

By: Nelson, et al.
(Price, Raymond, Dutton, Burkett, Gonzales)

S.B. No. 202

A BILL TO BE ENTITLED

AN ACT

relating to the transfer of certain occupational regulatory programs and the deregulation of certain activities and occupations.

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

ARTICLE 1. REGULATORY PROGRAMS TRANSFERRED TO THE TEXAS

DEPARTMENT OF LICENSING AND REGULATION

PART 1. TRANSFERS DURING BIENNIUM ENDING AUGUST 31, 2017

SECTION 1.001. Subchapter D, Chapter 51, Occupations Code, is amended by adding Section 51.2031 to read as follows:

Sec. 51.2031. RULES REGARDING HEALTH-RELATED PROGRAMS; PROVISION OF INFORMATION. (a) This section applies only to the regulation of the following professions by the department:

(1) athletic trainers;

(2) dietitians;

(3) hearing instrument fitters and dispensers;

(4) midwives;

(5) orthotists and prosthetists; and

(6) speech-language pathologists and audiologists.

(a-1) The commission may not adopt a new rule relating to the scope of practice of or a health-related standard of care for a profession to which this section applies unless the rule has been proposed by the advisory board established for that profession. The commission shall adopt rules prescribing the procedure by which

1 an advisory board may propose rules described by this subsection.

2 (a-2) For each rule proposed under Subsection (a-1), the
3 commission shall either adopt the rule as proposed or return the
4 rule to the advisory board for revision. The commission retains
5 authority for final adoption of all rules and is responsible for
6 ensuring compliance with all laws regarding the rulemaking process.
7 This subsection and Subsection (a-1) expire September 1, 2019.

8 (b) The commission shall adopt rules clearly specifying the
9 manner in which the department and commission will solicit input
10 from, and on request provide information to, an advisory board
11 established for a profession to which this section applies
12 regarding the general investigative, enforcement, or disciplinary
13 procedures of the department or commission.

14 SECTION 1.002. Section 203.002, Occupations Code, is
15 amended by adding Subdivision (1) and amending Subdivisions (3),
16 (4), (4-a), (6), and (9) to read as follows:

17 (1) "Advisory board" means the Midwives Advisory
18 Board.

19 (3) "Commission" [~~"Commissioner"~~] means the Texas
20 Commission of Licensing and Regulation [~~commissioner of state~~
21 health services].

22 (4) "Department" means the Texas Department of
23 Licensing and Regulation [~~State Health Services].~~

24 (4-a) "Executive director" [~~commissioner"~~] means the
25 executive director of the department [~~commissioner of the Health~~
26 and Human Services Commission].

27 (6) "Midwife" means a person who practices midwifery

1 and has met the licensing requirements established by this chapter
2 and commission [~~midwifery board~~] rules.

3 (9) "Normal" means, as applied to pregnancy, labor,
4 delivery, the postpartum period, and the newborn period, and as
5 defined by commission [~~midwifery board~~] rule, circumstances under
6 which a midwife has determined that a client is at a low risk of
7 developing complications.

8 SECTION 1.003. Section 203.005, Occupations Code, is
9 amended to read as follows:

10 Sec. 203.005. EFFECT ON LOCAL ORDINANCES. This chapter
11 does not prohibit a municipality from adopting a local ordinance or
12 rule to regulate the practice of midwifery in the municipality if
13 the ordinance or rule is compatible with and at least as strict as
14 this chapter and commission [~~midwifery board~~] rules.

15 SECTION 1.004. The heading to Subchapter B, Chapter 203,
16 Occupations Code, is amended to read as follows:

17 SUBCHAPTER B. MIDWIVES ADVISORY [~~MIDWIFERY~~] BOARD

18 SECTION 1.005. Section 203.052, Occupations Code, is
19 amended to read as follows:

20 Sec. 203.052. ADVISORY [~~APPOINTMENT OF MIDWIFERY~~] BOARD
21 MEMBERSHIP. (a) The advisory [~~midwifery~~] board consists of nine
22 members appointed by the presiding officer of the commission with
23 the approval of the commission as follows:

24 (1) five licensed midwife members each of whom has at
25 least three years' experience in the practice of midwifery;

26 (2) one physician member who is certified by a
27 national professional organization of physicians that certifies

1 obstetricians and gynecologists;

2 (3) one physician member who is certified by a
3 national professional organization of physicians that certifies
4 family practitioners or pediatricians; and

5 (4) two members who represent the public and who are
6 not practicing or trained in a health care profession, one of whom
7 is a parent with at least one child born with the assistance of a
8 midwife.

9 (b) Appointments to the advisory [~~midwifery~~] board shall be
10 made without regard to the race, color, disability, sex, religion,
11 age, or national origin of the appointee.

12 SECTION 1.006. Subchapter B, Chapter 203, Occupations Code,
13 is amended by adding Section 203.0521 to read as follows:

14 Sec. 203.0521. DUTIES OF ADVISORY BOARD. The advisory
15 board shall provide advice and recommendations to the department on
16 technical matters relevant to the administration of this chapter.

17 SECTION 1.007. Section 203.055, Occupations Code, is
18 amended to read as follows:

19 Sec. 203.055. TERMS; VACANCIES. (a) Members of the
20 advisory [~~midwifery~~] board serve for staggered terms of six years.
21 The terms of three members expire on January 31 of each odd-numbered
22 year.

23 (b) If a vacancy occurs during a member's term, the
24 presiding officer of the commission, with the commission's
25 approval, shall appoint a replacement who meets the qualifications
26 for the vacant position to serve for the remainder of the term.

27 SECTION 1.008. Section 203.056, Occupations Code, is

1 (a) The executive director shall administer and enforce
2 this chapter.

3 (a-1) The commission [~~Subject to the approval of the~~
4 ~~executive commissioner, the midwifery board~~] shall:

5 (1) [~~adopt substantive and procedural rules necessary~~
6 ~~for the licensing of midwives,~~

7 [~~(2)~~] adopt rules prescribing the standards for the
8 practice of midwifery in this state, including standards for:

9 (A) the delineation of findings that preclude a
10 woman or newborn from being classified as having a normal
11 pregnancy, labor, delivery, postpartum period, or newborn period;
12 and

13 (B) administration of oxygen by a midwife to a
14 mother or newborn;

15 (2) [~~(3)~~] adopt rules prescribing:

16 (A) the type of courses and number of hours
17 required to meet the basic midwifery education course and
18 continuing midwifery education course requirements; and

19 (B) minimum standards for the approval and
20 revocation of approval of:

21 (i) basic midwifery education courses and
22 continuing midwifery education courses; and

23 (ii) instructors or facilities used in
24 basic midwifery education courses and continuing midwifery
25 education courses; and

26 (3) [~~(4)~~] ~~adopt rules prescribing a procedure for~~
27 ~~reporting and processing complaints relating to the practice of~~

1 ~~midwifery in this state;~~

2 ~~[(5) adopt and implement substantive and procedural~~
3 ~~rules as necessary to discipline midwives determined to be in~~
4 ~~violation of this chapter or otherwise a threat to the public health~~
5 ~~and safety;~~

6 ~~[(6)]~~ adopt rules as necessary to establish
7 eligibility for reciprocity for initial licensing under this
8 chapter ~~and~~

9 ~~[(7) adopt other rules necessary to implement a duty~~
10 ~~imposed on the executive commissioner or the department under this~~
11 ~~chapter].~~

12 (a-2) The department shall:

13 (1) implement rules governing:

14 (A) basic midwifery education courses and
15 continuing midwifery education courses; and

16 (B) approval of instructors or facilities used in
17 offering basic midwifery education courses and continuing
18 midwifery education courses;

19 (2) prepare and distribute basic midwifery
20 information and instructor manuals;

21 (3) enter into agreements necessary to carry out this
22 chapter; and

23 (4) establish a program for licensure as a midwife as
24 prescribed by commission rules.

25 SECTION 1.013. Section 203.152(b), Occupations Code, is
26 amended to read as follows:

27 (b) The commission ~~[midwifery board]~~ may not set a fee for

1 an amount less than the amount of that fee on September 1, 1993.

2 SECTION 1.014. Sections 203.153(a) and (c), Occupations
3 Code, are amended to read as follows:

4 (a) The [~~Subject to the approval of the~~] department [~~, the~~
5 ~~midwifery board~~] shall issue basic information manuals for the
6 practice of midwifery [~~. The midwifery board shall approve the~~
7 ~~basic information manuals~~] and instructor manuals that may be used
8 in basic midwifery education courses.

9 (c) A basic information manual must include information
10 about:

- 11 (1) the knowledge necessary to practice as a midwife;
- 12 (2) the basic education and continuing education
13 requirements for a midwife;
- 14 (3) the legal requirements and procedures relating to
15 midwifery;
- 16 (4) the standards of practice as a midwife; and
- 17 (5) other information or procedures required by the
18 commission [~~midwifery board~~] or the department.

19 SECTION 1.015. Section 203.154, Occupations Code, is
20 amended to read as follows:

21 Sec. 203.154. REPORTS ON MIDWIFERY. (a) [~~(c)~~] The
22 department [~~midwifery board~~] shall prepare and publish reports on
23 the practice of midwifery in this state.

24 (b) The Department of State Health Services shall publish
25 a [~~, including~~] statistical report [~~reporting~~] of infant fetal
26 morbidity and mortality.

27 SECTION 1.016. The heading to Section 203.155, Occupations

1 Code, is amended to read as follows:

2 Sec. 203.155. COMPLAINTS [~~COMPLAINT PROCEDURE AND~~
3 ~~INVESTIGATION~~].

4 SECTION 1.017. Sections 203.155(b) and (d), Occupations
5 Code, are amended to read as follows:

6 (b) For purposes of Section 51.252, the commission must
7 adopt [~~The~~] rules to [~~adopted under Subsection (a) must:~~

8 [~~(1) distinguish among categories of complaints;~~

9 [~~(2) ensure that a person who files a complaint has an~~
10 ~~opportunity to explain the allegations made in the complaint; and~~

11 [~~(3)~~] provide for the release of any relevant
12 midwifery or medical record to the department [~~midwifery board~~],
13 without the necessity of consent by the midwife's client, as
14 necessary to conduct an investigation of a complaint.

15 (d) The department [~~midwifery board~~] shall provide
16 reasonable assistance to a person who wishes to file a complaint
17 with the department regarding a person or activity regulated by
18 this chapter [~~midwifery board~~].

19 SECTION 1.018. Section 203.252(a), Occupations Code, is
20 amended to read as follows:

21 (a) A person qualifies to become a licensed midwife under
22 this chapter if the person provides the department [~~program~~
23 ~~coordinator~~] with documentary evidence that the person has:

24 (1) satisfied each requirement for basic midwifery
25 education; and

26 (2) passed the comprehensive midwifery examination
27 and jurisprudence examination required by this chapter.

1 SECTION 1.019. Section 203.253, Occupations Code, is
2 amended to read as follows:

3 Sec. 203.253. LICENSE APPLICATION. A person who practices
4 midwifery must apply to the department to be licensed as a midwife
5 in the manner and on a form prescribed by the executive director.

6 The application must:

7 (1) be accompanied by a nonrefundable application fee;
8 and

9 (2) include information required by commission
10 [~~midwifery board~~] rules.

11 SECTION 1.020. Section 203.254, Occupations Code, is
12 amended to read as follows:

13 Sec. 203.254. BASIC MIDWIFERY EDUCATION. The commission
14 [~~Subject to the approval of the executive commissioner, the~~
15 ~~midwifery board~~] shall establish requirements for basic midwifery
16 education.

17 SECTION 1.021. Section 203.255(a), Occupations Code, is
18 amended to read as follows:

19 (a) The department [~~midwifery board, with the approval of~~
20 ~~the executive commissioner,~~] shall:

21 (1) adopt a comprehensive midwifery examination for
22 persons regulated under this chapter that must be passed before the
23 initial license may be issued; and

24 (2) establish eligibility requirements for persons
25 taking a comprehensive midwifery examination.

26 SECTION 1.022. Section 203.2555, Occupations Code, is
27 amended to read as follows:

1 Sec. 203.2555. JURISPRUDENCE EXAMINATION. (a) The
2 department [~~midwifery board~~] shall develop and administer at least
3 twice each calendar year a jurisprudence examination to determine
4 an applicant's knowledge of this chapter, commission [~~midwifery~~
5 ~~board~~] rules under this chapter, and any other applicable laws of
6 this state affecting the applicant's midwifery practice.

7 (b) The commission [~~Subject to the approval of the executive~~
8 ~~commissioner, the midwifery board~~] shall adopt rules to implement
9 this section, including rules related to the development and
10 administration of the examination, examination fees, guidelines
11 for reexamination, grading the examination, and providing notice of
12 examination results.

13 SECTION 1.023. Section [203.256](#), Occupations Code, is
14 amended to read as follows:

15 Sec. 203.256. TRAINING IN NEWBORN SCREENING AND BASIC LIFE
16 SUPPORT CARDIOPULMONARY RESUSCITATION. A person who practices
17 midwifery in this state must provide the department [~~program~~
18 ~~coordinator~~] with satisfactory evidence that the person:

19 (1) is trained to perform the newborn screening tests
20 under Section [203.354](#) or has made arrangements for the performance
21 of those tests; and

22 (2) holds:

23 (A) a current certificate issued by the American
24 Heart Association in basic life support cardiopulmonary
25 resuscitation; or

26 (B) another form of certification acceptable to
27 the department that demonstrates proficiency in basic life support

1 cardiopulmonary resuscitation for adults and children.

2 SECTION 1.024. Section 203.304, Occupations Code, is
3 amended to read as follows:

4 Sec. 203.304. CONTINUING MIDWIFERY EDUCATION. (a) The
5 commission by rule [~~Subject to the approval of the executive~~
6 ~~commissioner, the midwifery board~~] shall establish requirements
7 for continuing midwifery education, including a minimum number of
8 hours of continuing education required to renew a license under
9 this chapter.

10 (b) On renewal of the license, a midwife must provide the
11 department [~~program coordinator~~] with evidence, acceptable under
12 commission [~~midwifery board~~] rules, of completion of continuing
13 midwifery education as prescribed by the commission by rule
14 [~~midwifery board~~].

15 (c) The commission [~~midwifery board~~] by rule shall develop a
16 process to evaluate and approve continuing education courses.

17 SECTION 1.025. Section 203.305, Occupations Code, is
18 amended to read as follows:

19 Sec. 203.305. REQUIRED ATTENDANCE AT SPECIFIC MIDWIFERY
20 EDUCATION COURSES. The department [~~midwifery board~~] may assess the
21 continuing education needs of licensed midwives and may require
22 licensed midwives to attend continuing midwifery education courses
23 specified by the department [~~midwifery board~~].

24 SECTION 1.026. Section 203.306, Occupations Code, is
25 amended to read as follows:

26 Sec. 203.306. GROUNDS FOR REFUSING RENEWAL. The department
27 [~~midwifery board~~] may refuse to renew the license of a person who

1 fails to pay an administrative penalty [~~imposed under Subchapter~~
2 ~~J,7~~] unless enforcement of the penalty is stayed or a court has
3 ordered that the administrative penalty is not owed.

4 SECTION 1.027. Section 203.351(b), Occupations Code, is
5 amended to read as follows:

6 (b) The department [~~midwifery board~~] shall prescribe the
7 form of the informed choice and disclosure statement required to be
8 used by a midwife under this chapter. The form must include:

9 (1) statistics of the midwife's experience as a
10 midwife;

11 (2) the date the midwife's license expires;

12 (3) the date the midwife's cardiopulmonary
13 resuscitation certification expires;

14 (4) the midwife's compliance with continuing education
15 requirements;

16 (5) a description of medical backup arrangements; and

17 (6) the legal responsibilities of a midwife, including
18 statements concerning newborn blood screening, ophthalmia
19 neonatorum prevention, and prohibited acts under Sections
20 203.401-203.403.

21 SECTION 1.028. Section 203.352, Occupations Code, is
22 amended to read as follows:

23 Sec. 203.352. PRENATAL AND CERTAIN MEDICAL CARE ENCOURAGED.

24 A midwife shall encourage a client to seek:

25 (1) prenatal care; and

26 (2) medical care through consultation or referral, as
27 specified by commission [~~midwifery board~~] rules, if the midwife

1 determines that the pregnancy, labor, delivery, postpartum period,
2 or newborn period of a woman or newborn may not be classified as
3 normal for purposes of this chapter.

4 SECTION 1.029. Section 203.354(b), Occupations Code, is
5 amended to read as follows:

6 (b) A midwife may collect blood specimens for the newborn
7 screening tests if the midwife has been approved by the department
8 to collect the specimen. The commission [~~Subject to the approval of~~
9 ~~the executive commissioner, the midwifery board~~] shall adopt rules
10 establishing the standards for approval. The standards must
11 recognize completion of a course of instruction that includes the
12 blood specimen collection procedure or verification by
13 appropriately trained health care providers that the midwife has
14 been instructed in the blood collection procedures.

15 SECTION 1.030. Section 203.355(b), Occupations Code, is
16 amended to read as follows:

17 (b) The Department of State Health Services [~~department~~]
18 and a local health department, a public health district, or a local
19 health unit shall provide clinical and laboratory support services
20 to a pregnant woman or a newborn who is a client of a midwife if the
21 midwife is required to provide the services under this chapter.

22 SECTION 1.031. Section 203.356(a), Occupations Code, is
23 amended to read as follows:

24 (a) A physician, a registered nurse, or other person who, on
25 the order of a physician, instructs a midwife in the approved
26 techniques for collecting blood specimens to be used for newborn
27 screening tests is immune from liability arising out of the failure

1 or refusal of the midwife to:

- 2 (1) collect the specimens in the approved manner; or
3 (2) submit the specimens to the Department of State
4 Health Services [~~department~~] in a timely manner.

5 SECTION 1.032. Sections 203.357(a) and (b), Occupations
6 Code, are amended to read as follows:

7 (a) The department [~~midwifery board~~] may require
8 information in addition to that required by Section 203.253 if it
9 determines the additional information is necessary and appropriate
10 to ascertain the nature and extent of midwifery in this state. The
11 department [~~midwifery board~~] may not require information regarding
12 any act that is prohibited under this chapter.

13 (b) The [~~With the approval of the midwifery board, the~~]
14 department shall prescribe forms for the additional information and
15 shall distribute those forms directly to each midwife. Each
16 midwife must complete and return the forms to the department as
17 requested.

18 SECTION 1.033. Section 203.401, Occupations Code, is
19 amended to read as follows:

20 Sec. 203.401. PROHIBITED PRACTICES. A midwife may not:

21 (1) provide midwifery care in violation of commission
22 [~~midwifery board~~] rule, except in an emergency that poses an
23 immediate threat to the life of a woman or newborn;

24 (2) administer a prescription drug to a client other
25 than:

26 (A) a drug administered under the supervision of
27 a licensed physician in accordance with state law;

1 (B) prophylaxis approved by the Department of
2 State Health Services [~~department~~] to prevent ophthalmia
3 neonatorum; or

4 (C) oxygen administered in accordance with
5 commission [~~midwifery board~~] rule;

6 (3) use forceps or a surgical instrument for a
7 procedure other than cutting the umbilical cord or providing
8 emergency first aid during delivery;

9 (4) remove placenta by invasive techniques;

10 (5) use a mechanical device or medicine to advance or
11 retard labor or delivery; or

12 (6) make on a birth certificate a false statement or
13 false record in violation of Section 195.003, Health and Safety
14 Code.

15 SECTION 1.034. Section 203.404, Occupations Code, is
16 amended to read as follows:

17 Sec. 203.404. GROUNDS FOR DISCIPLINARY ACTION. (a) The
18 commission or executive director [~~midwifery board~~] may discipline a
19 licensed midwife, refuse to renew a midwife's license, or refuse to
20 issue a license to an applicant if the person:

21 (1) violates this chapter or a rule adopted under this
22 chapter;

23 (2) submits false or misleading information to the
24 [~~midwifery board or the~~] department;

25 (3) is convicted of a misdemeanor involving moral
26 turpitude or a felony;

27 (4) uses alcohol or drugs intemperately;

1 (5) engages in unprofessional or dishonorable conduct
2 that may reasonably be determined to deceive or defraud the public;

3 (6) is unable to practice midwifery with reasonable
4 skill and safety because of illness, disability, or psychological
5 impairment;

6 (7) is determined by a court judgment to be mentally
7 impaired;

8 (8) submits a birth or death certificate known by the
9 person to be false or fraudulent or engages in another act that
10 violates Title 3, Health and Safety Code, or a rule adopted under
11 that title;

12 (9) violates Chapter 244, Health and Safety Code, or a
13 rule adopted under that chapter; or

14 (10) fails to practice midwifery in a manner
15 consistent with the public health and safety.

16 (b) The commission or executive director [~~midwifery board~~]
17 may discipline a licensed midwife and may refuse to issue a license
18 to an applicant for a disciplinary action taken by another
19 jurisdiction that affects the person's authority to practice
20 midwifery, including a suspension, a revocation, or another action.

21 SECTION 1.035. Section 203.406, Occupations Code, is
22 amended to read as follows:

23 Sec. 203.406. REFUND. (a) Subject to Subsection (b), the
24 commission or executive director [~~midwifery board~~] may order a
25 licensed midwife to pay a refund to a consumer as provided in an
26 agreed settlement, default order, or commission order [~~agreement~~
27 ~~resulting from an informal settlement conference~~] instead of or in

1 addition to imposing an administrative penalty against the license
2 holder [~~under this chapter~~].

3 (b) The amount of a refund ordered [~~as provided in an~~
4 ~~agreement resulting from an informal settlement conference~~] may not
5 exceed the amount the consumer paid to the licensed midwife for a
6 service regulated by this chapter. The commission or executive
7 director [~~midwifery board~~] may not require payment of other damages
8 or estimate harm in a refund order.

9 SECTION 1.036. Section 203.501(a), Occupations Code, is
10 amended to read as follows:

11 (a) A person is liable for a civil penalty if the person is
12 required to be licensed under this chapter and the person knowingly
13 or intentionally practices midwifery:

14 (1) without a license or while the license is
15 suspended or revoked; or

16 (2) in violation of a commission [~~midwifery board~~]
17 order.

18 SECTION 1.037. Section 203.502(b), Occupations Code, as
19 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
20 2015, is amended to read as follows:

21 (b) If the executive director [~~department~~] or a health
22 authority determines that a person has violated this chapter, the
23 executive director may institute an action described by Section
24 51.352 [~~and that the violation creates an immediate threat to the~~
25 ~~health and safety of the public, the department, or the health~~
26 ~~authority with the concurrence of the department, may request the~~
27 ~~attorney general or a district, county, or city attorney to bring an~~

1 ~~action in a district court for a restraining order to restrain the~~
2 ~~violation].~~

3 SECTION 1.038. Section 203.503(a), Occupations Code, is
4 amended to read as follows:

5 (a) Venue for a civil action arising out of the imposition
6 of an administrative penalty [~~brought under Section 203.451 or~~
7 ~~203.452~~] is in the county in which the defendant resides or in the
8 county in which the violation occurred.

9 SECTION 1.039. Section 203.505(b), Occupations Code, is
10 amended to read as follows:

11 (b) A violation of a cease and desist [~~an~~] order issued by
12 the executive director [~~under this section~~] constitutes grounds for
13 imposing an administrative penalty [~~under Subchapter J~~].

14 SECTION 1.040. Section 401.001, Occupations Code, is
15 amended by amending Subdivisions (1), (3), (4), and (4-a) and
16 adding Subdivisions (1-a) and (4-b) to read as follows:

17 (1) "Advisory board" means the Speech-Language
18 Pathologists and Audiologists Advisory Board.

19 (1-a) "Audiologist" means a person who meets the
20 qualifications of this chapter to practice audiology.

21 (3) "Commission" [~~"Board"~~] means the Texas Commission
22 of Licensing and Regulation [~~State Board of Examiners for~~
23 ~~Speech-Language Pathology and Audiology~~].

24 (4) "Department" means the Texas Department of
25 Licensing and Regulation [~~State Health Services~~].

26 (4-a) "Executive director" means the executive
27 director of the department.

1 (4-b) "Hearing instrument" has the meaning assigned by
2 Section 402.001.

3 SECTION 1.041. Section 401.052, Occupations Code, is
4 amended to read as follows:

5 Sec. 401.052. NURSES. This chapter does not prevent or
6 restrict a communication, speech, language, or hearing screening,
7 as defined by commission [~~board~~] rule, from being conducted by a
8 registered nurse:

- 9 (1) licensed in this state; and
10 (2) practicing in accordance with the standards of
11 professional conduct and ethics established by rules adopted by the
12 Texas Board of Nursing.

13 SECTION 1.042. Section 401.053, Occupations Code, is
14 amended to read as follows:

15 Sec. 401.053. PERSONS TRAINED BY DEPARTMENT OF STATE HEALTH
16 SERVICES. (a) This chapter does not apply to a person who shows
17 evidence of having received training by the Department of State
18 Health Services [~~department~~] in a communication, speech, language,
19 or hearing screening training program approved by that [~~the~~]
20 department if the person's activity is limited to screening as
21 defined by commission [~~board~~] rule.

22 (b) A person who has received training by the Department of
23 State Health Services [~~department~~] in a program under Subsection
24 (a) may not:

- 25 (1) practice speech-language pathology or audiology;
26 or
27 (2) represent that the person is a speech-language

1 pathologist or audiologist.

2 SECTION 1.043. Sections 401.054(b), (c), and (d),
3 Occupations Code, are amended to read as follows:

4 (b) The Texas Education Agency certificate in
5 speech-language pathology must require an applicant to:

6 (1) hold a master's degree in communicative disorders
7 or the equivalent from a university program accredited by the
8 American Speech-Language-Hearing Association; and

9 (2) pass a national examination in speech-language
10 pathology or audiology approved by the department [~~board~~].

11 (c) A person affected by this section who performs work as a
12 speech-language pathologist or audiologist in addition to
13 performing the person's duties within an agency, institution, or
14 organization under the jurisdiction of the Texas Education Agency
15 is required to hold a license issued by the department [~~board~~]
16 unless that work is limited to speech and hearing screening
17 procedures performed without compensation.

18 (d) For the purposes of Subsection (b)(1), an applicant's
19 educational credentials are equivalent to a master's degree in
20 communicative disorders if the credentials:

21 (1) consist of graduate-level course work and
22 practicum from a program accredited by the American
23 Speech-Language-Hearing Association; and

24 (2) meet requirements that are the same as those
25 established by the department [~~board~~] for a license in
26 speech-language pathology or audiology.

27 SECTION 1.044. The heading to Subchapter C, Chapter 401,

1 Occupations Code, is amended to read as follows:

2 SUBCHAPTER C. [~~STATE BOARD OF EXAMINERS FOR~~] SPEECH-LANGUAGE
3 PATHOLOGISTS [~~PATHOLOGY~~] AND AUDIOLOGISTS ADVISORY BOARD
4 [~~AUDIOLOGY~~]

5 SECTION 1.045. Section 401.102, Occupations Code, is
6 amended to read as follows:

7 Sec. 401.102. ADVISORY BOARD MEMBERSHIP. (a) The advisory
8 board consists of nine members appointed by the presiding officer
9 of the commission with the approval of the commission [~~governor~~] as
10 follows:

- 11 (1) three audiologist members;
- 12 (2) three speech-language pathologist members; and
- 13 (3) three members who represent the public.

14 (b) Advisory board [~~Board~~] members must:

- 15 (1) have been a resident of this state for the two
16 years preceding the date of appointment;
- 17 (2) be from the various geographic regions of the
18 state; and
- 19 (3) be from varying employment settings.

20 (c) The advisory board members appointed under Subsections
21 (a)(1) and (2) must:

- 22 (1) have been engaged in teaching, research, or
23 providing services in speech-language pathology or audiology for at
24 least five years; and
- 25 (2) be licensed under this chapter.

26 (d) One of the public advisory board members must be a
27 physician licensed in this state and certified in otolaryngology or

1 pediatrics.

2 (e) Appointments to the advisory board shall be made without
3 regard to the race, creed, sex, religion, or national origin of the
4 appointee.

5 SECTION 1.046. Subchapter C, Chapter 401, Occupations Code,
6 is amended by adding Section 401.10205 to read as follows:

7 Sec. 401.10205. DUTIES OF ADVISORY BOARD. The advisory
8 board shall provide advice and recommendations to the department on
9 technical matters relevant to the administration of this chapter.

10 SECTION 1.047. The heading to Section 401.105, Occupations
11 Code, is amended to read as follows:

12 Sec. 401.105. TERMS; VACANCIES.

13 SECTION 1.048. Section 401.105(b), Occupations Code, is
14 amended to read as follows:

15 (b) If a vacancy occurs during a member's term, the
16 presiding officer of the commission, with the commission's
17 approval, shall appoint a replacement who meets the qualifications
18 for the vacant position to serve for the remainder of the term [A
19 ~~person may not be appointed to serve more than two consecutive~~
20 ~~terms].~~

21 SECTION 1.049. Section 401.107, Occupations Code, is
22 amended to read as follows:

23 Sec. 401.107. PRESIDING OFFICER [BOARD OFFICERS]. (a) The
24 presiding officer of the commission [governor] shall designate a
25 member of the advisory board to serve as the presiding officer of
26 the advisory board for a term of one year [~~to serve in that capacity~~
27 ~~at the will of the governor].~~

1 (b) The presiding officer of the advisory board may vote on
2 any matter before the advisory board [~~must hold a license under this~~
3 ~~chapter~~].

4 SECTION 1.050. Section 401.108, Occupations Code, is
5 amended to read as follows:

6 Sec. 401.108. MEETINGS. [~~(a)~~] The advisory board shall
7 meet [~~hold at least two regular meetings each year.~~

8 [~~(b) Additional meetings may be held~~] at the call of the
9 presiding officer of the commission or the executive director [~~on~~
10 ~~the written request of any three members of the board~~].

11 SECTION 1.051. The heading to Subchapter E, Chapter 401,
12 Occupations Code, is amended to read as follows:

13 SUBCHAPTER E. [~~BOARD AND DEPARTMENT~~] POWERS AND DUTIES

14 SECTION 1.052. Section 401.201, Occupations Code, is
15 amended by amending Subsection (a) and adding Subsection (a-1) to
16 read as follows:

17 (a) The executive director shall administer and enforce
18 this chapter.

19 (a-1) The [~~With the assistance of the~~] department[, ~~the~~
20 ~~board~~] shall:

21 (1) [~~administer, coordinate, and enforce this~~
22 ~~chapter,~~

23 [~~(2)~~] evaluate the qualifications of license
24 applicants;

25 (2) [~~(3)~~] provide for the examination of license
26 applicants;

27 (3) [~~(4)~~] in connection with a hearing under this

1 chapter [~~Section 401.454~~], issue subpoenas, examine witnesses, and
2 administer oaths under the laws of this state; and

3 (4) [~~(5) conduct hearings and keep records and minutes~~
4 ~~necessary to the orderly administration of this chapter; and~~

5 (6)] investigate persons engaging in practices that
6 violate this chapter.

7 SECTION 1.053. Section 401.202, Occupations Code, is
8 amended to read as follows:

9 Sec. 401.202. STANDARDS OF ETHICAL PRACTICE [~~RULEMAKING~~
10 ~~AUTHORITY~~]. The commission [~~board~~] shall adopt rules under
11 [~~necessary to administer and enforce~~] this chapter[, ~~including~~
12 ~~rules~~] that establish standards of ethical practice.

13 SECTION 1.054. Section 401.2021, Occupations Code, is
14 amended to read as follows:

15 Sec. 401.2021. [~~JOINT~~] RULES FOR HEARING INSTRUMENTS. With
16 the assistance of the advisory [~~department, the~~] board and the
17 Hearing Instrument Fitters and Dispensers Advisory Board, the
18 commission [~~State Committee of Examiners in the Fitting and~~
19 ~~Dispensing of Hearing Instruments~~] shall [~~jointly~~] adopt rules to
20 establish requirements for each sale of a hearing instrument for
21 purposes of this chapter and Chapter 402. The rules must:

22 (1) address:

23 (A) the information and other provisions
24 required in each written contract for the purchase of a hearing
25 instrument;

26 (B) records that must be retained under this
27 chapter or Chapter 402; and

1 (C) guidelines for the 30-day trial period during
2 which a person may cancel the purchase of a hearing instrument; and

3 (2) require that the written contract and 30-day trial
4 period information provided to a purchaser of a hearing instrument
5 be in plain language designed to be easily understood by the average
6 consumer.

7 SECTION 1.055. Section 401.2022, Occupations Code, is
8 amended to read as follows:

9 Sec. 401.2022. ~~[JOINT]~~ RULES FOR FITTING AND DISPENSING OF
10 HEARING INSTRUMENTS BY TELEPRACTICE. (a) In this section,
11 "telepractice" means the use of telecommunications technology by a
12 license holder for an assessment, intervention, or consultation
13 regarding a speech-language pathology or audiology client.

14 (b) With the assistance of the advisory [department, the]
15 board and the Hearing Instrument Fitters and Dispensers Advisory
16 Board, the commission [State Committee of Examiners in the Fitting
17 and Dispensing of Hearing Instruments] shall [jointly] adopt rules
18 to establish requirements for the fitting and dispensing of hearing
19 instruments by the use of telepractice for purposes of this chapter
20 and Chapter 402, including rules that establish the qualifications
21 and duties of license holders who use telepractice.

22 SECTION 1.056. The heading to Section 401.203, Occupations
23 Code, is amended to read as follows:

24 Sec. 401.203. ASSISTANCE FILING COMPLAINT [BOARD DUTIES
25 REGARDING COMPLAINTS].

26 SECTION 1.057. Section 401.203(c), Occupations Code, is
27 amended to read as follows:

1 (c) The department [~~board~~] shall provide reasonable
2 assistance to a person who wishes to file a complaint with the
3 department regarding a person or activity regulated under this
4 chapter [~~board~~].

5 SECTION 1.058. Section 401.251, Occupations Code, is
6 amended to read as follows:

7 Sec. 401.251. TELEPHONE NUMBER FOR COMPLAINTS. The
8 department [~~board~~] shall list with its regular telephone number any
9 toll-free telephone number established under other state law that
10 may be called to present a complaint about a health professional.

11 SECTION 1.059. The heading to Section 401.253, Occupations
12 Code, is amended to read as follows:

13 Sec. 401.253. [~~GENERAL~~] RULES REGARDING USE OF PRIVATE
14 INVESTIGATOR [~~REGARDING COMPLAINT INVESTIGATION AND DISPOSITION~~].

15 SECTION 1.060. Section 401.253(a), Occupations Code, is
16 amended to read as follows:

17 (a) For purposes of Section 51.252, the commission must [~~The~~
18 ~~board shall~~] adopt rules to [~~concerning the investigation of a~~
19 ~~complaint filed with the board. The rules must:~~

20 [~~(1) distinguish among categories of complaints,~~

21 [~~(2) ensure that a complaint is not dismissed without~~
22 ~~appropriate consideration,~~

23 [~~(3) require that the board be advised of a complaint~~
24 ~~that is dismissed and that a letter be sent to the person who filed~~
25 ~~the complaint explaining the action taken on the dismissed~~
26 ~~complaint,~~

27 [~~(4) ensure that the person who filed the complaint~~

1 ~~has an opportunity to explain the allegations made in the~~
2 ~~complaint, and~~

3 ~~[(5)]~~ prescribe guidelines concerning the categories
4 of complaints under this chapter that require the use of a private
5 investigator and the procedures for the department ~~[board]~~ to
6 obtain the services of a private investigator.

7 SECTION 1.061. The heading to Section 401.2535, Occupations
8 Code, is amended to read as follows:

9 Sec. 401.2535. CONFIDENTIALITY OF COMPLAINT AND
10 DISCIPLINARY INFORMATION ~~[INVESTIGATION, SUBPOENA]~~.

11 SECTION 1.062. Sections 401.2535(h) and (i), Occupations
12 Code, are amended to read as follows:

13 (h) All information and materials subpoenaed or compiled by
14 the department ~~[board]~~ in connection with a complaint and
15 investigation are confidential and not subject to disclosure under
16 Chapter 552, Government Code, and not subject to disclosure,
17 discovery, subpoena, or other means of legal compulsion for their
18 release to anyone other than the department ~~[board]~~ or its
19 employees or agents involved in discipline of the holder of a
20 license, except that this information may be disclosed to:

21 (1) persons involved with the department ~~[board]~~ in a
22 disciplinary action against the holder of a license;

23 (2) professional speech-language pathologist and
24 audiologist licensing or disciplinary boards in other
25 jurisdictions;

26 (3) peer assistance programs approved by the
27 commission ~~[board]~~ under Chapter 467, Health and Safety Code;

1 (4) law enforcement agencies; and

2 (5) persons engaged in bona fide research, if all
3 individual-identifying information has been deleted.

4 (i) The filing of formal charges by the department [~~board~~]
5 against a holder of a license, the nature of those charges,
6 disciplinary proceedings of the department, commission, or
7 executive director [~~board~~], and final disciplinary actions,
8 including warnings and reprimands, by the department, commission,
9 or executive director [~~board~~] are not confidential and are subject
10 to disclosure in accordance with Chapter 552, Government Code.

