

1-1 By: Kuempel (Senate Sponsor - Zaffirini) H.B. No. 4007
1-2 (In the Senate - Received from the House May 5, 2017;
1-3 May 12, 2017, read first time and referred to Committee on Business
1-4 & Commerce; May 22, 2017, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 8, Nays 0;
1-6 May 22, 2017, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13			X	
1-14	X			
1-15	X			
1-16	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR H.B. No. 4007 By: Zaffirini

1-19 A BILL TO BE ENTITLED
1-20 AN ACT

1-21 relating to the licensing and regulation of health-related
1-22 occupations transferred to the Texas Department of Licensing and
1-23 Regulation.

1-24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-25 ARTICLE 1. MIDWIFERY

1-26 SECTION 1.001. Section 203.157(c), Occupations Code, is
1-27 amended to read as follows:

1-28 (c) The department shall post a list of licensed midwives on
1-29 the department's Internet website ~~[provide each county clerk and~~
1-30 ~~each local registrar of births in a county with the name of each~~
1-31 ~~midwife practicing in the county].~~

1-32 SECTION 1.002. Section 203.353, Occupations Code, is
1-33 amended to read as follows:

1-34 Sec. 203.353. PREVENTION OF OPHTHALMIA NEONATORUM. (a)
1-35 Subject to Subsection (b), unless ~~[Unless]~~ the newborn child is
1-36 immediately transferred to a hospital because of an emergency, a
1-37 midwife who attends the birth of the child shall comply with Section
1-38 81.091, Health and Safety Code.

1-39 (b) A midwife in attendance at childbirth who is unable to
1-40 apply prophylaxis as required by Section 81.091, Health and Safety
1-41 Code, due to the objection of the parent, managing conservator, or
1-42 guardian of the newborn child does not commit an offense under that
1-43 section and is not subject to any criminal, civil, or
1-44 administrative liability or any professional disciplinary action
1-45 for failure to administer the prophylaxis. The midwife in
1-46 attendance at childbirth shall ensure that the objection of the
1-47 parent, managing conservator, or guardian is entered into the
1-48 medical record of the child.

1-49 SECTION 1.003. The heading to Subchapter K, Chapter 203,
1-50 Occupations Code, is amended to read as follows:

1-51 SUBCHAPTER K. ~~[OTHER PENALTIES AND]~~ ENFORCEMENT PROVISIONS

1-52 SECTION 1.004. The following provisions of the Occupations
1-53 Code are repealed:

1-54 (1) Section 203.501; and

1-55 (2) Section 203.504.

1-56 ARTICLE 2. SPEECH-LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS

1-57 SECTION 2.001. Section 401.102(b), Occupations Code, is
1-58 amended to read as follows:

1-59 (b) Advisory board members must:

1-60 (1) ~~[have been a resident of this state for the two~~

2-1 ~~years preceding the date of appointment;~~
 2-2 [~~2~~] be from the various geographic regions of the
 2-3 state; and
 2-4 (2) [~~3~~] be from varying employment settings.

2-5 SECTION 2.002. Section 401.305(b), Occupations Code, is
 2-6 amended to read as follows:

2-7 (b) The department shall administer or provide for the
 2-8 administration of an examination at least twice each year.

2-9 SECTION 2.003. Section 401.402(b), Occupations Code, is
 2-10 amended to read as follows:

2-11 (b) A person licensed as a speech-language pathologist
 2-12 under this chapter may not fit or [~~]~~ dispense [~~, or sell~~] hearing
 2-13 instruments unless the person meets the specific requirements for
 2-14 fitting and dispensing hearing instruments under this chapter or
 2-15 Chapter 402.

2-16 SECTION 2.004. The following provisions of the Occupations
 2-17 Code are repealed:

- 2-18 (1) Section 401.253;
- 2-19 (2) Section 401.307;
- 2-20 (3) Section 401.310;
- 2-21 (4) Section 401.453;
- 2-22 (5) Section 401.503; and
- 2-23 (6) Subchapter L, Chapter 401.

2-24 SECTION 2.005. (a) A temporary certificate of registration
 2-25 issued under former Section 401.310, Occupations Code, that is in
 2-26 effect on the effective date of this Act continues to be valid until
 2-27 the certificate expires and former Section 401.310, Occupations
 2-28 Code, is continued in effect for that purpose. Chapter 401,
 2-29 Occupations Code, as amended by this Act, continues to apply to a
 2-30 holder of an unexpired temporary certificate of registration.

2-31 (b) On or after the effective date of this Act, the Texas
 2-32 Department of Licensing and Regulation may not renew or extend a
 2-33 temporary certificate of registration.

2-34 (c) A proceeding under Chapter 401, Occupations Code, that
 2-35 is pending against a holder of a temporary certificate of
 2-36 registration on the date the certificate expires is terminated on
 2-37 that date.

