

SENATE AMENDMENTS

2nd Printing

By: Kuempel

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17 Code are repealed: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17 Code are repealed: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.

ADOPTED

MAY 23 2017

Lotay Spaul
Secretary of the Senate

By: *Tafferni*

H.B. No. 4007

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

By: *Tafferni*

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. Section 203.353, Occupations Code, is
14 amended to read as follows:

15 Sec. 203.353. PREVENTION OF OPHTHALMIA NEONATORUM. (a)
16 Subject to Subsection (b), unless [~~Unless~~] the newborn child is
17 immediately transferred to a hospital because of an emergency, a
18 midwife who attends the birth of the child shall comply with Section
19 81.091, Health and Safety Code.

20 (b) A midwife in attendance at childbirth who is unable to
21 apply prophylaxis as required by Section 81.091, Health and Safety
22 Code, due to the objection of the parent, managing conservator, or
23 guardian of the newborn child does not commit an offense under that
24 section and is not subject to any criminal, civil, or

1 administrative liability or any professional disciplinary action
2 for failure to administer the prophylaxis. The midwife in
3 attendance at childbirth shall ensure that the objection of the
4 parent, managing conservator, or guardian is entered into the
5 medical record of the child.

6 SECTION 1.003. The heading to Subchapter K, Chapter 203,
7 Occupations Code, is amended to read as follows:

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

9 SECTION 1.004. The following provisions of the Occupations
10 Code are repealed:

11 (1) Section 203.501; and

12 (2) Section 203.504.

13 ARTICLE 2. SPEECH-LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS

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

16 (b) Advisory board members must:

17 (1) [~~have been a resident of this state for the two~~]
18 [~~years preceding the date of appointment,~~

19 [~~2~~] be from the various geographic regions of the
20 state; and

21 (2) [~~3~~] be from varying employment settings.

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

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

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

1 (b) A person licensed as a speech-language pathologist
2 under this chapter may not fit or[~~r~~] dispense[~~r~~, ~~or~~ ~~sell~~] hearing
3 instruments unless the person meets the specific requirements for
4 fitting and dispensing hearing instruments under this chapter or
5 Chapter 402.

6 SECTION 2.004. The following provisions of the Occupations
7 Code are repealed:

- 8 (1) Section 401.253;
- 9 (2) Section 401.307;
- 10 (3) Section 401.310;
- 11 (4) Section 401.453;
- 12 (5) Section 401.503; and
- 13 (6) Subchapter L, Chapter 401.

14 SECTION 2.005. (a) A temporary certificate of registration
15 issued under former Section 401.310, Occupations Code, that is in
16 effect on the effective date of this Act continues to be valid until
17 the certificate expires and former Section 401.310, Occupations
18 Code, is continued in effect for that purpose. Chapter 401,
19 Occupations Code, as amended by this Act, continues to apply to a
20 holder of an unexpired temporary certificate of registration.

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

24 (c) A proceeding under Chapter 401, Occupations Code, that
25 is pending against a holder of a temporary certificate of
26 registration on the date the certificate expires is terminated on
27 that date.

1 ARTICLE 3. HEARING INSTRUMENT FITTERS AND DISPENSERS

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

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

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

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

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

15 (3) a person with a master's degree or doctorate in
16 audiology from an accredited college or university who does not
17 sell hearing instruments, to the extent the person engages in the
18 measurement of human hearing by the use of an audiometer or by any
19 other means to make selections and adaptations of or
20 recommendations for a hearing instrument and to make impressions
21 for earmolds to be used as part of a hearing instrument;

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

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

26 (B) Section 402.202(b);

27 (C) Section 402.252; and

1 (D) Section 402.255(a);
2 [~~(E) Section 402.406(a), and~~
3 [~~(F) Section 402.451(a)(6),]~~] and

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

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

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

12 (a) The advisory board consists of nine members appointed by
13 the presiding officer of the commission with the approval of the
14 commission as follows:

15 (1) six members licensed under this chapter who have
16 been [~~residents of this state actually~~] engaged in fitting and
17 dispensing hearing instruments for at least five years preceding
18 appointment, not more than one of whom may be licensed under Chapter
19 401;

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

22 (A) [~~has been a resident of this state for at~~
23 ~~least two years preceding appointment,~~

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

25 (B) [~~(C)~~] specializes in the practice of
26 otolaryngology; and

27 (3) two members of the public.