11 SECTION 1.063. Section 401.302, Occupations Code, is
12 amended to read as follows:

13 Sec. 401.302. ISSUANCE OF LICENSE. (a) The department
14 [~~board~~] shall issue a license to an applicant who meets the
15 requirements of this chapter and who pays to the department [~~board~~]
16 the initial nonrefundable license fee.

17 (b) The department [~~board~~] may issue to an applicant a
18 license in either speech-language pathology or audiology.

19 (c) The department [~~board~~] may issue a license in both
20 speech-language pathology and audiology to an applicant.

21 (d) The commission [~~board~~] by rule shall establish
22 qualifications for dual licensing in speech-language pathology and
23 audiology and may develop a full range of licensing options and
24 establish rules for qualifications.

25 SECTION 1.064. Section 401.303(a), Occupations Code, is
26 amended to read as follows:

27 (a) A person who desires a license under this chapter must

1 apply to the department [~~board~~] on a form and in the manner
2 prescribed by the executive director [~~board prescribes~~].

3 SECTION 1.065. Sections 401.304(a) and (c), Occupations
4 Code, are amended to read as follows:

5 (a) To be eligible for licensing as a speech-language
6 pathologist or audiologist, an applicant must:

7 (1) if the application is for a license in:

8 (A) speech-language pathology, possess at least
9 a master's degree with a major in at least one of the areas of
10 communicative sciences or disorders from a program accredited by a
11 national accrediting organization that is approved by the
12 commission or department [~~board~~] and recognized by the United
13 States secretary of education under the Higher Education Act of
14 1965 (20 U.S.C. Section 1001 et seq.) in an accredited or approved
15 college or university; or

16 (B) audiology, possess at least a doctoral degree
17 in audiology or a related hearing science from a program accredited
18 by a national accrediting organization that is approved by the
19 commission or department [~~board~~] and recognized by the United
20 States secretary of education under the Higher Education Act of
21 1965 (20 U.S.C. Section 1001 et seq.) in an accredited or approved
22 college or university;

23 (2) submit a transcript from a public or private
24 institution of higher learning showing successful completion of
25 course work in amounts set by the commission by rule [~~board~~] in:

26 (A) normal development and use of speech,
27 language, and hearing;

1 (B) evaluation, habilitation, and rehabilitation
2 of speech, language, and hearing disorders; and

3 (C) related fields that augment the work of
4 clinical practitioners of speech-language pathology and audiology;

5 (3) have successfully completed at least 36 semester
6 hours in courses that are acceptable toward a graduate degree by the
7 college or university in which the courses are taken, at least 24 of
8 which must be in the professional area for which the license is
9 requested;

10 (4) have completed the minimum number of hours,
11 established by the commission by rule [~~board~~], of supervised
12 clinical experience with persons who present a variety of
13 communication disorders; and

14 (5) have completed the full-time supervised
15 professional experience, as defined by commission [~~board~~] rule, in
16 which clinical work has been accomplished in the major professional
17 area for which the license is being sought.

18 (c) Supervised professional experience under Subsection
19 (a)(5) must:

20 (1) be under the supervision of a qualified person
21 acceptable to the department [~~board~~] under guidelines approved by
22 the commission [~~board~~]; and

23 (2) begin after completion of the academic and
24 clinical experience required by this section.

25 SECTION 1.066. Section 401.3041, Occupations Code, is
26 amended to read as follows:

27 Sec. 401.3041. CRIMINAL HISTORY RECORD INFORMATION

1 REQUIREMENT FOR LICENSE ISSUANCE. (a) The department [~~board~~]
2 shall require that an applicant for a license submit a complete and
3 legible set of fingerprints, on a form prescribed by the department
4 [~~board~~], to the department [~~board~~] or to the Department of Public
5 Safety for the purpose of obtaining criminal history record
6 information from the Department of Public Safety and the Federal
7 Bureau of Investigation.

8 (b) The department [~~board~~] may not issue a license to a
9 person who does not comply with the requirement of Subsection (a).

10 (c) The department [~~board~~] shall conduct a criminal history
11 check of each applicant for a license using information:

12 (1) provided by the individual under this section; and

13 (2) made available to the department [~~board~~] by the
14 Department of Public Safety, the Federal Bureau of Investigation,
15 and any other criminal justice agency under Chapter 411, Government
16 Code.

17 (d) The department [~~Department of State Health Services on~~
18 ~~behalf of the board~~] may:

19 (1) enter into an agreement with the Department of
20 Public Safety to administer a criminal history check required under
21 this section; and

22 (2) authorize the Department of Public Safety to
23 collect from each applicant the costs incurred by the Department of
24 Public Safety in conducting the criminal history check.

25 SECTION 1.067. Section [401.305](#), Occupations Code, is
26 amended to read as follows:

27 Sec. 401.305. EXAMINATION. (a) To obtain a license, an

1 applicant must:

2 (1) pass an [~~a validated~~] examination approved by the
3 commission by rule [~~board~~]; and

4 (2) pay fees in a manner prescribed by the commission
5 by rule [~~board~~].

6 (b) The department [~~board~~] shall[+]

7 [~~(1)~~] administer an examination at least twice each
8 year.

9 (b-1) The commission by rule shall[+]

10 [~~(2)~~] determine standards for acceptable performance
11 on the examination[+ and

12 [~~(3) maintain a record of all examination scores for~~
13 ~~at least two years after the date of examination~~].

14 (c) The commission [~~board~~] by rule may:

15 (1) establish procedures for the administration of the
16 examination; and

17 (2) require a written or oral examination, or both.

18 (d) The commission by rule [~~board~~] may require the
19 examination of [~~examine~~] an applicant in any theoretical or applied
20 field of speech-language pathology or audiology it considers
21 appropriate. The commission by rule [~~board~~] may require the
22 examination of [~~examine~~] an applicant on professional skills and
23 judgment in the use of speech-language pathology or audiology
24 techniques or methods.

25 SECTION 1.068. Section 401.307(b), Occupations Code, is
26 amended to read as follows:

27 (b) An applicant who fails two examinations may not be

1 reexamined until the person:

2 (1) submits a new application accompanied by a
3 nonrefundable application fee; and

4 (2) presents evidence acceptable to the department
5 [~~board~~] of additional study in the area for which a license is
6 sought.

7 SECTION 1.069. Section 401.308, Occupations Code, is
8 amended to read as follows:

9 Sec. 401.308. PROVISIONAL LICENSE; CERTIFICATE OF CLINICAL
10 COMPETENCE WAIVER. (a) The department [~~board~~] may grant a
11 provisional license to an applicant who:

12 (1) is licensed in good standing as a speech-language
13 pathologist or an audiologist in another state that has licensing
14 requirements that are substantially equivalent to the requirements
15 of this chapter;

16 (2) has passed a national or other examination
17 recognized by the department [~~board~~] relating to speech-language
18 pathology or audiology; and

19 (3) is sponsored by a license holder with whom the
20 provisional license holder may practice under this section.

21 (b) An applicant for a provisional license may be excused
22 from the requirement of Subsection (a)(3) if the department [~~board~~]
23 determines that compliance with that requirement is a hardship to
24 the applicant.

25 (c) A provisional license is valid until the date the
26 department [~~board~~] approves or denies the provisional license
27 holder's application for a license.

1 (d) The department [~~board~~] shall issue a license under this
2 chapter to a provisional license holder:

3 (1) who passes the examination required by Section
4 401.305;

5 (2) for whom the department [~~board~~] verifies
6 satisfaction of the academic and experience requirements for a
7 license under this chapter; and

8 (3) who satisfies any other license requirements under
9 this chapter.

10 (e) The department [~~board~~] shall complete the processing of
11 a provisional license holder's application for a license not later
12 than the 180th day after the date the provisional license is issued.

13 (f) The department [~~board~~] may waive the examination
14 requirement and issue a license to an applicant who holds the
15 Certificate of Clinical Competence of the American
16 Speech-Language-Hearing Association.

17 SECTION 1.070. Section 401.310(a), Occupations Code, is
18 amended to read as follows:

19 (a) The department [~~board~~] shall issue a temporary
20 certificate of registration to an applicant who:

21 (1) satisfies the requirements of Section 401.304;

22 (2) has not previously applied to take the
23 examination; and

24 (3) pays the nonrefundable application fee.

25 SECTION 1.071. Section 401.311(c), Occupations Code, is
26 amended to read as follows:

27 (c) The commission [~~board~~] by rule shall:

1 (1) prescribe the terms governing a person's practice
2 as an intern under this section; and

3 (2) establish general guidelines and renewal
4 procedures for the holder of an intern license.

5 SECTION 1.072. Sections 401.312(a) and (b), Occupations
6 Code, are amended to read as follows:

7 (a) The commission by rule [~~board~~] may establish minimum
8 qualifications for licensed assistants in speech-language
9 pathology and in audiology.

10 (b) A licensed assistant in speech-language pathology or in
11 audiology must meet the minimum qualifications established by the
12 commission [~~board~~].

13 SECTION 1.073. Section 401.351, Occupations Code, as
14 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
15 2015, is amended to read as follows:

16 Sec. 401.351. LICENSE TERM [~~EXPIRATION~~]. [~~(a)~~] A license
17 issued under this chapter is valid for two years. [~~The board by~~
18 ~~rule may adopt a system under which licenses expire on various dates~~
19 ~~during the year.~~

20 [~~(b) For the year in which the license expiration date is~~
21 ~~changed, license fees payable on the original expiration date shall~~
22 ~~be prorated on a monthly basis so that each license holder pays only~~
23 ~~the portion of the license fee that is allocable to the number of~~
24 ~~months during which the license is valid. On renewal of the license~~
25 ~~on the new expiration date, the total license renewal fee is~~
26 ~~payable.~~]

27 SECTION 1.074. Section 401.352(a), Occupations Code, as

1 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
2 2015, is amended to read as follows:

3 (a) Each licensed speech-language pathologist or
4 audiologist must pay the nonrefundable fee for license renewal.
5 ~~[The board shall allow a 60-day grace period. After expiration of~~
6 ~~the grace period, the board may renew a license on payment of a~~
7 ~~penalty set by board rule.]~~

8 SECTION 1.075. Section 401.355, Occupations Code, is
9 amended to read as follows:

10 Sec. 401.355. CONTINUING EDUCATION. (a) The commission by
11 rule ~~[board]~~ shall establish uniform mandatory continuing
12 education requirements. A license holder may not renew the
13 person's license unless the person meets the continuing education
14 requirements.

15 (b) The commission ~~[board]~~ shall establish the requirements
16 in a manner that allows a license holder to comply without an
17 extended absence from the license holder's county of residence.

18 SECTION 1.076. Section 401.401(c), Occupations Code, is
19 amended to read as follows:

20 (c) The commission ~~[board]~~ shall adopt rules necessary to
21 enforce this section.

22 SECTION 1.077. Section 401.403(b), Occupations Code, is
23 amended to read as follows:

24 (b) A person who meets the requirements of this chapter for
25 licensing as an audiologist or audiologist intern and who fits and
26 dispenses hearing instruments must:

27 (1) register with the department ~~[board]~~ the person's

1 intention to fit and dispense hearing instruments;

2 (2) comply with the profession's code of ethics;

3 (3) comply with the federal Food and Drug
4 Administration guidelines for fitting and dispensing hearing
5 instruments;

6 (4) when providing services in this state, use a
7 written contract that contains the department's [~~board's~~] name,
8 mailing address, and telephone number; and

9 (5) follow the guidelines adopted by commission
10 [~~board~~] rule for a 30-day trial period on every hearing instrument
11 purchased.

12 SECTION 1.078. Section 401.451(a), Occupations Code, is
13 amended to read as follows:

14 (a) After a hearing, the commission or executive director
15 [~~board~~] may deny a license to an applicant or may suspend or revoke
16 a person's license or place on probation a license holder if the
17 applicant or license holder:

18 (1) violates this chapter or an order issued or rule
19 adopted under this chapter [~~of the board~~];

20 (2) obtains a license by means of fraud,
21 misrepresentation, or concealment of a material fact;

22 (3) sells, barter, or offers to sell or barter a
23 license or certificate of registration; or

24 (4) engages in unprofessional conduct that:

25 (A) endangers or is likely to endanger the
26 health, welfare, or safety of the public as defined by commission
27 [~~board~~] rule; or

1 (B) violates the code of ethics adopted and
2 published by the commission [~~board~~].

3 SECTION 1.079. Section 401.453(a), Occupations Code, is
4 amended to read as follows:

5 (a) The commission or department [~~board~~] may deny a license
6 or may suspend or revoke a license if the applicant or license
7 holder has been convicted of a misdemeanor involving moral
8 turpitude or a felony. The commission or department [~~board~~] may
9 take action authorized by this section when:

10 (1) the time for appeal of the person's conviction has
11 elapsed;

12 (2) the judgment or conviction has been affirmed on
13 appeal; or

14 (3) an order granting probation is made suspending the
15 imposition of the person's sentence, without regard to whether a
16 subsequent order:

17 (A) allows a withdrawal of a plea of guilty;

18 (B) sets aside a verdict of guilty; or

19 (C) dismisses an information or indictment.

20 SECTION 1.080. Section 401.5021, Occupations Code, is
21 amended to read as follows:

22 Sec. 401.5021. [~~BOARD-ORDERED~~] REFUND. The commission or
23 executive director [~~board~~] may order an audiologist to pay a refund
24 to a consumer who returns a hearing instrument during the 30-day
25 trial period required by rules adopted under Section 401.2021.

26 SECTION 1.081. Section 401.552(a), Occupations Code, is
27 amended to read as follows:

1 (a) The amount of an ~~[the]~~ administrative penalty imposed
2 for a violation of this chapter or a rule adopted or order issued
3 under this chapter may not be less than \$50 or more than \$5,000 for
4 each violation. Each day a violation continues or occurs is a
5 separate violation for the purpose of imposing a penalty.

6 SECTION 1.082. Section 402.001, Occupations Code, is
7 amended by amending Subdivisions (2), (3), and (6), amending
8 Subdivision (3-a), as added by S.B. 219, Acts of the 84th
9 Legislature, Regular Session, 2015, and adding Subdivision (1) to
10 read as follows:

11 (1) "Advisory board" means the Hearing Instrument
12 Fitters and Dispensers Advisory Board.

13 (2) "Commission" ["Committee"] means the Texas
14 Commission of Licensing and Regulation [~~State Committee of~~
15 ~~Examiners in the Fitting and Dispensing of Hearing Instruments~~].

16 (3) "Department" means the Texas Department of
17 Licensing and Regulation [~~State Health Services~~].

18 (3-a) "Executive director [~~commissioner~~]" means the
19 executive director [~~commissioner~~] of the department [~~Health and~~
20 ~~Human Services Commission~~].

21 (6) "License" means a license issued by the department
22 [~~committee~~] under this chapter to a person authorized to fit and
23 dispense hearing instruments.

24 SECTION 1.083. The heading to Subchapter B, Chapter 402,
25 Occupations Code, is amended to read as follows:

1 SUBCHAPTER B. HEARING INSTRUMENT FITTERS AND DISPENSERS ADVISORY
2 BOARD [~~STATE COMMITTEE OF EXAMINERS IN THE FITTING AND DISPENSING~~
3 ~~OF HEARING INSTRUMENTS~~]

4 SECTION 1.084. Section 402.051, Occupations Code, as
5 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
6 2015, is amended to read as follows:

7 Sec. 402.051. ADVISORY BOARD [~~COMMITTEE~~] MEMBERSHIP.

8 (a) The advisory board [~~State Committee of Examiners in the~~
9 ~~Fitting and Dispensing of Hearing Instruments is part of the~~
10 ~~department and~~] consists of nine members appointed by the presiding
11 officer of the commission [~~governor~~] with the approval [~~advice and~~
12 ~~consent~~] of the commission [~~senate~~] as follows:

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

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

20 (A) has been a resident of this state for at least
21 two years preceding appointment;

22 (B) is a citizen of the United States; and

23 (C) specializes in the practice of
24 otolaryngology; and

25 (3) two members of the public.

26 (b) Appointments to the advisory board [~~committee~~] shall be
27 made without regard to the race, creed, sex, religion, or national

1 origin of the appointee.

2 SECTION 1.085. Subchapter B, Chapter 402, Occupations Code,
3 is amended by adding Section 402.0511 to read as follows:

4 Sec. 402.0511. DUTIES OF ADVISORY BOARD. The advisory
5 board shall provide advice and recommendations to the department on
6 technical matters relevant to the administration of this chapter.

7 SECTION 1.086. Section 402.055, Occupations Code, is
8 amended to read as follows:

9 Sec. 402.055. TERMS; VACANCIES. (a) Members of the
10 advisory board [~~committee~~] serve staggered six-year terms. The
11 terms of three members expire on February 1 of each odd-numbered
12 year.

13 (b) If a vacancy occurs during a member's term, the
14 presiding officer of the commission, with the commission's
15 approval, shall appoint a replacement who meets the qualifications
16 for the vacant position to serve for the remainder of the term [~~A~~
17 ~~member who has served two full consecutive terms on the committee is~~
18 ~~not eligible for reappointment to the committee for the 12 months~~
19 ~~following the expiration of the second full term].~~

20 [~~(c) In the event of the death, resignation, or removal of a~~
21 ~~member, the governor shall fill the vacancy of the unexpired term in~~
22 ~~the same manner as other appointments.]~~

23 SECTION 1.087. Section 402.057, Occupations Code, is
24 amended to read as follows:

25 Sec. 402.057. PRESIDING OFFICER [~~OFFICERS~~]. [~~(a)~~] The
26 presiding officer of the commission [~~governor~~] shall designate a
27 member of the advisory board to serve [~~committee~~] as the presiding

1 officer of the advisory board for a term of [~~committee to serve in~~
2 ~~that capacity at the will of the governor.~~

3 [~~(b) The term of office as an officer of the committee is]~~
4 one year. The presiding officer of the advisory board may vote on
5 any matter before the advisory board.

6 SECTION 1.088. Section 402.058, Occupations Code, is
7 amended to read as follows:

8 Sec. 402.058. MEETINGS. [~~(a)~~] The advisory board
9 [~~committee]~~ shall meet [~~hold regular meetings at least twice a~~
10 ~~year.~~

11 [~~(b) A special meeting of the committee shall be held]~~ at
12 the call of the presiding officer of the commission or the executive
13 director [~~a majority of the members~~].

14 SECTION 1.089. The heading to Subchapter C, Chapter 402,
15 Occupations Code, is amended to read as follows:

16 SUBCHAPTER C. [~~COMMITTEE~~] POWERS AND DUTIES

17 SECTION 1.090. Section 402.101, Occupations Code, is
18 amended to read as follows:

19 Sec. 402.101. GENERAL POWERS AND DUTIES. (a) The
20 executive director [~~With the assistance of the department, the~~
21 ~~committee]~~ shall[+]

22 [~~(1)~~] administer[~~, coordinate,~~] and enforce this
23 chapter.

24 (b) The department shall:

25 (1) [+]

26 [~~(2)~~] evaluate the qualifications of applicants;

27 (2) [~~(3)~~] examine applicants; and

1 (3) [~~4~~] in connection with a hearing under this
2 chapter [Section ~~402.502~~], issue subpoenas, examine witnesses, and
3 administer oaths under the laws of this state[, and
4 ~~(5) conduct hearings and keep records and minutes~~
5 ~~necessary to the orderly administration of this chapter~~].

6 SECTION 1.091. Section ~~402.1021~~, Occupations Code, is
7 amended to read as follows:

8 Sec. 402.1021. [~~JOINT~~] RULES FOR HEARING INSTRUMENTS. With
9 the assistance of the advisory board and the Speech-Language
10 Pathologists and Audiologists Advisory Board [~~department~~], the
11 commission [~~committee and the State Board of Examiners for~~
12 ~~Speech-Language Pathology and Audiology~~] shall [~~jointly~~] adopt
13 rules to establish requirements for each sale of a hearing
14 instrument for purposes of this chapter and Chapter 401. The rules
15 must:

- 16 (1) address:
- 17 (A) the information and other provisions
18 required in each written contract for the purchase of a hearing
19 instrument;
- 20 (B) records that must be retained under this
21 chapter or Chapter 401; and
- 22 (C) guidelines for the 30-day trial period during
23 which a person may cancel the purchase of a hearing instrument; and
- 24 (2) require that the written contract and 30-day trial
25 period information provided to a purchaser of a hearing instrument
26 be in plain language designed to be easily understood by the average
27 consumer.

1 SECTION 1.092. Section 402.1023, Occupations Code, is
2 amended to read as follows:

3 Sec. 402.1023. ~~[JOINT]~~ RULES FOR FITTING AND DISPENSING OF
4 HEARING INSTRUMENTS BY TELEPRACTICE. (a) In this section,
5 "telepractice" means the use of telecommunications technology by a
6 license holder for the fitting and dispensing of hearing
7 instruments.

8 (b) With the assistance of the advisory board and the
9 Speech-Language Pathologists and Audiologists Advisory Board
10 ~~[department], the commission [committee and the State Board of~~
11 ~~Examiners for Speech-Language Pathology and Audiology]~~ shall
12 ~~[jointly]~~ adopt rules to establish requirements for the fitting and
13 dispensing of hearing instruments by the use of telepractice for
14 purposes of this chapter and Chapter 401, including rules that
15 establish the qualifications and duties of license holders who use
16 telepractice.

17 SECTION 1.093. The heading to Section 402.103, Occupations
18 Code, is amended to read as follows:

19 Sec. 402.103. FALSE, MISLEADING, OR DECEPTIVE ~~[RULES~~
20 ~~RESTRICTING]~~ ADVERTISING ~~[OR COMPETITIVE BIDDING]~~.

21 SECTION 1.094. Section 402.103(c), Occupations Code, is
22 amended to read as follows:

23 (c) For purposes of Section 51.204, an [An] advertisement is
24 false, misleading, or deceptive if the advertisement:

- 25 (1) contains a misrepresentation of fact;
26 (2) contains a false statement as to the license
27 holder's professional achievements, education, skills, or

1 qualifications in the hearing instrument dispensing profession;

2 (3) makes a partial disclosure of relevant fact,
3 including the advertisement of:

4 (A) a discounted price of an item without
5 identifying in the advertisement or at the location of the item:

6 (i) the specific product being offered at
7 the discounted price; or

8 (ii) the usual price of the item; and

9 (B) the price of a specifically identified
10 hearing instrument, if more than one hearing instrument appears in
11 the same advertisement without an accompanying price;

12 (4) contains a representation that a product
13 innovation is new, if the product was first offered by the
14 manufacturer to the general public in this state not less than 12
15 months before the date of the advertisement;

16 (5) states that the license holder manufactures
17 hearing instruments at the license holder's office location unless
18 the next statement discloses that the instruments are manufactured
19 by a specified manufacturer and remanufactured by the license
20 holder; or

21 (6) contains any other representation, statement, or
22 claim that is inherently misleading or deceptive.

23 SECTION 1.095. Sections 402.104(a) and (e), Occupations
24 Code, are amended to read as follows:

25 (a) The department [~~committee~~] shall develop and maintain
26 an examination that may include written, oral, or practical
27 tests. The department shall administer or arrange for the

1 administration of the examination.

2 (e) The commission [~~committee~~] by rule shall establish the
3 qualifications for a proctor. The rules must:

4 (1) require a proctor to be licensed in good standing
5 as a hearing instrument fitter and dispenser;

6 (2) specify the number of years a proctor must be
7 licensed as a hearing instrument fitter and dispenser; and

8 (3) specify the disciplinary actions or other actions
9 that disqualify a person from serving as a proctor.

10 SECTION 1.096. Section 402.152, Occupations Code, is
11 amended to read as follows:

12 Sec. 402.152. COMPLAINTS. (a) Each license or permit
13 holder under this chapter shall at all times prominently display in
14 the person's place of business a sign containing:

15 (1) the name, mailing address, e-mail address, and
16 telephone number of the department [~~committee~~]; and

17 (2) a statement informing consumers that a complaint
18 against a license or permit holder may be directed to the department
19 [~~committee~~].

20 (b) Each written contract for services in this state of a
21 license holder [~~licensed hearing instrument dispenser~~] must
22 contain the department's [~~committee's~~] name, mailing address,
23 e-mail address, and telephone number.

24 SECTION 1.097. The heading to Section 402.154, Occupations
25 Code, is amended to read as follows:

26 Sec. 402.154. CONFIDENTIALITY OF COMPLAINT AND
27 DISCIPLINARY INFORMATION [~~INVESTIGATION, SUBPOENA~~].

1 SECTION 1.098. Section 402.154, Occupations Code, is
2 amended by amending Subsection (h), as amended by S.B. 219, Acts of
3 the 84th Legislature, Regular Session, 2015, and Subsection (i) to
4 read as follows:

5 (h) All information and materials subpoenaed or compiled by
6 the department [~~committee~~] in connection with a complaint and
7 investigation are confidential and not subject to disclosure under
8 Chapter 552, Government Code, and not subject to disclosure,
9 discovery, subpoena, or other means of legal compulsion for their
10 release to anyone other than the department [~~committee~~] or its
11 agents or employees who are involved in discipline of the holder of
12 a license, except that this information may be disclosed to:

13 (1) persons involved with the department [~~committee~~]
14 in a disciplinary action against the holder of a license;

15 (2) professional licensing or disciplinary boards for
16 the fitting and dispensing of hearing instruments in other
17 jurisdictions;

18 (3) peer assistance programs approved by the
19 commission [~~executive commissioner~~] under Chapter 467, Health and
20 Safety Code;

21 (4) law enforcement agencies; and

22 (5) persons engaged in bona fide research, if all
23 individual-identifying information has been deleted.

24 (i) The filing of formal charges by the department
25 [~~committee~~] against a holder of a license, the nature of those
26 charges, disciplinary proceedings of the department, commission,
27 or executive director [~~committee~~], and final disciplinary actions,

1 including warnings and reprimands, by the department, commission,
2 or executive director [~~committee~~] are not confidential and are
3 subject to disclosure in accordance with Chapter 552, Government
4 Code.

5 SECTION 1.099. Section 402.202(a), Occupations Code, is
6 amended to read as follows:

7 (a) To engage in fitting and dispensing hearing instruments
8 in this state a person must pass an examination required by the
9 department [~~committee~~].

10 SECTION 1.100. Sections 402.203(a) and (c), Occupations
11 Code, are amended to read as follows:

12 (a) An applicant for examination must:

13 (1) apply to the department in the manner and
14 [~~committee~~] on a form prescribed [~~provided~~] by the executive
15 director [~~committee~~];

16 (2) provide [~~on the form~~]:

17 (A) documentation [~~sworn evidence~~] that the
18 applicant is at least 18 years of [~~has attained the~~] age [~~of~~
19 ~~majority~~] and has graduated from an accredited high school or
20 equivalent; and

21 (B) other information determined necessary by
22 the department [~~committee~~]; and

23 (3) pay any required fees for application and
24 examination.

25 (c) The department [~~committee~~] may refuse to examine an
26 applicant who has been convicted of a misdemeanor that involves
27 moral turpitude or a felony.

1 SECTION 1.101. Section 402.205(b), Occupations Code, is
2 amended to read as follows:

3 (b) An examination shall be conducted in writing and by
4 other means the department [~~committee~~] determines adequate to
5 ascertain the qualifications of applicants.

6 SECTION 1.102. Section 402.207, Occupations Code, is
7 amended to read as follows:

8 Sec. 402.207. ISSUANCE OF APPRENTICE PERMIT. (a) The
9 department [~~committee~~] shall issue an apprentice permit to fit and
10 dispense hearing instruments to a temporary training permit holder
11 who has:

12 (1) passed all parts of the examination with a score of
13 70 percent or greater;

14 (2) paid the required fees; and

15 (3) met all requirements of this chapter.

16 (b) An apprentice permit is valid for one year. The
17 department [~~committee~~] may extend the apprentice permit for an
18 additional period not to exceed one year [~~six months~~].

19 (c) An apprentice permit holder shall work under the
20 supervision of a license holder [~~licensed hearing instrument~~
21 ~~dispenser~~] for at least one year. During the apprentice year, the
22 apprentice permit holder shall complete 20 hours of classroom
23 continuing education as required by Section 402.303 for a license
24 holder.

25 SECTION 1.103. Section 402.208, Occupations Code, is
26 amended to read as follows:

27 Sec. 402.208. ISSUANCE OF LICENSE. The department

1 ~~[committee]~~ shall issue a ~~[hearing instrument dispenser's]~~ license
2 to an apprentice permit holder when the department ~~[committee]~~ has
3 received sufficient evidence that the apprentice permit holder has
4 met all the licensing requirements of this chapter.

5 SECTION 1.104. Sections 402.209(a), (c), (e), (f), and (i),
6 Occupations Code, are amended to read as follows:

7 (a) A person licensed to fit and dispense hearing
8 instruments in another state may apply for a license under this
9 chapter by submitting a completed ~~[an]~~ application on a form
10 prescribed by the department ~~[committee]~~.

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

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

17 (2) written verification that:

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

22 (B) the applicant holds a certification from a
23 professional organization approved by the commission ~~[committee]~~
24 by rule;

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

1 (4) a statement of the applicant's criminal history
2 acceptable to the department [~~committee~~].

3 (e) If the department approves an application, on the next
4 regularly scheduled examination date the applicant may take the
5 practical section of the examination required under Section 402.202
6 and a written examination of Texas law administered by the
7 department. If the applicant passes the examinations required
8 under this section, the department [~~committee~~] shall issue to the
9 applicant a license under this chapter.

10 (f) The department may allow an applicant under this section
11 who satisfies all application requirements other than the
12 requirement under Subsection (c)(2) to take all sections of the
13 examination required under Section 402.202. If the applicant
14 passes the examination, the department [~~committee~~] shall issue to
15 the applicant a license under this chapter.

16 (i) The department [~~committee~~] may not issue a license under
17 this section to an applicant who is a licensed audiologist in
18 another state. The department [~~committee~~] shall inform [~~refer~~] the
19 applicant of [~~to~~] the licensing requirements of Chapter 401 [~~State~~
20 ~~Board of Examiners for Speech-Language Pathology and Audiology~~].

21 SECTION 1.105. Section 402.210, Occupations Code, is
22 amended to read as follows:

23 Sec. 402.210. CRIMINAL HISTORY RECORD INFORMATION
24 REQUIREMENT FOR LICENSE ISSUANCE. (a) The department [~~committee~~]
25 shall require that an applicant for a license submit a complete and
26 legible set of fingerprints, on a form prescribed by the department
27 [~~committee~~], to the department [~~committee~~] or to the Department of

1 Public Safety for the purpose of obtaining criminal history record
2 information from the Department of Public Safety and the Federal
3 Bureau of Investigation.

4 (b) The department [~~committee~~] may not issue a license to a
5 person who does not comply with the requirement of Subsection (a).

6 (c) The department [~~committee~~] shall conduct a criminal
7 history check of each applicant for a license using information:

8 (1) provided by the individual under this section; and

9 (2) made available to the department [~~committee~~] by
10 the Department of Public Safety, the Federal Bureau of
11 Investigation, and any other criminal justice agency under Chapter
12 411, Government Code.

13 (d) The department [~~on behalf of the committee~~] may:

14 (1) enter into an agreement with the Department of
15 Public Safety to administer a criminal history check required under
16 this section; and

17 (2) authorize the Department of Public Safety to
18 collect from each applicant the costs incurred by the Department of
19 Public Safety in conducting the criminal history check.

20 SECTION 1.106. Section [402.251](#), Occupations Code, is
21 amended to read as follows:

22 Sec. 402.251. TEMPORARY TRAINING PERMIT QUALIFICATIONS.

23 (a) The department [~~committee~~] shall issue a temporary training
24 permit to a person who:

25 (1) has never taken the examination administered under
26 this chapter;

27 (2) possesses the qualifications required under

1 Section 402.203(a);

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

6 (4) pays any required ~~[the temporary training permit]~~
7 fee.

8 (b) The department ~~[committee]~~ may issue a new temporary
9 training permit under this section to a person on or after the 365th
10 day after the person's previous temporary training permit expired.

11 SECTION 1.107. Section 402.252, Occupations Code, is
12 amended to read as follows:

13 Sec. 402.252. SUPERVISION STATEMENT ~~[AFFIDAVIT]~~. (a) An
14 application for a temporary training permit must be accompanied by
15 the statement ~~[affidavit]~~ of a person licensed to fit and dispense
16 hearing instruments under this chapter or Chapter 401, other than a
17 person licensed under Section 401.311 or 401.312.

18 (b) The statement must be on a form prescribed by the
19 department and ~~[affidavit must]~~ state that:

20 (1) the person will supervise the applicant ~~[, if~~
21 ~~granted a temporary training permit, will be supervised by the~~
22 ~~affiant]~~ in all work done by the applicant under the temporary
23 training permit;

24 (2) the person ~~[affiant]~~ will notify the department
25 ~~[committee]~~ not later than the 10th day after the date of the
26 applicant's termination of supervision by the person ~~[affiant]~~; and

27 (3) if the person ~~[affiant]~~ is licensed under Chapter

1 401, the person [~~affiant~~] will comply with all provisions of this
2 chapter and rules adopted under this chapter that relate to the
3 supervision and training of a temporary training permit holder.

4 SECTION 1.108. Sections 402.253(b) and (c), Occupations
5 Code, are amended to read as follows:

6 (b) A temporary training permit automatically expires on
7 the first anniversary of the date of issuance unless the department
8 [~~committee~~] extends the permit for an additional period not to
9 exceed one year [~~six months~~].

10 (c) The department [~~committee~~] may not extend a temporary
11 training permit more than once.

12 SECTION 1.109. Section 402.254(a), Occupations Code, is
13 amended to read as follows:

14 (a) The commission by rule [~~committee~~] shall establish
15 formal and practical education guidelines for the training of
16 temporary training permit holders.

17 SECTION 1.110. Section 402.255(d), Occupations Code, is
18 amended to read as follows:

19 (d) The supervisor shall maintain a log of the contact hours
20 by practicum category on a form prescribed [~~provided~~] by the
21 department [~~committee~~]. After the temporary training permit holder
22 has completed 150 contact hours, the supervisor and the permit
23 holder shall sign the form, and the form shall be notarized and
24 mailed to the department [~~committee~~].

25 SECTION 1.111. Section 402.256, Occupations Code, is
26 amended to read as follows:

27 Sec. 402.256. AUTHORITY OF TEMPORARY TRAINING PERMIT

1 HOLDER. (a) A temporary training permit holder may provide
2 routine fitting and dispensing of hearing instruments that have
3 [~~has~~] been ordered by the supervisor. The supervisor is the sole
4 judge of whether the permit holder has the qualifications necessary
5 to perform routine fitting and dispensing. A supervisor is
6 accountable to the department [~~committee~~] for the actions and
7 misdeeds of a temporary training permit holder acting at the
8 supervisor's discretion.

9 (b) A temporary training permit holder may not:

10 (1) own, manage, or independently operate a business
11 that engages in the fitting or sale of hearing instruments; or

12 (2) advertise or otherwise represent that the permit
13 holder holds a license under this chapter [~~as a hearing instrument~~
14 ~~dispenser~~].

15 SECTION 1.112. Sections [402.257](#)(a), (c), and (d),
16 Occupations Code, are amended to read as follows:

17 (a) On the request of a supervisor or temporary training
18 permit holder, the department [~~committee~~] may approve a transfer of
19 a permit holder from the permit holder's supervisor to another
20 eligible supervisor before completion of the training.

21 (c) The department [~~committee~~] may approve a second
22 transfer request before completion of the training only under
23 exceptional circumstances. The department [~~committee~~] may not
24 approve more than two transfers.

25 (d) If a transfer is approved, credit may be transferred at
26 the discretion of the department [~~committee~~].

27 SECTION 1.113. Sections [402.301](#)(a) and (f), Occupations

1 Code, are amended to read as follows:

2 (a) A license under this chapter is valid for two years. The
3 department [~~committee~~] shall renew the license every two years on
4 payment of the renewal fee unless the license is suspended or
5 revoked.

6 (f) The department [~~committee~~] may not renew a license
7 unless the license holder provides proof that all equipment that is
8 used by the license holder to produce a measurement in the testing
9 of hearing acuity has been properly calibrated or certified by a
10 qualified technician.

11 SECTION 1.114. Sections [402.303](#)(a), (b), (c), (d), and
12 (e-1), Occupations Code, are amended to read as follows:

13 (a) The commission [~~committee~~] by rule shall adopt
14 requirements for the continuing education of a license holder,
15 including online continuing education requirements and a
16 requirement that a license holder complete 20 hours of continuing
17 education every two years. The department [~~committee~~] may not
18 renew a license unless the license holder demonstrates compliance
19 with the continuing education requirements established by the
20 commission by rule [~~committee~~].

21 (b) A license holder shall provide written proof of
22 attendance or completion of an approved course on a form prescribed
23 by the department [~~committee~~].