2-38 ARTICLE 3. HEARING INSTRUMENT FITTERS AND DISPENSERS

2-39 SECTION 3.001. Section 402.003, Occupations Code, is
 2-40 amended by amending Subsections (a) and (b) and adding Subsection
 2-41 (a-1) to read as follows:

2-42 (a) Except as provided by Subsections (a-1) and (b) and
 2-43 Section 402.451(a), this chapter applies only to a person who
 2-44 engages or offers to engage in fitting and dispensing hearing
 2-45 instruments.

2-46 (a-1) This chapter does not apply to:

2-47 (1) a person engaged in the practice of measuring
 2-48 human hearing as a part of the academic curriculum of an accredited
 2-49 institution of higher learning if the person or the person's
 2-50 employees do not sell hearing instruments;

2-51 (2) a physician licensed by the Texas Medical Board;

2-52 (3) a person with a master's degree or doctorate in
 2-53 audiology from an accredited college or university who does not
 2-54 sell hearing instruments, to the extent the person engages in the
 2-55 measurement of human hearing by the use of an audiometer or by any
 2-56 other means to make selections and adaptations of or
 2-57 recommendations for a hearing instrument and to make impressions
 2-58 for earmolds to be used as part of a hearing instrument;

2-59 (4) an audiologist or an audiology intern licensed
 2-60 under Chapter 401, except as may otherwise be provided by the
 2-61 following provisions, which refer to Chapter 401:

2-62 (A) Section 402.051(a)(1);

2-63 (B) Section 402.202(b);

2-64 (C) Section 402.252; and

2-65 (D) Section 402.255(a);

2-66 [~~(E) Section 402.406(a), and~~

2-67 [~~(F) Section 402.451(a)(6),~~] and

2-68 (5) a student of audiology in an accredited college or
 2-69 university program, if the student's activities and services are

3-1 part of the student's supervised course of study or practicum
 3-2 experience.

3-3 (b) A student described by Subsection (a-1)(5) [~~(a)(5)~~] is
 3-4 subject to Chapter 401.

3-5 SECTION 3.002. Section 402.051(a), Occupations Code, is
 3-6 amended to read as follows:

3-7 (a) The advisory board consists of nine members appointed by
 3-8 the presiding officer of the commission with the approval of the
 3-9 commission as follows:

3-10 (1) six members licensed under this chapter who have
 3-11 been [~~residents of this state actually~~] engaged in fitting and
 3-12 dispensing hearing instruments for at least five years preceding
 3-13 appointment, not more than one of whom may be licensed under Chapter
 3-14 401;

3-15 (2) one member who is actively practicing as a
 3-16 physician licensed by the Texas Medical Board and who:

3-17 (A) [~~has been a resident of this state for at~~
 3-18 ~~least two years preceding appointment,~~

3-19 [~~(B)~~] is a citizen of the United States; and

3-20 (B) [~~(C)~~] specializes in the practice of
 3-21 otolaryngology; and

3-22 (3) two members of the public.

3-23 SECTION 3.003. Section 402.209(c), Occupations Code, is
 3-24 amended to read as follows:

3-25 (c) An applicant for a license under this section shall
 3-26 provide as part of the application:

3-27 (1) written verification that the applicant is
 3-28 licensed in good standing as a fitter and dispenser of hearing
 3-29 instruments in another state [~~and has held the license for at least~~
 3-30 ~~three years preceding the date of application~~];

3-31 (2) written verification that:

3-32 (A) the requirements to obtain a license to fit
 3-33 and dispense hearing instruments in the state in which the
 3-34 applicant is licensed include passing an examination approved by
 3-35 the commission by rule; or

3-36 (B) the applicant holds a certification from a
 3-37 professional organization approved by the commission by rule;

3-38 (3) a written statement from the licensing entity in
 3-39 the state in which the applicant is licensed that details any
 3-40 disciplinary action taken by the entity against the applicant; and

3-41 (4) a statement of the applicant's criminal history
 3-42 acceptable to the department.

3-43 SECTION 3.004. Section 402.251, Occupations Code, is
 3-44 amended to read as follows:

3-45 Sec. 402.251. TEMPORARY TRAINING PERMIT QUALIFICATIONS.

3-46 (a) The department shall issue a temporary training permit to a
 3-47 person who:

3-48 (1) [~~has never taken the examination administered~~
 3-49 ~~under this chapter,~~

3-50 (2) [~~(2)~~] possesses the qualifications required under
 3-51 Section 402.203(a);

3-52 (2) [~~(3)~~] submits a written application on a form
 3-53 prescribed by the department furnishing documentation that the
 3-54 applicant satisfies the requirements of Subdivision [~~Subdivisions~~]

3-55 (1) [~~and (2)~~]; and

3-56 (3) [~~(4)~~] pays any required fee.

3-57 (b) The commission by rule may provide for the issuance of
 3-58 [~~department may issue~~] a new temporary training permit under this
 3-59 section [~~to a person on or after the 365th day~~] after a [~~the~~]
 3-60 person's [~~previous~~] temporary training permit expires [~~expired~~].

