8 ~~who pays the examination fee and passes the examination is exempt~~  
9 ~~from the continuing education requirement for the reporting period~~  
10 ~~in which the test is taken.~~

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

19 SECTION 3.007. Section 402.305, Occupations Code, is  
20 amended to read as follows:

21 Sec. 402.305. CONTINUING EDUCATION EXEMPTIONS. The  
22 department may renew the license of a license holder who does not  
23 comply with the continuing education requirements of Section  
24 402.303 or 402.304 if the license holder:

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

27 (2) [~~has served in the regular armed forces of the~~

1 ~~United States during part of the 24 months before the reporting~~  
2 ~~date, or~~

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

8 SECTION 3.008. Section 402.451(a), Occupations Code, is  
9 amended to read as follows:

10 (a) A person may not:

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

13 (2) alter a license with the intent to defraud;

14 (3) wilfully make a false statement in an application  
15 to the department for a license, a temporary training permit, or the  
16 renewal of a license;

17 (4) falsely impersonate a license holder; or

18 (5) engage in the fitting and dispensing of hearing  
19 instruments when the person's license is suspended or revoked [~~+~~

20 ~~[(6)] dispense or fit a hearing instrument on a person~~  
21 ~~who has ordered the hearing instrument or device by mail unless the~~  
22 ~~person dispensing or fitting is a license holder under this chapter~~  
23 ~~or under Chapter 401, or~~

24 ~~[(7)] sell a hearing instrument by mail].~~

25 SECTION 3.009. The heading to Subchapter L, Chapter 402,  
26 Occupations Code, is amended to read as follows:

27 SUBCHAPTER L. [~~PENALTIES AND OTHER~~] ENFORCEMENT PROVISIONS



1 SECTION 3.010. The following provisions of the Occupations  
2 Code are repealed:

- 3 (1) Section 402.209(h);
- 4 (2) Section 402.406;
- 5 (3) Section 402.551; and
- 6 (4) Section 402.553.

7 SECTION 3.011. Section 402.209, Occupations Code, as  
8 amended by this Act, applies only to an application submitted on or  
9 after the effective date of this Act. An application submitted  
10 before the effective date of this Act is governed by the law in  
11 effect on the date the application was submitted, and the former law  
12 is continued in effect for that purpose.

13 ARTICLE 4. DYSLEXIA PRACTITIONERS AND DYSLEXIA THERAPISTS

14 SECTION 4.001. Section 403.106(c), Occupations Code, is  
15 amended to read as follows:

16 (c) The department [~~, in consultation with the advisory~~  
17 ~~committee,~~] shall determine whether a training program meets the  
18 requirements of this section.

19 SECTION 4.002. Section 403.107(b), Occupations Code, is  
20 amended to read as follows:

21 (b) The department shall [~~, in consultation with the~~  
22 ~~advisory committee~~]:

23 (1) identify and designate a competency examination  
24 that is related to multisensory structured language education and  
25 that will be administered at least twice each year by a professional  
26 organization that issues national certifications; and

27 (2) maintain a record of all examinations for at least

1 two years after the date of examination.

2 SECTION 4.003. Section 403.108, Occupations Code, is  
3 amended to read as follows:

4 Sec. 403.108. WAIVER OF EXAMINATION REQUIREMENT. The  
5 department [~~, in consultation with the advisory committee,~~] may  
6 waive the examination requirement and issue a license to an  
7 applicant who holds an appropriate certificate or other  
8 accreditation from a nationally accredited multisensory structured  
9 language education organization recognized by the department.

10 SECTION 4.004. Section 403.152(b), Occupations Code, is  
11 amended to read as follows:

12 (b) The commission [~~, in consultation with the advisory  
13 committee,~~] shall establish the continuing education requirements  
14 in consultation with the advisory committee [~~a manner that allows a  
15 license holder to comply without an extended absence from the  
16 license holder's county of residence~~].

17 SECTION 4.005. The following provisions of the Occupations  
18 Code are repealed:

- 19 (1) Section 403.204;
- 20 (2) Section 403.207;
- 21 (3) Section 403.212; and
- 22 (4) Subchapter F, Chapter 403.