24 (c) The department [~~committee~~] may waive compliance with
25 the continuing education requirement for license renewal for a
26 license holder who provides evidence of hardship or inability to
27 meet the requirement. The waiver may be granted after review by the

1 department [~~committee~~] on an annual basis.

2 (d) The commission [~~committee~~] shall adopt rules to
3 establish reasonable requirements for continuing education
4 sponsors and courses and to clearly define what constitutes a
5 manufacturer or nonmanufacturer sponsor. The department shall
6 review and approve continuing education sponsor and course
7 applications. The department may request assistance from licensed
8 members of the advisory board [~~committee~~] in approving a sponsor or
9 course. The department must provide a list of approved continuing
10 education sponsors and continuing education courses, including
11 online courses. The list must be revised and updated periodically.
12 Any continuing education activity must be provided by an approved
13 sponsor. The department shall approve at least five hours of
14 specific courses each year.

15 (e-1) The department [~~committee~~] must allow a license
16 holder to report at least 10 hours of online continuing education
17 credit hours in a single reporting period.

18 SECTION 1.115. Section 402.304(b), Occupations Code, is
19 amended to read as follows:

20 (b) A license holder may be credited with continuing
21 education credit hours for a published book or article written by
22 the license holder that contributes to the license holder's
23 professional competence. The department [~~continuing education~~
24 ~~committee~~] may grant credit hours based on the degree to which the
25 published book or article advances knowledge regarding the fitting
26 and dispensing of hearing instruments. A license holder may claim
27 in a reporting period not more than five credit hours for

1 preparation of a publication.

2 SECTION 1.116. Section 402.305, Occupations Code, is
3 amended to read as follows:

4 Sec. 402.305. CONTINUING EDUCATION EXEMPTIONS. The
5 department [~~committee~~] may renew the license of a license holder
6 who does not comply with the continuing education requirements of
7 Section [~~Sections~~] 402.303 or 402.304 if the license holder:

8 (1) was licensed for the first time during the 24
9 months before the reporting date;

10 (2) has served in the regular armed forces of the
11 United States during part of the 24 months before the reporting
12 date; or

13 (3) submits proof from an attending physician that the
14 license holder suffered a serious or disabling illness or physical
15 disability that prevented compliance with the continuing education
16 requirements during the 24 months before the reporting date.

17 SECTION 1.117. Section 402.306, Occupations Code, is
18 amended to read as follows:

19 Sec. 402.306. DUPLICATE LICENSE. The department
20 [~~committee~~] shall issue a duplicate license to a license holder
21 whose license has been lost or destroyed. The department
22 [~~committee~~] may prescribe the procedure and requirements for
23 issuance of a duplicate license.

24 SECTION 1.118. Section 402.351, Occupations Code, is
25 amended to read as follows:

26 Sec. 402.351. DISPLAY OF LICENSE. A person engaged in
27 fitting and dispensing hearing instruments shall display the

1 person's license in a conspicuous place in the person's principal
2 office and, when required, shall exhibit the license to the
3 department [~~committee~~] or its authorized representative.

4 SECTION 1.119. Section 402.353(c), Occupations Code, is
5 amended to read as follows:

6 (c) The commission [~~committee~~] shall adopt rules necessary
7 to enforce this section.

8 SECTION 1.120. Section 402.401, Occupations Code, is
9 amended to read as follows:

10 Sec. 402.401. TRIAL PERIOD. The commission by rule
11 [~~committee~~] shall establish guidelines for a 30-day trial period
12 during which a person may cancel the purchase of a hearing
13 instrument.

14 SECTION 1.121. Section 402.403, Occupations Code, is
15 amended to read as follows:

16 Sec. 402.403. WRITTEN CONTRACT. The owner of a hearing
17 instrument fitting and dispensing practice shall ensure that each
18 client receives a written contract at the time of purchase of a
19 hearing instrument that contains:

20 (1) the signature of the license holder who dispensed
21 the hearing instrument;

22 (2) the printed name of the license holder who
23 dispensed the hearing instrument;

24 (3) the address of the principal office of the license
25 holder who dispensed the hearing instrument;

26 (4) the license number of the license holder who
27 dispensed the hearing instrument;

1 (5) a description of the make and model of the hearing
2 instrument;

3 (6) the amount charged for the hearing instrument;

4 (7) a statement of whether the hearing instrument is
5 new, used, or rebuilt;

6 (8) notice of the 30-day trial period under Section
7 [402.401](#); and

8 (9) the name, mailing address, e-mail address, and
9 telephone number of the department [~~committee~~].

10 SECTION 1.122. Section [402.404](#), Occupations Code, is
11 amended to read as follows:

12 Sec. 402.404. SURETY BONDING. (a) A sole proprietor,
13 partnership, corporation, or other legal entity engaged in the
14 fitting and dispensing of hearing instruments shall file with the
15 department [~~committee~~] security in a form provided by Subsection
16 (b) in the amount of \$10,000 and conditioned on the promise to pay
17 all:

18 (1) taxes and contributions owed to the state and
19 political subdivisions of the state by the entity; and

20 (2) judgments that the entity may be required to pay
21 for:

22 (A) negligently or improperly dispensing hearing
23 instruments; or

24 (B) breaching a contract relating to the
25 dispensing of hearing instruments.

26 (b) The security may be a bond, a cash deposit, or another
27 negotiable security acceptable to the department [~~committee~~].

1 (c) A bond required by this section remains in effect until
2 canceled by action of the surety, the principal, or the department
3 [~~committee~~]. A person must take action on the bond not later than
4 the third anniversary of the date the bond is canceled.

5 SECTION 1.123. Section 402.451(a), Occupations Code, is
6 amended to read as follows:

7 (a) A person may not:

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

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

11 (3) wilfully make a false statement in an application
12 to the department [~~committee~~] for a license, a temporary training
13 permit, or the renewal of a license;

14 (4) falsely impersonate a license holder;

15 (5) engage in the fitting and dispensing of hearing
16 instruments when the person's license is suspended or revoked;

17 (6) dispense or fit a hearing instrument on a person
18 who has ordered the hearing instrument or device by mail unless the
19 person dispensing or fitting is a license holder under this chapter
20 or under Chapter 401; or

21 (7) sell a hearing instrument by mail.

22 SECTION 1.124. Section 402.501, Occupations Code, as
23 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
24 2015, is amended to read as follows:

25 Sec. 402.501. GROUNDS FOR LICENSE DENIAL AND DISCIPLINARY
26 ACTION. The commission or executive director [~~committee~~] may
27 refuse to issue or renew a license, revoke or suspend a license or

1 permit, place on probation a person whose license or permit has been
2 suspended, or reprimand a license or permit holder who:

3 (1) makes a material misstatement in furnishing
4 information to the department [~~committee~~] or to another state or
5 federal agency;

6 (2) violates this chapter or a rule adopted under this
7 chapter;

8 (3) is convicted of a felony or misdemeanor that
9 includes dishonesty as an essential element or of a crime directly
10 related to the practice of fitting and dispensing hearing
11 instruments;

12 (4) makes a misrepresentation for the purpose of
13 obtaining or renewing a license, including falsifying the
14 educational requirements under this chapter;

15 (5) is professionally incompetent or engages in
16 malpractice or dishonorable, unethical, or unprofessional conduct
17 that is likely to deceive, defraud, or harm the public;

18 (6) aids or assists another person in violating this
19 chapter or a rule adopted under this chapter;

20 (7) does not provide information in response to a
21 written request made by the department within 60 days;

22 (8) directly or indirectly knowingly employs, hires,
23 procures, or induces a person not licensed under this chapter to fit
24 and dispense hearing instruments unless the person is exempt under
25 this chapter;

26 (9) aids a person not licensed under this chapter in
27 the fitting or dispensing of hearing instruments unless the person

1 is exempt under this chapter;

2 (10) is habitually intoxicated or addicted to a
3 controlled substance;

4 (11) directly or indirectly gives to or receives from
5 a person a fee, commission, rebate, or other form of compensation
6 for a service not actually provided;

7 (12) violates a term of probation;

8 (13) wilfully makes or files a false record or report;

9 (14) has a physical illness that results in the
10 inability to practice the profession with reasonable judgment,
11 skill, or safety, including the deterioration or loss of motor
12 skills through aging;

13 (15) solicits a service by advertising that is false
14 or misleading;

15 (16) participates in subterfuge or misrepresentation
16 in the fitting or dispensing of a hearing instrument;

17 (17) knowingly advertises for sale a model or type of
18 hearing instrument that cannot be purchased;

19 (18) falsely represents that the service of a licensed
20 physician or other health professional will be used or made
21 available in the fitting, adjustment, maintenance, or repair of a
22 hearing instrument;

23 (19) falsely uses the term "doctor," "audiologist,"
24 "clinic," "clinical audiologist," "state licensed," "state
25 certified," "licensed hearing instrument dispenser," "board
26 certified hearing instrument specialist," "hearing instrument
27 specialist," or "certified hearing aid audiologist," or uses any

1 other term, abbreviation, or symbol that falsely gives the
2 impression that:

3 (A) a service is being provided by a person who is
4 licensed or has been awarded a degree or title; or

5 (B) the person providing a service has been
6 recommended by a government agency or health provider;

7 (20) advertises a manufacturer's product or uses a
8 manufacturer's name or trademark in a way that implies a
9 relationship between a license or permit holder and a manufacturer
10 that does not exist;

11 (21) directly or indirectly gives or offers to give,
12 or permits or causes to be given, money or another thing of value to
13 a person who advises others in a professional capacity as an
14 inducement to influence the person to influence the others to:

15 (A) purchase or contract to purchase products
16 sold or offered for sale by the license or permit holder; or

17 (B) refrain from purchasing or contracting to
18 purchase products sold or offered for sale by another license or
19 permit holder under this chapter;

20 (22) with fraudulent intent fits and dispenses a
21 hearing instrument under any name, including a false name or alias;

22 (23) does not adequately provide for the service or
23 repair of a hearing instrument fitted and sold by the license
24 holder; or

25 (24) violates a regulation of the federal Food and
26 Drug Administration or the Federal Trade Commission relating to
27 hearing instruments.

1 SECTION 1.125. The heading to Section 402.551, Occupations
2 Code, is amended to read as follows:

3 Sec. 402.551. AMOUNT OF ADMINISTRATIVE PENALTY.

4 SECTION 1.126. Section 402.551(b), Occupations Code, is
5 amended to read as follows:

6 (b) The amount of an ~~[the]~~ administrative penalty imposed
7 for a violation of this chapter or a rule adopted or order issued
8 under this chapter may not exceed \$250 plus costs for the first
9 violation and \$1,000 plus costs for each subsequent violation.

10 SECTION 1.127. Section 402.5521, Occupations Code, is
11 amended to read as follows:

12 Sec. 402.5521. ~~[COMMITTEE-ORDERED]~~ REFUND FOR HEARING
13 INSTRUMENT. The commission or executive director ~~[committee]~~ may
14 order a license holder to pay a refund to a consumer who returns a
15 hearing instrument during the 30-day trial period required by rules
16 adopted under Section 402.1021.

17 SECTION 1.128. Section 402.553(a), Occupations Code, is
18 amended to read as follows:

19 (a) A person who violates this chapter or a rule adopted or
20 order issued ~~[adopted by the committee]~~ under this chapter is
21 liable for a civil penalty not to exceed \$5,000 a day.

22 SECTION 1.129. Section 403.001, Occupations Code, as
23 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
24 2015, is amended by adding Subdivision (1) and amending
25 Subdivisions (2) and (3) to read as follows:

26 (1) "Commission" means the Texas Commission of
27 Licensing and Regulation.

1 (2) "Department" means the Texas Department of
2 Licensing and Regulation [~~State Health Services~~].

3 (3) "Executive director" [~~commissioner~~] means the
4 executive director [~~commissioner~~] of the department [~~Health and~~
5 ~~Human Services Commission~~].

6 SECTION 1.130. Section 403.051, Occupations Code, is
7 amended to read as follows:

8 Sec. 403.051. ADVISORY COMMITTEE. The department shall
9 appoint an advisory committee to provide advice and recommendations
10 to [~~advise~~] the department on technical matters relevant to the
11 administration of [~~in administering~~] this chapter.

12 SECTION 1.131. Subchapter B, Chapter 403, Occupations Code,
13 is amended by adding Section 403.0511 to read as follows:

14 Sec. 403.0511. GENERAL POWERS AND DUTIES. The executive
15 director shall administer and enforce this chapter.

16 SECTION 1.132. Section 403.052, Occupations Code, is
17 amended to read as follows:

18 Sec. 403.052. STANDARDS OF ETHICAL PRACTICE [~~RULES~~]. The
19 commission [~~executive commissioner~~] shall adopt rules [~~necessary~~
20 ~~to administer and enforce this chapter, including rules~~] that
21 establish standards of ethical practice.

22 SECTION 1.133. Section 403.103(a), Occupations Code, is
23 amended to read as follows:

24 (a) A license applicant must apply to the department on a
25 form and in the manner prescribed by the executive director [~~the~~
26 ~~department prescribes~~].

27 SECTION 1.134. The heading to Section 403.107, Occupations

1 Code, is amended to read as follows:

2 Sec. 403.107. EXAMINATION[~~, RULES~~].

3 SECTION 1.135. Section 403.107(a), Occupations Code, as
4 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
5 2015, is amended to read as follows:

6 (a) To obtain a license, an applicant must:

7 (1) pass a written examination approved by the
8 department under Subsection (b); and

9 (2) pay the required fees [~~set by the executive~~
10 ~~commissioner by rule~~].

11 SECTION 1.136. Sections 403.152(a) and (b), Occupations
12 Code, are amended to read as follows:

13 (a) A license holder's license may not be renewed unless the
14 license holder meets the continuing education requirements
15 established by the commission by rule [~~executive commissioner~~].

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

21 SECTION 1.137. The heading to Subchapter E, Chapter 403,
22 Occupations Code, is amended to read as follows:

23 SUBCHAPTER E. LICENSE DENIAL; [~~COMPLAINT AND~~] DISCIPLINARY
24 PROCEDURES

25 SECTION 1.138. Section 403.202, Occupations Code, as
26 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
27 2015, is amended to read as follows:

1 Sec. 403.202. PROHIBITED ACTIONS. A license holder may
2 not:

3 (1) obtain a license by means of fraud,
4 misrepresentation, or concealment of a material fact;

5 (2) sell, barter, or offer to sell or barter a license;
6 or

7 (3) engage in unprofessional conduct that endangers or
8 is likely to endanger the health, welfare, or safety of the public
9 as defined by commission [~~department~~] rule.

10 SECTION 1.139. Section 403.203, Occupations Code, is
11 amended to read as follows:

12 Sec. 403.203. GROUNDS FOR DISCIPLINARY ACTION. If a
13 license holder violates this chapter or a rule or code of ethics
14 adopted by the commission [~~executive commissioner~~], the commission
15 or executive director [~~department~~] shall:

16 (1) revoke or suspend the license;

17 (2) place on probation the person if the person's
18 license has been suspended;

19 (3) reprimand the license holder; or

20 (4) refuse to renew the license.

21 SECTION 1.140. Section 403.204(a), Occupations Code, is
22 amended to read as follows:

23 (a) The commission or executive director [~~department~~] may
24 deny a license or may suspend or revoke a license if the applicant
25 or license holder has been convicted of a misdemeanor involving
26 moral turpitude or a felony. The commission or executive director
27 [~~department~~] may take action authorized by this section when:

1 (1) the time for appeal of the person's conviction has
2 elapsed;

3 (2) the judgment or conviction has been affirmed on
4 appeal; or

5 (3) an order granting probation is made suspending the
6 imposition of the person's sentence, without regard to whether a
7 subsequent order:

8 (A) allows withdrawal of a plea of guilty;

9 (B) sets aside a verdict of guilty; or

10 (C) dismisses an information or indictment.

11 SECTION 1.141. Section 403.207(a), Occupations Code, is
12 amended to read as follows:

13 (a) The commission [~~executive commissioner~~], in
14 consultation with the advisory committee, by rule shall adopt a
15 broad schedule of sanctions for a violation of this chapter.

16 SECTION 1.142. Section 403.209, Occupations Code, is
17 amended to read as follows:

18 Sec. 403.209. MONITORING OF LICENSE HOLDER. (a) The
19 commission [~~executive commissioner~~] by rule shall develop a system
20 for monitoring a license holder's compliance with the requirements
21 of this chapter.

22 (b) Rules adopted under this section must include
23 procedures to:

24 (1) monitor for compliance a license holder who is
25 ordered by the commission or executive director [~~department~~] to
26 perform certain acts; and

27 (2) identify and monitor license holders who represent

1 a risk to the public.

2 SECTION 1.143. Section 403.212, Occupations Code, is
3 amended to read as follows:

4 Sec. 403.212. REPRIMAND; CONTINUING EDUCATION. (a) In
5 addition to other disciplinary action authorized by this
6 subchapter, the commission or executive director [~~department~~] may:

7 (1) issue a written reprimand to a license holder who
8 violates this chapter; or

9 (2) require that a license holder who violates this
10 chapter attend continuing education programs.

11 (b) The commission or executive director [~~department~~], in
12 consultation with the advisory committee, may specify the number of
13 hours of continuing education that must be completed by a license
14 holder to fulfill the requirement of Subsection (a)(2).

15 SECTION 1.144. The heading to Subchapter F, Chapter 403,
16 Occupations Code, is amended to read as follows:

17 SUBCHAPTER F. PENALTIES [~~AND OTHER ENFORCEMENT PROCEDURES~~]

18 SECTION 1.145. Section 403.251(a), Occupations Code, as
19 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
20 2015, is amended to read as follows:

21 (a) A person who violates this chapter or [~~7~~] a rule adopted
22 [~~by the executive commissioner under this chapter,~~] or [~~an~~] order
23 issued [~~adopted by the department~~] under this chapter is liable for
24 a civil penalty not to exceed \$500 for each occurrence.

25 SECTION 1.146. Section 451.001, Occupations Code, is
26 amended by amending Subdivision (2), amending Subdivisions (5) and
27 (6), as amended by S.B. 219, Acts of the 84th Legislature, Regular

1 Session, 2015, and adding Subdivision (7) to read as follows:

2 (2) "Athletic trainer" means a person who practices
3 athletic training, is licensed by the department [~~board~~], and may
4 use the initials "LAT," "LATC," and "AT" to designate the person as
5 an athletic trainer. The terms "sports trainer" and "licensed
6 athletic trainer" are equivalent to "athletic trainer."

7 (5) "Commission" [~~"Commissioner"~~] means the Texas
8 Commission of Licensing and Regulation [~~commissioner of state~~
9 ~~health services~~].

10 (6) "Department" means the Texas Department of
11 Licensing and Regulation [~~State Health Services~~].

12 (7) "Executive director" means the executive director
13 of the department.

14 SECTION 1.147. Section 451.003, Occupations Code, as
15 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
16 2015, is amended to read as follows:

17 Sec. 451.003. APPLICABILITY. This chapter does not apply
18 to:

19 (1) a physician licensed by the Texas Medical Board;

20 (2) a dentist, licensed under the laws of this state,
21 engaged in the practice of dentistry;

22 (3) a licensed optometrist or therapeutic optometrist
23 engaged in the practice of optometry or therapeutic optometry as
24 defined by statute;

25 (4) an occupational therapist engaged in the practice
26 of occupational therapy;

27 (5) a nurse engaged in the practice of nursing;

1 (6) a licensed podiatrist engaged in the practice of
2 podiatry as defined by statute;

3 (7) a physical therapist engaged in the practice of
4 physical therapy;

5 (8) a registered massage therapist engaged in the
6 practice of massage therapy;

7 (9) a commissioned or contract physician, physical
8 therapist, or physical therapist assistant in the United States
9 Army, Navy, Air Force, or Public Health Service; or

10 (10) an athletic trainer who does not live in this
11 state, who is licensed, registered, or certified by an authority
12 recognized by the department [~~board~~], and who provides athletic
13 training in this state for a period determined by the department
14 [~~board~~].

15 SECTION 1.148. Section 451.051(b), Occupations Code, is
16 amended to read as follows:

17 (b) The board consists of five members appointed by the
18 presiding officer of the commission [~~governor~~] with the approval
19 [~~advice and consent~~] of the commission [~~senate~~] as follows:

20 (1) three members who are athletic trainers; and

21 (2) two members who represent the public.

22 SECTION 1.149. Subchapter B, Chapter 451, Occupations Code,
23 is amended by adding Section 451.0521 to read as follows:

24 Sec. 451.0521. DUTIES OF BOARD. The board shall provide
25 advice and recommendations to the department on technical matters
26 relevant to the administration of this chapter.

27 SECTION 1.150. Section 451.053(b), Occupations Code, is

1 amended to read as follows:

2 (b) If a vacancy occurs on the board, the presiding officer
3 of the commission, with the commission's approval, [~~governor~~] shall
4 appoint a replacement who meets the qualifications for the vacant
5 position [~~successor~~] to serve for the unexpired portion of the
6 term.

7 SECTION 1.151. Section 451.055, Occupations Code, is
8 amended to read as follows:

9 Sec. 451.055. PRESIDING OFFICER [OFFICERS]. [~~(a)~~] The
10 presiding officer of the commission [~~governor~~] shall designate a
11 member of the board [~~as the board's presiding officer~~] to serve as
12 the presiding officer of the board for [~~in that capacity at the will~~
13 ~~of the governor. The board shall elect an assistant presiding~~
14 ~~officer and secretary-treasurer from its members. The assistant~~
15 ~~presiding officer and secretary-treasurer serve~~] a one-year term.
16 The presiding officer of the board may vote on any matter before the
17 board.

18 SECTION 1.152. Section 451.056, Occupations Code, is
19 amended to read as follows:

20 Sec. 451.056. MEETINGS. The board shall meet at [~~least~~
21 ~~twice a year. The board may hold additional meetings on~~] the call
22 of the presiding officer of the commission or the executive
23 director [~~at the written request of any three members of the board~~].

24 SECTION 1.153. The heading to Subchapter C, Chapter 451,
25 Occupations Code, is amended to read as follows:

26 SUBCHAPTER C. [~~BOARD~~] POWERS AND DUTIES

27 SECTION 1.154. Section 451.101, Occupations Code, is

1 amended by amending Subsection (a) and adding Subsections (a-1) and
2 (a-2) to read as follows:

3 (a) The executive director shall administer and enforce
4 this chapter.

5 (a-1) The department [board] shall:

6 (1) adopt an official seal;

7 (2) prescribe the application form for a license
8 applicant;

9 (3) prescribe a suitable form for a license
10 certificate; ~~and~~

11 (4) prepare and conduct an examination for license
12 applicants;

13 (5) maintain a complete record of all licensed
14 athletic trainers; and

15 (6) annually prepare a roster showing the names and
16 addresses of all licensed athletic trainers.

17 (a-2) The department shall make a copy of the roster
18 available to any person requesting it on payment of a fee
19 established by the department in an amount sufficient to cover the
20 cost of the roster.

21 SECTION 1.155. The heading to Section 451.110, Occupations
22 Code, is amended to read as follows:

23 Sec. 451.110. CONFIDENTIALITY OF COMPLAINT AND
24 DISCIPLINARY INFORMATION [SUBPOENAS].

25 SECTION 1.156. Sections 451.110(h) and (i), Occupations
26 Code, are amended to read as follows:

27 (h) All information and materials subpoenaed or compiled by

1 the department [~~board~~] in connection with a complaint and
2 investigation are confidential and not subject to disclosure under
3 Chapter 552, Government Code, and not subject to disclosure,
4 discovery, subpoena, or other means of legal compulsion for their
5 release to anyone other than the department [~~board~~] or its
6 employees or agents involved in discipline of the holder of a
7 license, except that this information may be disclosed to:

8 (1) persons involved with the department [~~board~~] in a
9 disciplinary action against the holder of a license;

10 (2) athletic trainer licensing or disciplinary boards
11 in other jurisdictions;

12 (3) peer assistance programs approved by the
13 commission [~~board~~] under Chapter 467, Health and Safety Code;

14 (4) law enforcement agencies; and

15 (5) persons engaged in bona fide research, if all
16 individual-identifying information has been deleted.

17 (i) The filing of formal charges by the department [~~board~~]
18 against a holder of a license, the nature of those charges,
19 disciplinary proceedings of the department, commission, or
20 executive director [~~board~~], and final disciplinary actions,
21 including warnings and reprimands, by the department, commission,
22 or executive director [~~board~~] are not confidential and are subject
23 to disclosure in accordance with Chapter 552, Government Code.

24 SECTION 1.157. Section [451.152](#), Occupations Code, is
25 amended to read as follows:

26 Sec. 451.152. LICENSE APPLICATION. An applicant for an
27 athletic trainer license must submit to the department [~~board~~]:

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

3 (2) the required examination fee.

4 SECTION 1.158. Section [451.153](#), Occupations Code, is
5 amended to read as follows:

6 Sec. 451.153. APPLICANT QUALIFICATIONS. (a) An applicant
7 for an athletic trainer license must:

8 (1) have met the athletic training curriculum
9 requirements of a college or university approved by the commission
10 [~~board~~] and give proof of graduation;

11 (2) hold a degree or certificate in physical therapy
12 and have completed:

13 (A) a basic athletic training course from an
14 accredited college or university; and

15 (B) an apprenticeship described by Subsection
16 (b); or

17 (3) have a degree in corrective therapy with at least a
18 minor in physical education or health that includes a basic
19 athletic training course and meet the apprenticeship requirement or
20 any other requirement established by the commission [~~board~~].

21 (b) The apprenticeship required to be completed by an
22 applicant consists of 720 hours completed in two years under the
23 direct supervision of a licensed athletic trainer acceptable to the
24 department [~~board~~]. Actual working hours include a minimum of 20
25 hours a week during each fall semester.

26 SECTION 1.159. Section [451.156](#), Occupations Code, is
27 amended to read as follows:

1 Sec. 451.156. REQUIREMENTS FOR LICENSE ISSUANCE. An
2 applicant for an athletic trainer license is entitled to receive
3 the license if the applicant:

4 (1) satisfies the requirements of Section 451.153 or
5 451.154;

6 (2) passes [~~satisfactorily completes~~] the examination
7 required [~~administered~~] by the department [~~board~~];

8 (3) pays the required license fee; and

9 (4) has not committed an act that constitutes grounds
10 for refusal of a license under Section 451.251.

11 SECTION 1.160. Section 451.157, Occupations Code, is
12 amended to read as follows:

13 Sec. 451.157. TEMPORARY LICENSE. (a) The department
14 [~~board~~] may issue a temporary license to an applicant if the
15 applicant satisfies:

16 (1) the requirements of Section 451.153 or 451.154;
17 and

18 (2) any other requirement established by the
19 commission [~~board~~].

20 (b) The commission [~~board~~] by rule shall prescribe the time
21 during which a temporary license is valid.

22 SECTION 1.161. The heading to Section 451.201, Occupations
23 Code, is amended to read as follows:

24 Sec. 451.201. LICENSE EXPIRATION; RENEWAL.

25 SECTION 1.162. Section 451.201(a), Occupations Code, as
26 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
27 2015, is amended to read as follows:

1 (a) A license issued under Section 451.156 expires on the
2 second anniversary of the date of issuance and may be renewed
3 biennially.

4 SECTION 1.163. Section 451.251(a), Occupations Code, is
5 amended to read as follows:

6 (a) The commission or executive director [~~board~~] may refuse
7 to issue a license to an applicant and shall reprimand a license
8 holder or suspend, revoke, or refuse to renew a person's license if
9 the person:

10 (1) has been convicted of a misdemeanor involving
11 moral turpitude or a felony;

12 (2) obtained the license by fraud or deceit;

13 (3) violated or conspired to violate this chapter or a
14 rule adopted under this chapter; or

15 (4) provided services outside the scope of practice of
16 athletic training.

17 SECTION 1.164. The heading to Section 451.351, Occupations
18 Code, is amended to read as follows:

19 Sec. 451.351. AMOUNT [~~IMPOSITION~~] OF ADMINISTRATIVE
20 PENALTY.

21 SECTION 1.165. Section 451.351(c), Occupations Code, is
22 amended to read as follows:

23 (c) The amount of an administrative [~~the~~] penalty imposed
24 for a violation of this chapter or a rule adopted or order issued
25 under this chapter may not exceed \$500 for each violation, and each
26 day a violation continues or occurs is a separate violation for
27 purposes of imposing a penalty. The total amount of the penalty

1 assessed for a violation continuing or occurring on separate days
2 under this subsection may not exceed \$2,500.

3 SECTION 1.166. Section 605.002, Occupations Code, is
4 amended by amending Subdivision (1), amending Subdivision (5), as
5 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
6 2015, and adding Subdivisions (2) and (5-a) to read as follows:

7 (1) "Advisory board" [~~"Board"~~] means the Orthotists
8 and Prosthetists Advisory [~~Texas~~] Board [~~of Orthotics and~~
9 ~~Prosthetics~~].

10 (2) "Commission" means the Texas Commission of
11 Licensing and Regulation.

12 (5) "Department" means the Texas Department of
13 Licensing and Regulation [~~State Health Services~~].

14 (5-a) "Executive director" means the executive
15 director of the department.

16 SECTION 1.167. The heading to Subchapter B, Chapter 605,
17 Occupations Code, is amended to read as follows:

18 SUBCHAPTER B. ORTHOTISTS AND PROSTHETISTS ADVISORY [~~TEXAS~~] BOARD
19 [~~OF ORTHOTICS AND PROSTHETICS~~]

20 SECTION 1.168. Section 605.052, Occupations Code, is
21 amended to read as follows:

22 Sec. 605.052. ADVISORY [~~APPOINTMENT~~ ~~OF~~] BOARD [~~+~~]
23 MEMBERSHIP. (a) The advisory board consists of seven members
24 appointed by the presiding officer of the commission [~~governor~~]
25 with the approval [~~advice and consent~~] of the commission [~~senate~~]
26 as follows:

27 (1) two [~~one~~] licensed orthotist members [~~member~~] who

1 each have [~~has~~] practiced orthotics for the five years preceding
2 the date of appointment;

3 (2) two [~~one~~] licensed prosthetist members [~~member~~]
4 who each have [~~has~~] practiced prosthetics for the five years
5 preceding the date of appointment;

6 (3) one licensed prosthetist orthotist member who has
7 practiced orthotics and prosthetics for the five years preceding
8 the date of appointment;

9 (4) one member who is a representative of the public
10 who uses an orthosis; and

11 (5) one member who is a representative of the public
12 who uses a prosthesis[~~, and~~

13 [~~(6) two members who are representatives of the public~~
14 ~~who do not use an orthosis or prosthesis]~~.

15 (b) Appointments to the advisory board shall be made without
16 regard to the race, color, disability, sex, religion, age, or
17 national origin of the appointee.

18 SECTION 1.169. Subchapter B, Chapter 605, Occupations Code,
19 is amended by adding Section 605.0521 to read as follows:

20 Sec. 605.0521. DUTIES OF ADVISORY BOARD. The advisory
21 board shall provide advice and recommendations to the department on
22 technical matters relevant to the administration of this chapter.

23 SECTION 1.170. Section 605.055, Occupations Code, is
24 amended to read as follows:

25 Sec. 605.055. TERMS; VACANCY. (a) Members of the advisory
26 board serve staggered six-year terms. The terms of two or three
27 members expire on February 1 of each odd-numbered year.

1 (b) If a vacancy occurs during a member's term, the
2 presiding officer of the commission, with the commission's
3 approval, [governor] shall appoint a replacement who meets the
4 qualifications for the vacant position [person] to serve for the
5 remainder of the term.

6 SECTION 1.171. Section 605.056, Occupations Code, is
7 amended to read as follows:

8 Sec. 605.056. PRESIDING OFFICER [OFFICERS]. The members of
9 the advisory board shall elect from the advisory board's membership
10 a presiding officer of the advisory board to serve for a term of one
11 year. The presiding officer of the advisory board may vote on any
12 matter before the advisory board~~[, a secretary, and other officers~~
13 ~~as required to conduct the board's business]~~.

14 SECTION 1.172. Section 605.059, Occupations Code, is
15 amended by amending Subsection (b) and adding Subsections (c) and
16 (d) to read as follows:

17 (b) The advisory ~~[A special meeting of the]~~ board shall meet
18 at the call of ~~[be called by]~~ the presiding officer of the
19 commission or the executive director ~~[or on the written request of~~
20 ~~any three members]~~.

21 (c) Four or more advisory board members may call a special
22 meeting of the advisory board by providing written notice not less
23 than 14 days before the date of the meeting to:

- 24 (1) the presiding officer of the commission;
25 (2) the executive director; and
26 (3) all other members of the advisory board.

27 (d) Not more than two special meetings of the advisory board

1 may be called under Subsection (c) in a calendar year.

2 SECTION 1.173. Section [605.151](#), Occupations Code, is
3 amended to read as follows:

4 Sec. 605.151. GENERAL POWERS AND DUTIES [~~OF BOARD~~]. The
5 executive director shall administer and enforce this chapter [~~board~~
6 ~~may~~].

7 [~~(1) investigate complaints;~~

8 [~~(2) issue, suspend, deny, and revoke licenses;~~

9 [~~(3) reprimand license holders and place license~~
10 ~~holders on probation;~~

11 [~~(4) in connection with a hearing under Section~~
12 ~~[605.353](#), issue subpoenas;~~

13 [~~(5) hold hearings; and~~

14 [~~(6) use personnel, facilities, furniture, equipment,~~
15 ~~and other items supplied by the department to administer this~~
16 ~~chapter].~~

17 SECTION 1.174. Section [605.155](#), Occupations Code, is
18 amended to read as follows:

19 Sec. 605.155. EXAMINATIONS. The department [~~board~~] must
20 approve any examination required for a license under this chapter.
21 Each examination shall be offered at least once each year.

22 SECTION 1.175. The heading to Subchapter E, Chapter 605,
23 Occupations Code, is amended to read as follows:

24 SUBCHAPTER E. [~~PUBLIC INTEREST INFORMATION AND~~] COMPLAINT
25 INFORMATION [~~PROCEDURES~~]

26 SECTION 1.176. The heading to Section [605.2021](#), Occupations
27 Code, is amended to read as follows:

1 Sec. 605.2021. CONFIDENTIALITY OF COMPLAINT AND
2 DISCIPLINARY INFORMATION [~~SUBPOENAS~~].

3 SECTION 1.177. Sections 605.2021(h) and (i), Occupations
4 Code, are amended to read as follows:

5 (h) All information and materials subpoenaed or compiled by
6 the department [~~board~~] in connection with a complaint and
7 investigation are confidential and not subject to disclosure under
8 Chapter 552, Government Code, and not subject to disclosure,
9 discovery, subpoena, or other means of legal compulsion for their
10 release to anyone other than the department [~~board~~] or its
11 employees or agents involved in discipline of the holder of a
12 license, except that this information may be disclosed to:

13 (1) persons involved with the department [~~board~~] in a
14 disciplinary action against the holder of a license;

15 (2) professional orthotist or prosthetist
16 disciplinary boards in other jurisdictions;

17 (3) peer assistance programs approved by the
18 commission [~~board~~] under Chapter 467, Health and Safety Code;

19 (4) law enforcement agencies; and

20 (5) persons engaged in bona fide research, if all
21 individual-identifying information has been deleted.

22 (i) The filing of formal charges by the department [~~board~~]
23 against a holder of a license, the nature of those charges,
24 disciplinary proceedings of the department, commission, or
25 executive director [~~board~~], and final disciplinary actions,
26 including warnings and reprimands, by the department, commission,
27 or executive director [~~board~~] are not confidential and are subject

1 to disclosure in accordance with Chapter 552, Government Code.

2 SECTION 1.178. Section 605.251, Occupations Code, is
3 amended to read as follows:

4 Sec. 605.251. LICENSE REQUIRED. A person may not practice,
5 attempt to practice, or offer to practice orthotics or prosthetics,
6 act as an assistant to a person who practices orthotics or
7 prosthetics, or in any way hold the person out as being able to
8 practice orthotics or prosthetics unless the person holds a license
9 ~~[issued by the board]~~ under this chapter.

10 SECTION 1.179. Section 605.252, Occupations Code, is
11 amended to read as follows:

12 Sec. 605.252. LICENSE ELIGIBILITY. (a) To be eligible for
13 a license to practice orthotics or prosthetics in this state, a
14 person must:

15 (1) submit an ~~[file a written]~~ application in the
16 manner and ~~[with the board]~~ on the form prescribed by the executive
17 director ~~[board]~~;

18 (2) pay the nonrefundable application fee;

19 (3) be a resident of this state;

20 (4) have completed formal training, including the
21 required hours of classroom education and clinical practice, in an
22 area of study the commission ~~[board]~~ by rule determines to be
23 necessary and appropriate;

24 (5) have completed a clinical residency in the
25 professional area for which a license is sought that complies with
26 the standards, guidelines, or procedures established by the
27 department ~~[board]~~ for a clinical residency that is offered in this

1 state or another state; and

2 (6) have passed each written and practical examination
3 approved and required by the department [~~board~~].