3-61 SECTION 3.005. Section 402.255(d), Occupations Code, is
 3-62 amended to read as follows:

3-63 (d) The supervisor shall maintain a log of the contact hours
 3-64 by practicum category on a form prescribed by the department. After
 3-65 the temporary training permit holder has completed 150 contact
 3-66 hours, the supervisor and the permit holder shall submit
 3-67 verification of compliance [~~sign the form, and the form shall be~~
 3-68 ~~notarized and mailed~~] to the department.

3-69 SECTION 3.006. Section 402.304, Occupations Code, is

4-1 amended to read as follows:

4-2 Sec. 402.304. ALTERNATIVE [~~ALTERNATIVES~~] TO CONTINUING
4-3 EDUCATION REQUIREMENT. [~~(a) On written request to the department,~~
4-4 ~~a license holder may take the state examination. A license holder~~
4-5 ~~who pays the examination fee and passes the examination is exempt~~
4-6 ~~from the continuing education requirement for the reporting period~~
4-7 ~~in which the test is taken.~~

4-8 [~~(b)~~] A license holder may be credited with continuing
4-9 education credit hours for a published book or article written by
4-10 the license holder that contributes to the license holder's
4-11 professional competence. The department may grant credit hours
4-12 based on the degree to which the published book or article advances
4-13 knowledge regarding the fitting and dispensing of hearing
4-14 instruments. A license holder may claim in a reporting period not
4-15 more than five credit hours for preparation of a publication.

4-16 SECTION 3.007. Section 402.305, Occupations Code, is
4-17 amended to read as follows:

4-18 Sec. 402.305. CONTINUING EDUCATION EXEMPTIONS. The
4-19 department may renew the license of a license holder who does not
4-20 comply with the continuing education requirements of Section
4-21 402.303 or 402.304 if the license holder:

4-22 (1) was licensed for the first time during the 24
4-23 months before the reporting date; or

4-24 (2) [~~has served in the regular armed forces of the~~
4-25 ~~United States during part of the 24 months before the reporting~~
4-26 ~~date; or~~

4-27 [~~(3)~~] submits proof from an attending physician that
4-28 the license holder suffered a serious or disabling illness or
4-29 physical disability that prevented compliance with the continuing
4-30 education requirements during the 24 months before the reporting
4-31 date.

4-32 SECTION 3.008. Section 402.451(a), Occupations Code, is
4-33 amended to read as follows:

4-34 (a) A person may not:

4-35 (1) buy, sell, or fraudulently obtain a license or aid
4-36 another person to do so;

4-37 (2) alter a license with the intent to defraud;

4-38 (3) wilfully make a false statement in an application
4-39 to the department for a license, a temporary training permit, or the
4-40 renewal of a license;

4-41 (4) falsely impersonate a license holder; or

4-42 (5) engage in the fitting and dispensing of hearing
4-43 instruments when the person's license is suspended or revoked [~~+~~

4-44 [~~(6) dispense or fit a hearing instrument on a person~~
4-45 ~~who has ordered the hearing instrument or device by mail unless the~~
4-46 ~~person dispensing or fitting is a license holder under this chapter~~
4-47 ~~or under Chapter 401; or~~

4-48 [~~(7) sell a hearing instrument by mail~~].

4-49 SECTION 3.009. The heading to Subchapter L, Chapter 402,
4-50 Occupations Code, is amended to read as follows:

4-51 SUBCHAPTER L. [~~PENALTIES AND OTHER~~] ENFORCEMENT PROVISIONS

4-52 SECTION 3.010. The following provisions of the Occupations
4-53 Code are repealed:

4-54 (1) Section 402.209(h);

4-55 (2) Section 402.406;

4-56 (3) Section 402.551; and

4-57 (4) Section 402.553.

4-58 SECTION 3.011. Section 402.209, Occupations Code, as
4-59 amended by this Act, applies only to an application submitted on or
4-60 after the effective date of this Act. An application submitted
4-61 before the effective date of this Act is governed by the law in
4-62 effect on the date the application was submitted, and the former law
4-63 is continued in effect for that purpose.

4-64 ARTICLE 4. DYSLEXIA PRACTITIONERS AND DYSLEXIA THERAPISTS

4-65 SECTION 4.001. Section 403.106(c), Occupations Code, is
4-66 amended to read as follows:

4-67 (c) The department [~~in consultation with the advisory~~
4-68 ~~committee,~~] shall determine whether a training program meets the
4-69 requirements of this section.

5-1 SECTION 4.002. Section 403.107(b), Occupations Code, is
5-2 amended to read as follows:

5-3 (b) The department shall~~[, in consultation with the~~
5-4 ~~advisory committee]~~:

5-5 (1) identify and designate a competency examination
5-6 that is related to multisensory structured language education and
5-7 that will be administered at least twice each year by a professional
5-8 organization that issues national certifications; and

5-9 (2) maintain a record of all examinations for at least
5-10 two years after the date of examination.