23 ARTICLE 5. ATHLETIC TRAINERS

24 SECTION 5.001. Section 451.156, Occupations Code, is  
25 amended to read as follows:

26 Sec. 451.156. REQUIREMENTS FOR LICENSE ISSUANCE. An  
27 applicant for an athletic trainer license is entitled to receive

1 the license if the applicant:

2 (1) satisfies the requirements of Section 451.153 or  
3 451.154;

4 (2) passes the examination required by the department;  
5 and

6 (3) pays the required license fee[ ~~and~~  
7 [~~(4) has not committed an act that constitutes grounds~~  
8 ~~for refusal of a license under Section 451.251~~].

9 SECTION 5.002. The following provisions of the Occupations  
10 Code are repealed:

- 11 (1) Section 451.051(c);
- 12 (2) Section 451.101(a-2); and
- 13 (3) Subchapters F, G, and H, Chapter 451.

14 ARTICLE 6. MASSAGE THERAPY

15 SECTION 6.001. Section 455.001, Occupations Code, is  
16 amended by adding Subdivisions (12) and (13) to read as follows:

17 (12) "Advisory board" means the Massage Therapy  
18 Advisory Board.

19 (13) "Peace officer" means a person who is a peace  
20 officer under Article 2.12, Code of Criminal Procedure.

21 SECTION 6.002. Subchapter B, Chapter 455, Occupations Code,  
22 is amended by adding Section 455.0511 to read as follows:

23 Sec. 455.0511. GENERAL POWERS AND DUTIES. (a) The  
24 executive director shall administer and enforce this chapter.

25 (b) The department shall:

26 (1) investigate a person who may be engaging in or  
27 offering to engage in a practice that violates this chapter;

1           (2) regulate the number of school hours and the  
2 content of the coursework provided by a massage school or a massage  
3 therapy instructor; and

4           (3) prepare, recognize, administer, or arrange for the  
5 administration of an examination under this chapter.

6           SECTION 6.003. Subchapter B, Chapter 455, Occupations Code,  
7 is amended by adding Section 455.0571 to read as follows:

8           Sec. 455.0571. CONTINUING EDUCATION. (a) The commission  
9 by rule shall establish the minimum number of hours of continuing  
10 education required for a person licensed under this chapter to  
11 renew the person's license.

12           (b) The commission by rule shall provide for the  
13 recognition, preparation, or administration of continuing  
14 education programs for persons licensed under this chapter.

15           (c) The department may develop and establish processes to:

16           (1) evaluate and approve continuing education  
17 providers and programs; and

18           (2) assess a license holder's participation in  
19 continuing education programs.

20           SECTION 6.004. Subchapter B, Chapter 455, Occupations Code,  
21 is amended by adding Section 455.059 to read as follows:

22           Sec. 455.059. INSPECTIONS; INVESTIGATIONS. The  
23 department, the department's authorized representative, or a peace  
24 officer may enter the premises of a massage establishment or  
25 massage school at:

26           (1) reasonable times to conduct an inspection  
27 incidental to the issuance of a license; and

1           (2) other times that the department, the department's  
2 authorized representative, or a peace officer considers necessary  
3 to ensure compliance with this chapter and the rules adopted under  
4 this chapter.

5           SECTION 6.005. Subchapter C, Chapter 455, Occupations Code,  
6 as effective September 1, 2017, is amended to read as follows:

7           SUBCHAPTER C. MESSAGE THERAPY ADVISORY BOARD [~~POWERS AND DUTIES~~]

8           Sec. 455.101. ADVISORY BOARD MEMBERSHIP. (a) The advisory  
9 board consists of nine members appointed by the presiding officer  
10 of the commission with the approval of the commission as follows:

11                   (1) two members who are licensed massage therapists;

12                   (2) two members who represent licensed massage  
13 schools;

14                   (3) two members who represent licensed massage  
15 establishments;

16                   (4) one member who is a peace officer with expertise in  
17 the enforcement of Chapter 20A, Penal Code, and Subchapter A,  
18 Chapter 43, Penal Code; and

19                   (5) two members of the public.