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

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

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

9 (2) written verification that:

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

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

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

19 (4) a statement of the applicant's criminal history
20 acceptable to the department.

21 SECTION 3.004. Section 402.251, Occupations Code, is
22 amended to read as follows:

23 Sec. 402.251. TEMPORARY TRAINING PERMIT QUALIFICATIONS.

24 (a) The department shall issue a temporary training permit to a
25 person who:

26 (1) [~~has never taken the examination administered~~
27 ~~under this chapter~~];

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

3 (2) ~~[(3)]~~ submits a written application on a form
4 prescribed by the department furnishing documentation that the
5 applicant satisfies the requirements of Subdivision ~~[Subdivisions]~~
6 (1) ~~[and (2)]~~; and

7 (3) ~~[(4)]~~ pays any required fee.

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

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

14 (d) The supervisor shall maintain a log of the contact hours
15 by practicum category on a form prescribed by the department. After
16 the temporary training permit holder has completed 150 contact
17 hours, the supervisor and the permit holder shall submit
18 verification of compliance ~~[sign the form, and the form shall be~~
19 ~~notarized and mailed]~~ to the department.

20 SECTION 3.006. Section 402.304, Occupations Code, is
21 amended to read as follows:

22 Sec. 402.304. ALTERNATIVE ~~[ALTERNATIVES]~~ TO CONTINUING
23 EDUCATION REQUIREMENT. ~~[(a) On written request to the department,~~
24 ~~a license holder may take the state examination. A license holder~~
25 ~~who pays the examination fee and passes the examination is exempt~~
26 ~~from the continuing education requirement for the reporting period~~
27 ~~in which the test is taken.~~

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

9 SECTION 3.007. Section 402.305, Occupations Code, is
10 amended to read as follows:

11 Sec. 402.305. CONTINUING EDUCATION EXEMPTIONS. The
12 department may renew the license of a license holder who does not
13 comply with the continuing education requirements of Section
14 402.303 or 402.304 if the license holder:

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

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

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

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

27 (a) A person may not:

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

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

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

7 (4) falsely impersonate a license holder; or

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

10 ~~[(6) dispense or fit a hearing instrument on a person
11 who has ordered the hearing instrument or device by mail unless the
12 person dispensing or fitting is a license holder under this chapter
13 or under Chapter 401; or~~

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

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

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

18 SECTION 3.010. The following provisions of the Occupations
19 Code are repealed:

20 (1) Section 402.209(h);

21 (2) Section 402.406;

22 (3) Section 402.551; and

23 (4) Section 402.553.

24 SECTION 3.011. Section 402.209, Occupations Code, as
25 amended by this Act, applies only to an application submitted on or
26 after the effective date of this Act. An application submitted
27 before the effective date of this Act is governed by the law in

1 effect on the date the application was submitted, and the former law
2 is continued in effect for that purpose.

3 ARTICLE 4. DYSLEXIA PRACTITIONERS AND DYSLEXIA THERAPISTS

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

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

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

11 (b) The department shall [~~in consultation with the~~
12 ~~advisory committee~~]:

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

17 (2) maintain a record of all examinations for at least
18 two years after the date of examination.

19 SECTION 4.003. Section 403.108, Occupations Code, is
20 amended to read as follows:

21 Sec. 403.108. WAIVER OF EXAMINATION REQUIREMENT. The
22 department [~~in consultation with the advisory committee,~~] may
23 waive the examination requirement and issue a license to an
24 applicant who holds an appropriate certificate or other
25 accreditation from a nationally accredited multisensory structured
26 language education organization recognized by the department.