5-11 SECTION 4.003. Section 403.108, Occupations Code, is
5-12 amended to read as follows:

5-13 Sec. 403.108. WAIVER OF EXAMINATION REQUIREMENT. The
5-14 department~~[, in consultation with the advisory committee,]~~ may
5-15 waive the examination requirement and issue a license to an
5-16 applicant who holds an appropriate certificate or other
5-17 accreditation from a nationally accredited multisensory structured
5-18 language education organization recognized by the department.

5-19 SECTION 4.004. Section 403.152(b), Occupations Code, is
5-20 amended to read as follows:

5-21 (b) The commission~~[, in consultation with the advisory~~
5-22 ~~committee,]~~ shall establish the continuing education requirements
5-23 in consultation with the advisory committee ~~[a manner that allows a~~
5-24 ~~license holder to comply without an extended absence from the~~
5-25 ~~license holder's county of residence]~~.

5-26 SECTION 4.005. The following provisions of the Occupations
5-27 Code are repealed:

- 5-28 (1) Section 403.204;
- 5-29 (2) Section 403.207;
- 5-30 (3) Section 403.212; and
- 5-31 (4) Subchapter F, Chapter 403.

5-32 ARTICLE 5. ATHLETIC TRAINERS

5-33 SECTION 5.001. Section 451.156, Occupations Code, is
5-34 amended to read as follows:

5-35 Sec. 451.156. REQUIREMENTS FOR LICENSE ISSUANCE. An
5-36 applicant for an athletic trainer license is entitled to receive
5-37 the license if the applicant:

5-38 (1) satisfies the requirements of Section 451.153 or
5-39 451.154;

5-40 (2) passes the examination required by the department;
5-41 and

5-42 (3) pays the required license fee~~[, and~~
5-43 ~~[(4) has not committed an act that constitutes grounds~~
5-44 ~~for refusal of a license under Section 451.251]~~.

5-45 SECTION 5.002. The following provisions of the Occupations
5-46 Code are repealed:

- 5-47 (1) Section 451.051(c);
- 5-48 (2) Section 451.101(a-2); and
- 5-49 (3) Subchapters F, G, and H, Chapter 451.

5-50 ARTICLE 6. MASSAGE THERAPY

5-51 SECTION 6.001. Section 455.001, Occupations Code, is
5-52 amended by adding Subdivisions (12) and (13) to read as follows:

5-53 (12) "Advisory board" means the Massage Therapy
5-54 Advisory Board.

5-55 (13) "Peace officer" means a person who is a peace
5-56 officer under Article 2.12, Code of Criminal Procedure.

5-57 SECTION 6.002. Subchapter B, Chapter 455, Occupations Code,
5-58 is amended by adding Section 455.0511 to read as follows:

5-59 Sec. 455.0511. GENERAL POWERS AND DUTIES. (a) The
5-60 executive director shall administer and enforce this chapter.

5-61 (b) The department shall:

5-62 (1) investigate a person who may be engaging in or
5-63 offering to engage in a practice that violates this chapter;

5-64 (2) regulate the number of school hours and the
5-65 content of the coursework provided by a massage school or a massage
5-66 therapy instructor; and

5-67 (3) prepare, recognize, administer, or arrange for the
5-68 administration of an examination under this chapter.

5-69 SECTION 6.003. Subchapter B, Chapter 455, Occupations Code,

6-1 is amended by adding Section 455.0571 to read as follows:
 6-2 Sec. 455.0571. CONTINUING EDUCATION. (a) The commission
 6-3 by rule shall establish the minimum number of hours of continuing
 6-4 education required for a person licensed under this chapter to
 6-5 renew the person's license.

6-6 (b) The commission by rule shall provide for the
 6-7 recognition, preparation, or administration of continuing
 6-8 education programs for persons licensed under this chapter.

6-9 (c) The department may develop and establish processes to:
 6-10 (1) evaluate and approve continuing education
 6-11 providers and programs; and
 6-12 (2) assess a license holder's participation in
 6-13 continuing education programs.

6-14 SECTION 6.004. Subchapter B, Chapter 455, Occupations Code,
 6-15 is amended by adding Section 455.059 to read as follows:

6-16 Sec. 455.059. INSPECTIONS; INVESTIGATIONS. The
 6-17 department, the department's authorized representative, or a peace
 6-18 officer may enter the premises of a massage establishment or
 6-19 massage school at:

6-20 (1) reasonable times to conduct an inspection
 6-21 incidental to the issuance of a license; and

6-22 (2) other times that the department, the department's
 6-23 authorized representative, or a peace officer considers necessary
 6-24 to ensure compliance with this chapter and the rules adopted under
 6-25 this chapter.