20           (b) Appointments to the advisory board shall be made without  
21 regard to the race, color, disability, sex, religion, age, or  
22 national origin of the appointee [~~GENERAL POWERS AND DUTIES. (a)~~

23 ~~The executive director shall administer and enforce this chapter.~~

24           ~~[(b) The department shall:~~

25                   ~~[(1) investigate a person who may be engaging in a~~  
26 ~~practice that violates this chapter,~~

27                   ~~[(2) regulate the number and content of school hours~~

1 ~~provided by a massage school or a massage therapy instructor, and~~  
2 ~~[(3) prepare and administer a state examination under~~  
3 ~~this chapter].~~

4 Sec. 455.102. DUTIES OF ADVISORY BOARD. The advisory board  
5 shall provide advice and recommendations to the department on  
6 technical matters relevant to the administration of this chapter.

7 Sec. 455.103. TERMS; VACANCIES. (a) Members of the  
8 advisory board are appointed for staggered six-year terms. The  
9 terms of three members expire September 1 of each odd-numbered  
10 year.

11 (b) If a vacancy occurs on the advisory board during a  
12 member's term, the presiding officer of the commission, with the  
13 commission's approval, shall appoint a replacement who meets the  
14 qualifications for the vacant position to serve for the remainder  
15 of the term [~~MEMORANDUM OF UNDERSTANDING REGARDING MASSAGE SCHOOLS.~~

16 ~~(a) The commission may enter into a memorandum of understanding~~  
17 ~~with the Texas Education Agency to regulate massage schools.~~

18 ~~[(b) A memorandum must:~~

19 ~~[(1) be adopted by the commission by rule, and~~

20 ~~[(2) limit the total amount of the fees charged by the~~  
21 ~~department and the Texas Education Agency for licensing a massage~~  
22 ~~school to an amount equal to the amount of the fees the department~~  
23 ~~would charge for licensing the massage school in the absence of the~~  
24 ~~memorandum].~~

25 Sec. 455.104. PRESIDING OFFICER. (a) The presiding  
26 officer of the commission shall designate a member of the advisory  
27 board to serve as the presiding officer of the advisory board for a

1 term of one year.

2 (b) The presiding officer of the advisory board may vote on  
3 any matter before the advisory board [~~INSPECTIONS, INVESTIGATIONS.~~

4 ~~(a) The department, its authorized representative, or a peace~~  
5 ~~officer may enter the premises of an applicant for a license or a~~  
6 ~~license holder at:~~

7 ~~[(1) reasonable times to conduct an inspection~~  
8 ~~incidental to the issuance of a license; and~~

9 ~~[(2) other times that the department or peace officer~~  
10 ~~considers necessary to ensure compliance with this chapter and the~~  
11 ~~rules adopted under this chapter.~~

12 ~~[(b) A peace officer appointed or employed by a law~~  
13 ~~enforcement agency of a political subdivision of this state may~~  
14 ~~enter the premises of a massage establishment to ensure compliance~~  
15 ~~with this chapter and rules adopted under this chapter].~~

16 Sec. 455.105. MEETINGS. The advisory board shall meet at  
17 the call of the executive director or the presiding officer of the  
18 commission [~~REGISTRY. (a) The department shall annually prepare a~~  
19 ~~registry of licensed massage therapists.~~

20 ~~[(b) The department shall make the registry available to the~~  
21 ~~public, license holders, other state agencies, and peace officers].~~

22 SECTION 6.006. Section 455.152(a), Occupations Code, is  
23 amended to read as follows:

24 (a) A person is not eligible for a license as a massage  
25 establishment, massage school, massage therapist, or massage  
26 therapy instructor if the person is an individual and has been  
27 convicted of, entered a plea of nolo contendere or guilty to, or

1 received deferred adjudication for an offense under Chapter 20A,  
2 Penal Code, or Subchapter A, Chapter 43, Penal Code, [~~involving~~  
3 ~~prostitution~~] or another sexual offense.

4 SECTION 6.007. Section 455.1525, Occupations Code, is  
5 amended to read as follows:

6 Sec. 455.1525. CRIMINAL BACKGROUND CHECKS. [~~(a)~~] On  
7 receipt of an application for a license under this chapter, the  
8 department shall conduct a criminal background check on the  
9 applicant.