4 (b) The requirements for a license established by
5 commission [~~board~~] rule must include the requirement that the
6 applicant hold:

7 (1) a bachelor's or graduate degree in orthotics and
8 prosthetics from:

9 (A) an education program recognized and
10 accredited by the Commission on Accreditation of Allied Health
11 Education Programs that is offered at an institution of higher
12 education; or

13 (B) a practitioner education program that has
14 education standards that are equivalent to or exceed the standards
15 adopted by the Commission on Accreditation of Allied Health
16 Education Programs; or

17 (2) a bachelor's degree in another subject and an
18 orthotic or prosthetic certificate issued by a practitioner
19 education program:

20 (A) recognized and accredited by the Commission
21 on Accreditation of Allied Health Education Programs; or

22 (B) that has education standards that are
23 equivalent to or exceed the standards adopted by the Commission on
24 Accreditation of Allied Health Education Programs.

25 (c) To meet the clinical residency requirements for a
26 license, the applicant must complete a professional clinical
27 residency that meets the requirements established by commission

1 ~~[board]~~ rule and is conducted under the direct supervision of a
2 licensed orthotist, licensed prosthetist, or a licensed
3 prosthetist orthotist in the discipline for which licensure is
4 sought. The clinical residency requirements adopted by the
5 commission ~~[board]~~ must be equivalent to or exceed the standards
6 set by the National Commission on Orthotic and Prosthetic
7 Education.

8 (d) The department ~~[board]~~ may accept as a substitute for
9 the examination requirement proof that the license applicant holds
10 a license in a state that has licensing requirements that are equal
11 to or exceed the requirements of this chapter.

12 SECTION 1.180. Sections 605.254(a) and (c), Occupations
13 Code, are amended to read as follows:

14 (a) A person is entitled to an exemption from the license
15 requirements established ~~[by the board]~~ under Section 605.252 if
16 the person is a resident of this state who~~+~~

17 ~~[(1) applies for the exemption not later than the~~
18 ~~181st day after the date on which the board's initial rules are~~
19 ~~finally adopted and:~~

20 ~~[(A) has provided comprehensive orthotic or~~
21 ~~prosthetic care for at least three years before the date of the~~
22 ~~application, including practicing orthotics or prosthetics in this~~
23 ~~state for the year preceding that date, or~~

24 ~~[(B) has provided comprehensive orthotic and~~
25 ~~prosthetic care for at least six years, including practicing~~
26 ~~orthotics and prosthetics in this state for the year preceding the~~
27 ~~application date, or~~

1 ~~(2)~~ presents evidence satisfactory to the
2 department ~~board~~ that the person possesses unique qualifications
3 to practice orthotics, prosthetics, or orthotics and prosthetics.

4 (c) The department ~~board~~ shall issue a license to a person
5 who is determined to be eligible for a license under Subsection (a)
6 ~~or (b)~~. A person to whom a license is issued under this
7 subsection is entitled to the same license privileges as if the
8 person met the educational and vocational requirements of Section
9 605.252. The license holder is subject to the license renewal
10 requirements established by the commission ~~board~~, other than the
11 academic, clinical training, and examination requirements, which
12 the commission ~~board~~ may not impose as a condition of the person's
13 license.

14 SECTION 1.181. Sections 605.255(a) and (b), Occupations
15 Code, are amended to read as follows:

16 (a) An applicant for a license as an orthotist assistant or
17 prosthetist assistant must:

18 (1) submit an application in the manner and ~~file a~~
19 ~~written application with the board~~ on a form prescribed ~~provided~~
20 by the executive director ~~board~~;

21 (2) pay the nonrefundable application fee established
22 ~~prescribed~~ by the commission by rule ~~board~~; and

23 (3) present evidence satisfactory to the department
24 ~~board~~ that the applicant has completed an education program,
25 including courses in the anatomical, biological, and physical
26 sciences, and a clinical residency as prescribed and adopted by the
27 commission by rule ~~board~~.

1 (b) An assistant licensed under this section may provide
2 only ancillary patient care services, as defined by the commission
3 by rule [~~board~~], in the discipline in which the assistant's
4 supervisor is licensed under this chapter.

5 SECTION 1.182. Sections 605.256(a) and (b), Occupations
6 Code, are amended to read as follows:

7 (a) The department [~~board~~] may issue a license or
8 registration certificate under this chapter only to an individual.

9 (b) The department [~~board~~] shall issue a license in
10 orthotics or prosthetics to an applicant who meets the requirements
11 provided under this chapter. A license may be granted in either
12 orthotics or prosthetics, or in both, if the person meets the
13 requirements established by the department [~~board~~].

14 SECTION 1.183. Section 605.257, Occupations Code, is
15 amended to read as follows:

16 Sec. 605.257. TEMPORARY LICENSE. (a) The department
17 [~~board~~] may issue a temporary license to an individual who:

18 (1) has recently become a resident of this state;

19 (2) has applied for a license as an orthotist,
20 prosthetist, or both; and

21 (3) has:

22 (A) practiced orthotics regularly since January
23 1, 1996; or

24 (B) been licensed by the state in which the
25 person formerly resided if that state has license requirements that
26 are equal to or exceed the requirements of this chapter.

27 (b) A temporary license is valid for one year from the date

1 issued. A temporary license may be renewed for not more than one
2 additional year if the applicant presents evidence sufficient to
3 the department [~~board~~] of good cause for renewal.

4 SECTION 1.184. Section 605.258(a), Occupations Code, is
5 amended to read as follows:

6 (a) The department [~~board~~] may issue a student registration
7 certificate to an individual who is working toward fulfilling the
8 requirements for a license as an orthotist, prosthetist, or
9 prosthetist orthotist and:

10 (1) holds either:

11 (A) a bachelor's or graduate degree in orthotics
12 and prosthetics from:

13 (i) an education program recognized and
14 accredited by the Commission on Accreditation of Allied Health
15 Education Programs that is offered at an institution of higher
16 education; or

17 (ii) a practitioner education program that
18 has education standards that are equivalent to or exceed the
19 standards adopted by the Commission on Accreditation of Allied
20 Health Education Programs; or

21 (B) a bachelor's degree in another subject and an
22 orthotic or prosthetic certificate issued by a practitioner
23 education program:

24 (i) recognized and accredited by the
25 Commission on Accreditation of Allied Health Education Programs; or

26 (ii) that has education standards that are
27 equivalent to or exceed the standards adopted by the Commission on

1 Accreditation of Allied Health Education Programs; or

2 (2) is a student who:

3 (A) is currently enrolled in a graduate program
4 in this state in orthotics and prosthetics that:

5 (i) is recognized and accredited by the
6 Commission on Accreditation of Allied Health Education Programs;
7 and

8 (ii) incorporates a professional clinical
9 residency that meets the requirements of rules adopted under
10 Section 605.252(c); and

11 (B) submits to the department [~~board~~] a written
12 certification from the graduate program in which the student is
13 enrolled that the student has successfully completed the academic
14 prerequisites to enter a professional clinical residency.

15 SECTION 1.185. Section 605.259(a), Occupations Code, is
16 amended to read as follows:

17 (a) The department [~~board~~] may issue a registered orthotic
18 technician or registered prosthetic technician certificate to an
19 applicant who:

20 (1) submits an [~~files a written~~] application in the
21 manner and [~~with the board~~] on a form prescribed [~~provided~~] by the
22 executive director [~~board~~];

23 (2) pays the nonrefundable application fee; and

24 (3) presents evidence satisfactory to the department
25 [~~board~~] that the applicant has completed an education program and
26 laboratory experience as prescribed by the commission by rule
27 [~~board~~].

1 SECTION 1.186. Sections 605.260(a), (b), and (c),
2 Occupations Code, are amended to read as follows:

3 (a) The commission [~~board~~] by rule shall establish
4 requirements for the accreditation and the renewal of an
5 accreditation of an orthotic or prosthetic facility in which
6 orthotics or prosthetics are conducted. The department [~~board~~] may
7 issue an accreditation only to an orthotic or prosthetic facility.

8 (b) If a person owns more than one facility, the department
9 [~~board~~] may require only one application for the accreditation of
10 each of the person's facilities. Each orthotic or prosthetic
11 facility must meet the requirements established by commission rule
12 [~~the board~~].

13 (c) An orthotic or prosthetic facility must be under the
14 on-site direction of an orthotist or prosthetist licensed by the
15 department [~~board~~] in the discipline for which accreditation is
16 sought.

17 SECTION 1.187. Section 605.261, Occupations Code, is
18 amended to read as follows:

19 Sec. 605.261. CONTINUING EDUCATION. (a) The commission
20 [~~board~~] shall:

21 (1) adopt rules that require a license holder to
22 participate in an approved continuing education program to renew a
23 license issued under this chapter; and

24 (2) prepare or approve continuing education programs
25 for license holders.

26 (b) To renew a license under this chapter, an applicant must
27 submit to the department [~~board~~] evidence of satisfactory

1 completion of the continuing education requirements required by the
2 commission [~~board~~].

3 (c) The department [~~board~~] shall notify a license holder who
4 has failed to comply with the [~~board's~~] continuing education
5 requirements of the license holder's failure to comply and that
6 failure to obtain the required continuing education before the
7 expiration of three months after the date the notice is given
8 constitutes grounds for the commission or executive director
9 [~~board~~] to suspend or revoke the license holder's license.

10 SECTION 1.188. Section 605.353, Occupations Code, is
11 amended to read as follows:

12 Sec. 605.353. DISCIPLINARY ACTIONS. (a) After notice and
13 opportunity for a hearing, the commission or executive director
14 [~~board~~] may revoke, suspend, or refuse to renew a license issued
15 under this chapter on a finding that:

16 (1) the license was obtained by fraud,
17 misrepresentation, or concealment of a material fact;

18 (2) the person engaged in fraud or deceit in
19 connection with services provided by the person;

20 (3) the person engaged in unprofessional or unethical
21 conduct;

22 (4) the person engaged in gross negligence or
23 malpractice; or

24 (5) the person violated this chapter or a rule adopted
25 under this chapter.

26 (b) The commission or executive director [~~board~~] may
27 reinstate a license revoked under Subsection (a) after the first

1 anniversary of the date of the revocation on terms the commission or
2 executive director [~~board~~] determines to be necessary.

3 SECTION 1.189. Section 605.354(c), Occupations Code, is
4 amended to read as follows:

5 (c) The attorney general shall bring an action in the name
6 of the state at the department's [~~board's~~] request to collect a
7 civil penalty under this section.

8 SECTION 1.190. Section 605.402(a), Occupations Code, is
9 amended to read as follows:

10 (a) The amount of an [~~the~~] administrative penalty imposed
11 for a violation of this chapter or a rule adopted or order issued
12 under this chapter may not be less than \$50 or more than \$5,000 for
13 each violation. Each day a violation continues or occurs is a
14 separate violation for the purpose of imposing a penalty.

15 SECTION 1.191. Section 701.002, Occupations Code, is
16 amended by amending Subdivisions (1), (2), and (4) and adding
17 Subdivision (1-a) to read as follows:

18 (1) "Advisory board" means the Dietitians Advisory
19 Board.

20 (1-a) "Commission" [~~"Commissioner"~~] means the Texas
21 Commission of Licensing and Regulation [~~commissioner of state~~
22 ~~health services~~].

23 (2) "Department" means the Texas Department of
24 Licensing and Regulation [~~State Health Services~~].

25 (4) "Executive director" [~~"Dietitians board"~~] means
26 the executive director of the department [~~Texas State Board of~~
27 ~~Examiners of Dietitians~~].

1 SECTION 1.192. The heading to Subchapter B, Chapter 701,
2 Occupations Code, is amended to read as follows:

3 SUBCHAPTER B. [~~TEXAS STATE BOARD OF EXAMINERS OF~~] DIETITIANS

4 ADVISORY BOARD

5 SECTION 1.193. Section 701.051, Occupations Code, is
6 amended to read as follows:

7 Sec. 701.051. DIETITIANS ADVISORY BOARD MEMBERSHIP.

8 (a) The advisory board [~~Texas State Board of Examiners of~~
9 ~~Dietitians~~] consists of nine members appointed by the presiding
10 officer of the commission [~~governor~~] with the approval [~~advice and~~
11 ~~consent~~] of the commission [~~senate~~] as follows:

12 (1) six licensed dietitian members, each of whom has
13 been licensed under this chapter for not less than three years
14 before the member's date of appointment; and

15 (2) three members who represent the public.

16 (b) In appointing dietitian members to the advisory
17 [~~dietitians~~] board, the presiding officer of the commission
18 [~~governor~~] shall attempt to maintain balanced representation among
19 the following primary areas of expertise included in the
20 professional discipline of dietetics:

21 (1) clinical;

22 (2) educational;

23 (3) management;

24 (4) consultation; and

25 (5) community.

26 (c) Appointments to the advisory [~~dietitians~~] board shall
27 be made without regard to the race, color, disability, sex,

1 religion, age, or national origin of the appointee.

2 SECTION 1.194. Subchapter B, Chapter 701, Occupations Code,
3 is amended by adding Section 701.0511 to read as follows:

4 Sec. 701.0511. DUTIES OF ADVISORY BOARD. The advisory
5 board shall provide advice and recommendations to the department on
6 technical matters relevant to the administration of this chapter.

7 SECTION 1.195. Section 701.054, Occupations Code, is
8 amended to read as follows:

9 Sec. 701.054. TERMS; VACANCIES. (a) Members of the
10 advisory [dietitians] board serve staggered six-year terms. The
11 terms of three [two] members begin on September 1 of each
12 odd-numbered year.

13 (b) If a vacancy occurs during a member's term, the
14 presiding officer of the commission, with the commission's
15 approval, shall appoint a replacement who meets the qualifications
16 for the vacant position to serve for the remainder of the term.

17 SECTION 1.196. Section 701.057, Occupations Code, is
18 amended to read as follows:

19 Sec. 701.057. PRESIDING OFFICER [OFFICERS]. [~~(a)~~] The
20 presiding officer of the commission [governor] shall designate a
21 member of the advisory [dietitians] board as the presiding officer
22 of the advisory board to serve for a term of one year [~~in that~~
23 ~~capacity at the pleasure of the governor~~]. The presiding officer of
24 the advisory board may vote on any matter before the advisory board.

25 [~~(b) Not later than the 30th day after the date the governor~~
26 ~~appoints new board members, the dietitians board shall meet to~~
27 ~~elect an assistant presiding officer, who holds office according to~~

1 ~~board rules.]~~

2 SECTION 1.197. Section 701.058, Occupations Code, is
3 amended to read as follows:

4 Sec. 701.058. MEETINGS. The advisory [~~dietitians~~] board
5 shall meet at the call of the presiding officer of the commission or
6 the executive director [~~hold at least two regular meetings each~~
7 ~~year as provided by board rules~~].

8 SECTION 1.198. Section 701.151, Occupations Code, is
9 amended to read as follows:

10 Sec. 701.151. GENERAL POWERS AND DUTIES [~~OF DIETITIANS~~
11 ~~BOARD~~]. (a) The executive director shall administer and enforce
12 this chapter.

13 (b) The department [~~dietitians board~~] shall:

14 (1) adopt an official seal;

15 (2) adopt and publish a code of ethics;

16 (3) establish the qualifications and fitness of
17 applicants for licenses, including renewed and reciprocal
18 licenses;

19 (4) revoke, suspend, or deny a license, probate a
20 license suspension, or reprimand a license holder for a violation
21 of this chapter, a [~~board~~] rule adopted under this chapter, or the
22 code of ethics; and

23 (5) request and receive any necessary assistance from
24 state educational institutions or other state agencies [~~spend money~~
25 ~~necessary to properly administer the board's duties, and~~

26 [~~(6) establish reasonable and necessary fees to~~
27 ~~administer this chapter~~].

1 SECTION 1.199. Subchapter D, Chapter 701, Occupations Code,
2 is amended by adding Section 701.1511 to read as follows:

3 Sec. 701.1511. REGISTRY. The department shall prepare a
4 registry of licensed dietitians and provisional licensed
5 dietitians and make the registry available to the public, license
6 holders, and appropriate state agencies.

7 SECTION 1.200. Section 701.154, Occupations Code, as
8 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
9 2015, is amended to read as follows:

10 Sec. 701.154. AMOUNT OF FEES. The commission ~~[(a) After~~
11 ~~consulting the department, the dietitians board by rule shall set~~
12 ~~fees in amounts reasonable and necessary to cover the cost of~~
13 ~~administering this chapter. The fees for issuing or renewing a~~
14 ~~license must be in amounts designed to allow the department and the~~
15 ~~dietitians board to recover from the license holders all of the~~
16 ~~direct and indirect costs to the department and to the dietitians~~
17 ~~board in administering and enforcing this chapter.~~

18 ~~[(b) The dietitians board]~~ may not set a fee that existed on
19 September 1, 1993, in an amount that is less than the amount of that
20 fee on that date.

21 SECTION 1.201. Section 701.155, Occupations Code, is
22 amended to read as follows:

23 Sec. 701.155. SEAL. (a) The commission ~~[dietitians board]~~
24 by rule may require a license holder to:

25 (1) obtain a seal authorized by the department ~~[board]~~
26 bearing the license holder's name and the legend "Licensed
27 Dietitian"; and

1 (2) affix the seal to formal documentation of
2 nutrition services provided by the license holder, as determined
3 necessary and appropriate by the department [~~board~~].

4 (b) If the commission [~~diplomats board~~] adopts rules under
5 Subsection (a), the rules must authorize a license holder to comply
6 with Subsection (a)(2) by maintaining a facsimile of the license
7 holder's seal on file at the location where services are provided
8 if:

9 (1) the services are provided:

10 (A) in a facility licensed under the Health and
11 Safety Code;

12 (B) on behalf of a local, state, or federal
13 government agency; or

14 (C) under other circumstances determined
15 reasonable and necessary by the department [~~board~~]; and

16 (2) the facsimile is maintained on file at all times
17 during which the services are provided.

18 SECTION 1.202. The heading to Subchapter E, Chapter 701,
19 Occupations Code, is amended to read as follows:

20 SUBCHAPTER E. [~~PUBLIC INTEREST INFORMATION AND~~] COMPLAINT
21 PROCEDURES

22 SECTION 1.203. The heading to Section 701.2041, Occupations
23 Code, is amended to read as follows:

24 Sec. 701.2041. CONFIDENTIALITY OF COMPLAINT AND
25 DISCIPLINARY INFORMATION [~~SUBPOENAS~~].

26 SECTION 1.204. Sections 701.2041(h) and (i), Occupations
27 Code, are amended to read as follows:

1 (h) All information and materials subpoenaed or compiled by
2 the department [~~dieticians board~~] in connection with a complaint
3 and investigation are confidential and not subject to disclosure
4 under Chapter 552, Government Code, and not subject to disclosure,
5 discovery, subpoena, or other means of legal compulsion for their
6 release to anyone other than the department [~~board~~] or its
7 employees or agents involved in discipline of the holder of a
8 license, except that this information may be disclosed to:

9 (1) persons involved with the department [~~board~~] in a
10 disciplinary action against the holder of a license;

11 (2) professional dietitian licensing or disciplinary
12 boards in other jurisdictions;

13 (3) peer assistance programs approved by the
14 commission [~~board~~] under Chapter 467, Health and Safety Code;

15 (4) law enforcement agencies; and

16 (5) persons engaged in bona fide research, if all
17 individual-identifying information has been deleted.

18 (i) The filing of formal charges by the department
19 [~~dieticians board~~] against a holder of a license, the nature of
20 those charges, disciplinary proceedings of the department,
21 commission, or executive director [~~board~~], and final disciplinary
22 actions, including warnings and reprimands, by the department,
23 commission, or executive director [~~board~~] are not confidential and
24 are subject to disclosure in accordance with Chapter 552,
25 Government Code.

26 SECTION 1.205. Section [701.252](#), Occupations Code, is
27 amended to read as follows:

1 Sec. 701.252. LICENSE APPLICATION. (a) Each applicant for
2 a dietitian license must submit an ~~[a sworn]~~ application in the
3 manner and on a form prescribed by the executive director
4 accompanied by the application fee.

5 (b) The commission ~~[dietitians board shall prescribe the~~
6 ~~application form and may]~~ by rule shall determine the information
7 and documentation required to be submitted as part of an
8 application ~~[establish dates by which applications and fees must be~~
9 ~~received]~~.

10 SECTION 1.206. Sections 701.253(c), (e), and (f),
11 Occupations Code, are amended to read as follows:

12 (c) The department ~~[dietitians board]~~ shall prepare or
13 approve an examination. An examination prescribed by the
14 department ~~[board]~~ may be or may include an examination given by the
15 Commission on Dietetic Registration or by a national or state
16 testing service instead of an examination prepared by the
17 department or the department's designee ~~[board]~~.

18 (e) The department ~~[dietitians board]~~ shall administer an
19 examination to qualified applicants at least twice each calendar
20 year.

21 (f) The department ~~[dietitians board]~~ shall waive the
22 examination requirement for an applicant who, at the time of
23 application, is a dietitian registered by the Commission on
24 Dietetic Registration.

25 SECTION 1.207. Section 701.254, Occupations Code, is
26 amended to read as follows:

27 Sec. 701.254. QUALIFICATIONS FOR EXAMINATION. To qualify

1 for the licensing examination under this chapter, an applicant
2 must:

3 (1) possess a baccalaureate or postbaccalaureate
4 degree, conferred by a college or university regionally accredited
5 at the time of conferral, with:

6 (A) a major course of study in human nutrition,
7 food and nutrition, nutrition education, dietetics, or food systems
8 management; or

9 (B) an equivalent major course of study approved
10 by the department [~~dietitians board~~]; and

11 (2) have completed an internship or preplanned,
12 documented, professional experience program in dietetics practice
13 of not less than 900 hours under the supervision of a licensed
14 dietitian or a registered dietitian approved by the department
15 [~~board~~].

16 SECTION 1.208. Section 701.255(a), Occupations Code, is
17 amended to read as follows:

18 (a) Not later than the 45th day after the date a properly
19 submitted and timely application is received and not later than the
20 30th day before the next examination date, the department shall
21 notify an applicant in writing of the receipt and investigation of
22 the applicant's application and any other relevant evidence
23 relating to applicant qualifications established by commission
24 [~~dietitians board~~] rule.

25 SECTION 1.209. Sections 701.2575(a) and (c), Occupations
26 Code, are amended to read as follows:

27 (a) The department [~~dietitians board~~] shall develop and

1 administer at least twice each calendar year a jurisprudence
2 examination to determine an applicant's knowledge of this chapter,
3 commission [~~board~~] rules under this chapter, and any other
4 applicable laws of this state affecting the applicant's dietetics
5 practice.

6 (c) The commission [~~dietitians board~~] shall adopt rules to
7 implement this section, including rules related to the development
8 and administration of the examination, examination fees,
9 guidelines for reexamination, grading the examination, and
10 providing notice of examination results.

11 SECTION 1.210. Section [701.258](#), Occupations Code, is
12 amended to read as follows:

13 Sec. 701.258. QUALIFIED PERSON ENTITLED TO LICENSE. The
14 department [~~dietitians board~~] shall issue a license [~~certificate~~]
15 as a licensed dietitian to a person qualified for a license under
16 this chapter.

17 SECTION 1.211. Sections [701.259](#)(a), (b), (c), and (d),
18 Occupations Code, are amended to read as follows:

19 (a) The department [~~dietitians board~~] may issue a license to
20 use the title "provisional licensed dietitian" to an applicant who
21 files an application, pays an application fee, and submits evidence
22 of successful completion of the education requirement under Section
23 [701.254](#).

24 (b) A provisional licensed dietitian must practice under
25 the supervision and direction of a licensed dietitian. The
26 supervising licensed dietitian must be designated in [~~sign~~] the
27 applicant's initial application for a provisional license.

1 (c) The department [~~dietitians board~~] shall issue a license
2 [~~certificate~~] as a provisional licensed dietitian to a person
3 qualified for a provisional license under this chapter.

4 (d) A provisional license expires on the first anniversary
5 of the date of issuance and [~~, if the supervising licensed dietitian~~
6 ~~signs the renewal application,~~] may be renewed annually not more
7 than twice [~~by complying with the renewal procedures under Section~~
8 ~~701.301~~].

9 SECTION 1.212. Section 701.260, Occupations Code, is
10 amended to read as follows:

11 Sec. 701.260. TEMPORARY LICENSE. (a) On receipt of an
12 application and payment of an application fee, the department
13 [~~dietitians board~~] may grant a temporary license to an applicant
14 who:

15 (1) is licensed in good standing as a dietitian in
16 another state that has licensing requirements that are
17 substantially equivalent to the requirements of this chapter;

18 (2) has passed a national or other examination that is
19 recognized by the department [~~board~~] and relates to dietetics; and

20 (3) is sponsored by a person licensed by the
21 department [~~board~~] under this chapter with whom the temporary
22 license holder may practice.

23 (b) The department [~~dietitians board~~] may waive the
24 requirement of Subsection (a)(3) if the department [~~board~~]
25 determines that compliance with that provision is a hardship to an
26 applicant.

27 (c) A temporary license is valid until the date the

1 department [~~dietitians board~~] approves or denies the temporary
2 license holder's application for a license. The department [~~board~~]
3 shall issue a license under this chapter to the holder of a
4 temporary license if:

5 (1) the temporary license holder passes the competency
6 examination required by Section 701.253;

7 (2) the department [~~board~~] verifies that the temporary
8 license holder meets the academic and experience requirements for a
9 license under this chapter; and

10 (3) the temporary license holder satisfies any other
11 license requirements under this chapter.

12 (d) The department [~~dietitians board~~] must complete the
13 processing of a temporary license holder's application for a
14 license not later than the 180th day after the date the department
15 [~~board~~] issues the temporary license. The department [~~board~~] may
16 extend this deadline to receive pending examination results.

17 SECTION 1.213. Section 701.303, Occupations Code, is
18 amended to read as follows:

19 Sec. 701.303. CONTINUING EDUCATION. (a) The commission
20 [~~dietitians board~~] by rule shall establish a minimum number of
21 hours of continuing education required for license renewal under
22 this chapter.

23 (b) The commission or department [~~dietitians board~~] may
24 assess the continuing education needs of license holders and may
25 require license holders to attend continuing education courses
26 specified by the commission or department [~~board~~]. The department
27 [~~board~~] shall develop a process to evaluate and approve continuing

1 education courses.

2 (c) The commission or department [~~dietitians board~~] shall
3 identify key factors for a license holder's competent performance
4 of professional duties. The department [~~board~~] shall adopt a
5 procedure to assess the license holder's participation in
6 continuing education programs.

7 SECTION 1.214. Section 701.304, Occupations Code, is
8 amended to read as follows:

9 Sec. 701.304. GROUNDS FOR REFUSING RENEWAL. The commission
10 or department [~~dietitians board~~] may refuse to renew the license of
11 a person who fails to pay an administrative penalty imposed under
12 Subchapter K, unless enforcement of the penalty is stayed or a court
13 has ordered that the administrative penalty is not owed.

14 SECTION 1.215. Section 701.351, Occupations Code, is
15 amended to read as follows:

16 Sec. 701.351. DISPLAY OF LICENSE [~~CERTIFICATE~~]. (a) A
17 license holder shall display the person's license [~~certificate~~] in
18 an appropriate and public manner as prescribed by commission rule.

19 (b) A license [~~certificate~~] issued by the department
20 [~~dietitians board~~] is the property of the department [~~board~~] and
21 shall be surrendered on demand.

22 SECTION 1.216. Section 701.352, Occupations Code, is
23 amended to read as follows:

24 Sec. 701.352. LICENSE HOLDER INFORMATION. A license holder
25 shall keep the department informed of the license holder's current
26 address as provided by commission rule.

27 SECTION 1.217. Section 701.353(a), Occupations Code, is

1 amended to read as follows:

2 (a) A person may not use a seal authorized by the department
3 [~~dietitians board~~] unless the person holds a license issued under
4 this chapter.

5 SECTION 1.218. Section 701.401, Occupations Code, is
6 amended to read as follows:

7 Sec. 701.401. GROUNDS FOR DISCIPLINARY ACTION. The
8 commission or executive director [~~dietitians board~~] shall refuse to
9 renew a license, revoke or suspend a license, place on probation a
10 person whose license has been suspended, or reprimand a license
11 holder for a violation of this chapter, ~~or~~ a rule or code of
12 ethics adopted under this chapter, or an order of [~~by~~] the
13 commission or executive director [~~board~~].

14 SECTION 1.219. Section 701.403, Occupations Code, is
15 amended to read as follows:

16 Sec. 701.403. SANCTIONS. The State Office of
17 Administrative Hearings shall use the schedule of sanctions adopted
18 by the commission by [~~dietitians board~~] rule for a sanction imposed
19 as the result of a hearing conducted by the office.

20 SECTION 1.220. Section 701.502(a), Occupations Code, is
21 amended to read as follows:

22 (a) The amount of an [~~the~~] administrative penalty imposed
23 for a violation of this chapter or a rule adopted or order issued
24 under this chapter may not be less than \$50 or more than \$5,000 for
25 each violation. Each day a violation continues or occurs is a
26 separate violation for the purpose of imposing a penalty.

27 SECTION 1.221. Section 701.512, Occupations Code, is

1 amended to read as follows:

2 Sec. 701.512. REFUND. (a) Subject to Subsection (b), the
3 commission or executive director [~~dietitians board~~] may order a
4 license holder to pay a refund to a consumer as provided in an
5 agreement resulting from an informal settlement conference instead
6 of or in addition to imposing an administrative penalty under this
7 chapter.

8 (b) The amount of a refund ordered as provided in an
9 agreement resulting from an informal settlement conference may not
10 exceed the amount the consumer paid to the license holder for a
11 service regulated by this chapter. The commission or executive
12 director [~~board~~] may not require payment of other damages or
13 estimate harm in a refund order.

14 SECTION 1.222. The following provisions of the Occupations
15 Code, including provisions amended by S.B. 219, Acts of the 84th
16 Legislature, Regular Session, 2015, are repealed:

- 17 (1) Section 203.006;
- 18 (2) Section 203.051;
- 19 (3) Section 203.053;
- 20 (4) Section 203.054;
- 21 (5) Section 203.057;
- 22 (6) Section 203.058;
- 23 (7) Section 203.060;
- 24 (8) Subchapter C, Chapter 203;
- 25 (9) Section 203.151(b);
- 26 (10) Section 203.1515;
- 27 (11) Section 203.152(a);

- 1 (12) Sections 203.155(a) and (c);
- 2 (13) Section 203.156;
- 3 (14) Section 203.158;
- 4 (15) Section 203.159;
- 5 (16) Section 203.160;
- 6 (17) Section 203.161;
- 7 (18) Subchapter E, Chapter 203;
- 8 (19) Section 203.255(b);
- 9 (20) Section 203.2556;
- 10 (21) Section 203.302;
- 11 (22) Section 203.303;
- 12 (23) Section 203.405;
- 13 (24) Subchapter J, Chapter 203;
- 14 (25) Section 203.502(c);
- 15 (26) Section 203.505(a);
- 16 (27) Section 401.002;
- 17 (28) Section 401.101;
- 18 (29) Section 401.103;
- 19 (30) Section 401.104;
- 20 (31) Section 401.106;
- 21 (32) Section 401.109;
- 22 (33) Section 401.110;
- 23 (34) Subchapter D, Chapter 401;
- 24 (35) Section 401.201(b);
- 25 (36) Sections 401.203(a) and (b);
- 26 (37) Section 401.204;
- 27 (38) Section 401.205;

- 1 (39) Section 401.206;
- 2 (40) Section 401.207;
- 3 (41) Section 401.252;
- 4 (42) Sections 401.253(b), (c), (d), and (e);
- 5 (43) Sections 401.2535(a), (b), (c), (d), (e), (f),
6 and (g);
- 7 (44) Section 401.254;
- 8 (45) Section 401.306;
- 9 (46) Section 401.307(c);
- 10 (47) Section 401.313;
- 11 (48) Section 401.315;
- 12 (49) Sections 401.352(b) and (c);
- 13 (50) Section 401.353;
- 14 (51) Section 401.354;
- 15 (52) Section 401.405;
- 16 (53) Section 401.451(b);
- 17 (54) Section 401.452;
- 18 (55) Section 401.4531;
- 19 (56) Section 401.454;
- 20 (57) Section 401.455;
- 21 (58) Section 401.456;
- 22 (59) Section 401.457;
- 23 (60) Section 401.458;
- 24 (61) Section 401.459;
- 25 (62) Section 401.460;
- 26 (63) Section 401.502;
- 27 (64) Section 401.5022;

- 1 (65) Section 401.551;
- 2 (66) Section 401.553;
- 3 (67) Section 401.554;
- 4 (68) Section 401.555;
- 5 (69) Section 401.556;
- 6 (70) Section 401.557;
- 7 (71) Section 401.558;
- 8 (72) Section 401.559;
- 9 (73) Section 401.560;
- 10 (74) Section 401.561;
- 11 (75) Section 402.002;
- 12 (76) Section 402.052;
- 13 (77) Section 402.053;
- 14 (78) Section 402.054;
- 15 (79) Section 402.056;
- 16 (80) Section 402.0581;
- 17 (81) Section 402.059;
- 18 (82) Section 402.060;
- 19 (83) Section 402.061;
- 20 (84) Section 402.102;
- 21 (85) Section 402.1022;
- 22 (86) Sections 402.103(a) and (b);
- 23 (87) Section 402.105;
- 24 (88) Section 402.106;
- 25 (89) Section 402.151;
- 26 (90) Section 402.1511;
- 27 (91) Section 402.153;

- 1 (92) Sections 402.154(a), (b), (c), (d), (e), (f), and
2 (g);
- 3 (93) Section 402.205(d);
- 4 (94) Section 402.206;
- 5 (95) Sections 402.209(b) and (g);
- 6 (96) Section 402.257(b);
- 7 (97) Sections 402.301(b), (c), (d), and (e);
- 8 (98) Section 402.303(f);
- 9 (99) Section 402.354;
- 10 (100) Section 402.452;
- 11 (101) Section 402.502;
- 12 (102) Section 402.503;
- 13 (103) Section 402.504;
- 14 (104) Section 402.505;
- 15 (105) Section 402.506;
- 16 (106) Sections 402.551(a) and (c);
- 17 (107) Section 402.552;
- 18 (108) Section 402.5522;
- 19 (109) Section 402.553(b);
- 20 (110) Section 403.002;
- 21 (111) Section 403.053;
- 22 (112) Section 403.109;
- 23 (113) Section 403.201;
- 24 (114) Section 403.205;
- 25 (115) Section 403.206;
- 26 (116) Section 403.208;
- 27 (117) Section 403.210;

- 1 (118) Section 403.211;
- 2 (119) Section 403.252;
- 3 (120) Section 451.051(a);
- 4 (121) Section 451.0511;
- 5 (122) Section 451.0512;
- 6 (123) Section 451.0513;
- 7 (124) Section 451.052;
- 8 (125) Section 451.054;
- 9 (126) Section 451.057;
- 10 (127) Sections 451.101(b) and (c);
- 11 (128) Section 451.1015;
- 12 (129) Section 451.1016;
- 13 (130) Section 451.102;
- 14 (131) Section 451.103;
- 15 (132) Section 451.1035;
- 16 (133) Section 451.104;
- 17 (134) Section 451.105;
- 18 (135) Section 451.106;
- 19 (136) Section 451.108;
- 20 (137) Section 451.109;
- 21 (138) Sections 451.110(a), (b), (c), (d), (e), (f),
22 and (g);
- 23 (139) Section 451.155;
- 24 (140) Section 451.201(b);
- 25 (141) Section 451.202;
- 26 (142) Section 451.203;
- 27 (143) Section 451.204;

- 1 (144) Section 451.2512;
- 2 (145) Section 451.252;
- 3 (146) Section 451.253;
- 4 (147) Section 451.254;
- 5 (148) Section 451.255;
- 6 (149) Sections 451.351(a), (b), (e), (f), (g), (h),
7 (i), (j), (k), and (l);
- 8 (150) Section 451.352;
- 9 (151) Section 605.003;
- 10 (152) Section 605.051;
- 11 (153) Section 605.053;
- 12 (154) Section 605.054;
- 13 (155) Section 605.057;
- 14 (156) Section 605.058;
- 15 (157) Section 605.059(a);
- 16 (158) Section 605.060;
- 17 (159) Section 605.061;
- 18 (160) Subchapter C, Chapter 605;
- 19 (161) Section 605.152;
- 20 (162) Section 605.153;
- 21 (163) Section 605.154;
- 22 (164) Section 605.201;
- 23 (165) Section 605.202;
- 24 (166) Sections 605.2021(a), (b), (c), (d), (e), (f),
25 and (g);
- 26 (167) Section 605.203;
- 27 (168) Section 605.253;

- 1 (169) Section 605.254(b);
- 2 (170) Section 605.255(c);
- 3 (171) Section 605.259(b);
- 4 (172) Section 605.3535;
- 5 (173) Section 605.355;
- 6 (174) Section 605.401;
- 7 (175) Section 605.403;
- 8 (176) Section 605.404;
- 9 (177) Section 605.405;
- 10 (178) Section 605.406;
- 11 (179) Section 605.407;
- 12 (180) Section 605.408;
- 13 (181) Section 605.409;
- 14 (182) Section 605.410;
- 15 (183) Section 605.411;
- 16 (184) Section 701.003;
- 17 (185) Section 701.052;
- 18 (186) Section 701.053;
- 19 (187) Section 701.055;
- 20 (188) Section 701.056;
- 21 (189) Section 701.059;
- 22 (190) Subchapter C, Chapter 701;
- 23 (191) Section 701.152;
- 24 (192) Section 701.153;
- 25 (193) Section 701.1535;
- 26 (194) Section 701.156;
- 27 (195) Section 701.157;

- 1 (196) Section 701.159;
- 2 (197) Section 701.160;
- 3 (198) Section 701.161;
- 4 (199) Section 701.201;
- 5 (200) Section 701.202;
- 6 (201) Section 701.203;
- 7 (202) Section 701.204;
- 8 (203) Sections 701.2041(a), (b), (c), (d), (e), (f),
9 and (g);
- 10 (204) Section 701.205;
- 11 (205) Section 701.206;
- 12 (206) Section 701.256;
- 13 (207) Section 701.261;
- 14 (208) Sections 701.301(b), (c), (d), (e), and (f);
- 15 (209) Section 701.302;
- 16 (210) Section 701.402;
- 17 (211) Section 701.404;
- 18 (212) Section 701.405;
- 19 (213) Section 701.406;
- 20 (214) Section 701.407;
- 21 (215) Section 701.408;
- 22 (216) Section 701.452;
- 23 (217) Section 701.453;
- 24 (218) Section 701.501;
- 25 (219) Section 701.502(c);
- 26 (220) Section 701.503;
- 27 (221) Section 701.504;

- 1 (222) Section 701.505;
- 2 (223) Section 701.506;
- 3 (224) Section 701.507;
- 4 (225) Section 701.508;
- 5 (226) Section 701.509;
- 6 (227) Section 701.510; and
- 7 (228) Section 701.511.