6-26 SECTION 6.005. Subchapter C, Chapter 455, Occupations Code,
 6-27 as effective September 1, 2017, is amended to read as follows:

6-28 SUBCHAPTER C. MASSAGE THERAPY ADVISORY BOARD [~~POWERS AND DUTIES~~]
 6-29 Sec. 455.101. ADVISORY BOARD MEMBERSHIP. (a) The advisory
 6-30 board consists of nine members appointed by the presiding officer
 6-31 of the commission with the approval of the commission as follows:

6-32 (1) two members who are licensed massage therapists;
 6-33 (2) two members who represent licensed massage

6-34 schools;
 6-35 (3) two members who represent licensed massage
 6-36 establishments;

6-37 (4) one member who is a peace officer with expertise in
 6-38 the enforcement of Chapter 20A, Penal Code, and Subchapter A,
 6-39 Chapter 43, Penal Code; and

6-40 (5) two members of the public.

6-41 (b) Appointments to the advisory board shall be made without
 6-42 regard to the race, color, disability, sex, religion, age, or
 6-43 national origin of the appointee [~~GENERAL POWERS AND DUTIES. (a)~~
 6-44 ~~The executive director shall administer and enforce this chapter.~~

6-45 [~~(b) The department shall:~~
 6-46 [~~(1) investigate a person who may be engaging in a~~
 6-47 ~~practice that violates this chapter;~~

6-48 [~~(2) regulate the number and content of school hours~~
 6-49 ~~provided by a massage school or a massage therapy instructor; and~~

6-50 [~~(3) prepare and administer a state examination under~~
 6-51 ~~this chapter].~~

6-52 Sec. 455.102. DUTIES OF ADVISORY BOARD. The advisory board
 6-53 shall provide advice and recommendations to the department on
 6-54 technical matters relevant to the administration of this chapter.

6-55 Sec. 455.103. TERMS; VACANCIES. (a) Members of the
 6-56 advisory board are appointed for staggered six-year terms. The
 6-57 terms of three members expire September 1 of each odd-numbered
 6-58 year.

6-59 (b) If a vacancy occurs on the advisory board during a
 6-60 member's term, the presiding officer of the commission, with the
 6-61 commission's approval, shall appoint a replacement who meets the
 6-62 qualifications for the vacant position to serve for the remainder
 6-63 of the term [~~MEMORANDUM OF UNDERSTANDING REGARDING MASSAGE SCHOOLS.~~

6-64 ~~(a) The commission may enter into a memorandum of understanding~~
 6-65 ~~with the Texas Education Agency to regulate massage schools.~~

6-66 [~~(b) A memorandum must:~~
 6-67 [~~(1) be adopted by the commission by rule; and~~

6-68 [~~(2) limit the total amount of the fees charged by the~~
 6-69 ~~department and the Texas Education Agency for licensing a massage~~

7-1 ~~school to an amount equal to the amount of the fees the department~~
 7-2 ~~would charge for licensing the massage school in the absence of the~~
 7-3 ~~memorandum].~~

7-4 Sec. 455.104. PRESIDING OFFICER. (a) The presiding
 7-5 officer of the commission shall designate a member of the advisory
 7-6 board to serve as the presiding officer of the advisory board for a
 7-7 term of one year.

7-8 (b) The presiding officer of the advisory board may vote on
 7-9 any matter before the advisory board [INSPECTIONS, INVESTIGATIONS.

7-10 ~~(a) The department, its authorized representative, or a peace~~
 7-11 ~~officer may enter the premises of an applicant for a license or a~~
 7-12 ~~license holder at:~~

7-13 ~~[(1) reasonable times to conduct an inspection~~
 7-14 ~~incidental to the issuance of a license; and~~

7-15 ~~[(2) other times that the department or peace officer~~
 7-16 ~~considers necessary to ensure compliance with this chapter and the~~
 7-17 ~~rules adopted under this chapter.~~

7-18 ~~[(b) A peace officer appointed or employed by a law~~
 7-19 ~~enforcement agency of a political subdivision of this state may~~
 7-20 ~~enter the premises of a massage establishment to ensure compliance~~
 7-21 ~~with this chapter and rules adopted under this chapter].~~

7-22 Sec. 455.105. MEETINGS. The advisory board shall meet at
 7-23 the call of the executive director or the presiding officer of the
 7-24 commission [REGISTRY. (a) The department shall annually prepare a
 7-25 registry of licensed massage therapists.

7-26 ~~[(b) The department shall make the registry available to the~~
 7-27 ~~public, license holders, other state agencies, and peace officers].~~

7-28 SECTION 6.006. Section 455.152(a), Occupations Code, is
 7-29 amended to read as follows:

7-30 (a) A person is not eligible for a license as a massage
 7-31 establishment, massage school, massage therapist, or massage
 7-32 therapy instructor if the person is an individual and has been
 7-33 convicted of, entered a plea of nolo contendere or guilty to, or
 7-34 received deferred adjudication for an offense under Chapter 20A,
 7-35 Penal Code, or Subchapter A, Chapter 43, Penal Code, [involving
 7-36 prostitution] or another sexual offense.

7-37 SECTION 6.007. Section 455.1525, Occupations Code, is
 7-38 amended to read as follows:

7-39 Sec. 455.1525. CRIMINAL BACKGROUND CHECKS. ~~[(a)]~~ On
 7-40 receipt of an application for a license under this chapter, the
 7-41 department shall conduct a criminal background check on the
 7-42 applicant.