10 [~~(b) An applicant is not eligible for a license under this~~  
11 ~~chapter if the applicant, in the five years preceding the date of~~  
12 ~~the application, has been finally convicted of a misdemeanor~~  
13 ~~involving moral turpitude or a felony.~~]

14 SECTION 6.008. Section 455.153, Occupations Code, as  
15 effective September 1, 2017, is amended to read as follows:

16 Sec. 455.153. APPLICATION FOR LICENSE. An applicant for a  
17 license under this chapter must:

18 (1) submit an application in the manner and on a form  
19 prescribed by the executive director; [~~and~~]

20 (2) pass any required examination; and

21 (3) include with the application the application fee  
22 set by the commission by rule.

23 SECTION 6.009. Section 455.156(b), Occupations Code, is  
24 amended to read as follows:

25 (b) An applicant for a license under this section must be an  
26 individual and:

27 (1) present evidence satisfactory to the department



1 that the person has satisfactorily completed massage therapy  
2 studies in a 500-hour minimum, supervised course of instruction  
3 provided by a massage therapy instructor at a massage school, a  
4 licensed massage school, a state-approved educational institution,  
5 or any combination of instructors or schools, in which at least:

6 (A) 200 hours are taught by a licensed massage  
7 therapy instructor and dedicated to the study of massage therapy  
8 techniques and theory and the practice of manipulation of soft  
9 tissue, with at least 125 hours dedicated to the study of Swedish  
10 massage therapy techniques;

11 (B) 50 hours are dedicated to the study of  
12 anatomy;

13 (C) 25 hours are dedicated to the study of  
14 physiology;

15 (D) 50 hours are dedicated to the study of  
16 kinesiology;

17 (E) 40 hours are dedicated to the study of  
18 pathology;

19 (F) 20 hours are dedicated to the study of  
20 hydrotherapy;

21 (G) 45 hours are dedicated to the study of  
22 massage therapy laws and rules, business practices, and  
23 professional ethics standards;

24 (H) 20 hours are dedicated to the study of  
25 health, hygiene, first aid, universal precautions, and  
26 cardiopulmonary resuscitation (CPR); and

27 (I) 50 hours are spent in an internship program;

1 (2) pass the required examinations [~~written state~~  
2 ~~examination~~]; and

3 (3) be at least 18 years of age.

4 SECTION 6.010. The following provisions of the Occupations  
5 Code are repealed:

6 (1) Section [455.1572](#); and

7 (2) Subchapter G, Chapter [455](#).

8 SECTION 6.011. As soon as practicable after the effective  
9 date of this Act, the presiding officer of the Texas Commission of  
10 Licensing and Regulation shall appoint the members of the Massage  
11 Therapy Advisory Board created by Subchapter C, Chapter [455](#),  
12 Occupations Code, as amended by this Act.

13 SECTION 6.012. Section [455.152](#)(a), Occupations Code, as  
14 amended by this Act, applies only to a person who files an initial  
15 application for or an application for renewal of a license as a  
16 massage establishment, massage school, massage therapist, or  
17 massage therapy instructor on or after the effective date of this  
18 Act.

19 ARTICLE 7. ORTHOTISTS AND PROSTHETISTS

20 SECTION 7.001. Section [605.056](#), Occupations Code, is  
21 amended to read as follows:

22 Sec. 605.056. PRESIDING OFFICER. The presiding officer of  
23 the commission, with the commission's approval, shall designate a  
24 member [~~members~~] of the advisory board to serve as the [~~shall elect~~  
25 ~~from the advisory board's membership a~~] presiding officer of the  
26 advisory board [~~to serve~~] for a term of one year. The presiding  
27 officer of the advisory board may vote on any matter before the

1 advisory board.

2 SECTION 7.002. Section 605.252(a), Occupations Code, is  
3 amended to read as follows:

4 (a) To be eligible for a license to practice orthotics or  
5 prosthetics in this state, a person must:

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

8 (2) pay the nonrefundable application fee;

9 (3) ~~[be a resident of this state,~~

10 ~~[(4)]~~ have completed formal training, including the  
11 required hours of classroom education and clinical practice, in an  
12 area of study the commission by rule determines to be necessary and  
13 appropriate;

14 (4) ~~[(5)]~~ have completed a clinical residency in the  
15 professional area for which a license is sought that complies with  
16 the standards, guidelines, or procedures established by the  
17 department for a clinical residency that is offered in this state or  
18 another state; and

19 (5) ~~[(6)]~~ have passed each written and practical  
20 examination approved and required by the department.