8 PART 2. TRANSFERS DURING BIENNIUM ENDING AUGUST 31, 2019

9 SECTION 1.223. Sections 106.115(a), (b-1), and (b-3),
10 Alcoholic Beverage Code, are amended to read as follows:

11 (a) On the placement of a minor on deferred disposition for
12 an offense under Section 49.02, Penal Code, or under Section
13 106.02, 106.025, 106.04, 106.041, 106.05, or 106.07, the court
14 shall require the defendant to attend an alcohol awareness program
15 approved by the Texas Department of Licensing and Regulation [~~State~~
16 ~~Health Services~~] under this section or a drug and alcohol driving
17 awareness program approved by the Texas Education Agency. On
18 conviction of a minor of an offense under one or more of those
19 sections, the court, in addition to assessing a fine as provided by
20 those sections, shall require a defendant who has not been
21 previously convicted of an offense under one of those sections to
22 attend an alcohol awareness program or a drug and alcohol driving
23 awareness program described by this subsection. If the defendant
24 has been previously convicted once or more of an offense under one
25 or more of those sections, the court may require the defendant to
26 attend an alcohol awareness program or a drug and alcohol driving
27 awareness program described by this subsection. If the defendant

1 is younger than 18 years of age, the court may require the parent or
2 guardian of the defendant to attend the program with the defendant.
3 The Texas Department of Licensing and Regulation or Texas
4 Commission of Licensing and Regulation, as appropriate [~~State~~
5 ~~Health Services~~]:

6 (1) is responsible for the administration of the
7 certification of approved alcohol awareness programs;

8 (2) may charge a nonrefundable application fee for:

9 (A) initial certification of the approval; or

10 (B) renewal of the certification;

11 (3) shall adopt rules regarding alcohol awareness
12 programs approved under this section; and

13 (4) shall monitor, coordinate, and provide training to
14 a person who provides an alcohol awareness program.

15 (b-1) If the defendant resides in a county with a population
16 of 75,000 or less and access to an alcohol awareness program is not
17 readily available in the county, the court may allow the defendant
18 to take an online alcohol awareness program if the Texas Department
19 of Licensing and Regulation [~~State Health Services~~] approves online
20 courses or require the defendant to perform not less than eight
21 hours of community service related to alcohol abuse prevention or
22 treatment and approved by the Texas Department of Licensing and
23 Regulation [~~State Health Services~~] under Subsection (b-3) instead
24 of attending the alcohol awareness program. Community service
25 ordered under this subsection is in addition to community service
26 ordered under Section [106.071\(d\)](#).

27 (b-3) The Texas Department of Licensing and Regulation

1 [~~State Health Services~~] shall create a list of community services
2 related to alcohol abuse prevention or treatment in each county in
3 the state to which a judge may sentence a defendant under Subsection
4 (b-1).

5 SECTION 1.224. Sections 13(h) and (j), Article 42.12, Code
6 of Criminal Procedure, are amended to read as follows:

7 (h) If a person convicted of an offense under Sections
8 49.04-49.08, Penal Code, is placed on community supervision, the
9 judge shall require, as a condition of the community supervision,
10 that the defendant attend and successfully complete before the
11 181st day after the day community supervision is granted an
12 educational program jointly approved by the Texas Department of
13 Licensing and Regulation [~~Commission on Alcohol and Drug Abuse~~],
14 the Department of Public Safety, the Traffic Safety Section of the
15 Texas Department of Transportation, and the community justice
16 assistance division of the Texas Department of Criminal Justice
17 designed to rehabilitate persons who have driven while intoxicated.
18 The Texas Department of Licensing and Regulation [~~Commission on~~
19 ~~Alcohol and Drug Abuse~~] shall publish the jointly approved rules
20 and shall monitor, coordinate, and provide training to persons
21 providing the educational programs. The Texas Department of
22 Licensing and Regulation [~~Commission on Alcohol and Drug Abuse~~] is
23 responsible for the administration of the certification of approved
24 educational programs and may charge a nonrefundable application fee
25 for the initial certification of approval and for renewal of a
26 certificate. The judge may waive the educational program
27 requirement or may grant an extension of time to successfully

1 complete the program that expires not later than one year after the
2 beginning date of the person's community supervision, however, if
3 the defendant by a motion in writing shows good cause. In
4 determining good cause, the judge may consider but is not limited
5 to: the defendant's school and work schedule, the defendant's
6 health, the distance that the defendant must travel to attend an
7 educational program, and the fact that the defendant resides out of
8 state, has no valid driver's license, or does not have access to
9 transportation. The judge shall set out the finding of good cause
10 for waiver in the judgment. If a defendant is required, as a
11 condition of community supervision, to attend an educational
12 program or if the court waives the educational program requirement,
13 the court clerk shall immediately report that fact to the
14 Department of Public Safety, on a form prescribed by the
15 department, for inclusion in the person's driving record. If the
16 court grants an extension of time in which the person may complete
17 the program, the court clerk shall immediately report that fact to
18 the Department of Public Safety on a form prescribed by the
19 department. The report must include the beginning date of the
20 person's community supervision. Upon the person's successful
21 completion of the educational program, the person's instructor
22 shall give notice to the Department of Public Safety for inclusion
23 in the person's driving record and to the community supervision and
24 corrections department. The community supervision and corrections
25 department shall then forward the notice to the court clerk for
26 filing. If the Department of Public Safety does not receive notice
27 that a defendant required to complete an educational program has

1 successfully completed the program within the period required by
2 this section, as shown on department records, the department shall
3 revoke the defendant's driver's license, permit, or privilege or
4 prohibit the person from obtaining a license or permit, as provided
5 by Sections [521.344](#)(e) and (f), Transportation Code. The
6 Department of Public Safety may not reinstate a license suspended
7 under this subsection unless the person whose license was suspended
8 makes application to the department for reinstatement of the
9 person's license and pays to the department a reinstatement fee of
10 \$100. The Department of Public Safety shall remit all fees
11 collected under this subsection to the comptroller for deposit in
12 the general revenue fund. This subsection does not apply to a
13 defendant if a jury recommends community supervision for the
14 defendant and also recommends that the defendant's driver's license
15 not be suspended.

16 (j) The judge shall require a defendant who is punished
17 under Section [49.09](#), Penal Code, as a condition of community
18 supervision, to attend and successfully complete an educational
19 program for repeat offenders approved by the Texas Department of
20 Licensing and Regulation [~~Commission on Alcohol and Drug Abuse~~].
21 The Texas Commission of Licensing and Regulation [~~on Alcohol and~~
22 ~~Drug Abuse~~] shall adopt rules and shall monitor, coordinate, and
23 provide training to persons providing the educational programs.
24 The Texas Department of Licensing and Regulation [~~Commission on~~
25 ~~Alcohol and Drug Abuse~~] is responsible for the administration of
26 the certification of approved educational programs and may charge a
27 nonrefundable application fee for initial certification of

1 approval or for renewal of the certification. The judge may waive
2 the educational program requirement only if the defendant by a
3 motion in writing shows good cause. In determining good cause, the
4 judge may consider the defendant's school and work schedule, the
5 defendant's health, the distance that the defendant must travel to
6 attend an educational program, and whether the defendant resides
7 out of state or does not have access to transportation. The judge
8 shall set out the finding of good cause in the judgment. If a
9 defendant is required, as a condition of community supervision, to
10 attend an educational program, the court clerk shall immediately
11 report that fact to the Department of Public Safety, on a form
12 prescribed by the department, for inclusion in the defendant's
13 driving record. The report must include the beginning date of the
14 defendant's community supervision. On the defendant's successful
15 completion of the educational program for repeat offenders, the
16 defendant's instructor shall give notice to the Department of
17 Public Safety for inclusion in the defendant's driving record and
18 to the community supervision and corrections department. The
19 community supervision and corrections department shall then
20 forward the notice to the court clerk for filing. If the Department
21 of Public Safety does not receive notice that a defendant required
22 to complete an educational program has successfully completed the
23 program for repeat offenders within the period required by the
24 judge, as shown on department records, the department shall revoke
25 the defendant's driver's license, permit, or privilege or prohibit
26 the defendant from obtaining a license or permit, as provided by
27 Sections [521.344](#)(e) and (f), Transportation Code.

1 SECTION 1.225. Section 401.501, Health and Safety Code, as
2 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
3 2015, is amended by amending Subdivision (1) and adding
4 Subdivisions (1-a) and (2) to read as follows:

5 (1) "Commission" means the Texas Commission of
6 Licensing and Regulation.

7 (1-a) "Department" means the Texas Department of
8 Licensing and Regulation [~~State Health Services~~].

9 (2) "Executive director" means the executive director
10 of the department.

11 SECTION 1.226. Subchapter M, Chapter 401, Health and Safety
12 Code, is amended by adding Section 401.5011 to read as follows:

13 Sec. 401.5011. GENERAL POWERS AND DUTIES. The executive
14 director shall administer and enforce this chapter.

15 SECTION 1.227. Section 401.502, Health and Safety Code, is
16 amended to read as follows:

17 Sec. 401.502. EXAMINATION. The commission [~~executive~~
18 ~~commissioner~~] may adopt rules to govern the development and
19 administration of an examination for an applicant under this
20 subchapter.

21 SECTION 1.228. Section 401.503, Health and Safety Code, is
22 amended to read as follows:

23 Sec. 401.503. APPLICATION PROCESS. (a) An application for
24 a certificate or license under this subchapter must be submitted in
25 the manner and [~~made~~] on a form prescribed [~~and provided~~] by the
26 executive director [~~department~~].

27 (b) The application must require an applicant to provide

1 sworn statements relating to the applicant's education and to
2 provide other information required by the commission [~~department~~].

3 SECTION 1.229. Section 401.505(a), Health and Safety Code,
4 is amended to read as follows:

5 (a) An applicant for a laser hair removal professional
6 certificate must:

7 (1) be certified by a recognized certifying agency,
8 including the Society for Clinical and Medical Hair Removal or
9 another certification entity approved by the department;

10 (2) meet the requirements for a senior laser hair
11 removal technician certificate under Section 401.506; and

12 (3) pass an examination required [~~administered~~] by the
13 department.

14 SECTION 1.230. The heading to Section 401.512, Health and
15 Safety Code, is amended to read as follows:

16 Sec. 401.512. TERM [~~RENEWAL~~] OF CERTIFICATE OR LICENSE.

17 SECTION 1.231. Section 401.512(a), Health and Safety Code,
18 is amended to read as follows:

19 (a) A certificate or license expires on the second
20 anniversary of the date of issuance and may be renewed.

21 SECTION 1.232. Section 401.515(b), Health and Safety Code,
22 is amended to read as follows:

23 (b) The commission [~~executive commissioner~~] shall adopt
24 rules relating to the customer notice.

25 SECTION 1.233. Sections 401.516(a) and (b), Health and
26 Safety Code, are amended to read as follows:

27 (a) A laser hair removal facility shall post a warning sign

1 as prescribed by the commission [~~department~~] in a conspicuous
2 location readily visible to a person entering the facility. The
3 sign must provide a toll-free telephone number and e-mail address
4 for the department and inform the customer that the customer may
5 contact [~~call~~] the department.

6 (b) The commission [~~executive commissioner~~] shall adopt
7 rules specifying the size, content, and design of the sign, with
8 wording listing the potential dangers involved.

9 SECTION 1.234. Section 401.518(a), Health and Safety Code,
10 is amended to read as follows:

11 (a) A laser hair removal facility operator is responsible
12 for maintaining the laser hair removal facility's compliance with
13 the requirements of this subchapter and commission [~~department~~]
14 rules relating to laser and pulsed light devices.

15 SECTION 1.235. Section 401.519(b), Health and Safety Code,
16 is amended to read as follows:

17 (b) Under the rules of the commission [~~department~~], a laser
18 hair removal facility must document with the department the
19 facility's contractual relationship with the consulting physician.

20 SECTION 1.236. Section 401.521(b), Health and Safety Code,
21 is amended to read as follows:

22 (b) A person who violates Subsection (a) is practicing
23 medicine in violation of Subtitle B, Title 3, Occupations Code, and
24 is subject to the penalties under that subtitle and Subchapter F,
25 Chapter 51, Occupations Code [~~under Section 401.522~~].

26 SECTION 1.237. The heading to Section 401.522, Health and
27 Safety Code, is amended to read as follows:

1 Sec. 401.522. AMOUNT OF ADMINISTRATIVE PENALTY
2 ~~[ENFORCEMENT; PENALTIES]~~.

3 SECTION 1.238. Section 401.522(a), Health and Safety Code,
4 is amended to read as follows:

5 (a) The amount of ~~[department may impose]~~ an administrative
6 penalty imposed for a violation of this subchapter or a rule adopted
7 or order issued ~~[on a person who violates this subchapter or a rule~~
8 ~~adopted]~~ under this subchapter ~~[. The amount of the penalty]~~ may
9 not exceed \$5,000 for each violation.

10 SECTION 1.239. Section 455.001, Occupations Code, is
11 amended by amending Subdivisions (1) and (2) and adding Subdivision
12 (1-a) to read as follows:

13 (1) "Commission" means the Texas Commission of
14 Licensing and Regulation.

15 (1-a) "Department" means the Texas Department of
16 Licensing and Regulation ~~[State Health Services]~~.

17 (2) "Executive director" ~~[commissioner]~~ means the
18 executive director ~~[commissioner]~~ of the department ~~[Health and~~
19 ~~Human Services Commission]~~.

20 SECTION 1.240. The heading to Subchapter B, Chapter 455,
21 Occupations Code, is amended to read as follows:

22 SUBCHAPTER B. POWERS AND DUTIES ~~[OF EXECUTIVE COMMISSIONER]~~

23 SECTION 1.241. Section 455.053, Occupations Code, is
24 amended to read as follows:

25 Sec. 455.053. RULES REGARDING MASSAGE SCHOOLS. Rules
26 adopted under this chapter relating to a massage school must
27 contain minimum standards for:

- 1 (1) the issuance, denial, renewal, suspension,
2 revocation, or probation of a license under this chapter;
- 3 (2) the qualifications of professional personnel;
- 4 (3) the supervision of professional personnel;
- 5 (4) the equipment essential to the education, health,
6 and safety of students, massage school personnel, and the public;
- 7 (5) the sanitary and hygienic conditions of a massage
8 school;
- 9 (6) the provision of massage therapy or other massage
10 services by a massage school or student;
- 11 (7) the maximum number of hours a student may
12 accumulate in a massage school's internship program before the
13 student is required to be licensed under this chapter;
- 14 (8) the educational and clinical records kept by a
15 massage school;
- 16 (9) the organizational structure of a massage school,
17 including the lines of authority and the delegation of
18 responsibility;
- 19 (10) fire prevention and safety in a massage school;
- 20 (11) the massage school's curriculum and educational
21 material;
- 22 (12) massage school inspections; and
- 23 (13) any other aspect of the operation of a massage
24 school that the commission [~~executive commissioner~~] considers
25 necessary to protect students, massage school personnel, or the
26 public.

27 SECTION 1.242. The heading to Subchapter C, Chapter 455,

1 Occupations Code, is amended to read as follows:

2 SUBCHAPTER C. POWERS AND DUTIES [~~OF DEPARTMENT~~]

3 SECTION 1.243. Section 455.101, Occupations Code, is
4 amended to read as follows:

5 Sec. 455.101. GENERAL POWERS AND DUTIES [~~OF DEPARTMENT~~].

6 (a) The executive director [~~department~~] shall~~+~~

7 [~~(1)~~] administer and enforce this chapter.

8 (b) The department shall:

9 (1) ~~+~~

10 [~~(2)~~] investigate a person who may be engaging in a
11 practice that violates this chapter;

12 (2) [~~(3)~~] regulate the number and content of school
13 hours provided by a massage school or a massage therapy instructor;
14 and

15 (3) [~~(4)~~] prepare and administer a state examination
16 under this chapter.

17 SECTION 1.244. Section 455.103, Occupations Code, as
18 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
19 2015, is amended to read as follows:

20 Sec. 455.103. MEMORANDUM OF UNDERSTANDING REGARDING
21 MASSAGE SCHOOLS. (a) The commission [~~department~~] may enter into a
22 memorandum of understanding with the Texas Education Agency to
23 regulate massage schools.

24 (b) A memorandum must:

25 (1) be adopted by the commission [~~executive~~
26 ~~commissioner~~] by rule; and

27 (2) limit the total amount of the fees charged by the

1 department and the Texas Education Agency for licensing a massage
2 school to an amount equal to the amount of the fees the department
3 would charge for licensing the massage school in the absence of the
4 memorandum.

5 SECTION 1.245. Section 455.151(d), Occupations Code, as
6 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
7 2015, is amended to read as follows:

8 (d) The department may issue one or more types of licenses
9 not otherwise provided for by this chapter that authorize the
10 license holder to perform a service described by Subsection (c).
11 The commission [~~executive commissioner~~] may adopt rules governing a
12 license issued under this subsection.

13 SECTION 1.246. Section 455.153, Occupations Code, as
14 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
15 2015, 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 [~~provided~~] by the executive director [~~department~~]; and

20 (2) include with the application the application fee
21 set by the commission [~~executive commissioner~~] by rule.

22 SECTION 1.247. Sections 455.1572(c) and (e), Occupations
23 Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular
24 Session, 2015, are amended to read as follows:

25 (c) A provisional license is valid until the date the
26 department approves or denies the provisional license holder's
27 application for licensing. The department shall issue a license

1 under this chapter to the provisionally licensed person if the
2 person:

3 (1) is eligible for a license under Section 51.404
4 [~~455.1571~~]; or

5 (2) passes the part of the examination under Section
6 455.101 that relates to the applicant's knowledge and understanding
7 of the laws and rules relating to the practice of massage therapy in
8 this state and:

9 (A) the department verifies that the person meets
10 the academic and experience requirements for licensing under this
11 chapter; and

12 (B) the person satisfies any other licensing
13 requirements under this chapter.

14 (e) The commission [~~executive commissioner~~] by rule may
15 establish a fee for a provisional license.

16 SECTION 1.248. The heading to Section 455.160, Occupations
17 Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular
18 Session, 2015, is amended to read as follows:

19 Sec. 455.160. LICENSE TERM AND RENEWAL.

20 SECTION 1.249. Section 455.160(a), Occupations Code, as
21 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
22 2015, is amended to read as follows:

23 (a) A license issued under this chapter is valid for two
24 years. A license holder must renew the license biennially. [~~The
25 license expires unless the license holder submits an application
26 for renewal accompanied by the renewal fee prescribed by the
27 executive commissioner by rule or by the late fee prescribed by this~~

1 ~~section.]~~

2 SECTION 1.250. Sections 455.203(a) and (b), Occupations
3 Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular
4 Session, 2015, are amended to read as follows:

5 (a) A massage school must meet the minimum standards of
6 operation established by commission [~~department~~] rule.

7 (b) An instructor must meet the minimum requirements
8 established by commission [~~department~~] rule.

9 SECTION 1.251. Section 455.251, Occupations Code, as
10 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
11 2015, is amended to read as follows:

12 Sec. 455.251. GROUNDS FOR LICENSE DENIAL OR DISCIPLINARY
13 ACTION. (a) The commission or executive director [~~department~~] may
14 refuse to issue a license to a person and shall suspend, revoke, or
15 refuse to renew the license of a person or shall reprimand a person
16 licensed under this chapter if the person:

17 (1) obtains a license by fraud, misrepresentation, or
18 concealment of material facts;

19 (2) sells, barter, or offers to sell or barter a
20 license;

21 (3) violates a rule adopted by the commission
22 [~~executive commissioner~~] under this chapter;

23 (4) engages in unprofessional conduct as defined by
24 commission [~~department~~] rule that endangers or is likely to
25 endanger the health, welfare, or safety of the public;

26 (5) violates an order or ordinance adopted by a
27 political subdivision under Chapter 243, Local Government Code; or

1 (6) violates this chapter.

2 (b) The commission or executive director [~~department~~] shall
3 revoke the license of a person licensed as a massage therapist or
4 massage therapy instructor if:

5 (1) the person is convicted of, enters a plea of nolo
6 contendere or guilty to, or receives deferred adjudication for an
7 offense involving prostitution or another sexual offense; or

8 (2) the commission or executive director [~~department~~]
9 determines the person has practiced or administered massage therapy
10 at or for a sexually oriented business.

11 (c) The commission or executive director [~~department~~] shall
12 revoke the license of a person licensed as a massage school or
13 massage establishment if the commission or executive director
14 [~~department~~] determines that:

15 (1) the school or establishment is a sexually oriented
16 business; or

17 (2) an offense involving prostitution or another
18 sexual offense that resulted in a conviction for the offense, a plea
19 of nolo contendere or guilty to the offense, or a grant of deferred
20 adjudication for the offense occurred on the premises of the school
21 or establishment.

22 SECTION 1.252. The heading to Section 455.302, Occupations
23 Code, is amended to read as follows:

24 Sec. 455.302. AMOUNT OF ADMINISTRATIVE PENALTY.

25 SECTION 1.253. Section 455.302(a), Occupations Code, is
26 amended to read as follows:

27 (a) The amount of an administrative penalty imposed for a

1 violation of this chapter or a rule adopted or order issued under
2 this chapter may not exceed \$1,000 for each violation. Each day a
3 violation continues or occurs is a separate violation for purposes
4 of imposing a penalty.

5 SECTION 1.254. Section 1952.001, Occupations Code, as
6 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
7 2015, is amended by adding Subdivision (2-a) and amending
8 Subdivisions (3) and (4) to read as follows:

9 (2-a) "Commission" means the Texas Commission of
10 Licensing and Regulation.

11 (3) "Department" means the Texas Department of
12 Licensing and Regulation [~~State Health Services~~].

13 (4) "Executive director [~~commissioner~~]" means the
14 executive director [~~commissioner~~] of the department [~~Health and~~
15 ~~Human Services Commission~~].

16 SECTION 1.255. The heading to Subchapter B, Chapter 1952,
17 Occupations Code, as amended by S.B. 219, Acts of the 84th
18 Legislature, Regular Session, 2015, is amended to read as follows:

19 SUBCHAPTER B. POWERS AND DUTIES [~~OF EXECUTIVE COMMISSIONER AND~~
20 ~~DEPARTMENT~~]

21 SECTION 1.256. Section 1952.051, Occupations Code, as
22 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
23 2015, is amended to read as follows:

24 Sec. 1952.051. GENERAL POWERS AND DUTIES [~~RULES~~]. (a) The
25 executive director shall administer and enforce this chapter.

26 (b) The commission [~~executive commissioner~~] by rule shall [+
27 [~~1~~] adopt standards and education requirements

1 consistent with those established under Chapter 654, Government
2 Code, for the registration of:

- 3 (1) ~~[(A)]~~ code enforcement officers; and
4 (2) ~~[(B)]~~ code enforcement officers in training~~[, and~~
5 ~~[(2) prescribe application forms for original and~~
6 ~~renewal certificates of registration]~~.

7 SECTION 1.257. Section 1952.053(b), Occupations Code, as
8 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
9 2015, is amended to read as follows:

10 (b) The register must include:

- 11 (1) the name, residence, date of birth, and social
12 security number of the applicant;
13 (2) the name and address of the employer or business of
14 the applicant;
15 (3) the date of the application;
16 (4) the education and experience qualifications of the
17 applicant;
18 (5) the action taken by the department regarding the
19 application and the date of the action;
20 (6) the serial number of any certificate of
21 registration issued to the applicant; and
22 (7) any other information required by commission
23 ~~[department]~~ rule.

24 SECTION 1.258. Subchapter B, Chapter 1952, Occupations
25 Code, is amended by adding Section 1952.055 to read as follows:

26 Sec. 1952.055. ADVISORY COMMITTEE. The department may
27 establish an advisory committee to provide advice and

1 recommendations to the department on technical matters relevant to
2 the administration of this chapter.

3 SECTION 1.259. Section 1952.102, Occupations Code, as
4 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
5 2015, is amended to read as follows:

6 Sec. 1952.102. ELIGIBILITY TO REGISTER AS CODE ENFORCEMENT
7 OFFICER. To be eligible to receive a certificate of registration as
8 a code enforcement officer, a person must:

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

11 (2) have at least one year of full-time experience in
12 the field of code enforcement;

13 (3) ~~(2)~~ pass the examination required ~~[conducted]~~
14 ~~by the department [or the department's designee];~~

15 (4) ~~(3)~~ pay the application, examination, and
16 registration fees; and

17 (5) ~~(4)~~ meet any other requirements prescribed by
18 this chapter or by commission ~~[department]~~ rule.

19 SECTION 1.260. Section 1952.103(a), Occupations Code, is
20 amended to read as follows:

21 (a) An applicant for a certificate of registration under
22 this chapter who has less than one year of full-time experience in
23 code enforcement is entitled to receive a certificate of
24 registration as a code enforcement officer in training on:

25 (1) passing the examination described by Section
26 1952.102(3) ~~[1952.102(2)]~~; ~~[and]~~

27 (2) paying the required fees; and

1 (3) meeting any other requirement prescribed by this
2 chapter or by commission rule.

3 SECTION 1.261. The heading to Section 1952.105, Occupations
4 Code, is amended to read as follows:

5 Sec. 1952.105. TERM [~~RENEWAL OR REINSTATEMENT~~] OF
6 CERTIFICATE; RENEWAL.

7 SECTION 1.262. Section 1952.105(a), Occupations Code, as
8 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
9 2015, is amended to read as follows:

10 (a) A certificate of registration issued under this chapter
11 expires on the second anniversary of the date of issuance and may be
12 renewed biennially on payment of the required renewal fee and on
13 completion of the continuing education requirements prescribed by
14 commission [~~department~~] rule.

15 SECTION 1.263. Section 1952.1051, Occupations Code, as
16 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
17 2015, is amended to read as follows:

18 Sec. 1952.1051. CONTINUING EDUCATION. The commission
19 [~~executive commissioner~~] by rule shall prescribe continuing
20 education requirements for code enforcement officers and code
21 enforcement officers in training that:

22 (1) establish the number of hours of continuing
23 education required for renewal of a certificate of registration;

24 (2) establish an approved curriculum that includes
25 material regarding changes in applicable law; and

26 (3) provide that the approved curriculum may be taught
27 by suitable public agencies and by private entities approved by the

1 department.

2 SECTION 1.264. Section 1952.151, Occupations Code, is
3 amended to read as follows:

4 Sec. 1952.151. DENIAL OF CERTIFICATE; DISCIPLINARY ACTION.

5 (a) The commission or executive director [~~department~~] may deny a
6 person's application for a certificate of registration if the
7 person's certificate or license to engage in code enforcement or a
8 related profession has been revoked by another licensing entity in
9 this state or another state for:

- 10 (1) unprofessional conduct;
- 11 (2) fraud, deceit, or negligence; or
- 12 (3) misconduct in the practice of code enforcement or
13 a related profession.

14 (b) The commission or executive director [~~department~~] shall
15 suspend or revoke a certificate of registration issued under this
16 chapter if the commission or executive director [~~department~~]
17 determines that the certificate holder:

- 18 (1) engaged in fraud or deceit in obtaining a
19 certificate; or
- 20 (2) is grossly negligent, incompetent, or guilty of
21 misconduct in the practice of code enforcement.

22 SECTION 1.265. Section 1952.252(a), Occupations Code, is
23 amended to read as follows:

24 (a) The amount of an [~~the~~] administrative penalty imposed
25 for a violation of this chapter or a rule adopted or order issued
26 under this chapter may not be less than \$50 or more than \$5,000 for
27 each violation. Each day a violation continues or occurs is a

1 separate violation for the purpose of imposing a penalty.

2 SECTION 1.266. Section 1953.001, Occupations Code, as
3 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
4 2015, is amended by amending Subdivisions (1) and (2) and adding
5 Subdivision (1-a) to read as follows:

6 (1) "Commission" means the Texas Commission of
7 Licensing and Regulation.

8 (1-a) "Department" means the Texas Department of
9 Licensing and Regulation [~~State Health Services~~].

10 (2) "Executive director [commissioner]" means the
11 executive director [commissioner] of the department [~~Health and~~
12 ~~Human Services Commission~~].

13 SECTION 1.267. The heading to Subchapter B, Chapter 1953,
14 Occupations Code, as amended by S.B. 219, Acts of the 84th
15 Legislature, Regular Session, 2015, is amended to read as follows:

16 SUBCHAPTER B. POWERS AND DUTIES [~~OF EXECUTIVE COMMISSIONER AND~~
17 ~~DEPARTMENT~~]

18 SECTION 1.268. Section 1953.051, Occupations Code, as
19 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
20 2015, is amended to read as follows:

21 Sec. 1953.051. GENERAL POWERS AND DUTIES [~~OF DEPARTMENT~~].

22 (a) The executive director shall administer and enforce this
23 chapter.

24 (b) The department shall:

- 25 (1) administer continuing education requirements; and
26 (2) prescribe necessary forms.

27 SECTION 1.269. Subchapter B, Chapter 1953, Occupations

1 Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular
2 Session, 2015, is amended by adding Section 1953.0512 to read as
3 follows:

4 Sec. 1953.0512. ADVISORY COMMITTEE. The department may
5 establish an advisory committee to provide advice and
6 recommendations to the department on technical matters relevant to
7 the administration of this chapter.

8 SECTION 1.270. Section 1953.102, Occupations Code, as
9 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
10 2015, is amended to read as follows:

11 Sec. 1953.102. ELIGIBILITY REQUIREMENTS. (a) To be
12 eligible to receive a certificate of registration as a professional
13 sanitarian, a person must:

14 (1) hold at least a bachelor's degree from an
15 accredited college or university that includes at least 30 semester
16 hours in basic or applied science;

17 (2) complete any additional training in the basic
18 sciences or public health the department [~~executive commissioner~~]
19 determines necessary to effectively serve as a professional
20 sanitarian; and

21 (3) have at least two years of full-time experience in
22 sanitation.

23 (b) The commission [~~executive commissioner~~] by rule may
24 establish other qualifications for registration.

25 SECTION 1.271. Section 1953.104(a), Occupations Code, as
26 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
27 2015, is amended to read as follows:

1 (a) The department shall issue a certificate of
2 registration as a professional sanitarian to a person who:

3 (1) applies in the manner and on the form prescribed by
4 the executive director [~~department~~];

5 (2) pays the registration fee set by the commission
6 [~~executive commissioner~~] by rule;

7 (3) meets the eligibility requirements prescribed by
8 Section [1953.102](#); and

9 (4) passes an examination under Subchapter D.

10 SECTION 1.272. Section [1953.105\(a\)](#), Occupations Code, as
11 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
12 2015, is amended to read as follows:

13 (a) The department shall issue a certificate of
14 registration as a sanitarian in training to a person who:

15 (1) is employed in sanitation;

16 (2) meets the eligibility requirements prescribed by
17 Section [1953.102](#), other than the requirements relating to
18 experience;

19 (3) pays a registration fee prescribed by the
20 commission [~~executive commissioner~~] by rule for a sanitarian in
21 training; and

22 (4) passes an examination under Subchapter D.

23 SECTION 1.273. The heading to Section [1953.106](#), Occupations
24 Code, is amended to read as follows:

25 Sec. 1953.106. RENEWAL [~~OR REINSTATEMENT~~] OF CERTIFICATE.

26 SECTION 1.274. Section [1953.106\(a\)](#), Occupations Code, as
27 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,

1 2015, is amended to read as follows:

2 (a) To renew a certificate of registration under this
3 chapter, a professional sanitarian must:

4 (1) pay to the department a renewal fee prescribed by
5 the commission [~~executive commissioner~~] by rule; and

6 (2) provide proof of completion of continuing
7 education requirements [~~contact hours as~~] prescribed by the
8 commission by rule [~~executive commissioner~~].

9 SECTION 1.275. Section 1953.151(b), Occupations Code, as
10 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
11 2015, is amended to read as follows:

12 (b) An applicant for a certificate of registration may not
13 take the examination unless the applicant pays the examination fee
14 prescribed by the commission [~~executive commissioner~~] by rule.

15 SECTION 1.276. Section 1953.201, Occupations Code, as
16 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
17 2015, is amended to read as follows:

18 Sec. 1953.201. DENIAL OF CERTIFICATE; DISCIPLINARY ACTION.

19 (a) The commission or executive director [~~department~~] may deny a
20 person's application for a certificate of registration if:

21 (1) the person's certificate or license to engage in a
22 profession in this state or elsewhere has been revoked for
23 unprofessional conduct, fraud, deceit, negligence, or misconduct
24 in the practice of the profession; or

25 (2) satisfactory proof is presented to the commission
26 or executive director [~~department~~] establishing that the person has
27 been found guilty of unprofessional conduct, fraud, deceit,

1 negligence, or misconduct in the practice of a profession.

2 (b) The commission or executive director [~~department~~] may
3 suspend or revoke a certificate of registration if the certificate
4 holder:

5 (1) practiced fraud or deceit in obtaining the
6 certificate; or

7 (2) acted in a manner constituting gross negligence,
8 incompetency, or misconduct in the practice of sanitation.

9 SECTION 1.277. Section 1953.302(a), Occupations Code, is
10 amended to read as follows:

11 (a) The amount of an [~~the~~] administrative penalty imposed
12 for a violation of this chapter or a rule adopted or order issued
13 under this chapter may not be less than \$50 or more than \$5,000 for
14 each violation. Each day a violation continues or occurs is a
15 separate violation for the purpose of imposing a penalty.

16 SECTION 1.278. Section 1958.001, Occupations Code, as
17 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
18 2015, is amended by amending Subdivisions (1) and (2) and adding
19 Subdivision (1-a) to read as follows:

20 (1) "Commission" means the Texas Commission of
21 Licensing and Regulation.

22 (1-a) "Department" means the Texas Department of
23 Licensing and Regulation [~~State Health Services~~].

24 (2) "Executive director [~~commissioner~~]" means the
25 executive director [~~commissioner~~] of the department [~~Health and~~
26 ~~Human Services Commission~~].

27 SECTION 1.279. Section 1958.051, Occupations Code, is

1 amended to read as follows:

2 Sec. 1958.051. GENERAL POWERS AND DUTIES [~~OF DEPARTMENT,~~
3 ~~SCOPE OF AUTHORITY~~]. The executive director [~~department~~] shall
4 administer and enforce this chapter to protect the public from the
5 adverse health effects of mold.

6 SECTION 1.280. Section 1958.054, Occupations Code, as
7 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
8 2015, is amended to read as follows:

9 Sec. 1958.054. RULES REGARDING PERFORMANCE STANDARDS AND
10 WORK PRACTICES. The commission [~~executive commissioner~~] by rule
11 shall establish minimum performance standards and work practices
12 for conducting a mold assessment or mold remediation in this state.

13 SECTION 1.281. Section 1958.056(b), Occupations Code, as
14 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
15 2015, is amended to read as follows:

16 (b) The commission [~~executive commissioner~~] shall adopt
17 rules regarding compliance investigations.