7-43 ~~[(b) An applicant is not eligible for a license under this~~
 7-44 ~~chapter if the applicant, in the five years preceding the date of~~
 7-45 ~~the application, has been finally convicted of a misdemeanor~~
 7-46 ~~involving moral turpitude or a felony.]~~

7-47 SECTION 6.008. Section 455.153, Occupations Code, as
 7-48 effective September 1, 2017, is amended to read as follows:

7-49 Sec. 455.153. APPLICATION FOR LICENSE. An applicant for a
 7-50 license under this chapter must:

7-51 (1) submit an application in the manner and on a form
 7-52 prescribed by the executive director; ~~[and]~~

7-53 (2) pass any required examination; and

7-54 (3) include with the application the application fee
 7-55 set by the commission by rule.

7-56 SECTION 6.009. Section 455.156(b), Occupations Code, is
 7-57 amended to read as follows:

7-58 (b) An applicant for a license under this section must be an
 7-59 individual and:

7-60 (1) present evidence satisfactory to the department
 7-61 that the person has satisfactorily completed massage therapy
 7-62 studies in a 500-hour minimum, supervised course of instruction
 7-63 provided by a massage therapy instructor at a massage school, a
 7-64 licensed massage school, a state-approved educational institution,
 7-65 or any combination of instructors or schools, in which at least:

7-66 (A) 200 hours are taught by a licensed massage
 7-67 therapy instructor and dedicated to the study of massage therapy
 7-68 techniques and theory and the practice of manipulation of soft
 7-69 tissue, with at least 125 hours dedicated to the study of Swedish

8-1 massage therapy techniques;
 8-2 (B) 50 hours are dedicated to the study of
 8-3 anatomy;
 8-4 (C) 25 hours are dedicated to the study of
 8-5 physiology;
 8-6 (D) 50 hours are dedicated to the study of
 8-7 kinesiology;
 8-8 (E) 40 hours are dedicated to the study of
 8-9 pathology;
 8-10 (F) 20 hours are dedicated to the study of
 8-11 hydrotherapy;
 8-12 (G) 45 hours are dedicated to the study of
 8-13 massage therapy laws and rules, business practices, and
 8-14 professional ethics standards;
 8-15 (H) 20 hours are dedicated to the study of
 8-16 health, hygiene, first aid, universal precautions, and
 8-17 cardiopulmonary resuscitation (CPR); and
 8-18 (I) 50 hours are spent in an internship program;
 8-19 (2) pass the required examinations [~~written state~~
 8-20 ~~examination~~]; and
 8-21 (3) be at least 18 years of age.

8-22 SECTION 6.010. The following provisions of the Occupations
 8-23 Code are repealed:

- 8-24 (1) Section 455.1572; and
- 8-25 (2) Subchapter G, Chapter 455.

8-26 SECTION 6.011. As soon as practicable after the effective
 8-27 date of this Act, the presiding officer of the Texas Commission of
 8-28 Licensing and Regulation shall appoint the members of the Massage
 8-29 Therapy Advisory Board created by Subchapter C, Chapter 455,
 8-30 Occupations Code, as amended by this Act.

8-31 SECTION 6.012. Section 455.152(a), Occupations Code, as
 8-32 amended by this Act, applies only to a person who files an initial
 8-33 application for or an application for renewal of a license as a
 8-34 massage establishment, massage school, massage therapist, or
 8-35 massage therapy instructor on or after the effective date of this
 8-36 Act.

8-37 ARTICLE 7. ORTHOTISTS AND PROSTHETISTS

8-38 SECTION 7.001. Section 605.056, Occupations Code, is
 8-39 amended to read as follows:

8-40 Sec. 605.056. PRESIDING OFFICER. The presiding officer of
 8-41 the commission, with the commission's approval, shall designate a
 8-42 member [members] of the advisory board to serve as the [shall elect
 8-43 from the advisory board's membership a] presiding officer of the
 8-44 advisory board [to serve] for a term of one year. The presiding
 8-45 officer of the advisory board may vote on any matter before the
 8-46 advisory board.

8-47 SECTION 7.002. Section 605.252(a), Occupations Code, is
 8-48 amended to read as follows:

8-49 (a) To be eligible for a license to practice orthotics or
 8-50 prosthetics in this state, a person must:

- 8-51 (1) submit an application in the manner and on the form
 8-52 prescribed by the executive director;
- 8-53 (2) pay the nonrefundable application fee;
- 8-54 (3) [~~be a resident of this state,~~
- 8-55 ~~(4)] have completed formal training, including the~~
- 8-56 required hours of classroom education and clinical practice, in an
- 8-57 area of study the commission by rule determines to be necessary and
- 8-58 appropriate;
- 8-59 (4) [~~(5)] have completed a clinical residency in the~~
- 8-60 professional area for which a license is sought that complies with
- 8-61 the standards, guidelines, or procedures established by the
- 8-62 department for a clinical residency that is offered in this state or
- 8-63 another state; and
- 8-64 (5) [~~(6)] have passed each written and practical~~
- 8-65 examination approved and required by the department.