27 SECTION 4.004. Section 403.152(b), Occupations Code, is

1 amended to read as follows:

2 (b) The commission[~~, in consultation with the advisory~~
3 ~~committee,~~] shall establish the continuing education requirements
4 in consultation with the advisory committee [~~a manner that allows a~~
5 ~~license holder to comply without an extended absence from the~~
6 ~~license holder's county of residence~~].

7 SECTION 4.005. The following provisions of the Occupations
8 Code are repealed:

- 9 (1) Section 403.204;
10 (2) Section 403.207;
11 (3) Section 403.212; and
12 (4) Subchapter F, Chapter 403.

13 ARTICLE 5. ATHLETIC TRAINERS

14 SECTION 5.001. Section 451.156, Occupations Code, is
15 amended to read as follows:

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

- 19 (1) satisfies the requirements of Section 451.153 or
20 451.154;
21 (2) passes the examination required by the department;
22 and
23 (3) pays the required license fee[~~, and~~
24 ~~[(4) has not committed an act that constitutes grounds~~
25 ~~for refusal of a license under Section 451.251]~~].

26 SECTION 5.002. The following provisions of the Occupations
27 Code are repealed:

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

4 ARTICLE 6. MASSAGE THERAPY

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

7 (12) "Advisory board" means the Massage Therapy
8 Advisory Board.

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

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

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

15 (b) The department shall:

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

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

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

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

25 Sec. 455.0571. CONTINUING EDUCATION. (a) The commission
26 by rule shall establish the minimum number of hours of continuing
27 education required for a person licensed under this chapter to

1 renew the person's license.

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

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

6 (1) evaluate and approve continuing education
7 providers and programs; and

8 (2) assess a license holder's participation in
9 continuing education programs.

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

12 Sec. 455.059. INSPECTIONS; INVESTIGATIONS. The
13 department, the department's authorized representative, or a peace
14 officer may enter the premises of a massage establishment or
15 massage school at:

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

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

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

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

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

- 1 (1) two members who are licensed massage therapists;
2 (2) two members who represent licensed massage
3 schools;
4 (3) two members who represent licensed massage
5 establishments;
6 (4) one member who is a peace officer with expertise in
7 the enforcement of Chapter 20A, Penal Code, and Subchapter A,
8 Chapter 43, Penal Code; and
9 (5) two members of the public.

10 (b) Appointments to the advisory board shall be made without
11 regard to the race, color, disability, sex, religion, age, or
12 national origin of the appointee [GENERAL POWERS AND DUTIES. (a)
13 The executive director shall administer and enforce this chapter.

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

15 ~~[(1) investigate a person who may be engaging in a~~
16 ~~practice that violates this chapter;~~

17 ~~[(2) regulate the number and content of school hours~~
18 ~~provided by a massage school or a massage therapy instructor; and~~

19 ~~[(3) prepare and administer a state examination under~~
20 ~~this chapter].~~

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

24 Sec. 455.103. TERMS; VACANCIES. (a) Members of the
25 advisory board are appointed for staggered six-year terms. The
26 terms of three members expire September 1 of each odd-numbered
27 year.

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

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

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

9 ~~[(1) be adopted by the commission by rule; and~~

10 ~~[(2) limit the total amount of the fees charged by the~~
11 ~~department and the Texas Education Agency for licensing a massage~~
12 ~~school to an amount equal to the amount of the fees the department~~
13 ~~would charge for licensing the massage school in the absence of the~~
14 ~~memorandum].~~

15 Sec. 455.104. PRESIDING OFFICER. (a) The presiding
16 officer of the commission shall designate a member of the advisory
17 board to serve as the presiding officer of the advisory board for a
18 term of one year.