18 SECTION 1.282. Section 1958.058, Occupations Code, as
19 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
20 2015, is amended to read as follows:

21 Sec. 1958.058. SAFETY STANDARDS. The commission [~~executive~~
22 ~~commissioner~~] by rule may develop and establish mold safety
23 standards for license holders if appropriate scientific
24 information exists regarding the effect of mold.

25 SECTION 1.283. Section 1958.059, Occupations Code, as
26 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
27 2015, is amended to read as follows:

1 Sec. 1958.059. CODE OF ETHICS. The commission [~~executive~~
2 ~~commissioner~~] by rule shall adopt a code of ethics for license
3 holders that promotes the education of mold assessors and mold
4 remediators concerning the ethical, legal, and business principles
5 that should govern their conduct.

6 SECTION 1.284. Section 1958.101(b), Occupations Code, as
7 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
8 2015, is amended to read as follows:

9 (b) The commission [~~executive commissioner~~] shall adopt
10 rules regarding:

11 (1) the scope of mold-related work for which a license
12 is required, including the supervision of employees or other
13 persons by license holders; and

14 (2) renewal requirements for a license issued under
15 this chapter.

16 SECTION 1.285. Section 1958.103, Occupations Code, as
17 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
18 2015, is amended to read as follows:

19 Sec. 1958.103. REGISTRATION REQUIREMENTS FOR EMPLOYEES.
20 The commission [~~executive commissioner~~] may adopt rules to require
21 the registration of employees supervised by license holders.

22 SECTION 1.286. Section 1958.104, Occupations Code, as
23 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
24 2015, is amended to read as follows:

25 Sec. 1958.104. RULES REGARDING LICENSE APPLICATION. The
26 commission [~~executive commissioner~~] shall adopt rules regarding a
27 license application. The commission [~~executive commissioner~~]

1 shall adopt rules that establish minimum requirements for a
2 license, including:

- 3 (1) the type of license;
- 4 (2) the qualifications for the license, including any
5 previous training required under Section 1958.106;
- 6 (3) renewal requirements for the license, including
7 ongoing continuing education required under Section 1958.106; and
- 8 (4) liability insurance requirements for the license.

9 SECTION 1.287. Section 1958.106(a), Occupations Code, as
10 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
11 2015, is amended to read as follows:

12 (a) The commission [~~executive commissioner~~] shall adopt
13 rules regarding training required under this chapter and continuing
14 education required for a license holder under this chapter.

15 SECTION 1.288. Section 1958.153(c), Occupations Code, as
16 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
17 2015, is amended to read as follows:

18 (c) The commission [~~executive commissioner~~] shall adopt
19 rules to implement this section, including rules:

- 20 (1) describing the information that must be provided
21 in the notice; and
- 22 (2) authorizing verbal notification to the department
23 in an emergency.

24 SECTION 1.289. Section 1958.154(c), Occupations Code, as
25 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
26 2015, is amended to read as follows:

27 (c) The commission [~~executive commissioner~~] shall adopt

1 rules to implement this section, other than rules described by
2 Subsection (d).

3 SECTION 1.290. Section 1958.155(c), Occupations Code, as
4 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
5 2015, is amended to read as follows:

6 (c) A license holder who is not an individual shall disclose
7 to the department the name, address, and occupation of each person
8 that has an ownership interest in the license holder. The license
9 holder shall report any changes in ownership to the department. The
10 commission [~~executive commissioner~~] shall adopt rules to implement
11 this section, including rules regarding the form of the disclosure
12 and the time required to make disclosures or to report a change in
13 ownership.

14 SECTION 1.291. Section 1958.201, Occupations Code, is
15 amended to read as follows:

16 Sec. 1958.201. DISCIPLINARY ACTION. If a license holder
17 violates this chapter or an order or rule adopted under this
18 chapter, the commission or executive director [~~department~~], after
19 providing the person with notice and an opportunity for a hearing,
20 shall take one or more of the following actions:

- 21 (1) revoke, suspend, or refuse to renew the license;
- 22 (2) impose an administrative penalty;
- 23 (3) bring an action to collect a civil penalty; or
- 24 (4) reprimand the person.

25 SECTION 1.292. Section 1958.252, Occupations Code, as
26 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
27 2015, is amended to read as follows:

1 Sec. 1958.252. AMOUNT OF PENALTY. (a) The amount of an
2 administrative penalty imposed for a violation of this chapter or a
3 rule adopted or order issued under this chapter may not exceed
4 \$5,000 for each violation. Each day a violation continues under
5 Section 1958.101 or 1958.155 may be considered a separate violation
6 for purposes of imposing a penalty.

7 (b) The amount shall be based on [~~In determining the amount~~
8 ~~of the penalty, the department shall consider~~]:

9 (1) whether the violation was committed knowingly,
10 intentionally, or fraudulently;

11 (2) the seriousness of the violation;

12 (3) any hazard created to the health and safety of the
13 public;

14 (4) the person's history of previous violations; and

15 (5) any other matter that justice may require.

16 SECTION 1.293. Section 1958.253(a), Occupations Code, as
17 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
18 2015, is amended to read as follows:

19 (a) The commission or executive director [~~department~~] may
20 choose not to impose an administrative penalty under this
21 subchapter if, not later than the 10th day after the date of written
22 notice of the violation [~~under Section 1958.254~~], the person
23 provides conclusive evidence that the circumstances giving rise to
24 the violation have been corrected and all actual damages are paid.

25 SECTION 1.294. Section 521.374(a), Transportation Code, is
26 amended to read as follows:

27 (a) A person whose license is suspended under Section

1 521.372 may attend an educational program, approved by the Texas
2 Department of Licensing and Regulation [~~Commission on Alcohol and~~
3 ~~Drug Abuse~~] under rules adopted by the Texas Commission of
4 Licensing and Regulation [~~commission~~] and the department, that is
5 designed to educate persons on the dangers of drug abuse.

6 SECTION 1.295. Section 521.375, Transportation Code, is
7 amended to read as follows:

8 Sec. 521.375. JOINT ADOPTION OF RULES. (a) The Texas
9 Commission of Licensing and Regulation [~~on Alcohol and Drug Abuse~~]
10 and the department shall jointly adopt rules for the qualification
11 and approval of providers of educational programs under Section
12 521.374.

13 (b) The Texas Department of Licensing and Regulation
14 [~~Commission on Alcohol and Drug Abuse~~] shall publish the jointly
15 adopted rules.

16 SECTION 1.296. Section 521.376, Transportation Code, is
17 amended to read as follows:

18 Sec. 521.376. DUTIES OF TEXAS DEPARTMENT OF LICENSING AND
19 REGULATION [~~COMMISSION ON ALCOHOL AND DRUG ABUSE~~]; APPLICATION AND
20 RENEWAL FEES. The Texas Department of Licensing and Regulation
21 [~~Commission on Alcohol and Drug Abuse~~]:

22 (1) shall monitor, coordinate, and provide training to
23 persons who provide educational programs under Section 521.374;

24 (2) shall administer the approval of those educational
25 programs; and

26 (3) may charge a nonrefundable application fee for:

27 (A) initial certification of approval; and

1 (B) renewal of the certification.

2 SECTION 1.297. The following provisions of the Health and
3 Safety Code are repealed:

- 4 (1) Section 401.509;
- 5 (2) Section 401.511;
- 6 (3) Sections 401.512(b) and (c); and
- 7 (4) Sections 401.522(b) and (c).

8 SECTION 1.298. The following provisions of the Occupations
9 Code, including provisions amended by S.B. 219, Acts of the 84th
10 Legislature, Regular Session, 2015, are repealed:

- 11 (1) Section 455.051;
- 12 (2) Section 455.056;
- 13 (3) Section 455.057;
- 14 (4) Section 455.058;
- 15 (5) Section 455.1565;
- 16 (6) Section 455.1571;
- 17 (7) Sections 455.160(b), (c), (d), (e), (f), and (g);
- 18 (8) Section 455.161;
- 19 (9) Section 455.252;
- 20 (10) Section 455.253;
- 21 (11) Section 455.254;
- 22 (12) Section 455.301;
- 23 (13) Section 455.303;
- 24 (14) Section 455.304;
- 25 (15) Section 455.305;
- 26 (16) Section 455.306;
- 27 (17) Section 455.307;

- 1 (18) Section 455.308;
- 2 (19) Section 455.309;
- 3 (20) Section 455.310;
- 4 (21) Section 455.311;
- 5 (22) Section 1952.052;
- 6 (23) Section 1952.054;
- 7 (24) Section 1952.105(b);
- 8 (25) Section 1952.152;
- 9 (26) Section 1952.251;
- 10 (27) Section 1952.253;
- 11 (28) Section 1952.254;
- 12 (29) Section 1952.255;
- 13 (30) Section 1952.256;
- 14 (31) Section 1952.257;
- 15 (32) Section 1952.258;
- 16 (33) Section 1952.259;
- 17 (34) Section 1952.260;
- 18 (35) Section 1952.261;
- 19 (36) Section 1953.0511;
- 20 (37) Section 1953.052;
- 21 (38) Section 1953.054;
- 22 (39) Section 1953.055;
- 23 (40) Section 1953.103;
- 24 (41) Section 1953.106(b);
- 25 (42) Section 1953.152;
- 26 (43) Section 1953.202;
- 27 (44) Section 1953.301;

- 1 (45) Section 1953.303;
- 2 (46) Section 1953.304;
- 3 (47) Section 1953.305;
- 4 (48) Section 1953.306;
- 5 (49) Section 1953.307;
- 6 (50) Section 1953.308;
- 7 (51) Section 1953.309;
- 8 (52) Section 1953.310;
- 9 (53) Section 1953.311;
- 10 (54) Section 1958.053;
- 11 (55) Section 1958.055(a);
- 12 (56) Section 1958.057;
- 13 (57) Section 1958.107;
- 14 (58) Section 1958.251;
- 15 (59) Section 1958.254;
- 16 (60) Section 1958.255;
- 17 (61) Section 1958.256;
- 18 (62) Section 1958.257;
- 19 (63) Section 1958.258; and
- 20 (64) Section 1958.302.

21 PART 3. TRANSITION PROVISIONS

22 SECTION 1.299. (a) A rule or fee of the Department of
23 State Health Services that relates to a program transferred under
24 this article and that is in effect on the effective date of the
25 transfer remains in effect until changed by the Texas Commission of
26 Licensing and Regulation.

27 (b) A license, permit, certificate of registration, or

1 other authorization issued by the Department of State Health
2 Services for a program transferred under this article is continued
3 in effect as a license, permit, certificate, or other authorization
4 of the Texas Department of Licensing and Regulation after the
5 effective date of the transfer.

6 (c) A complaint, investigation, contested case, or other
7 proceeding before the Department of State Health Services relating
8 to a program transferred under this article that is pending on the
9 effective date of the transfer is transferred without change in
10 status to the Texas Commission of Licensing and Regulation or Texas
11 Department of Licensing and Regulation, as appropriate.

12 SECTION 1.300. (a) As soon as practicable after the
13 effective date of a transfer under this article, the Department of
14 State Health Services and the Texas Department of Licensing and
15 Regulation shall adopt a transition plan to provide for the orderly
16 transfer of powers, duties, functions, programs, and activities
17 under this article. The transition plan must provide for the
18 transfer to be completed:

19 (1) not later than August 31, 2017, for a program
20 transferred under Part 1 of this article; or

21 (2) not later than August 31, 2019, for a program
22 transferred under Part 2 of this article.

23 (b) The Department of State Health Services shall provide
24 the Texas Department of Licensing and Regulation with access to any
25 systems or information necessary for the Texas Department of
26 Licensing and Regulation to accept a program transferred under this
27 article.

1 (c) On the date specified in the transition plan required
2 under Subsection (a) of this section for the transfer of a
3 particular program to the Texas Department of Licensing and
4 Regulation, if applicable, the existing board associated with the
5 program is abolished and the Texas Department of Licensing and
6 Regulation shall, as soon as practicable after that date, appoint
7 the advisory board for the program.

8 (d) On the date specified in the transition plan required
9 under Subsection (a) of this section for the transfer of a
10 particular program to the Texas Department of Licensing and
11 Regulation, all full-time equivalent employee positions at the
12 Department of State Health Services that primarily concern the
13 administration or enforcement of the program being transferred
14 become positions at the Texas Department of Licensing and
15 Regulation. The Texas Department of Licensing and Regulation shall
16 post the positions for hiring and, when filling the positions,
17 shall give consideration to, but is not required to hire, an
18 applicant who, immediately before the date of the transfer, was an
19 employee at the Department of State Health Services primarily
20 involved in administering or enforcing the transferred program.

21 (e) Not later than August 31, 2017, the Texas Department of
22 Licensing and Regulation shall create a health professions division
23 to oversee programs transferred under this article and to ensure
24 the department develops the necessary health-related expertise.

25 SECTION 1.301. (a) The Texas Department of Licensing and
26 Regulation shall, not later than December 1 of each year, submit a
27 report regarding the implementation of this article with respect to

1 that calendar year to:

2 (1) the Sunset Advisory Commission;

3 (2) each standing committee of the senate and house of
4 representatives having primary jurisdiction over matters related
5 to health and human services or the occupational licensing of
6 health-related professions; and

7 (3) each advisory board or committee established to
8 advise the Texas Department of Licensing and Regulation with regard
9 to a program transferred to the department under this article.

10 (b) A report submitted under this section must include:

11 (1) detailed information regarding:

12 (A) the status of the implementation of the
13 transition plan adopted under Section 1.300 of this Act, including
14 an explanation of any delays or challenges in implementing the
15 plan;

16 (B) appointments to each advisory board or
17 committee established to advise the Texas Department of Licensing
18 and Regulation with regard to a program transferred to the
19 department under this article; and

20 (C) the establishment and operation of the health
21 professions division of the Texas Department of Licensing and
22 Regulation; and

23 (2) any other information the Texas Department of
24 Licensing and Regulation considers relevant to the transfer of
25 programs to the department under this article.

26 (c) In preparing a report required by this section, the
27 Texas Department of Licensing and Regulation shall solicit input

1 from the Department of State Health Services and each advisory
2 board or committee established to advise the Texas Department of
3 Licensing and Regulation with regard to a program transferred to
4 the department under this article.

5 (d) The Texas Department of Licensing and Regulation shall
6 make each report submitted under this section available to the
7 public on the department's Internet website.

8 (e) This section expires January 1, 2020.

9 ARTICLE 2. REGULATORY PROGRAMS TRANSFERRED TO THE TEXAS MEDICAL
10 BOARD

11 SECTION 2.001. Section 151.004, Occupations Code, is
12 amended to read as follows:

13 Sec. 151.004. APPLICATION OF SUNSET ACT. The Texas Medical
14 Board is subject to Chapter 325, Government Code (Texas Sunset
15 Act). Unless continued in existence as provided by that chapter,
16 the board is abolished and this subtitle and Chapters 204, 205,
17 [~~and~~] 206, 601, 602, 603, and 604 expire September 1, 2017.

18 SECTION 2.002. Chapter 167, Occupations Code, is amended by
19 adding Section 167.0091 to read as follows:

20 Sec. 167.0091. REFERRALS FOR CERTAIN PROFESSIONS.
21 Notwithstanding any other provision of this chapter, the board, the
22 Texas Board of Medical Radiologic Technology, or the Texas Board of
23 Respiratory Care, as appropriate, may make a referral to the
24 program and require participation in the program as a prerequisite
25 for issuing or maintaining a license, certificate, permit, or other
26 authorization under Chapter 601, 602, 603, or 604.

27 SECTION 2.003. Section 601.002, Occupations Code, as

1 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
2 2015, is amended by amending Subdivisions (1), (3), and (4) and
3 adding Subdivisions (1-a), (4-a), and (4-b) to read as follows:

4 (1) "Advisory board" means the Texas Board of Medical
5 Radiologic Technology.

6 (1-a) "Authorized person" means a person who meets or
7 exceeds the minimum educational standards of the advisory board
8 [~~department~~] under Section [601.201](#).

9 (3) "Direct supervision" means supervision and
10 control by a medical radiologic technologist or a practitioner who:

11 (A) assumes legal liability for a student
12 employed to perform a radiologic procedure and enrolled in a
13 program that meets the requirements adopted under Section [601.052](#)
14 [~~601.053~~]; and

15 (B) is physically present during the performance
16 of the radiologic procedure to provide consultation or direct the
17 action of the student.

18 (4) "Education program" means clinical training or any
19 other program offered by an organization approved by the advisory
20 board [~~department~~] that:

21 (A) has a specified objective;

22 (B) includes planned activities for
23 participants; and

24 (C) uses an approved method for measuring the
25 progress of participants.

26 (4-a) "Hospital" has the meaning assigned by Section
27 [157.051](#).

1 (4-b) "Medical board" means the Texas Medical Board.

2 SECTION 2.004. Chapter 601, Occupations Code, is amended by
3 adding Subchapter A-1 to read as follows:

4 SUBCHAPTER A-1. TEXAS BOARD OF MEDICAL RADIOLOGIC TECHNOLOGY

5 Sec. 601.021. TEXAS BOARD OF MEDICAL RADIOLOGIC TECHNOLOGY.

6 The Texas Board of Medical Radiologic Technology is an advisory
7 board to the Texas Medical Board.

8 Sec. 601.022. APPOINTMENT OF ADVISORY BOARD. (a) The
9 advisory board consists of nine members appointed by the governor
10 with the advice and consent of the senate as follows:

11 (1) four medical radiologic technologists who each
12 have at least five years of experience as a medical radiologic
13 technologist;

14 (2) two physicians licensed in this state who
15 supervise medical radiologic technologists; and

16 (3) three members who represent the public.

17 (b) Appointments to the advisory board shall be made without
18 regard to the race, color, disability, sex, religion, age, or
19 national origin of the appointee.

20 Sec. 601.023. MEMBERSHIP ELIGIBILITY AND RESTRICTIONS.

21 (a) In this section, "Texas trade association" means a cooperative
22 and voluntarily joined statewide association of business or
23 professional competitors in this state designed to assist its
24 members and its industry or profession in dealing with mutual
25 business or professional problems and in promoting their common
26 interest.

27 (b) A person may not be a public member of the advisory board

1 if the person or the person's spouse:

2 (1) is registered, certified, or licensed by a
3 regulatory agency in a health care profession;

4 (2) is employed by or participates in the management
5 of a business entity or other organization regulated by or
6 receiving money from the medical board or advisory board;

7 (3) owns or controls, directly or indirectly, more
8 than a 10 percent interest in a business entity or other
9 organization regulated by or receiving money from the medical board
10 or advisory board; or

11 (4) uses or receives a substantial amount of tangible
12 goods, services, or money from the medical board or advisory board
13 other than compensation or reimbursement authorized by law for
14 advisory board membership, attendance, or expenses.

15 (c) A person may not be a member of the advisory board if:

16 (1) the person is an officer, employee, or paid
17 consultant of a Texas trade association in the field of health care;
18 or

19 (2) the person's spouse is an officer, manager, or paid
20 consultant of a Texas trade association in the field of health care.

21 (d) A person may not be a member of the advisory board or act
22 as the general counsel to the advisory board if the person is
23 required to register as a lobbyist under Chapter 305, Government
24 Code, because of the person's activities for compensation on behalf
25 of a profession related to the operation of the medical board or
26 advisory board.

27 Sec. 601.024. TERMS; VACANCIES. (a) Members of the

1 advisory board are appointed for staggered six-year terms. The
2 terms of three members expire on February 1 of each odd-numbered
3 year.

4 (b) A member may not serve more than:

5 (1) two consecutive full terms; or

6 (2) a total of three full terms.

7 (c) If a vacancy occurs during a member's term, the governor
8 shall appoint a new member to fill the unexpired term.

9 Sec. 601.025. OFFICERS. The governor shall designate a
10 member of the advisory board as the presiding officer of the
11 advisory board to serve in that capacity at the will of the
12 governor. The advisory board shall select from its membership an
13 assistant presiding officer and other officers as the advisory
14 board considers necessary to carry out the advisory board's duties.

15 Sec. 601.026. GROUNDS FOR REMOVAL. (a) It is a ground for
16 removal from the advisory board that a member:

17 (1) does not have at the time of taking office the
18 qualifications required by Sections 601.022 and 601.023;

19 (2) does not maintain during service on the advisory
20 board the qualifications required by Sections 601.022 and 601.023;

21 (3) is ineligible for membership under Section
22 601.023;

23 (4) cannot, because of illness or disability,
24 discharge the member's duties for a substantial part of the member's
25 term; or

26 (5) is absent from more than half of the regularly
27 scheduled advisory board meetings that the member is eligible to

1 attend during a calendar year without an excuse approved by a
2 majority vote of the advisory board.

3 (b) The validity of an action of the advisory board is not
4 affected by the fact that it is taken when a ground for removal of an
5 advisory board member exists.

6 (c) If the executive director of the medical board has
7 knowledge that a potential ground for removal exists, the executive
8 director shall notify the presiding officer of the advisory board
9 of the potential ground. The presiding officer shall then notify
10 the governor and the attorney general that a potential ground for
11 removal exists. If the potential ground for removal involves the
12 presiding officer, the executive director shall notify the next
13 highest ranking officer of the advisory board, who shall then
14 notify the governor and the attorney general that a potential
15 ground for removal exists.

16 Sec. 601.027. PER DIEM. A member of the advisory board is
17 entitled to receive a per diem as set by legislative appropriation
18 for each day that the member engages in the business of the advisory
19 board.

20 Sec. 601.028. APPLICATION OF OPEN MEETINGS, OPEN RECORDS,
21 AND ADMINISTRATIVE PROCEDURE LAWS. Except as otherwise provided
22 by this chapter, the advisory board is subject to Chapters 551, 552,
23 and 2001, Government Code.

24 Sec. 601.029. MEETINGS; QUORUM REQUIREMENTS. (a) The
25 advisory board shall conduct regular meetings at least three times
26 a year at the times and places the advisory board considers most
27 convenient for applicants and advisory board members.

1 (b) The advisory board may hold special meetings in
2 accordance with rules adopted by the advisory board and approved by
3 the medical board.

4 (c) A majority of the advisory board members constitutes a
5 quorum for all purposes except for an advisory board activity
6 related to examining the credentials of applicants, acting as a
7 panel for disciplinary action under Section 601.306, or conducting
8 an informal meeting under Section 601.311.

9 Sec. 601.030. TRAINING. (a) A person who is appointed to
10 and qualifies for office as a member of the advisory board may not
11 vote, deliberate, or be counted as a member in attendance at a
12 meeting of the advisory board until the person completes a training
13 program that complies with this section.

14 (b) The training program must provide the person with
15 information regarding:

16 (1) this chapter and the advisory board's programs,
17 functions, rules, and budget;

18 (2) the results of the most recent formal audit of the
19 advisory board;

20 (3) the requirements of laws relating to open
21 meetings, public information, administrative procedure, and
22 conflicts of interest; and

23 (4) any applicable ethics policies adopted by the
24 advisory board or the Texas Ethics Commission.

25 (c) A person appointed to the advisory board is entitled to
26 reimbursement, as provided by the General Appropriations Act, for
27 the travel expenses incurred in attending the training program

1 regardless of whether the attendance at the program occurs before
2 or after the person qualifies for office.

3 SECTION 2.005. The heading to Subchapter B, Chapter 601,
4 Occupations Code, as amended by S.B. 219, Acts of the 84th
5 Legislature, Regular Session, 2015, is amended to read as follows:

6 SUBCHAPTER B. POWERS AND DUTIES OF ADVISORY BOARD [~~EXECUTIVE~~
7 ~~COMMISSIONER~~] AND MEDICAL BOARD [~~DEPARTMENT~~]

8 SECTION 2.006. Section 601.052, Occupations Code, as
9 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
10 2015, is amended to read as follows:

11 Sec. 601.052. GENERAL POWERS AND DUTIES OF ADVISORY BOARD
12 [~~RULES~~]. The advisory board shall:

13 (1) [~~executive commissioner may~~] adopt rules that are
14 reasonable and necessary for the performance of the advisory
15 board's duties under [~~to implement~~] this chapter, as provided by
16 Chapter 2001, Government Code, including rules to establish:

17 (A) the certification program required by
18 Subchapter C, including minimum standards for issuing, renewing,
19 suspending, canceling, or revoking a certificate;

20 (B) certification renewal dates;

21 (C) the registry required by Subchapter E;

22 (D) grounds for disciplinary actions;

23 (E) procedures for disciplinary proceedings;

24 (F) procedures for non-disciplinary remedial
25 plans;

26 (G) minimum standards for approving and
27 rescinding approval of curricula and education programs to train

1 medical radiologic technologists to perform radiologic procedures;

2 (H) minimum standards for approving and
3 rescinding approval of instructors to teach approved curricula or
4 education programs to train medical radiologic technologists to
5 perform radiologic procedures;

6 (I) procedures for requiring an applicant for or
7 holder of a certificate to submit to:

8 (i) an examination of the applicant's or
9 holder's physical or mental health; and

10 (ii) screening for alcohol or substance
11 abuse or behavioral issues; and

12 (J) procedures for making a confidential
13 referral to the Texas Physician Health Program established under
14 Chapter 167, and for requiring participation in the program as a
15 prerequisite for issuing or maintaining a certificate under this
16 chapter or approval under Section [601.054](#) or [601.055](#);

17 (2) review and approve or reject each application for
18 the issuance or renewal of a certificate;

19 (3) issue each certificate;

20 (4) deny, suspend, or revoke a certificate or
21 otherwise discipline a certificate holder; and

22 (5) take any action necessary to carry out the
23 functions and duties of the advisory board under this chapter.

24 SECTION 2.007. Subchapter B, Chapter 601, Occupations Code,
25 as amended by S.B. 219, Acts of the 84th Legislature, Regular
26 Session, 2015, is amended by adding Sections 601.0521 and 601.0522
27 to read as follows:

1 Sec. 601.0521. GUIDELINES FOR EARLY INVOLVEMENT IN
2 RULEMAKING PROCESS. (a) The advisory board shall adopt guidelines
3 to establish procedures for receiving input during the rulemaking
4 process from individuals and groups that have an interest in
5 matters under the advisory board's jurisdiction. The guidelines
6 must provide an opportunity for those individuals and groups to
7 provide input before the advisory board submits the rule to the
8 medical board for approval.

9 (b) A rule adopted under this chapter may not be challenged
10 on the grounds that the advisory board did not comply with this
11 section. If the advisory board was unable to solicit a significant
12 amount of input from the public or affected persons early in the
13 rulemaking process, the advisory board shall state in writing the
14 reasons why it was unable to do so.

15 Sec. 601.0522. POWERS AND DUTIES OF MEDICAL BOARD RELATING
16 TO RADIOLOGIC PROCEDURES. (a) The medical board shall adopt rules
17 consistent with this chapter to regulate individuals who:

- 18 (1) perform radiologic procedures; and
19 (2) are licensed by the medical board and supervise an
20 individual who performs radiologic procedures.

21 (b) The medical board, by a majority vote, shall approve or
22 reject each rule adopted by the advisory board. If approved, the
23 rule may take effect. If the rule is rejected, the medical board
24 shall return the rule to the advisory board for revision.

25 SECTION 2.008. Section 601.054, Occupations Code, as
26 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
27 2015, is amended to read as follows:

1 Sec. 601.054. APPROVAL AND REVIEW OF CURRICULA AND TRAINING
2 PROGRAMS. (a) An applicant for approval of a curriculum or
3 training program must apply to the advisory board [~~department~~] on a
4 form [~~prescribed by the department~~] and under rules adopted by the
5 advisory board [~~executive commissioner~~].

6 (b) The advisory board [~~department~~] shall approve a
7 curriculum or training program that meets the minimum standards
8 adopted under Section 601.052 [~~601.053~~]. The advisory board
9 [~~department~~] may review the approval annually.

10 (c) The advisory board [~~executive commissioner~~] may set a
11 fee for approval of a curriculum or training program not to exceed
12 the estimated amount that the advisory board [~~department~~] projects
13 to be required for the evaluation of the curriculum or training
14 program.

15 SECTION 2.009. Section 601.055, Occupations Code, as
16 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
17 2015, is amended to read as follows:

18 Sec. 601.055. APPROVAL AND REVIEW OF INSTRUCTOR APPROVAL.
19 (a) An applicant for approval of an instructor must apply to the
20 advisory board [~~department~~] on a form [~~prescribed by the~~
21 ~~department~~] and under rules adopted by the advisory board
22 [~~executive commissioner~~].

23 (b) The advisory board [~~department~~] shall approve an
24 instructor who meets the minimum standards adopted under Section
25 601.052 [~~601.053~~]. The advisory board [~~department~~] may review the
26 approval annually.

27 SECTION 2.010. Section 601.056(a), Occupations Code, as

1 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
2 2015, is amended to read as follows:

3 (a) The medical board, [~~executive commissioner~~] with the
4 assistance of the Texas Board of Nursing, the Texas Physician
5 Assistant Board, and other appropriate state agencies, shall
6 identify by rule radiologic procedures, other than radiologic
7 procedures described by Subsection (c), that are dangerous or
8 hazardous and that may be performed only by a practitioner, ~~or a~~
9 medical radiologic technologist certified under this chapter,
10 registered nurse, or licensed physician assistant.

11 SECTION 2.011. Section 601.057, Occupations Code, as
12 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
13 2015, is amended to read as follows:

14 Sec. 601.057. FEES. The advisory board by rule [~~executive~~
15 ~~commissioner~~] may set fees for examination, certificate issuance,
16 registration of a person under Section 601.202, and application
17 processing under Section 601.203 in amounts that are reasonable to
18 cover the costs of administering this chapter without the use of
19 additional general revenue. [~~The fees for issuing or renewing a~~
20 ~~certificate must be in amounts designed to allow the department to~~
21 ~~recover from the certificate holders all of the department's direct~~
22 ~~and indirect costs in administering and enforcing this chapter.~~]

23 SECTION 2.012. Subchapter B, Chapter 601, Occupations Code,
24 as amended by S.B. 219, Acts of the 84th Legislature, Regular
25 Session, 2015, is amended by adding Sections 601.0571 and 601.0572
26 to read as follows:

27 Sec. 601.0571. FEE REFUND ON CANCELLATION. The advisory

1 board may adopt rules relating to the refund of a fee for the
2 issuance or renewal of a certificate after the cancellation of a
3 certificate.

4 Sec. 601.0572. RULES ON CONSEQUENCES OF CRIMINAL
5 CONVICTION. The advisory board shall adopt rules and guidelines as
6 necessary to comply with Chapter 53, except to the extent the
7 requirements of this chapter are stricter than the requirements of
8 Chapter 53.

9 SECTION 2.013. Section 601.058, Occupations Code, as
10 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
11 2015, is amended to read as follows:

12 Sec. 601.058. RULES RESTRICTING ADVERTISING OR COMPETITIVE
13 BIDDING. (a) The advisory board [~~executive commissioner~~] may not
14 adopt rules restricting advertising or competitive bidding by a
15 medical radiologic technologist except to prohibit false,
16 misleading, or deceptive practices.

17 (b) In adopting rules to prohibit false, misleading, or
18 deceptive practices, the advisory board [~~executive commissioner~~]
19 may not include a rule that:

- 20 (1) restricts the use of any medium for advertising;
21 (2) restricts the use of a medical radiologic
22 technologist's personal appearance or voice in an advertisement;
23 (3) relates to the size or duration of an
24 advertisement by the medical radiologic technologist; or
25 (4) restricts the medical radiologic technologist's
26 advertisement under a trade name.

27 SECTION 2.014. Subchapter B, Chapter 601, Occupations Code,

1 as amended by S.B. 219, Acts of the 84th Legislature, Regular
2 Session, 2015, is amended by adding Sections 601.059 and 601.060 to
3 read as follows:

4 Sec. 601.059. ASSISTANCE BY MEDICAL BOARD; DIVISION OF
5 RESPONSIBILITIES. (a) The medical board shall provide
6 administrative and clerical employees as necessary to enable the
7 advisory board to administer this chapter.

8 (b) Subject to the advice and approval of the medical board,
9 the advisory board shall develop and implement policies that
10 clearly separate the policy-making responsibilities of the
11 advisory board and the management responsibilities of the executive
12 director and staff of the medical board.

13 Sec. 601.060. PUBLIC PARTICIPATION. Subject to the advice
14 and approval of the medical board, the advisory board shall develop
15 and implement policies that provide the public with a reasonable
16 opportunity to appear before the advisory board and to speak on any
17 issue under the jurisdiction of the advisory board.

18 SECTION 2.015. Section 601.102, Occupations Code, as
19 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
20 2015, is amended to read as follows:

21 Sec. 601.102. CLASSES OF CERTIFICATES. (a) The advisory
22 board [~~executive commissioner~~] shall establish classes of
23 certificates to include all radiologic procedures used in the
24 course and scope of the practice of practitioners licensed in this
25 state.

26 (b) The advisory board [~~department~~] may issue to a person:

27 (1) a general certificate to perform radiologic

1 procedures; or

2 (2) a limited certificate that authorizes the person
3 to perform radiologic procedures only on specific parts of the
4 human body.

5 (c) The advisory board [~~department~~] may issue to a person a
6 temporary general certificate or a temporary limited certificate
7 that authorizes the person to perform radiologic procedures for a
8 period not to exceed one year.

9 SECTION 2.016. Subchapter C, Chapter 601, Occupations Code,
10 is amended by adding Section 601.1031 to read as follows:

11 Sec. 601.1031. CRIMINAL HISTORY RECORD INFORMATION
12 REQUIREMENT FOR REGISTRATION. (a) The advisory board shall
13 require that an applicant for a certificate submit a complete and
14 legible set of fingerprints, on a form prescribed by the advisory
15 board, to the advisory board or to the Department of Public Safety
16 for the purpose of obtaining criminal history record information
17 from the Department of Public Safety and the Federal Bureau of
18 Investigation.

19 (b) The advisory board may not issue a certificate to a
20 person who does not comply with the requirement of Subsection (a).

21 (c) The advisory board shall conduct a criminal history
22 check of each applicant for a certificate using information:

- 23 (1) provided by the individual under this section; and
24 (2) made available to the advisory board by the
25 Department of Public Safety, the Federal Bureau of Investigation,
26 and any other criminal justice agency under Chapter 411, Government
27 Code.

1 (d) The advisory board may:

2 (1) enter into an agreement with the Department of
3 Public Safety to administer a criminal history check required under
4 this section; and

5 (2) authorize the Department of Public Safety to
6 collect from each applicant the costs incurred by the Department of
7 Public Safety in conducting the criminal history check.

8 SECTION 2.017. Section 601.104, Occupations Code, as
9 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
10 2015, is amended to read as follows:

11 Sec. 601.104. EXAMINATION. (a) The advisory board
12 [~~executive commissioner~~] may adopt rules providing for the
13 preparation and administration of an examination for applicants for
14 a certificate.

15 (b) An applicant for a certificate must pass a jurisprudence
16 examination approved by the advisory board.

17 SECTION 2.018. Section 601.1041, Occupations Code, is
18 amended to read as follows:

19 Sec. 601.1041. NOTIFICATION OF EXAMINATION RESULTS.
20 (a) Not later than the 30th day after the date a person takes an
21 examination for a certificate under this chapter, the advisory
22 board [~~department~~] shall notify the person of the results of the
23 examination.

24 (b) If the examination is graded or reviewed by a testing
25 service, the advisory board [~~department~~] shall notify the person of
26 the results of the examination not later than the 14th day after the
27 date the advisory board [~~department~~] receives the results from the

1 testing service. If notice of the examination results will be
2 delayed for longer than 90 days after the examination date, the
3 advisory board [~~department~~] shall notify the person of the reason
4 for the delay before the 90th day.

5 (c) The advisory board [~~department~~] may require a testing
6 service to notify a person of the results of the person's
7 examination.

8 (d) If requested in writing by a person who fails an
9 examination for a certificate administered under this chapter, the
10 advisory board [~~department~~] shall furnish the person with an
11 analysis of the person's performance on the examination.

12 SECTION 2.019. Section [601.105](#), Occupations Code, is
13 amended by amending Subsection (a) and adding Subsection (c) to
14 read as follows:

15 (a) The advisory board [~~department~~] shall issue a
16 certificate to an applicant who:

17 (1) meets the minimum standards for certification
18 established under Section [601.052](#);

19 (2) passes the required examinations;

20 (3) complies with the criminal history record
21 information requirement of Section [601.1031](#);

22 (4) submits an application on a form prescribed by the
23 advisory board;

24 (5) pays the required application fee;

25 (6) certifies that the applicant is mentally and
26 physically able to perform radiologic procedures; and

27 (7) submits to the advisory board any other

1 information the advisory board considers necessary to evaluate the
2 applicant's qualifications [601.053].

3 (c) The advisory board may delegate authority to medical
4 board employees to issue certificates under this chapter to
5 applicants who clearly meet all certification requirements. If the
6 medical board employees determine that the applicant does not
7 clearly meet all certification requirements, the application must
8 be returned to the advisory board. A certificate issued under this
9 subsection does not require formal advisory board approval.