8-66 SECTION 7.003. Section 605.254(a), Occupations Code, is
 8-67 amended to read as follows:

8-68 (a) A person is entitled to an exemption from the license
 8-69 requirements established under Section 605.252 if the person [~~is a~~

9-1 ~~resident of this state who~~] presents evidence satisfactory to the
9-2 department that the person possesses unique qualifications to
9-3 practice orthotics, prosthetics, or orthotics and prosthetics.

9-4 SECTION 7.004. Section 605.257(a), Occupations Code, is
9-5 amended to read as follows:

9-6 (a) The department may issue a temporary license to an
9-7 individual who:

9-8 (1) ~~[has recently become a resident of this state,~~
9-9 ~~[-(2)-]~~ has applied for a license as an orthotist,
9-10 prosthetist, or both; ~~[and]~~

9-11 (2) ~~[-(3)-]~~ has regularly ~~[-~~
9-12 ~~[-(A)-]~~ practiced orthotics, prosthetics, or both
9-13 for the five years preceding the date of the application ~~[regularly~~
9-14 ~~since January 1, 1996]; and~~ ~~[or]~~

9-15 (3) has ~~[-(B)-]~~ been licensed by a ~~[the]~~ state ~~[in~~
9-16 ~~which the person formerly resided if]~~ that ~~[state]~~ has license
9-17 requirements that are equal to or exceed the requirements of this
9-18 chapter.

9-19 SECTION 7.005. The heading to Subchapter H, Chapter 605,
9-20 Occupations Code, is amended to read as follows:

9-21 SUBCHAPTER H. PROHIBITED PRACTICES ~~[-, DISCIPLINARY PROCEDURES, AND~~
9-22 ~~PENALTIES]~~

9-23 SECTION 7.006. The following provisions of the Occupations
9-24 Code are repealed:

- 9-25 (1) Section 605.252(d);
- 9-26 (2) Section 605.261(c);
- 9-27 (3) Section 605.353;
- 9-28 (4) Section 605.354;
- 9-29 (5) Section 605.356; and
- 9-30 (6) Subchapter I, Chapter 605.

9-31 SECTION 7.007. The presiding officer of the Orthotists and
9-32 Prosthetists Advisory Board who is serving on the effective date of
9-33 this Act shall continue to serve as the presiding officer until the
9-34 presiding officer of the Texas Commission of Licensing and
9-35 Regulation, with the commission's approval, designates a member of
9-36 the advisory board to serve as the presiding officer of the advisory
9-37 board as required by Section 605.056, Occupations Code, as amended
9-38 by this Act.

9-39 SECTION 7.008. Sections 605.252, 605.254, and 605.257,
9-40 Occupations Code, as amended by this Act, apply only to an
9-41 application submitted on or after the effective date of this Act.
9-42 An application submitted under Section 605.252, 605.254, or
9-43 605.257, Occupations Code, before the effective date of this Act is
9-44 governed by the law in effect on the date the application was
9-45 submitted, and the former law is continued in effect for that
9-46 purpose.

9-47 ARTICLE 8. DIETITIANS

9-48 SECTION 8.001. The following provisions of the Occupations
9-49 Code are repealed:

- 9-50 (1) Section 701.154;
- 9-51 (2) Section 701.255;
- 9-52 (3) Section 701.257;
- 9-53 (4) Section 701.259;
- 9-54 (5) Section 701.260;
- 9-55 (6) Subchapter J, Chapter 701; and
- 9-56 (7) Section 701.502.

9-57 SECTION 8.002. (a) A provisional or temporary license
9-58 issued under former Section 701.259 or 701.260, Occupations Code,
9-59 that is in effect on the effective date of this Act continues to be
9-60 valid until the license expires, and former Sections 701.259 and
9-61 701.260, Occupations Code, are continued in effect for that
9-62 purpose. Chapter 701, Occupations Code, as amended by this Act,
9-63 continues to apply to a holder of an unexpired provisional or
9-64 temporary license.

9-65 (b) On or after the effective date of this Act, the Texas
9-66 Department of Licensing and Regulation may not renew or extend a
9-67 provisional or temporary license issued under former Section
9-68 701.259 or 701.260, Occupations Code.

9-69 (c) A proceeding under Chapter 701, Occupations Code, that

10-1 is pending against a holder of a provisional or temporary license on
10-2 the date the license expires is terminated on that date.

10-3 ARTICLE 9. CODE ENFORCEMENT OFFICERS

10-4 SECTION 9.001. The following provisions of the Occupations
10-5 Code are repealed:

- 10-6 (1) Section 1952.053, as effective September 1, 2017;
- 10-7 (2) Subchapter E, Chapter 1952; and
- 10-8 (3) Subchapter F, Chapter 1952, as effective September
10-9 1, 2017.