19 **(b) The presiding officer of the advisory board may vote on**
20 **any matter before the advisory board** [~~INSPECTIONS; INVESTIGATIONS.~~

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

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

26 ~~[(2) other times that the department or peace officer~~
27 ~~considers necessary to ensure compliance with this chapter and the~~

1 ~~rules adopted under this chapter.~~

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

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

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

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

14 (a) A person is not eligible for a license as a massage
15 establishment, massage school, massage therapist, or massage
16 therapy instructor if the person is an individual and has been
17 convicted of, entered a plea of nolo contendere or guilty to, or
18 received deferred adjudication for an offense under Chapter 20A,
19 Penal Code, or Subchapter A, Chapter 43, Penal Code, [~~involving~~
20 ~~prostitution~~] or another sexual offense.

21 SECTION 6.007. Section 455.1525, Occupations Code, is
22 amended to read as follows:

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

27 ~~[(b) An applicant is not eligible for a license under this~~

1 ~~chapter if the applicant, in the five years preceding the date of~~
2 ~~the application, has been finally convicted of a misdemeanor~~
3 ~~involving moral turpitude or a felony.]~~

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

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

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

10 (2) pass any required examination; and

11 (3) include with the application the application fee
12 set by the commission by rule.

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

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

17 (1) present evidence satisfactory to the department
18 that the person has satisfactorily completed massage therapy
19 studies in a 500-hour minimum, supervised course of instruction
20 provided by a massage therapy instructor at a massage school, a
21 licensed massage school, a state-approved educational institution,
22 or any combination of instructors or schools, in which at least:

23 (A) 200 hours are taught by a licensed massage
24 therapy instructor and dedicated to the study of massage therapy
25 techniques and theory and the practice of manipulation of soft
26 tissue, with at least 125 hours dedicated to the study of Swedish
27 massage therapy techniques;

1 (B) 50 hours are dedicated to the study of
2 anatomy;

3 (C) 25 hours are dedicated to the study of
4 physiology;

5 (D) 50 hours are dedicated to the study of
6 kinesiology;

7 (E) 40 hours are dedicated to the study of
8 pathology;

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

11 (G) 45 hours are dedicated to the study of
12 massage therapy laws and rules, business practices, and
13 professional ethics standards;

14 (H) 20 hours are dedicated to the study of
15 health, hygiene, first aid, universal precautions, and
16 cardiopulmonary resuscitation (CPR); and

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

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

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

21 SECTION 6.010. The following provisions of the Occupations
22 Code are repealed:

23 (1) Section 455.1572; and

24 (2) Subchapter G, Chapter 455.

25 SECTION 6.011. As soon as practicable after the effective
26 date of this Act, the presiding officer of the Texas Commission of
27 Licensing and Regulation shall appoint the members of the Massage

1 Therapy Advisory Board created by Subchapter C, Chapter 455,
2 Occupations Code, as amended by this Act.

3 SECTION 6.012. Section 455.152(a), Occupations Code, as
4 amended by this Act, applies only to a person who files an initial
5 application for or an application for renewal of a license as a
6 massage establishment, massage school, massage therapist, or
7 massage therapy instructor on or after the effective date of this
8 Act.

9 ARTICLE 7. ORTHOTISTS AND PROSTHETISTS

10 SECTION 7.001. Section 605.056, Occupations Code, is
11 amended to read as follows:

12 Sec. 605.056. PRESIDING OFFICER. The presiding officer of
13 the commission, with the commission's approval, shall designate a
14 member [~~members~~] of the advisory board to serve as the [~~shall elect~~
15 ~~from the advisory board's membership a~~] presiding officer of the
16 advisory board [~~to serve~~] for a term of one year. The presiding
17 officer of the advisory board may vote on any matter before the
18 advisory board.

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

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

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

25 (2) pay the nonrefundable application fee;

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

27 [~~4~~] have completed formal training, including the

1 required hours of classroom education and clinical practice, in an
2 area of study the commission by rule determines to be necessary and
3 appropriate;

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

9 (5) [~~(6)~~] have passed each written and practical
10 examination approved and required by the department.