21 SECTION 7.003. Section 605.254(a), Occupations Code, is  
22 amended to read as follows:

23 (a) A person is entitled to an exemption from the license  
24 requirements established under Section 605.252 if the person ~~[is a~~  
25 ~~resident of this state who]~~ presents evidence satisfactory to the  
26 department that the person possesses unique qualifications to  
27 practice orthotics, prosthetics, or orthotics and prosthetics.

1 SECTION 7.004. Section 605.257(a), Occupations Code, is  
2 amended to read as follows:

3 (a) The department may issue a temporary license to an  
4 individual who:

5 (1) [~~has recently become a resident of this state,~~  
6 [~~2~~] has applied for a license as an orthotist,  
7 prosthetist, or both; and

8 (2) [~~3~~] has:

9 (A) regularly practiced orthotics, prosthetics,  
10 or both for the three years preceding the date of the application  
11 [~~regularly since January 1, 1996~~]; or

12 (B) been licensed by a [~~the~~] state [~~in which the~~  
13 ~~person formerly resided if~~] that [~~state~~] has license requirements  
14 that are equal to or exceed the requirements of this chapter.

15 SECTION 7.005. The heading to Subchapter H, Chapter 605,  
16 Occupations Code, is amended to read as follows:

17 SUBCHAPTER H. PROHIBITED PRACTICES [~~, DISCIPLINARY PROCEDURES, AND~~  
18 ~~PENALTIES~~]

19 SECTION 7.006. The following provisions of the Occupations  
20 Code are repealed:

- 21 (1) Section 605.252(d);
- 22 (2) Section 605.261(c);
- 23 (3) Section 605.353;
- 24 (4) Section 605.354;
- 25 (5) Section 605.356; and
- 26 (6) Subchapter I, Chapter 605.

27 SECTION 7.007. The presiding officer of the Orthotists and

1 Prosthetists Advisory Board who is serving on the effective date of  
2 this Act shall continue to serve as the presiding officer until the  
3 presiding officer of the Texas Commission of Licensing and  
4 Regulation, with the commission's approval, designates a member of  
5 the advisory board to serve as the presiding officer of the advisory  
6 board as required by Section 605.056, Occupations Code, as amended  
7 by this Act.

8 SECTION 7.008. Sections 605.252, 605.254, and 605.257,  
9 Occupations Code, as amended by this Act, apply only to an  
10 application submitted on or after the effective date of this Act.  
11 An application submitted under Section 605.252, 605.254, or  
12 605.257, Occupations Code, before the effective date of this Act is  
13 governed by the law in effect on the date the application was  
14 submitted, and the former law is continued in effect for that  
15 purpose.

16 ARTICLE 8. DIETITIANS

17 SECTION 8.001. The following provisions of the Occupations  
18 Code are repealed:

- 19 (1) Section 701.154;
- 20 (2) Section 701.255;
- 21 (3) Section 701.257;
- 22 (4) Section 701.259;
- 23 (5) Section 701.260;
- 24 (6) Subchapter J, Chapter 701; and
- 25 (7) Section 701.502.

26 SECTION 8.002. (a) A provisional or temporary license  
27 issued under former Section 701.259 or 701.260, Occupations Code,

1 that is in effect on the effective date of this Act continues to be  
2 valid until the license expires, and former Sections 701.259 and  
3 701.260, Occupations Code, are continued in effect for that  
4 purpose. Chapter 701, Occupations Code, as amended by this Act,  
5 continues to apply to a holder of an unexpired provisional or  
6 temporary license.

7 (b) On or after the effective date of this Act, the Texas  
8 Department of Licensing and Regulation may not renew or extend a  
9 provisional or temporary license issued under former Section  
10 701.259 or 701.260, Occupations Code.

11 (c) A proceeding under Chapter 701, Occupations Code, that  
12 is pending against a holder of a provisional or temporary license on  
13 the date the license expires is terminated on that date.

14 ARTICLE 9. CODE ENFORCEMENT OFFICERS

15 SECTION 9.001. The following provisions of the Occupations  
16 Code are repealed:

- 17 (1) Section 1952.053, as effective September 1, 2017;  
18 (2) Subchapter E, Chapter 1952; and  
19 (3) Subchapter F, Chapter 1952, as effective September  
20 1, 2017.

