

AN ACT

relating to the authority of the Texas Higher Education Coordinating Board to authorize certain degree programs offered by private postsecondary educational institutions.

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

SECTION 1. Section 61.303, Education Code, as amended by S.B. 1781, Acts of the 85th Legislature, Regular Session, 2017, is reenacted and amended to read as follows:

Sec. 61.303. EXEMPTIONS. (a) Unless specifically provided otherwise, the provisions of this subchapter do not apply to an institution that is fully accredited by, and is not operating under sanctions imposed by, a recognized accrediting agency, or an institution or degree program that has received approval by a state agency authorizing the institution's graduates to take a professional or vocational state licensing examination administered by that agency. The granting of permission by a state agency to a graduate of an institution to take a licensing examination does not by itself constitute approval of the institution or degree program required for an exemption under this subsection.

(b) The exemptions provided by Subsection (a) apply only to the degree level for which an institution is accredited, and if an institution offers to award a degree at a level for which it is not accredited, the exemption does not apply.

1 (c) Except as provided by Subsection (c-1), the ~~[The]~~ board
2 may approve the issuance of a certificate of authorization to grant
3 degrees ~~[issue]~~ to an exempt institution or person ~~[a certificate~~
4 ~~of authorization to grant degrees]~~. The board may adopt rules
5 regarding a process to allow an exempt institution or person to
6 apply ~~[for]~~ and receive approval for a certificate of authorization
7 under this section.

8 (c-1) The board may not approve the issuance of a
9 certificate of authorization for an exempt institution to grant a
10 professional degree or to represent that credits earned in this
11 state are applicable toward a professional degree except to the
12 extent allowed for an authorized institution operating under a
13 State Authorization Reciprocity Agreement (SARA). In this
14 subsection, "professional degree" includes Doctor of Medicine
15 (M.D.), Doctor of Osteopathy (D.O.), Doctor of Dental Surgery
16 (D.D.S.), Doctor of Veterinary Medicine (D.V.M.), Juris Doctor
17 (J.D.), and Bachelor of Laws (LL.B.).

18 (d) The board by rule may require an exempt institution or
19 person to ensure that the financial resources and financial
20 stability of the institution or person are adequate to provide
21 education of a good quality and to fulfill the institution's or
22 person's commitments to its enrolled students and may require the
23 institution or person to provide to the board documentation of the
24 institution's or person's compliance with those requirements.
25 Rules adopted under this subsection must:

26 (1) require the institution or person to maintain
27 reserves, lines of credit, or surety instruments that, when

1 combined with tuition and fee receipts, are sufficient to allow the
2 institution or person to fulfill its educational obligations to its
3 enrolled students if the institution or person is unable to
4 continue to provide instruction to its enrolled students for any
5 reason; and

6 (2) require that the financial resources maintained
7 under Subdivision (1) be conditioned to allow only the board to
8 withdraw funds for the benefit of the institution's or person's
9 enrolled students under the circumstance described by Subdivision
10 (1).

11 (e) To enable the board to verify the conditions under which
12 a certificate of authorization issued under this section is held,
13 the board by rule may require an exempt institution or person to
14 report to the board on a continuing basis other appropriate
15 information in addition to the documentation required under
16 Subsection (d).

17 (f) An exempt institution or person continues in that status
18 only if the institution or person maintains accreditation by, and
19 is not operating under sanctions imposed by, a recognized
20 accrediting agency or otherwise meets the provisions of Subsection
21 (a).

22 (g) The board by rule shall provide for due process and
23 shall provide procedures for revoking or placing conditions on the
24 exemption status of an institution or person or for revoking or
25 placing conditions on a previously issued certificate of
26 authorization.

27 (h) Under the rules described by Subsection (g), the board

1 may revoke or place conditions on an institution's or person's
2 exemption status or certificate of authorization only if the board
3 has reasonable cause to believe that the institution or person has
4 violated this subchapter or any rule adopted under this subchapter.

5 (i) Before revoking or placing conditions on an
6 institution's or person's exemption status or certificate of
7 authorization under Subsection (h), the board must provide to the
8 institution or person written notice of the board's impending
9 action and include the grounds for that action.

10 (j) If the board places conditions on an institution's or
11 person's exemption status or certificate of authorization under
12 Subsection (h), until the board removes the conditions, the board
13 may reexamine the applicable institution or person at least twice
14 annually following the date the board provided notice under
15 Subsection (i).

16 (k) A private postsecondary educational institution may not
17 establish or operate a branch campus, extension center, or other
18 off-campus unit in Texas except as provided by this subsection or
19 the rules of the board. This subsection does not apply to a private
20 or independent institution of higher education as defined by
21 Section 61.003.

22 SECTION 2. Section 61.306, Education Code, is amended by
23 amending Subsections (a) and (c) and adding Subsections (c-1) and
24 (d) to read as follows:

25 (a) Subject to Subsections (c) and (c-1), the ~~[The]~~ board
26 may issue a certificate of authority to grant a degree or degrees
27 and to enroll students for courses which may be applicable toward a

1 degree if it finds that the applicant meets the standards
2 established by the board for certification.

3 (c) The board may not issue a certificate of authority for a
4 private postsecondary educational institution to grant a
5 professional degree or to represent that credits earned in this
6 state are applicable toward a professional degree if the
7 institution is chartered in a foreign country or has its principal
8 office or primary educational program in a foreign country.

9 (c-1) The board may issue a certificate of authority for a
10 private postsecondary educational institution to grant a
11 professional degree or to represent that credits earned in this
12 state are applicable toward a professional degree only if the board
13 determines that:

14 (1) the capacity and ability of similar professional
15 degree programs at institutions of higher education and private or
16 independent institutions of higher education are insufficient to
17 meet the state's current market needs;

18 (2) the institution seeking the certificate of
19 authority:

20 (A) has the necessary faculty and other resources
21 to ensure student success; and

22 (B) is subject to and agrees to meet the same
23 standards for approval and all academic criteria applicable to
24 similar professional degree programs offered by institutions of
25 higher education and private or independent institutions of higher
26 education; and

27 (3) sufficient placements are available to students

1 for required field-based experience, such as clinicals or
2 clerkships, for the proposed professional degree.

3 (d) In this section:

4 (1) "Institution of higher education" and "private or
5 independent institution of higher education" have the meanings
6 assigned by Section 61.003.

7 (2) "Professional [subsection, "professional] degree"
8 includes a Doctor of Medicine (M.D.), Doctor of Osteopathy (D.O.),
9 Doctor of Dental Surgery (D.D.S.), Doctor of Veterinary Medicine
10 (D.V.M.), Juris Doctor (J.D.), and Bachelor of Laws (LL.B.).

11 SECTION 3. This Act takes effect September 1, 2021.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 1490 passed the Senate on April 20, 2021, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendment on May 27, 2021, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 1490 passed the House, with amendment, on May 18, 2021, by the following vote: Yeas 120, Nays 17, two present not voting.

Chief Clerk of the House

Approved:

Date

Governor