10-10 ARTICLE 10. SANITARIANS

10-11 SECTION 10.001. The following provisions of the Occupations
10-12 Code are repealed:

- 10-13 (1) Section 1953.053;
- 10-14 (2) Subchapter F, Chapter 1953; and
- 10-15 (3) Subchapter G, Chapter 1953, as effective September
10-16 1, 2017.

10-17 ARTICLE 11. MOLD ASSESSORS AND REMEDIATORS

10-18 SECTION 11.001. Subchapter B, Chapter 1958, Occupations
10-19 Code, is amended by adding Section 1958.0531 to read as follows:

10-20 Sec. 1958.0531. RULES. The commission shall adopt rules as
10-21 necessary to administer this chapter.

10-22 SECTION 11.002. Section 1958.105, Occupations Code, is
10-23 amended to read as follows:

10-24 Sec. 1958.105. EXAMINATION. [~~(a)~~] The department may
10-25 require that an applicant for a license pass a competency
10-26 examination to qualify for the license.

10-27 [~~(b) If the department requires an examination, the~~
10-28 ~~applicant must pass the examination with a score of 70 percent or~~
10-29 ~~more.~~]

10-30 SECTION 11.003. Section 1958.153, Occupations Code, as
10-31 effective September 1, 2017, is amended to read as follows:

10-32 Sec. 1958.153. NOTICE OF PROJECT. (a) Except as provided
10-33 by Subsection (b), not later than the fifth day before the date on
10-34 which a license holder starts mold remediation at a property, the
10-35 license holder shall notify the department in a manner prescribed
10-36 by the department [in writing] about the project.

10-37 (b) In an emergency, notice to the department under
10-38 Subsection (a) [~~may be made verbally but~~] must be made not later
10-39 than the next business day after the license holder identifies the
10-40 emergency. For purposes of this subsection, an emergency exists if
10-41 a delay in mold remediation services in response to a water damage
10-42 occurrence would increase mold contamination.

10-43 (c) The commission shall adopt rules to implement this
10-44 section, including rules[+]

10-45 [~~(1)~~] describing the information that must be provided
10-46 in the notice [+, and

10-47 [~~(2) authorizing verbal notification to the~~
10-48 ~~department in an emergency].~~

10-49 (d) The department shall develop a mechanism by which a
10-50 license holder may notify the department of an emergency as
10-51 required by Subsection (b).

10-52 SECTION 11.004. Section 1958.156(d), Occupations Code, is
10-53 amended to read as follows:

10-54 (d) Not later than the 10th day [one week] after the date of
10-55 completion of a mold remediation, the mold remediator license
10-56 holder shall provide the property owner with copies of all
10-57 photographs required by this section.

10-58 SECTION 11.005. Subchapter D, Chapter 1958, Occupations
10-59 Code, is amended by adding Section 1958.158 to read as follows:

10-60 Sec. 1958.158. SERVICE OF PROCESS ON LICENSE HOLDER. The
10-61 department may serve any notice that law requires the department to
10-62 serve on a license holder by:

10-63 (1) personal service on the license holder;

10-64 (2) certified mail, return receipt requested, to the
10-65 license holder at the last known address the license holder
10-66 provided to the department; or

10-67 (3) certified electronic mail to the license holder at
10-68 the last known electronic mail address the license holder provided
10-69 to the department.

11-1 SECTION 11.006. The following provisions of the Occupations
 11-2 Code are repealed:
 11-3 (1) Section 1958.055;
 11-4 (2) Subchapter E, Chapter 1958, as effective September
 11-5 1, 2017;
 11-6 (3) Subchapter F, Chapter 1958, as effective September
 11-7 1, 2017; and
 11-8 (4) Section 1958.301.

11-9 SECTION 11.007. Section 1958.153, Occupations Code, as
 11-10 amended by this Act, applies only to notice of a mold remediation
 11-11 project that is provided on or after the effective date of this Act.
 11-12 Notice of a mold remediation project that is provided before that
 11-13 date is governed by the law in effect immediately before the
 11-14 effective date of this Act, and the former law is continued in
 11-15 effect for that purpose.

11-16 ARTICLE 12. TRANSITION PROVISIONS FOR CERTAIN PROCEEDINGS;
 11-17 EFFECTIVE DATE

11-18 SECTION 12.001. (a) Except as provided by this Act, the
 11-19 changes in law made by this Act do not apply to an administrative
 11-20 proceeding pending on the effective date of this Act. An
 11-21 administrative proceeding pending on the effective date of this Act
 11-22 is governed by the law in effect immediately before the effective
 11-23 date of this Act, and that law is continued in effect for that
 11-24 purpose.

11-25 (b) Except as provided by this Act, a civil or criminal
 11-26 proceeding based on a provision repealed by this Act that is pending
 11-27 on the effective date of this Act is terminated on that date.

11-28 SECTION 12.002. This Act takes effect September 1, 2017.

11-29 * * * * *