10 SECTION 2.020. Section 601.107, Occupations Code, as
11 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
12 2015, is amended to read as follows:

13 Sec. 601.107. CERTIFICATION BY ENDORSEMENT. In adopting
14 minimum standards for certifying medical radiologic technologists,
15 the advisory board [~~executive commissioner~~] may establish criteria
16 for issuing a certificate to a person licensed or otherwise
17 registered as a medical radiologic technologist by the American
18 Registry of Radiologic Technologists, the American Registry of
19 Clinical Radiography Technologists, or another state whose
20 requirements for licensure or registration were on the date of
21 licensing or registration substantially equal to the requirements
22 of this chapter.

23 SECTION 2.021. Section 601.108, Occupations Code, as
24 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
25 2015, is amended to read as follows:

26 Sec. 601.108. CONTINUING EDUCATION AND OTHER GUIDELINES.
27 (a) The advisory board [~~executive commissioner~~] may establish

1 guidelines.

2 (b) The advisory board [~~executive commissioner~~] shall
3 provide for the preparation, recognition, or administration of
4 continuing education programs for medical radiologic technologists
5 in which participation is required, to the extent required by the
6 advisory board [~~department~~], to keep the person's certificate.

7 SECTION 2.022. Section 601.109, Occupations Code, as
8 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
9 2015, is amended to read as follows:

10 Sec. 601.109. PROVISIONAL CERTIFICATE. (a) The advisory
11 board [~~department~~] may issue a provisional certificate to an
12 applicant currently licensed or certified in another jurisdiction
13 who seeks certification in this state and who:

14 (1) has been licensed or certified in good standing as
15 a medical radiologic technologist for at least two years in another
16 jurisdiction, including a foreign country, that has licensing or
17 certification requirements substantially equivalent to the
18 requirements of this chapter;

19 (2) has passed a national or other examination
20 recognized by the advisory board [~~department~~] relating to the
21 practice of radiologic technology; and

22 (3) is sponsored by a medical radiologic technologist
23 certified by the advisory board [~~department~~] under this chapter
24 with whom the provisional certificate holder will practice during
25 the time the person holds a provisional certificate.

26 (b) The advisory board [~~department~~] may waive the
27 requirement of Subsection (a)(3) for an applicant if the advisory

1 board [~~department~~] determines that compliance with that subsection
2 would be a hardship to the applicant.

3 (c) A provisional certificate is valid until the date the
4 advisory board [~~department~~] approves or denies the provisional
5 certificate holder's application for a certificate. The advisory
6 board [~~department~~] shall issue a certificate under this chapter to
7 the provisional certificate holder if:

8 (1) the provisional certificate holder is eligible to
9 be certified under Section 601.107; or

10 (2) the provisional certificate holder passes the part
11 of the examination under Section 601.104 that relates to the
12 applicant's knowledge and understanding of the laws and rules
13 relating to the practice of radiologic technology in this state
14 and:

15 (A) the advisory board [~~department~~] verifies
16 that the provisional certificate holder meets the academic and
17 experience requirements for a certificate under this chapter; and

18 (B) the provisional certificate holder satisfies
19 any other licensing requirements under this chapter.

20 (d) The advisory board [~~department~~] must approve or deny a
21 provisional certificate holder's application for a certificate not
22 later than the 180th day after the date the provisional certificate
23 is issued. The advisory board [~~department~~] may extend the 180-day
24 period if the results of an examination have not been received by
25 the advisory board [~~department~~] before the end of that period.

26 (e) The advisory board [~~executive commissioner~~] by rule may
27 establish a fee for a provisional certificate in an amount

1 reasonable and necessary to cover the cost of issuing the
2 certificate [~~designed to allow the department to recover from the~~
3 ~~certificate holders all of the department's direct and indirect~~
4 ~~costs in administering and enforcing this chapter~~].

5 SECTION 2.023. Section 601.110, Occupations Code, as
6 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
7 2015, is amended to read as follows:

8 Sec. 601.110. CERTIFICATE EXPIRATION. (a) Not later than
9 the 30th day before the date a person's certificate is scheduled to
10 expire, the advisory board [~~department~~] shall send written notice
11 of the impending expiration to the person at the person's last known
12 address according to the records of the advisory board
13 [~~department~~].

14 (b) The advisory board [~~executive commissioner~~] by rule may
15 adopt a system under which certificates expire on various dates
16 during the year. For the year in which the certificate expiration
17 date is changed, the advisory board [~~department~~] shall prorate
18 certificate fees on a monthly basis so that each certificate holder
19 pays only that portion of the certificate fee that is allocable to
20 the number of months during which the certificate is valid. On
21 renewal of the certificate on the new expiration date, the total
22 certificate renewal fee is payable.

23 SECTION 2.024. Section 601.111, Occupations Code, is
24 amended to read as follows:

25 Sec. 601.111. CERTIFICATE RENEWAL [~~PROCEDURE~~]. (a) On
26 notification from the advisory board, a [~~A~~] person who is otherwise
27 eligible to renew a certificate may renew an unexpired certificate

1 by:

2 (1) paying the required renewal fee to the advisory
3 board [~~department~~] before the expiration date of the certificate;

4 (2) submitting the appropriate form; and

5 (3) meeting any other requirement established by
6 advisory board rule.

7 (a-1) A person whose certificate has expired may not engage
8 in activities that require a certificate until the certificate has
9 been renewed.

10 (b) A person whose certificate has been expired for 90 days
11 or less may renew the certificate by paying to the advisory board
12 [~~department~~] a renewal fee that is equal to 1-1/2 times the normally
13 required renewal fee.

14 (c) A person whose certificate has been expired for more
15 than 90 days but less than one year may renew the certificate by
16 paying to the advisory board [~~department~~] a renewal fee that is
17 equal to two times the normally required renewal fee.

18 (d) A person whose certificate has been expired for one year
19 or more may not renew the certificate. The person may obtain a new
20 certificate by complying with the requirements and procedures,
21 including the examination requirements, for an original
22 certificate.

23 SECTION 2.025. Subchapter C, Chapter 601, Occupations Code,
24 is amended by adding Section 601.1111 to read as follows:

25 Sec. 601.1111. CRIMINAL HISTORY RECORD INFORMATION
26 REQUIREMENT FOR RENEWAL. (a) An applicant for renewal of a
27 certificate shall submit a complete and legible set of fingerprints

1 for purposes of performing a criminal history check of the
2 applicant as provided by Section 601.1031.

3 (b) The advisory board may not renew the certificate of a
4 person who does not comply with the requirement of Subsection (a).

5 (c) A certificate holder is not required to submit
6 fingerprints under this section for the renewal of the certificate
7 if the holder has previously submitted fingerprints under:

8 (1) Section 601.1031 for the initial issuance of the
9 certificate of registration; or

10 (2) this section as part of a prior renewal of a
11 certificate of registration.

12 SECTION 2.026. The heading to Section 601.112, Occupations
13 Code, is amended to read as follows:

14 Sec. 601.112. RENEWAL OF CERTIFICATE BY OUT-OF-STATE PERSON
15 [~~PRACTITIONER~~].

16 SECTION 2.027. Section 601.112(b), Occupations Code, is
17 amended to read as follows:

18 (b) The person must pay to the advisory board [~~department~~] a
19 fee that is equal to two times the normally required renewal fee for
20 the certificate.

21 SECTION 2.028. Section 601.154, Occupations Code, as
22 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
23 2015, is amended to read as follows:

24 Sec. 601.154. HOSPITAL PROCEDURES. A person is not
25 required to hold a certificate issued under this chapter to perform
26 a radiologic procedure in a hospital if:

27 (1) the hospital participates in the federal Medicare

1 program or is accredited by the Joint Commission on Accreditation
2 of Hospitals; and

3 (2) the person has completed a training program
4 approved by the advisory board [~~department~~] under Section 601.201.

5 SECTION 2.029. Section 601.156, Occupations Code, as
6 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
7 2015, is amended to read as follows:

8 Sec. 601.156. PROCEDURE PERFORMED AS PART OF CONTINUING
9 EDUCATION PROGRAM. A person is not required to hold a certificate
10 issued under this chapter or to comply with the registration
11 requirements adopted under Section 601.252 if the person is:

12 (1) licensed or otherwise registered as a medical
13 radiologic technologist by another state, the American Registry of
14 Radiologic Technologists, the American Registry of Clinical
15 Radiography Technologists, or a professional organization or
16 association recognized by the advisory board [~~department~~];

17 (2) enrolled in a continuing education program that
18 meets the requirements adopted under Section 601.108; and

19 (3) performing a radiologic procedure as part of the
20 continuing education program for not more than 10 days.

21 SECTION 2.030. Subchapter E, Chapter 601, Occupations Code,
22 as amended by S.B. 219, Acts of the 84th Legislature, Regular
23 Session, 2015, is amended to read as follows:

24 SUBCHAPTER E. MANDATORY TRAINING FOR CERTAIN AUTHORIZED PERSONS

25 Sec. 601.201. MANDATORY TRAINING. (a) The minimum
26 standards of the advisory board [~~department~~] for approval of a
27 curriculum or an education program under Section 601.052 [~~601.053~~]

1 must include mandatory training guidelines for a person, other than
2 a practitioner, ~~[or a]~~ medical radiologic technologist, registered
3 nurse, or licensed physician assistant, who intentionally uses
4 radiologic technology, including a person who does not hold a
5 certificate issued under this chapter and who is performing a
6 radiologic procedure at a hospital or under the direction of a
7 practitioner, other than a dentist.

8 (b) The training program approved by the advisory board
9 ~~[department]~~ must contain an appropriate number of hours of
10 education that must be completed before the person may perform a
11 radiologic procedure.

12 Sec. 601.202. REGISTRY. The advisory board ~~[executive~~
13 ~~commissioner]~~ by rule shall establish a registry of persons
14 required to comply with this subchapter.

15 Sec. 601.203. HARDSHIP EXEMPTION. (a) On application to
16 the advisory board ~~[department]~~ by a hospital, a federally
17 qualified health center as defined by 42 U.S.C. Section 1396d, or a
18 practitioner, the advisory board ~~[department]~~ shall exempt the
19 applicant from the requirements of Section 601.201 in employing a
20 person certified under this chapter or trained as required by
21 Section 601.201 if the applicant shows a hardship in employing a
22 person certified under this chapter or trained as required by
23 Section 601.201.

24 (b) The following conditions are considered to be a hardship
25 for the purposes of Subsection (a):

26 (1) that the applicant reports an inability to attract
27 and retain medical radiologic technologists;

1 (2) that the applicant is located at a great distance
2 from a school of medical radiologic technology;

3 (3) that there is a list of qualified persons who have
4 applied to a school of medical radiologic technology whose
5 admissions are pending because of a lack of faculty or space;

6 (4) that the school of medical radiologic technology
7 produces an insufficient number of graduates in medical radiologic
8 technology to meet the needs of the applicant; or

9 (5) any other criteria determined by advisory board
10 [~~department~~] rule.

11 SECTION 2.031. Section 601.251, Occupations Code, is
12 amended to read as follows:

13 Sec. 601.251. APPLICABILITY. This subchapter applies to
14 the:

15 (1) Texas Board of Nursing;

16 (2) Texas Board of Chiropractic Examiners;

17 (3) State Board of Dental Examiners;

18 (4) Texas Medical Board; [~~and~~]

19 (5) Texas State Board of Podiatric Medical Examiners;

20 and

21 (6) Texas Physician Assistant Board.

22 SECTION 2.032. Section 601.252(a), Occupations Code, is
23 amended to read as follows:

24 (a) Each agency subject to this subchapter, other than the
25 Texas Board of Nursing and the Texas Physician Assistant Board,
26 shall adopt rules to regulate the manner in which a person who holds
27 a license issued by the agency may order, instruct, or direct

1 another authorized person in the performance of a radiologic
2 procedure.

3 SECTION 2.033. Section 601.253(a), Occupations Code, is
4 amended to read as follows:

5 (a) The Texas Board of Nursing shall [~~may~~] adopt rules
6 governing registered nurses performing radiologic procedures under
7 Section 601.151 or 601.154, including rules:

8 (1) establishing mandatory training guidelines; and

9 (2) requiring [~~shall require~~] registered nurses
10 performing radiologic procedures under Section 601.151 to register
11 with the Texas Board of Nursing and to identify the practitioner
12 ordering the procedures.

13 SECTION 2.034. Subchapter F, Chapter 601, Occupations Code,
14 is amended by adding Section 601.254 to read as follows:

15 Sec. 601.254. TEXAS PHYSICIAN ASSISTANT BOARD. (a) The
16 Texas Physician Assistant Board shall adopt rules governing
17 licensed physician assistants performing radiologic procedures
18 under Section 601.151 or 601.154, including rules:

19 (1) establishing mandatory training guidelines; and

20 (2) requiring licensed physician assistants
21 performing radiologic procedures under Section 601.151 to register
22 with the Texas Physician Assistant Board and to identify the
23 practitioner ordering the procedures.

24 (b) The Texas Physician Assistant Board shall notify the
25 agency licensing the practitioner that the physician assistant has
26 registered under this section.

27 SECTION 2.035. Chapter 601, Occupations Code, is amended by

1 adding Subchapter F-1 to read as follows:

2 SUBCHAPTER F-1. COMPLAINTS AND INVESTIGATIVE INFORMATION

3 Sec. 601.271. COMPLAINT INFORMATION AND STATUS. (a) The
4 advisory board shall maintain a system to promptly and efficiently
5 act on complaints filed with the advisory board. The advisory
6 board shall maintain:

7 (1) information about the parties to the complaint and
8 the subject matter of the complaint;

9 (2) a summary of the results of the review or
10 investigation of the complaint; and

11 (3) information about the disposition of the
12 complaint.

13 (b) The advisory board shall make information available
14 describing its procedures for complaint investigation and
15 resolution.

16 (c) If a written complaint is filed with the advisory board
17 relating to a certificate holder or a person approved under Section
18 601.054 or 601.055, the advisory board, as often as quarterly and
19 until final determination of the action to be taken on the
20 complaint, shall notify the parties to the complaint of the status
21 of the complaint unless the notice would jeopardize an active
22 investigation.

23 Sec. 601.272. CONDUCT OF INVESTIGATION. The advisory board
24 shall complete a preliminary investigation of a complaint filed
25 with the advisory board not later than the 45th day after the date
26 of receiving the complaint. The advisory board shall first
27 determine whether the person constitutes a continuing threat to the

1 public welfare. On completion of the preliminary investigation,
2 the advisory board shall determine whether to officially proceed on
3 the complaint. If the advisory board fails to complete the
4 preliminary investigation in the time required by this section, the
5 advisory board's official investigation of the complaint is
6 considered to commence on that date.

7 Sec. 601.273. ACCESS TO COMPLAINT INFORMATION. (a) Except
8 as provided by Subsection (b), the advisory board shall provide a
9 person who is the subject of a formal complaint filed under this
10 chapter with access to all information in its possession that the
11 advisory board intends to offer into evidence in presenting its
12 case in chief at the contested hearing on the complaint, subject to
13 any other privilege or restriction established by rule, statute, or
14 legal precedent. The advisory board shall provide the information
15 not later than the 30th day after receipt of a written request from
16 the person or the person's counsel, unless good cause is shown for
17 delay.

18 (b) The advisory board is not required to provide:
19 (1) advisory board investigative reports;
20 (2) investigative memoranda;
21 (3) the identity of a nontestifying complainant;
22 (4) attorney-client communications;
23 (5) attorney work product; or
24 (6) other material covered by a privilege recognized
25 by the Texas Rules of Civil Procedure or the Texas Rules of
26 Evidence.

27 (c) Providing information under this section does not

1 constitute a waiver of privilege or confidentiality under this
2 chapter or other law.

3 Sec. 601.274. HEALTH CARE ENTITY REQUEST FOR INFORMATION.

4 On the written request of a health care entity, the advisory board
5 shall provide to the entity:

6 (1) information about a complaint filed against a
7 person that was resolved after investigation by:

8 (A) a disciplinary order of the advisory board;

9 or

10 (B) an agreed settlement; and

11 (2) the basis of and current status of any complaint
12 that has been referred by the executive director of the medical
13 board for enforcement action.

14 Sec. 601.275. CONFIDENTIALITY OF INVESTIGATIVE

15 INFORMATION. A complaint, adverse report, investigation file,

16 other report, or other investigative information in the possession

17 of or received or gathered by the advisory board, the medical board,

18 or an employee or agent of the medical board relating to a

19 certificate holder, a person approved under Section [601.054](#) or

20 [601.055](#), an application for certification or approval, or a

21 criminal investigation or proceeding is privileged and

22 confidential and is not subject to discovery, subpoena, or other

23 means of legal compulsion for release to any person other than the

24 advisory board, the medical board, or an employee or agent of the

25 advisory board or medical board involved in discipline under this

26 chapter. For purposes of this section, "investigative information"

27 includes information related to the identity of a person performing

1 or supervising compliance monitoring for the advisory board or
2 medical board and a report prepared by the person related to
3 compliance monitoring.

4 Sec. 601.276. PERMITTED DISCLOSURE OF INVESTIGATIVE
5 INFORMATION. (a) Investigative information in the possession of
6 the advisory board, the medical board, or an employee or agent of
7 the medical board that relates to the discipline of a certificate
8 holder or a person approved under Section 601.054 or 601.055, may be
9 disclosed to:

10 (1) a licensing authority in another state or country
11 in which the certificate holder or person is licensed, certified,
12 or permitted or has applied for a license, certification, or
13 permit; or

14 (2) a medical peer review committee reviewing:

15 (A) an application for privileges; or

16 (B) the qualifications of the certificate holder
17 or person with respect to retaining privileges.

18 (b) If investigative information in the possession of the
19 advisory board, the medical board, or an employee or agent of the
20 medical board indicates that a crime may have been committed, the
21 advisory board or medical board, as appropriate, shall report the
22 information to the proper law enforcement agency. The advisory
23 board and medical board shall cooperate with and assist each law
24 enforcement agency conducting a criminal investigation of a
25 certificate holder or a person approved under Section 601.054 or
26 601.055 by providing information relevant to the investigation.
27 Confidential information disclosed to a law enforcement agency

1 under this subsection remains confidential and may not be disclosed
2 by the law enforcement agency except as necessary to further the
3 investigation.

4 SECTION 2.036. Subchapter G, Chapter 601, Occupations Code,
5 as amended by S.B. 219, Acts of the 84th Legislature, Regular
6 Session, 2015, is amended to read as follows:

7 SUBCHAPTER G. CERTIFICATE DENIAL AND DISCIPLINARY ACTION

8 Sec. 601.301. CERTIFICATE DENIAL AND DISCIPLINARY ACTION.

9 The advisory board [~~department~~] may, for a violation of this
10 chapter or a rule adopted under this chapter:

11 (1) suspend, restrict, revoke, or refuse to renew a
12 certificate;

13 (2) rescind approval of a curriculum, training
14 program, or instructor;

15 (3) deny an application for certification or approval;

16 (4) issue a reprimand; or

17 (5) place the offender's certificate on probation and
18 require compliance with a requirement of the advisory board
19 [~~department~~], including requiring the offender to:

20 (A) submit to medical or psychological
21 treatment;

22 (B) meet additional education requirements;

23 (C) pass an examination; or

24 (D) work under the supervision of a medical
25 radiologic technologist or other practitioner.

26 Sec. 601.302. GROUNDS FOR CERTIFICATE DENIAL OR
27 DISCIPLINARY ACTION. The advisory board [~~department~~] may take

1 action under Section 601.301 against a person subject to this
2 chapter for:

3 (1) obtaining or attempting to obtain a certificate
4 issued under this chapter by bribery or fraud;

5 (2) making or filing a false report or record made in
6 the person's capacity as a medical radiologic technologist;

7 (3) intentionally or negligently failing to file a
8 report or record required by law;

9 (4) intentionally obstructing or inducing another to
10 intentionally obstruct the filing of a report or record required by
11 law;

12 (5) engaging in unprofessional conduct, including the
13 violation of the standards of practice of radiologic technology
14 established by the advisory board [~~department~~];

15 (6) developing an incapacity that prevents the
16 practice of radiologic technology with reasonable skill,
17 competence, and safety to the public as the result of:

18 (A) an illness;

19 (B) drug or alcohol dependency; or

20 (C) another physical or mental condition or
21 illness;

22 (7) failing to report to the advisory board
23 [~~department~~] the violation of this chapter by another person;

24 (8) employing, for the purpose of applying ionizing
25 radiation to a person, a person who is not certified under or in
26 compliance with this chapter;

27 (9) violating this chapter, a rule adopted under this

1 chapter, an order of the advisory board [~~department~~] previously
2 entered in a disciplinary proceeding, or an order to comply with a
3 subpoena issued by the advisory board [~~department~~];

4 (10) having a certificate revoked, suspended, or
5 otherwise subjected to adverse action or being denied a certificate
6 by another certification authority in another state, territory, or
7 country; or

8 (11) being convicted of or pleading nolo contendere to
9 a crime directly related to the practice of radiologic technology.

10 Sec. 601.303. STUDENT PRACTICING WITHOUT DIRECT
11 SUPERVISION. The advisory board [~~department~~] may take disciplinary
12 action against a student for intentionally practicing radiologic
13 technology without direct supervision.

14 Sec. 601.304. ADMINISTRATIVE PROCEDURE FOR CONTESTED CASE
15 HEARING. For a contested case hearing in which a formal complaint
16 has been filed under this chapter, the [~~The~~] procedure by which the
17 advisory board [~~department~~] takes a disciplinary action and the
18 procedure by which a disciplinary action is appealed are governed
19 by:

20 (1) advisory board [~~department~~] rules for a contested
21 case hearing; and

22 (2) Chapter 2001, Government Code.

23 Sec. 601.305. SURRENDER OF CERTIFICATE [~~REINSTATEMENT~~].
24 (a) The advisory board may accept the voluntary surrender of a
25 certificate. A person who has surrendered a certificate may not
26 engage in activities that require a certificate, and the advisory
27 board may not return the certificate to the person, until the person

1 demonstrates to the satisfaction of the advisory board [~~subject to~~
2 ~~disciplinary action under Section 601.302(6) shall, at reasonable~~
3 ~~intervals, be given an opportunity to demonstrate]~~ that the person
4 is able to resume the practice of radiologic technology.

5 (b) The advisory board shall by rule establish guidelines
6 for determining when a person is competent to resume [~~department~~
7 ~~may not reinstate a certificate to a holder or issue a certificate~~
8 ~~to an applicant previously denied a certificate unless the~~
9 ~~department is satisfied that the holder or applicant has complied~~
10 ~~with requirements set by the department and is capable of engaging~~
11 ~~in]~~ the practice of radiologic technology.

12 Sec. 601.306. EMERGENCY SUSPENSION. (a) The presiding
13 officer of the advisory board shall appoint a three-member
14 disciplinary panel consisting of advisory board members to
15 determine whether a certificate should be temporarily suspended.

16 (a-1) The disciplinary panel [~~department~~] shall temporarily
17 suspend the certificate of a certificate holder if the panel
18 [~~department~~] determines from the evidence or information presented
19 to it that continued practice by the certificate holder would
20 constitute a continuing [~~and imminent~~] threat to the public
21 welfare.

22 (b) A certificate may be suspended under this section
23 without notice or hearing on the complaint if:

24 (1) action is taken to initiate proceedings for a
25 hearing before the advisory board [~~State Office of Administrative~~
26 ~~Hearings~~] simultaneously with the temporary suspension; and

27 (2) a hearing is held as soon as practicable under this

1 chapter and Chapter 2001, Government Code.

2 (c) Notwithstanding Chapter 551, Government Code, the
3 disciplinary panel may hold a meeting by telephone conference call
4 if immediate action is required and convening of the panel at one
5 location is inconvenient for any member of the panel [~~The State~~
6 ~~Office of Administrative Hearings shall hold a preliminary hearing~~
7 ~~not later than the 14th day after the date of the temporary~~
8 ~~suspension to determine if there is probable cause to believe that a~~
9 ~~continuing and imminent threat to the public welfare still exists.~~
10 ~~A final hearing on the matter shall be held not later than the 61st~~
11 ~~day after the date of the temporary suspension)].~~

12 Sec. 601.307. DELEGATION OF CERTAIN COMPLAINT
13 DISPOSITIONS. (a) The advisory board may delegate to a committee
14 of medical board employees the authority to dismiss or enter into an
15 agreed settlement of a complaint that does not relate directly to
16 patient care or that involves only administrative violations. The
17 disposition determined by the committee must be approved by the
18 advisory board at a public meeting.

19 (b) A complaint delegated under this section shall be
20 referred for an informal proceeding under Section 601.311 if:

21 (1) the committee of employees determines that the
22 complaint should not be dismissed or settled;

23 (2) the committee is unable to reach an agreed
24 settlement; or

25 (3) the affected person requests that the complaint be
26 referred for an informal proceeding.

27 Sec. 601.308. SUBPOENA. (a) The executive director of the

1 medical board, the director's designee, or the secretary-treasurer
2 of the medical board may issue a subpoena or subpoena duces tecum
3 for the advisory board:

4 (1) to conduct an investigation or a contested
5 proceeding related to:

6 (A) alleged misconduct by a certificate holder or
7 a person approved under Section 601.054 or 601.055;

8 (B) an alleged violation of this chapter or other
9 law related to radiologic technology; or

10 (C) the provision of health care under this
11 chapter; or

12 (2) for purposes of determining whether to issue,
13 suspend, restrict, or revoke a certificate or approval under this
14 chapter.

15 (b) Failure to timely comply with a subpoena issued under
16 this section is a ground for:

17 (1) disciplinary action by the advisory board or
18 another licensing or regulatory agency with jurisdiction over the
19 person subject to the subpoena; and

20 (2) denial of an application for certification or
21 approval.

22 Sec. 601.309. PROTECTION OF PATIENT IDENTITY. In a
23 disciplinary investigation or proceeding conducted under this
24 chapter, the advisory board shall protect the identity of each
25 patient whose medical records are examined and used in a public
26 proceeding unless the patient:

27 (1) testifies in the public proceeding; or

1 (2) submits a written release in regard to the
2 patient's records or identity.

3 Sec. 601.310. REQUIRED SUSPENSION OF LICENSE OF
4 INCARCERATED CERTIFICATE HOLDER. Regardless of the offense, the
5 advisory board shall suspend the certificate or approval of a
6 person serving a prison term in a state or federal penitentiary
7 during the term of the incarceration.

8 Sec. 601.311. INFORMAL PROCEEDINGS. (a) The advisory
9 board by rule shall adopt procedures governing:

10 (1) informal disposition of a contested case under
11 Section 2001.056, Government Code; and

12 (2) informal proceedings held in compliance with
13 Section 2001.054, Government Code.

14 (b) Rules adopted under this section must require that:

15 (1) an informal meeting in compliance with Section
16 2001.054, Government Code, be scheduled and the advisory board give
17 notice to the person who is the subject of a complaint of the time
18 and place of the meeting not later than the 45th day before the date
19 the meeting is held;

20 (2) the complainant and the person who is the subject
21 of the complaint be provided an opportunity to be heard;

22 (3) at least one of the advisory board members
23 participating in the informal meeting as a panelist be a member who
24 represents the public;

25 (4) a member of the medical board's staff be at the
26 meeting to present to the advisory board's representative the facts
27 the staff reasonably believes it could prove by competent evidence

1 or qualified witnesses at a hearing; and

2 (5) the advisory board's legal counsel or a
3 representative of the attorney general be present to advise the
4 advisory board or the medical board's staff.

5 (c) The person who is the subject of the complaint is
6 entitled to:

7 (1) reply to the staff's presentation; and

8 (2) present the facts the person reasonably believes
9 the person could prove by competent evidence or qualified witnesses
10 at a hearing.

11 (d) After ample time is given for the presentations, the
12 advisory board representative shall recommend that the
13 investigation be closed or shall attempt to mediate the disputed
14 matters and make a recommendation regarding the disposition of the
15 case in the absence of a hearing under applicable law concerning
16 contested cases.

17 (e) If the person who is the subject of the complaint has
18 previously been the subject of disciplinary action by the advisory
19 board, the advisory board shall schedule the informal meeting as
20 soon as practicable.

21 (f) Section 601.275 applies to an investigation file and
22 investigative information in the possession of or used by the
23 advisory board in an informal proceeding under this section.

24 Sec. 601.312. ADVISORY BOARD REPRESENTATION IN INFORMAL
25 PROCEEDINGS. (a) In an informal meeting under Section 601.311, at
26 least two panelists shall be appointed to determine whether an
27 informal disposition is appropriate.

1 (b) Notwithstanding Subsection (a) and Section
2 601.311(b)(3), an informal proceeding may be conducted by one
3 panelist if the person who is the subject of the complaint waives
4 the requirement that at least two panelists conduct the informal
5 proceeding. If the person waives that requirement, the panelist
6 may be any member of the advisory board.

7 (c) Except as provided by Subsection (d), the panel
8 requirements described by Subsections (a) and (b) apply to an
9 informal proceeding conducted by the advisory board under Section
10 601.311, including a proceeding to:

11 (1) consider a disciplinary case to determine if a
12 violation has occurred; or

13 (2) request modification or termination of an order.

14 (d) The panel requirements described by Subsections (a) and
15 (b) do not apply to an informal proceeding conducted by the advisory
16 board under Section 601.311 to show compliance with an order of the
17 advisory board.

18 Sec. 601.313. ROLES AND RESPONSIBILITIES OF PARTICIPANTS IN
19 INFORMAL PROCEEDINGS. (a) An advisory board member who serves as
20 a panelist at an informal meeting under Section 601.311 shall make
21 recommendations for the disposition of a complaint or allegation.
22 The member may request the assistance of a medical board employee at
23 any time.

24 (b) Medical board employees shall present a summary of the
25 allegations against the person who is the subject of the complaint
26 and of the facts pertaining to the allegation that the employees
27 reasonably believe may be proven by competent evidence at a formal

1 hearing.

2 (c) An attorney for the advisory board or medical board
3 shall act as counsel to the panel and, notwithstanding Subsection
4 (e), shall be present during the informal meeting and the panel's
5 deliberations to advise the panel on legal issues that arise during
6 the proceeding. The attorney may ask questions of a participant in
7 the informal meeting to clarify any statement made by the
8 participant. The attorney shall provide to the panel a historical
9 perspective on comparable cases that have appeared before the
10 advisory board or medical board, keep the proceedings focused on
11 the case being discussed, and ensure that the medical board's
12 employees and the person who is the subject of the complaint have an
13 opportunity to present information related to the case. During the
14 panel's deliberations, the attorney may be present only to advise
15 the panel on legal issues and to provide information on comparable
16 cases that have appeared before the advisory board or medical
17 board.

18 (d) The panel and medical board employees shall provide an
19 opportunity for the person who is the subject of the complaint and
20 the person's authorized representative to reply to the medical
21 board employees' presentation and to present oral and written
22 statements and facts that the person and representative reasonably
23 believe could be proven by competent evidence at a formal hearing.

24 (e) An employee of the medical board who participated in the
25 presentation of the allegation or information gathered in the
26 investigation of the complaint, the person who is the subject of the
27 complaint, the person's authorized representative, the

1 complainant, the witnesses, and members of the public may not be
2 present during the deliberations of the panel. Only the members of
3 the panel and the attorney serving as counsel to the panel may be
4 present during the deliberations.

5 (f) The panel shall recommend the dismissal of the complaint
6 or allegations or, if the panel determines that the person has
7 violated a statute or advisory board rule, the panel may recommend
8 advisory board action and terms for an informal settlement of the
9 case.

10 (g) The panel's recommendations under Subsection (f) must
11 be made in a written order and presented to the affected person and
12 the person's authorized representative. The person may accept the
13 proposed settlement within the time established by the panel at the
14 informal meeting. If the person rejects the proposed settlement or
15 does not act within the required time, the advisory board may
16 proceed with the filing of a formal complaint with the State Office
17 of Administrative Hearings.

18 Sec. 601.314. LIMIT ON ACCESS TO INVESTIGATION FILES. The
19 advisory board shall prohibit or limit access to an investigation
20 file relating to a person subject to an informal proceeding in the
21 manner provided by Sections [164.007\(c\)](#) and [601.275](#).

22 Sec. 601.315. REFUND. (a) Subject to Subsection (b), the
23 advisory board may order a certificate holder to pay a refund to a
24 consumer as provided in an agreement resulting from an informal
25 settlement conference instead of or in addition to imposing an
26 administrative penalty under Subchapter H.

27 (b) The amount of a refund ordered as provided in an

1 agreement resulting from an informal settlement conference may not
2 exceed the amount the consumer paid to the certificate holder for a
3 service regulated by this chapter. The advisory board may not
4 require payment of other damages or estimate harm in a refund order.

5 Sec. 601.316. EXPERT IMMUNITY. An expert who assists the
6 advisory board is immune from suit and judgment and may not be
7 subjected to a suit for damages for any investigation, report,
8 recommendation, statement, evaluation, finding, or other action
9 taken in the course of assisting the advisory board in a
10 disciplinary proceeding. The attorney general shall represent the
11 expert in any suit resulting from a service provided by the person
12 in good faith to the advisory board.

13 SECTION 2.037. Section 601.351, Occupations Code, is
14 amended to read as follows:

15 Sec. 601.351. IMPOSITION OF PENALTY. The advisory board
16 [~~department~~] may impose an administrative penalty against a person
17 who violates this chapter or a rule adopted under this chapter.

18 SECTION 2.038. Section 601.353(a), Occupations Code, is
19 amended to read as follows:

20 (a) If, after investigating a possible violation and the
21 facts surrounding that possible violation, the advisory board
22 [~~department~~] determines that a violation occurred, the advisory
23 board [~~department~~] shall give written notice of the violation to
24 the person alleged to have committed the violation.

25 SECTION 2.039. Section 601.354, Occupations Code, as
26 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
27 2015, is amended to read as follows:

1 Sec. 601.354. PENALTY TO BE PAID OR HEARING REQUESTED.

2 (a) Not later than the 20th day after the date the person receives
3 the notice, the person may:

4 (1) accept the [~~department's~~] determination,
5 including the proposed administrative penalty; or

6 (2) make a written request for a hearing on that
7 determination.

8 (b) If the person accepts the [~~department's~~] determination,
9 the advisory board [~~department~~] by order shall approve the
10 determination and impose the proposed penalty.

11 SECTION 2.040. Section 601.355, Occupations Code, as
12 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
13 2015, is amended to read as follows:

14 Sec. 601.355. HEARING. (a) If the person timely requests
15 a hearing, the advisory board [~~department~~] shall:

16 (1) set a hearing;

17 (2) give written notice of the hearing to the person;

18 and

19 (3) designate a hearings examiner to conduct the
20 hearing.

21 (b) The hearings examiner shall make findings of fact and
22 conclusions of law and promptly issue to the advisory board
23 [~~department~~] a proposal for decision as to the occurrence of the
24 violation and the amount of any proposed administrative penalty.

25 SECTION 2.041. Section 601.356, Occupations Code, as
26 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
27 2015, is amended to read as follows:

1 Sec. 601.356. DECISION BY ADVISORY BOARD [~~DEPARTMENT~~].

2 (a) Based on the findings of fact and conclusions of law and the
3 recommendations of the hearings examiner, the advisory board
4 [~~department~~] by order may determine that:

5 (1) a violation has occurred and may impose an
6 administrative penalty; or

7 (2) a violation did not occur.

8 (b) The advisory board [~~department~~] shall give notice of the
9 order to the person. The notice must include:

10 (1) separate statements of the findings of fact and
11 conclusions of law;

12 (2) the amount of any penalty imposed; and

13 (3) a statement of the right of the person to judicial
14 review of the order.

15 SECTION 2.042. Sections [601.357\(b\)](#) and (c), Occupations
16 Code, are amended to read as follows:

17 (b) Within the 30-day period, a person who acts under
18 Subsection (a)(3) may:

19 (1) stay enforcement of the penalty by:

20 (A) paying the penalty to the court for placement
21 in an escrow account; or

22 (B) giving to the court a supersedeas bond that
23 is approved by the court for the amount of the penalty and that is
24 effective until all judicial review of the order is final; or

25 (2) request the court to stay enforcement of the
26 penalty by:

27 (A) filing with the court a sworn affidavit of

1 the person stating that the person is financially unable to pay the
2 penalty and is financially unable to give the supersedeas bond; and

3 (B) giving a copy of the affidavit to the
4 advisory board [~~department~~] by certified mail.

5 (c) If the advisory board [~~department~~] receives a copy of an
6 affidavit as provided by Subsection (b)(2), the advisory board
7 [~~department~~] may file with the court a contest to the affidavit not
8 later than the fifth day after the date the copy is received.

9 SECTION 2.043. Section 601.358, Occupations Code, is
10 amended to read as follows:

11 Sec. 601.358. COLLECTION OF PENALTY. If the person does not
12 pay the administrative penalty and the enforcement of the penalty
13 is not stayed, the advisory board [~~department~~] may refer the matter
14 to the attorney general for collection.