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

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

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

20 (a) The department may issue a temporary license to an
21 individual who:

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

25 (2) [~~(3)~~] has regularly [~~(A)~~]
26 [~~(A)~~] practiced orthotics, prosthetics, or both
27 for the five years preceding the date of the application [~~regularly~~

1 ~~since January 1, 1996~~; and ~~[or]~~

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

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

8 SUBCHAPTER H. PROHIBITED PRACTICES ~~[, DISCIPLINARY PROCEDURES, AND~~
9 PENALTIES]

10 SECTION 7.006. The following provisions of the Occupations
11 Code are repealed:

- 12 (1) Section 605.252(d);
13 (2) Section 605.261(c);
14 (3) Section 605.353;
15 (4) Section 605.354;
16 (5) Section 605.356; and
17 (6) Subchapter I, Chapter 605.

18 SECTION 7.007. The presiding officer of the Orthotists and
19 Prosthetists Advisory Board who is serving on the effective date of
20 this Act shall continue to serve as the presiding officer until the
21 presiding officer of the Texas Commission of Licensing and
22 Regulation, with the commission's approval, designates a member of
23 the advisory board to serve as the presiding officer of the advisory
24 board as required by Section 605.056, Occupations Code, as amended
25 by this Act.

26 SECTION 7.008. Sections 605.252, 605.254, and 605.257,
27 Occupations Code, as amended by this Act, apply only to an

1 application submitted on or after the effective date of this Act.
2 An application submitted under Section 605.252, 605.254, or
3 605.257, Occupations Code, before the effective date of this Act is
4 governed by the law in effect on the date the application was
5 submitted, and the former law is continued in effect for that
6 purpose.

7 ARTICLE 8. DIETITIANS

8 SECTION 8.001. The following provisions of the Occupations
9 Code are repealed:

- 10 (1) Section 701.154;
11 (2) Section 701.255;
12 (3) Section 701.257;
13 (4) Section 701.259;
14 (5) Section 701.260;
15 (6) Subchapter J, Chapter 701; and
16 (7) Section 701.502.

17 SECTION 8.002. (a) A provisional or temporary license
18 issued under former Section 701.259 or 701.260, Occupations Code,
19 that is in effect on the effective date of this Act continues to be
20 valid until the license expires, and former Sections 701.259 and
21 701.260, Occupations Code, are continued in effect for that
22 purpose. Chapter 701, Occupations Code, as amended by this Act,
23 continues to apply to a holder of an unexpired provisional or
24 temporary license.

25 (b) On or after the effective date of this Act, the Texas
26 Department of Licensing and Regulation may not renew or extend a
27 provisional or temporary license issued under former Section

1 701.259 or 701.260, Occupations Code.

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

5 ARTICLE 9. CODE ENFORCEMENT OFFICERS

6 SECTION 9.001. The following provisions of the Occupations
7 Code are repealed:

- 8 (1) Section 1952.053, as effective September 1, 2017;
9 (2) Subchapter E, Chapter 1952; and
10 (3) Subchapter F, Chapter 1952, as effective September
11 1, 2017.

12 ARTICLE 10. SANITARIANS

13 SECTION 10.001. The following provisions of the Occupations
14 Code are repealed:

- 15 (1) Section 1953.053;
16 (2) Subchapter F, Chapter 1953; and
17 (3) Subchapter G, Chapter 1953, as effective September
18 1, 2017.

19 ARTICLE 11. MOLD ASSESSORS AND REMEDIATORS

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

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

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

26 Sec. 1958.105. EXAMINATION. [~~a~~] The department may
27 require that an applicant for a license pass a competency

1 examination to qualify for the license.

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

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

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

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

18 (c) The commission shall adopt rules to implement this
19 section, including rules~~+~~

20 ~~[(1)]~~ describing the information that must be provided
21 in the notice~~+, and~~

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

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

27 SECTION 11.004. Section 1958.156(d), Occupations Code, is

1 amended to read as follows:

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

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

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

11 (1) personal service on the license holder;

12 (2) certified mail, return receipt requested, to the
13 license holder at the last known address the license holder
14 provided to the department; or

15 (3) certified electronic mail to the license holder at
16 the last known electronic mail address the license holder provided
17 to the department.