21 ARTICLE 10. SANITARIANS

22 SECTION 10.001. The following provisions of the Occupations  
23 Code are repealed:

- 24 (1) Section 1953.053;  
25 (2) Subchapter F, Chapter 1953; and  
26 (3) Subchapter G, Chapter 1953, as effective September  
27 1, 2017.

ARTICLE 11. MOLD ASSESSORS AND REMEDIATORS

SECTION 11.001. Subchapter B, Chapter 1958, Occupations Code, is amended by adding Section 1958.0531 to read as follows:

Sec. 1958.0531. RULES. The commission shall adopt rules as necessary to administer this chapter.

SECTION 11.002. Section 1958.105, Occupations Code, is amended to read as follows:

Sec. 1958.105. EXAMINATION. ~~[(a)]~~ The department may require that an applicant for a license pass a competency examination to qualify for the license.

~~[(b) If the department requires an examination, the applicant must pass the examination with a score of 70 percent or more.]~~

SECTION 11.003. Section 1958.153, Occupations Code, as effective September 1, 2017, is amended to read as follows:

Sec. 1958.153. NOTICE OF PROJECT. (a) Except as provided by Subsection (b), not later than the fifth day before the date on which a license holder starts mold remediation at a property, the license holder shall notify the department in a manner prescribed by the department ~~[in writing]~~ about the project.

(b) In an emergency, notice to the department under Subsection (a) ~~[may be made verbally but]~~ must be made not later than the next business day after the license holder identifies the emergency. For purposes of this subsection, an emergency exists if a delay in mold remediation services in response to a water damage occurrence would increase mold contamination.

(c) The commission shall adopt rules to implement this

1 section, including rules[+]

2 [~~(1)~~] describing the information that must be provided  
3 in the notice[~~, and~~

4 [~~(2) authorizing verbal notification to the~~  
5 ~~department in an emergency~~].

6 (d) The department shall develop a mechanism by which a  
7 license holder may notify the department of an emergency as  
8 required by Subsection (b).

9 SECTION 11.004. Section 1958.156(d), Occupations Code, is  
10 amended to read as follows:

11 (d) Not later than the 10th day [~~one week~~] after the date of  
12 completion of a mold remediation, the mold remediator license  
13 holder shall provide the property owner with copies of all  
14 photographs required by this section.

15 SECTION 11.005. Subchapter D, Chapter 1958, Occupations  
16 Code, is amended by adding Section 1958.158 to read as follows:

17 Sec. 1958.158. SERVICE OF PROCESS ON LICENSE HOLDER. The  
18 department may serve any notice that law requires the department to  
19 serve on a license holder by:

20 (1) personal service on the license holder;

21 (2) certified mail, return receipt requested, to the  
22 license holder at the last known address the license holder  
23 provided to the department; or

24 (3) certified electronic mail to the license holder at  
25 the last known electronic mail address the license holder provided  
26 to the department.

27 SECTION 11.006. The following provisions of the Occupations



1 Code are repealed:

2 (1) Section 1958.055;

3 (2) Subchapter E, Chapter 1958, as effective September  
4 1, 2017;

5 (3) Subchapter F, Chapter 1958, as effective September  
6 1, 2017; and

7 (4) Section 1958.301.

8 SECTION 11.007. Section 1958.153, Occupations Code, as  
9 amended by this Act, applies only to notice of a mold remediation  
10 project that is provided on or after the effective date of this Act.  
11 Notice of a mold remediation project that is provided before that  
12 date is governed by the law in effect immediately before the  
13 effective date of this Act, and the former law is continued in  
14 effect for that purpose.

15 ARTICLE 12. TRANSITION PROVISIONS FOR CERTAIN PROCEEDINGS;

16 EFFECTIVE DATE

17 SECTION 12.001. (a) Except as provided by this Act, the  
18 changes in law made by this Act do not apply to an administrative  
19 proceeding pending on the effective date of this Act. An  
20 administrative proceeding pending on the effective date of this Act  
21 is governed by the law in effect immediately before the effective  
22 date of this Act, and that law is continued in effect for that  
23 purpose.

24 (b) Except as provided by this Act, a civil or criminal  
25 proceeding based on a provision repealed by this Act that is pending  
26 on the effective date of this Act is terminated on that date.

27 SECTION 12.002. This Act takes effect September 1, 2017.