18 SECTION 11.006. The following provisions of the Occupations
19 Code are repealed:

20 (1) Section 1958.055;

21 (2) Subchapter E, Chapter 1958, as effective September
22 1, 2017;

23 (3) Subchapter F, Chapter 1958, as effective September
24 1, 2017; and

25 (4) Section 1958.301.

26 SECTION 11.007. Section 1958.153, Occupations Code, as
27 amended by this Act, applies only to notice of a mold remediation

1 project that is provided on or after the effective date of this Act.
2 Notice of a mold remediation project that is provided before that
3 date is governed by the law in effect immediately before the
4 effective date of this Act, and the former law is continued in
5 effect for that purpose.

6 ARTICLE 12. TRANSITION PROVISIONS FOR CERTAIN PROCEEDINGS;

7 EFFECTIVE DATE

8 SECTION 12.001. (a) Except as provided by this Act, the
9 changes in law made by this Act do not apply to an administrative
10 proceeding pending on the effective date of this Act. An
11 administrative proceeding pending on the effective date of this Act
12 is governed by the law in effect immediately before the effective
13 date of this Act, and that law is continued in effect for that
14 purpose.

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

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

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 23, 2017

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB4007 by Kuempel (Relating to the licensing and regulation of health-related occupations transferred to the Texas Department of Licensing and Regulation.), **As Passed 2nd House**

No significant fiscal implication to the State is anticipated.

The bill would amend the Occupations Code relating to the licensing and regulation of health-related occupations transferred to the Texas Department of Licensing and Regulation (TDLR).

Based on the analysis of TDLR, duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 452 Department of Licensing and Regulation

LBB Staff: UP, SD, CL, EH, JQ

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 22, 2017

TO: Honorable Kelly Hancock, Chair, Senate Committee on Business & Commerce

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **HB4007** by Kuempel (Relating to the licensing and regulation of health-related occupations transferred to the Texas Department of Licensing and Regulation.), **Committee Report 2nd House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend the Occupations Code relating to the licensing and regulation of health-related occupations transferred to the Texas Department of Licensing and Regulation (TDLR).

Based on the analysis of TDLR, duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 452 Department of Licensing and Regulation

LBB Staff: UP, CL, EH, JQ

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 12, 2017

TO: Honorable Kelly Hancock, Chair, Senate Committee on Business & Commerce

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **HB4007** by Kuempel (Relating to the licensing and regulation of health-related occupations transferred to the Texas Department of Licensing and Regulation.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would amend the Occupations Code relating to the licensing and regulation of health-related occupations transferred to the Texas Department of Licensing and Regulation (TDLR).

Based on the analysis of TDLR, duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 452 Department of Licensing and Regulation

LBB Staff: UP, CL, EH, JQ

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

April 17, 2017

TO: Honorable John Kuempel, Chair, House Committee on Licensing & Administrative Procedures

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB4007 by Kuempel (Relating to the licensing and regulation of health-related occupations transferred to the Texas Department of Licensing and Regulation.), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend the Occupations Code relating to the licensing and regulation of health-related occupations transferred to the Texas Department of Licensing and Regulation (TDLR).

Based on the analysis of TDLR, duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 452 Department of Licensing and Regulation

LBB Staff: UP, CL, EH, JQ

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

April 7, 2017

TO: Honorable John Kuempel, Chair, House Committee on Licensing & Administrative Procedures

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB4007 by Kuempel (Relating to the licensing and regulation of certain occupations by the Texas Department of Licensing and Regulation.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend the Occupations Code relating to the licensing and regulation of certain occupations by the Texas Department of Licensing and Regulation (TDLR).

Based on the analysis of TDLR, duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 452 Department of Licensing and Regulation

LBB Staff: UP, CL, EH, JQ