15 SECTION 2.044. Section 601.360(a), Occupations Code, is
16 amended to read as follows:

17 (a) If, after judicial review, the administrative penalty
18 is reduced or not imposed by the court, the court shall, after the
19 judgment becomes final:

20 (1) order the appropriate amount, plus accrued
21 interest, be remitted to the person by the advisory board
22 [~~department~~] if the person paid the penalty under Section
23 601.357(a)(2); or

24 (2) if the person paid the penalty under Section
25 601.357(b)(1)(A) or posted a supersedeas bond, order the advisory
26 board [~~department~~] to:

27 (A) execute a complete release of the escrow

1 account or bond, as appropriate, if the penalty is not imposed; or

2 (B) release the escrow account or bond, as
3 appropriate, after the reduced penalty has been paid from the
4 account or by the person.

5 SECTION 2.045. Section 601.361, Occupations Code, as
6 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
7 2015, is amended to read as follows:

8 Sec. 601.361. EXPENSES AND COSTS. (a) In this section,
9 "reasonable expenses and costs" includes expenses incurred by the
10 advisory board [~~department~~] and the attorney general in the
11 investigation, initiation, or prosecution of an action, including
12 reasonable investigative costs, court costs, attorney's fees,
13 witness fees, and deposition expenses.

14 (b) The advisory board [~~department~~] may assess reasonable
15 expenses and costs against a person in an administrative hearing
16 if, as a result of the hearing, an administrative penalty is
17 assessed against the person. The person shall pay expenses and
18 costs assessed under this subsection not later than the 30th day
19 after the date the order of the advisory board [~~department~~]
20 requiring the payment of expenses and costs is final. The advisory
21 board [~~department~~] may refer the matter to the attorney general for
22 collection of the expenses and costs.

23 (c) If the attorney general brings an action against a
24 person to enforce an administrative penalty assessed under this
25 chapter and the person is found liable for an administrative
26 penalty, the attorney general may recover, on behalf of the
27 attorney general and the advisory board [~~department~~], reasonable

1 expenses and costs.

2 SECTION 2.046. Sections 601.401(a) and (c), Occupations
3 Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular
4 Session, 2015, are amended to read as follows:

5 (a) If it appears that a person has violated, is violating,
6 or is threatening to violate this chapter or a rule adopted under
7 this chapter, the advisory board [~~department~~] may bring an action
8 to enjoin the continued or threatened violation.

9 (c) At the request of the advisory board [~~department~~], the
10 attorney general shall bring an action in the name of the state for
11 the injunctive relief, to recover the civil penalty, or both.

12 SECTION 2.047. Section 601.402(a), Occupations Code, is
13 amended to read as follows:

14 (a) A person who is required to be certified under this
15 chapter commits an offense if the person:

16 (1) knowingly administers a radiologic procedure to
17 another person without holding a valid certificate issued by the
18 advisory board [~~department~~];

19 (2) practices radiologic technology without holding a
20 certificate under this chapter;

21 (3) uses or attempts to use a suspended or revoked
22 certificate;

23 (4) knowingly allows a student enrolled in an
24 education program to perform a radiologic procedure without direct
25 supervision;

26 (5) obtains or attempts to obtain a certificate
27 through bribery or fraudulent misrepresentation;

1 (6) uses the title or name "certified medical
2 radiologic technologist" or any other name or title that implies
3 the person is certified to practice radiologic technology, unless
4 the person is certified under this chapter;

5 (7) knowingly conceals information relating to
6 enforcement of this chapter or a rule adopted under this chapter; or

7 (8) employs a person not certified by or in compliance
8 with this chapter for the purpose of applying ionizing radiation to
9 a person.

10 SECTION 2.048. Section 602.002, Occupations Code, is
11 amended by amending Subdivision (1), as amended by S.B. 219, Acts of
12 the 84th Legislature, Regular Session, 2015, amending Subdivision
13 (4), and adding Subdivision (5-a) to read as follows:

14 (1) "Advisory committee" [~~"Board"~~] means the Medical
15 Physicist [~~Texas Board of~~] Licensure Advisory Committee [~~for~~
16 ~~Professional Medical Physicists~~].

17 (4) "License" means a certificate issued by the
18 medical board that authorizes the holder to engage in the practice
19 of medical physics.

20 (5-a) "Medical board" means the Texas Medical Board.

21 SECTION 2.049. The heading to Subchapter B, Chapter 602,
22 Occupations Code, is amended to read as follows:

23 SUBCHAPTER B. MEDICAL PHYSICIST [~~TEXAS BOARD OF~~] LICENSURE
24 ADVISORY COMMITTEE [~~FOR PROFESSIONAL MEDICAL PHYSICISTS~~]

25 SECTION 2.050. Section 602.051, Occupations Code, is
26 amended to read as follows:

27 Sec. 602.051. ADVISORY COMMITTEE [~~BOARD~~]. (a) The

1 advisory committee [~~Texas Board of Licensure for Professional~~
2 ~~Medical Physicists~~] is an informal advisory committee to the
3 medical board and is not subject to Chapter 2110, Government Code
4 [~~the division of the department responsible for regulating the~~
5 ~~practice of medical physics~~].

6 (b) The advisory committee has no independent rulemaking
7 authority.

8 SECTION 2.051. The heading to Section 602.052, Occupations
9 Code, is amended to read as follows:

10 Sec. 602.052. APPOINTMENT OF ADVISORY COMMITTEE [~~BOARD~~
11 ~~MEMBERS~~].

12 SECTION 2.052. Sections 602.052(a) and (d), Occupations
13 Code, are amended to read as follows:

14 (a) The advisory committee [~~board~~] consists of seven [~~nine~~]
15 members appointed by the president of the medical board [~~governor~~
16 ~~with the advice and consent of the senate~~] as follows:

17 (1) four [~~five licensed~~] medical physicists licensed
18 in this state who each have at least five years of experience as a
19 medical physicist [~~, with at least one board certified~~
20 ~~representative of each of the following specialties:~~

- 21 [~~(A) diagnostic radiological physics,~~
22 [~~(B) medical health physics,~~
23 [~~(C) medical nuclear physics, and~~
24 [~~(D) therapeutic radiological physics~~];

25 (2) two [~~three~~] physicians licensed in this state who
26 each have at least five years of clinical experience related to
27 medical physics [~~, with a board certified representative of each of~~

1 ~~the following specialties:~~

- 2 ~~[(A) diagnostic radiology,~~
- 3 ~~[(B) nuclear medicine, and~~
- 4 ~~[(C) radiation therapy]; and~~

5 (3) one member who represents the public.

6 (d) Appointments to the advisory committee ~~[board]~~ shall be
7 made without regard to the race, color, disability, creed, sex,
8 religion, age, or national origin of the appointee.

9 SECTION 2.053. The heading to Section 602.053, Occupations
10 Code, is amended to read as follows:

11 Sec. 602.053. PUBLIC MEMBER ~~[BOARD MEMBERSHIP,]~~
12 ELIGIBILITY.

13 SECTION 2.054. Section 602.053(d), Occupations Code, is
14 amended to read as follows:

15 (d) An advisory committee ~~[A public board]~~ member
16 representing the public must be a resident of this ~~[the]~~ state for a
17 period of not less than four years preceding appointment. A person
18 may not be a ~~[public]~~ member of the advisory committee representing
19 the public ~~[board]~~ if the person or the person's spouse:

20 (1) is registered, certified, or licensed by a
21 regulatory agency in a health care profession ~~[the field of medical~~
22 ~~physics]~~;

23 (2) is employed by or participates in the management
24 of a business entity or other organization regulated by or
25 receiving money from the medical board;

26 (3) owns or controls, directly or indirectly, more
27 than a 10 percent interest in a business entity or other

1 organization regulated by or receiving money from the medical
2 board; or

3 (4) uses or receives a substantial amount of tangible
4 goods, services, or money from the medical board other than
5 compensation or reimbursement authorized by law for medical board
6 membership, attendance, or expenses.

7 SECTION 2.055. Sections 602.054(b) and (c), Occupations
8 Code, are amended to read as follows:

9 (b) A person may not be a member of the advisory committee
10 [~~board~~] if:

11 (1) the person is an officer, employee, or paid
12 consultant of a Texas trade association in the field of medicine; or

13 (2) the person's spouse is an officer, manager, or paid
14 consultant of a Texas trade association in the field of medicine.

15 (c) A person may not serve as a member of the advisory
16 committee [~~board~~] if the person is required to register as a
17 lobbyist under Chapter 305, Government Code, because of the
18 person's activities for compensation on behalf of a profession
19 related to the operation of the advisory committee or medical
20 board.

21 SECTION 2.056. Section 602.055, Occupations Code, is
22 amended to read as follows:

23 Sec. 602.055. TERMS; VACANCY. (a) Members of the advisory
24 committee [~~board~~] serve two-year [~~staggered six-year~~] terms. The
25 terms of the [~~three~~] members expire on February 1 of each
26 odd-numbered year.

27 (b) A person is not eligible to serve more than two [~~one~~]

1 consecutive full terms [~~six-year term~~]. [~~A person may serve~~
2 ~~consecutively one six-year term and a shorter term that arises~~
3 ~~because of filling an unexpired vacancy.~~]

4 (c) If a vacancy occurs during a member's term [~~on the~~
5 ~~board~~], the president of the medical board [~~governor~~] shall appoint
6 a person to serve for the unexpired term.

7 SECTION 2.057. Sections 602.056(a) and (b), Occupations
8 Code, are amended to read as follows:

9 (a) It is a ground for removal from the advisory committee
10 [~~board~~] that a member:

11 (1) does not have at the time of appointment the
12 qualifications required by Section 602.052 [~~602.053~~] for
13 appointment to the advisory committee [~~board~~];

14 (2) does not maintain during service on the advisory
15 committee [~~board~~] the qualifications required by Section 602.052
16 [~~602.053~~] for appointment to the advisory committee [~~board~~];

17 (3) is ineligible for membership under Section
18 602.053(d) or Section 602.054; or

19 (4) cannot, because of illness or disability,
20 discharge the member's duties for a substantial part of the member's
21 term[~~, or~~

22 [~~(5) does not attend at least half of the regularly~~
23 ~~scheduled board meetings held in a calendar year, excluding~~
24 ~~meetings held while the person was not a board member, without an~~
25 ~~excuse approved by the board].~~

26 (b) The validity of an [~~A board~~] action of the advisory
27 committee is not affected by the fact that it is taken while a

1 ground for removal of a member of the advisory committee [~~board~~]
2 exists [~~is not invalid for that reason~~].

3 SECTION 2.058. Section 602.057, Occupations Code, is
4 amended to read as follows:

5 Sec. 602.057. COMPENSATION. A member of the advisory
6 committee [~~board~~] is entitled to a per diem in an amount set by the
7 legislature for each day that the member engages in the business of
8 the advisory committee [~~board~~].

9 SECTION 2.059. Section 602.058, Occupations Code, is
10 amended to read as follows:

11 Sec. 602.058. ADVISORY COMMITTEE [~~BOARD~~] OFFICERS;
12 MEETINGS. (a) The president of the medical board [~~governor~~] shall
13 biennially designate a member of the advisory committee [~~board~~] as
14 the presiding officer of the advisory committee [~~board~~] to serve in
15 that capacity at the will of the president [~~governor~~]. The advisory
16 committee may [~~At the first regularly scheduled meeting of each~~
17 ~~calendar year, the board shall~~] elect from its members additional
18 officers as necessary [~~an assistant presiding officer~~].

19 (b) The advisory committee [~~board~~] shall meet as requested
20 by the medical board. A meeting may be held by telephone conference
21 call [~~hold a meeting at least once a year and at other times in~~
22 ~~accordance with board rule~~].

23 (c) Except as otherwise provided by this chapter, the
24 advisory committee is subject to Chapters 551, 552, and 2001,
25 Government Code.

26 (d) A majority of the advisory committee members
27 constitutes a quorum for all purposes except when advisory

1 committee members are participating in a proceeding of the medical
2 board as described by Section 602.151(b).

3 SECTION 2.060. The heading to Subchapter D, Chapter 602,
4 Occupations Code, is amended to read as follows:

5 SUBCHAPTER D. MEDICAL BOARD POWERS AND DUTIES

6 SECTION 2.061. Section 602.151, Occupations Code, as
7 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
8 2015, is amended to read as follows:

9 Sec. 602.151. GENERAL POWERS AND DUTIES. (a) The medical
10 board shall:

11 (1) adopt [~~and revise, with the approval of the~~
12 ~~executive commissioner of the Health and Human Services~~
13 ~~Commission,~~] rules reasonably necessary to properly perform its
14 duties under this chapter, including:

15 (A) procedural rules governing investigations,
16 informal hearings, the issuance of cease and desist orders, and
17 disciplinary sanctions; and

18 (B) rules governing character and conduct for
19 applicants or license holders and fitness to practice medical
20 physics in this state;

21 (2) establish [~~adopt an official seal,~~
22 [~~(3) determine the~~] qualifications for a medical
23 physicist to practice in this state and the fitness of each
24 applicant for a license or license renewal;

25 (3) establish minimum education and training
26 requirements necessary for a license under this chapter;

27 (4) establish requirements for [~~charge a fee for~~

1 ~~processing and issuing or renewing a license;~~

2 ~~[(5) conduct]~~ examinations for licensure;

3 (5) prescribe the application form for a license under
4 this chapter;

5 (6) issue, deny, renew, revoke, cancel, restrict,
6 ~~[and]~~ suspend, or accept the surrender of a license [licenses];

7 (7) charge fees that are reasonable and necessary to
8 cover the costs of administering this chapter ~~[adopt and publish a~~
9 ~~code of ethics]; [and]~~

10 (8) conduct informal hearings ~~[on complaints]~~
11 concerning violations of this chapter or rules adopted under this
12 chapter;

13 (9) issue disciplinary sanctions, including agreed
14 orders and non-disciplinary remedial plans; and

15 (10) establish procedures for making a confidential
16 referral to the Texas Physician Health Program established under
17 Chapter 167, and for requiring participation in the program as a
18 prerequisite for issuing or maintaining a license under this
19 chapter.

20 (b) The medical board may include any member of the advisory
21 committee in a proceeding of the medical board related to a power or
22 duty described by Subsection (a) if the medical board considers the
23 expertise of the advisory committee member to be beneficial in the
24 proceeding.

25 SECTION 2.062. Section [602.152](#), Occupations Code, is
26 amended to read as follows:

27 Sec. 602.152. CONSUMER INTEREST INFORMATION; COMPLAINTS.

1 (a) The medical board shall prepare information of consumer
2 interest describing the regulatory functions of the medical board
3 and the procedures by which complaints are filed with and resolved
4 by the medical board.

5 (b) The medical board shall maintain a file on each written
6 complaint filed with the medical board. The file must include:

7 (1) the name of the person who filed the complaint;

8 (2) the date the complaint is received by the medical
9 board;

10 (3) the subject matter of the complaint;

11 (4) the name of each person contacted in relation to
12 the complaint;

13 (5) a summary of the results of the review or
14 investigation of the complaint; and

15 (6) an explanation of the reason the file was closed,
16 if the medical board closed the file without taking action other
17 than to investigate the complaint.

18 (c) The medical board shall provide to the person filing the
19 complaint and to each person who is a subject of the complaint a
20 copy of the medical board's policies and procedures relating to
21 complaint investigation and resolution.

22 (d) The medical board, at least quarterly until final
23 disposition of the complaint, shall notify the person filing the
24 complaint and each person who is a subject of the complaint of the
25 status of the complaint unless the notice would jeopardize an
26 undercover investigation.

27 SECTION 2.063. Section [602.1521](#), Occupations Code, is

1 amended to read as follows:

2 Sec. 602.1521. PUBLIC PARTICIPATION. The medical board
3 shall develop and implement policies that provide the public with a
4 reasonable opportunity to appear before the medical board and to
5 speak on any issue relating to medical physicists [~~under the~~
6 ~~jurisdiction of the board~~].

7 SECTION 2.064. The heading to Section 602.1525, Occupations
8 Code, is amended to read as follows:

9 Sec. 602.1525. SUBPOENAS; CONFIDENTIALITY OF INFORMATION.

10 SECTION 2.065. Section 602.1525, Occupations Code, is
11 amended by amending Subsection (a), as amended by S.B. 219, Acts of
12 the 84th Legislature, Regular Session, 2015, amending Subsections
13 (h) and (i), and adding Subsection (a-1) to read as follows:

14 (a) The executive director of the medical board, the
15 director's designee, or the secretary-treasurer of the medical
16 board may issue [~~In an investigation of a complaint filed with the~~
17 ~~board, the board may request that the commissioner or the~~
18 ~~commissioner's designee approve the issuance of]~~ a subpoena or
19 subpoena duces tecum:

20 (1) to conduct an investigation or a contested case
21 proceeding related to:

22 (A) alleged misconduct by a medical physicist;

23 (B) an alleged violation of this chapter or
24 another law related to the practice of medical physics; or

25 (C) the provision of health care under this
26 chapter; or

27 (2) for purposes of determining whether to issue,

1 suspend, restrict, or revoke a license under this chapter [~~If the~~
2 ~~request is approved, the board may issue a subpoena to compel the~~
3 ~~attendance of a relevant witness or the production, for inspection~~
4 ~~or copying, of relevant evidence that is in this state)].~~

5 (a-1) Failure to timely comply with a subpoena issued under
6 this section is a ground for:

7 (1) disciplinary action by the medical board or
8 another licensing or regulatory agency with jurisdiction over the
9 person subject to the subpoena; and

10 (2) denial of a license application.

11 (h) All information and materials subpoenaed or compiled by
12 the medical board in connection with a complaint and investigation
13 are confidential and not subject to disclosure under Chapter 552,
14 Government Code, and not subject to disclosure, discovery,
15 subpoena, or other means of legal compulsion for their release to
16 anyone other than the medical board or its agents or employees who
17 are involved in discipline of the holder of a license, except that
18 this information may be disclosed to:

19 (1) persons involved with the medical board in a
20 disciplinary action against the holder of a license;

21 (2) professional medical physics licensing or
22 disciplinary boards in other jurisdictions;

23 (3) peer assistance programs approved by the medical
24 board under Chapter 467, Health and Safety Code;

25 (4) law enforcement agencies; and

26 (5) persons engaged in bona fide research, if all
27 individual-identifying information has been deleted.

1 (i) The filing of formal charges by the medical board
2 against a holder of a license, the nature of those charges,
3 disciplinary proceedings of the medical board, and final
4 disciplinary actions, including warnings and reprimands, by the
5 medical board are not confidential and are subject to disclosure in
6 accordance with Chapter 552, Government Code.

7 SECTION 2.066. Section 602.153, Occupations Code, is
8 amended to read as follows:

9 Sec. 602.153. CONTINUING EDUCATION. The medical board
10 shall recognize, prepare, or administer continuing education
11 programs for persons licensed under this chapter [~~by the board~~]. A
12 license holder must participate in the programs to the extent
13 required by the medical board to keep the person's license.

14 SECTION 2.067. Section 602.154, Occupations Code, is
15 amended to read as follows:

16 Sec. 602.154. RULES RELATING TO ADVERTISING OR COMPETITIVE
17 BIDDING. (a) The medical board may not adopt rules restricting
18 advertising or competitive bidding by a license holder except to
19 prohibit false, misleading, or deceptive practices.

20 (b) In its rules to prohibit false, misleading, or deceptive
21 practices, the medical board may not include a rule that:

- 22 (1) restricts the use of any medium for advertising;
23 (2) restricts the use of a license holder's personal
24 appearance or voice in an advertisement;
25 (3) relates to the size or duration of an
26 advertisement by the license holder; or
27 (4) restricts the license holder's advertisement under

1 a trade name.

2 SECTION 2.068. Subchapter D, Chapter 602, Occupations Code,
3 is amended by adding Section 602.156 to read as follows:

4 Sec. 602.156. RULES ON CONSEQUENCES OF CRIMINAL CONVICTION.
5 The medical board shall adopt rules and guidelines as necessary to
6 comply with Chapter 53, except to the extent the requirements of
7 this chapter are stricter than the requirements of Chapter 53.

8 SECTION 2.069. Section 602.203, Occupations Code, is
9 amended to read as follows:

10 Sec. 602.203. LICENSE APPLICATION. (a) A person may apply
11 for a license by filing an application with the medical board.

12 (b) An application must be on a form prescribed by the
13 medical board and must include:

14 (1) evidence of relevant work experience, including a
15 description of the duties performed;

16 (2) an official transcript from the college or
17 university granting the applicant's degree;

18 (3) a statement of the medical physics specialty for
19 which the application is submitted;

20 (4) three professional references; and

21 (5) any additional information required by medical
22 board rule.

23 (c) The applicant must submit with the application the fee
24 prescribed by the medical board.

25 (d) The medical board [~~or the executive secretary~~] may
26 require an applicant to appear before the medical board [~~or~~
27 ~~secretary~~] to present additional information in support of the

1 application.

2 SECTION 2.070. Section 602.205, Occupations Code, as
3 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
4 2015, is amended to read as follows:

5 Sec. 602.205. TEMPORARY LICENSE. The medical board may
6 issue a temporary license to an applicant who has satisfied the
7 educational requirements for a license but who has not yet
8 completed the experience and examination requirements of Section
9 602.207. A temporary license is valid for one year from the date of
10 issuance.

11 SECTION 2.071. Section 602.206(a), Occupations Code, is
12 amended to read as follows:

13 (a) The medical board shall administer a written
14 examination for a license to qualified applicants at least two
15 times each year.

16 SECTION 2.072. Section 602.207(a), Occupations Code, is
17 amended to read as follows:

18 (a) To be eligible to take an examination for a license, an
19 applicant must:

20 (1) have a master's or doctoral degree from an
21 accredited college or university that signifies the completion of
22 courses approved by the medical board in physics, medical physics,
23 biophysics, radiological physics, medical health physics, or
24 equivalent courses;

25 (2) have demonstrated, to the medical board's
26 satisfaction, completion of at least two years of full-time work
27 experience in the five years preceding the date of application in

1 the medical physics specialty for which application is made; and

2 (3) submit a completed application as required by
3 Section 602.203.

4 SECTION 2.073. Section 602.208, Occupations Code, is
5 amended to read as follows:

6 Sec. 602.208. EXAMINATION RESULTS; REEXAMINATION.

7 (a) The medical board shall notify each examinee of the results of
8 the examination not later than the 30th day after the date the
9 examination is administered. If an examination is graded or
10 reviewed by a national or state testing service, the medical board
11 shall notify each examinee of the results of the examination not
12 later than the 14th day after the date the medical board receives
13 the results from the testing service.

14 (b) If the medical board learns that the notice of the
15 examination results will be delayed for more than 90 days after the
16 examination date, the medical board shall notify each examinee of
17 the reason for the delay not later than the 90th day.

18 (c) If requested by a person who fails the examination, the
19 medical board shall provide to the person an analysis of the
20 person's performance on the examination.

21 (d) The medical board by rule shall establish procedures and
22 requirements for reexamination of an applicant who fails the
23 examination.

24 SECTION 2.074. Subchapter E, Chapter 602, Occupations Code,
25 is amended by adding Section 602.2081 to read as follows:

26 Sec. 602.2081. CRIMINAL HISTORY RECORD INFORMATION
27 REQUIREMENT FOR LICENSE. (a) The medical board shall require that

1 an applicant for a license submit a complete and legible set of
2 fingerprints, on a form prescribed by the medical board, to the
3 medical board or to the Department of Public Safety for the purpose
4 of obtaining criminal history record information from the
5 Department of Public Safety and the Federal Bureau of
6 Investigation.

7 (b) The medical board may not issue a license to a person who
8 does not comply with the requirement of Subsection (a).

9 (c) The medical board shall conduct a criminal history check
10 of each applicant for a license using information:

11 (1) provided by the individual under this section; and

12 (2) made available to the medical board by the
13 Department of Public Safety, the Federal Bureau of Investigation,
14 and any other criminal justice agency under Chapter 411, Government
15 Code.

16 (d) The medical board may:

17 (1) enter into an agreement with the Department of
18 Public Safety to administer a criminal history check required under
19 this section; and

20 (2) authorize the Department of Public Safety to
21 collect from each applicant the costs incurred by the Department of
22 Public Safety in conducting the criminal history check.

23 SECTION 2.075. Sections 602.209(a), (b), (c), and (e),
24 Occupations Code, are amended to read as follows:

25 (a) The medical board may issue a license to an eligible
26 applicant who:

27 (1) passes the examination under Section 602.206; and

1 (2) meets all other license requirements.

2 (b) Not later than the 30th day after the date the medical
3 board makes a decision on an application submitted under Section
4 602.203, the medical board shall notify the applicant of the
5 decision.

6 (c) If the medical board approves the application, the
7 medical board shall issue a license to the applicant. If the
8 medical board denies the application, the medical board shall
9 include in the notice of decision a description of the areas of
10 deficiency.

11 (e) A license certificate is the medical board's property
12 and must be surrendered on demand.

13 SECTION 2.076. Section 602.210, Occupations Code, is
14 amended by amending Subsections (b), (c), (d), (e), and (f) and
15 adding Subsection (g) to read as follows:

16 (b) The medical board by rule may adopt a system under which
17 licenses expire on various dates during the year.

18 (c) A person may renew an unexpired license by paying the
19 required renewal fee to the medical board before the expiration
20 date of the license.

21 (d) If a person's license has been expired for 90 days or
22 less, the person may renew the license by paying to the medical
23 board the required renewal fee and a penalty fee in an amount equal
24 to one-half of the amount of the renewal fee.

25 (e) If a person's license has been expired for longer than
26 90 days but less than one year [~~two years~~], the person may renew the
27 license by paying to the medical board the renewal fee that was due

1 at expiration and a penalty fee in an amount equal to the amount of
2 the renewal fee.

3 (f) If a person's license has been expired for one year [~~two~~
4 ~~years~~] or longer, the person may not renew the license. To obtain a
5 new license, a person must comply with the requirements and
6 procedures for obtaining an original license, including the
7 examination requirement [~~application requirements of this chapter~~
8 ~~and must submit to the board:~~

9 [(1) ~~a supplemental experience record as required by~~
10 ~~the board;~~

11 [(2) ~~a description of professional activities~~
12 ~~undertaken during the expiration period;~~

13 [(3) ~~a list of current professional references; and~~

14 [(4) ~~a transcript for any degree or college credit~~
15 ~~earned since the person's previous license application].~~

16 (g) Not later than the 30th day before the date a person's
17 license expires, the medical board shall send written notice of the
18 impending license expiration to the person at the license holder's
19 last known address according to the records of the medical board.

20 SECTION 2.077. Subchapter E, Chapter 602, Occupations Code,
21 is amended by adding Section 602.2101 to read as follows:

22 Sec. 602.2101. CRIMINAL HISTORY RECORD INFORMATION
23 REQUIREMENT FOR RENEWAL. (a) An applicant renewing a license
24 shall submit a complete and legible set of fingerprints for
25 purposes of performing a criminal history check of the applicant as
26 provided by Section 602.2081.

27 (b) The medical board may not renew the license of a person

1 who does not comply with the requirement of Subsection (a).

2 (c) A license holder is not required to submit fingerprints
3 under this section for the renewal of the license if the license
4 holder has previously submitted fingerprints under:

5 (1) Section 602.2081 for the initial issuance of the
6 license; or

7 (2) this section as part of a prior renewal of the
8 license.

9 SECTION 2.078. Section 602.211, Occupations Code, is
10 amended to read as follows:

11 Sec. 602.211. LICENSE BY ENDORSEMENT OR RECIPROCITY.

12 (a) On receipt of an application and fee under Section 602.203,
13 the medical board may waive any prerequisite for obtaining a
14 license to a person who holds a license to practice medical or
15 radiological physics in another state, territory, or jurisdiction
16 acceptable to the medical board that has requirements for the
17 licensing of medical or radiological physicists that are
18 substantially the same as the requirements of this chapter.

19 (b) The medical board may waive any prerequisite for
20 obtaining a license to practice medical physics in this state for an
21 applicant who holds a license issued by another jurisdiction with
22 which this state has a reciprocity agreement. The medical board may
23 make an agreement, subject to the approval of the governor, with
24 another state to allow for licensing by reciprocity.

25 SECTION 2.079. Section 602.212, Occupations Code, is
26 amended to read as follows:

27 Sec. 602.212. LICENSE HOLDER DUTIES. A license holder

1 shall:

2 (1) publicly display the license holder's license in
3 an appropriate manner; and

4 (2) report immediately to the medical board any change
5 in the license holder's address.

6 SECTION 2.080. Section 602.213, Occupations Code, as
7 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
8 2015, is amended to read as follows:

9 Sec. 602.213. PROVISIONAL LICENSE. (a) The medical board
10 may issue a provisional license to an applicant currently licensed
11 or certified in another jurisdiction who seeks a license in this
12 state and who:

13 (1) has been licensed or certified in good standing as
14 a practitioner of medical or radiologic physics for at least two
15 years in another jurisdiction, including a foreign country, that
16 has licensing or certification requirements substantially
17 equivalent to the requirements of this chapter;

18 (2) has passed a national or other examination
19 recognized by the medical board relating to the practice of medical
20 or radiologic physics; and

21 (3) is sponsored by a person licensed by the medical
22 board under this chapter with whom the provisional license holder
23 will practice during the time the person holds a provisional
24 license.

25 (b) The medical board may waive the requirement of
26 Subsection (a)(3) for an applicant if the medical board determines
27 that compliance with that subsection would be a hardship to the

1 applicant.

2 (c) A provisional license is valid until the date the
3 medical board approves or denies the provisional license holder's
4 application for a license. The medical board shall issue a license
5 under this chapter to the provisional license holder if:

6 (1) the provisional license holder is eligible to be
7 certified under Section 602.211; or

8 (2) the provisional license holder passes the part of
9 the examination under Section 602.206 that relates to the
10 applicant's knowledge and understanding of the laws and rules
11 relating to the practice of medical physics in this state and:

12 (A) the medical board verifies that the
13 provisional license holder meets the academic and experience
14 requirements for a license under this chapter; and

15 (B) the provisional license holder satisfies any
16 other licensing requirements under this chapter.

17 (d) The medical board must approve or deny a provisional
18 license holder's application for a license not later than the 180th
19 day after the date the provisional license is issued. The medical
20 board may extend the 180-day period if the results of an examination
21 have not been received by the medical board before the end of that
22 period.

23 (e) The medical board may establish a fee for provisional
24 licenses.

25 SECTION 2.081. Section 602.251, Occupations Code, is
26 amended to read as follows:

27 Sec. 602.251. GROUNDS FOR LICENSE DENIAL OR DISCIPLINARY

1 ACTION. The medical board may [~~shall~~] refuse to issue or renew a
2 license, suspend, restrict, or revoke a license, or reprimand a
3 license holder for:

4 (1) obtaining or renewing a license by means of fraud,
5 misrepresentation, or concealment of a material fact;

6 (2) having previously applied for or held a license
7 issued by the licensing authority of another state, territory, or
8 jurisdiction that was denied, suspended, or revoked by that
9 licensing authority;

10 (3) engaging in unprofessional conduct that
11 endangered or is likely to endanger the health, safety, or welfare
12 of the public as defined by medical board rule;

13 (4) violating this chapter, a lawful order or rule of
14 the medical board, or the medical board's code of ethics; or

15 (5) being convicted of:

16 (A) a felony; or

17 (B) a misdemeanor involving moral turpitude or
18 that directly relates to the person's duties as a licensed medical
19 physicist.

20 SECTION 2.082. Section 602.252, Occupations Code, is
21 amended to read as follows:

22 Sec. 602.252. ADMINISTRATIVE PROCEDURE FOR CONTESTED CASE
23 HEARING. Chapter [~~Chapters~~] 2001 [~~and 2002~~], Government Code, and
24 medical board rules for a contested case hearing apply to a
25 proceeding by the medical board under this chapter in which a formal
26 complaint has been filed [~~subchapter~~].

27 SECTION 2.083. Subchapter F, Chapter 602, Occupations Code,

1 is amended by adding Section 602.2521 to read as follows:

2 Sec. 602.2521. INFORMAL PROCEDURES. (a) The medical board
3 by rule shall adopt procedures governing:

4 (1) informal disposition of a contested case under
5 Section 2001.056, Government Code; and

6 (2) informal proceedings held in compliance with
7 Section 2001.054, Government Code.

8 (b) Rules adopted under Subsection (a) must:

9 (1) provide the complainant, if applicable and
10 permitted by law, an opportunity to be heard;

11 (2) provide the license holder an opportunity to be
12 heard; and

13 (3) require the medical board's legal counsel or a
14 representative of the attorney general to be present to advise the
15 medical board or the medical board's employees.

16 (c) Chapters 551 and 552, Government Code, do not apply to
17 an investigation file and investigative information in the
18 possession of or used by the medical board in an informal proceeding
19 under this section.

20 SECTION 2.084. Section 602.253, Occupations Code, is
21 amended to read as follows:

22 Sec. 602.253. PROBATION. The medical board may place on
23 probation a person whose license is suspended. If a license
24 suspension is probated, the medical board may require the person
25 to:

26 (1) report regularly to the medical board [~~department~~]
27 on matters that are the basis of the probation;

1 (2) limit practice to the areas prescribed by the
2 medical board; or

3 (3) continue or review professional education until
4 the person attains a degree of skill satisfactory to the medical
5 board in those areas that are the basis of the probation.

6 SECTION 2.085. Section 602.254(a), Occupations Code, is
7 amended to read as follows:

8 (a) The medical board or a three-member panel [~~committee~~] of
9 medical board members designated by the president of the medical
10 board shall temporarily suspend the license of a license holder if
11 the medical board or panel [~~committee~~] determines from the evidence
12 or information presented to it that continued practice by the
13 license holder would constitute a continuing and imminent threat to
14 the public welfare.

15 SECTION 2.086. Section 602.301, Occupations Code, is
16 amended to read as follows:

17 Sec. 602.301. INJUNCTION. The medical board shall
18 prosecute or file suit to enjoin a violation of this chapter or a
19 rule adopted under this chapter.

20 SECTION 2.087. Section 602.3015, Occupations Code, is
21 amended to read as follows:

22 Sec. 602.3015. CIVIL PENALTY. (a) A person who violates
23 this chapter or a rule adopted or order issued [~~adopted by the~~
24 ~~board~~] under this chapter is liable for a civil penalty not to
25 exceed \$5,000 a day.

26 (b) At the request of the medical board, the attorney
27 general shall bring an action to recover a civil penalty authorized

1 under this section.

2 SECTION 2.088. Sections 602.351(a), (e), (g), (h), (i),
3 (j), (k), and (l), Occupations Code, are amended to read as follows:

4 (a) The medical board may impose an administrative penalty
5 on a person licensed under this chapter who violates this chapter or
6 a rule adopted or order issued [~~adopted~~] under this chapter. A
7 penalty collected under this subchapter shall be deposited in the
8 state treasury in the general revenue fund.

9 (e) If the medical board [~~executive secretary~~] determines
10 that a violation occurred, the medical board [~~executive secretary~~]
11 shall give written notice [~~of the report~~] by certified mail to the
12 person.

13 (g) Within 20 days after the date the person receives the
14 notice under Subsection (e), the person in writing may:

15 (1) accept the determination and recommended penalty
16 [~~of the executive secretary~~]; or

17 (2) make a request for a hearing on the occurrence of
18 the violation, the amount of the penalty, or both.

19 (h) If the person accepts the determination and recommended
20 penalty or if the person fails to respond to the notice, the medical
21 board by order shall approve the determination and impose the
22 recommended penalty.

23 (i) If the person requests a hearing, the medical board
24 shall refer the matter to the State Office of Administrative
25 Hearings, which shall promptly set a hearing date and give written
26 notice of the time and place of the hearing to the person. An
27 administrative law judge of the State Office of Administrative

1 Hearings shall conduct the hearing.

2 (j) The administrative law judge shall make findings of fact
3 and conclusions of law and promptly issue to the medical board a
4 proposal for a decision about the occurrence of the violation and
5 the amount of a proposed penalty.

6 (k) Based on the findings of fact, conclusions of law, and
7 proposal for a decision, the medical board by order may determine
8 that:

9 (1) a violation occurred and impose a penalty; or

10 (2) a violation did not occur.

11 (l) The notice of the medical board's order under Subsection
12 (k) that is sent to the person in accordance with Chapter 2001,
13 Government Code, must include a statement of the right of the person
14 to judicial review of the order.

15 SECTION 2.089. Sections [602.352\(a\)](#), (b), and (c),
16 Occupations Code, are amended to read as follows:

17 (a) Within 30 days after the date an order of the medical
18 board under Section [602.351\(k\)](#) that imposes an administrative
19 penalty becomes final, the person shall:

20 (1) pay the penalty; or

21 (2) file a petition for judicial review of the medical
22 board's order contesting the occurrence of the violation, the
23 amount of the penalty, or both.

24 (b) Within the 30-day period prescribed by Subsection (a), a
25 person who files a petition for judicial review may:

26 (1) stay enforcement of the penalty by:

27 (A) paying the penalty to the court for placement

1 in an escrow account; or

2 (B) giving the court a supersedeas bond approved
3 by the court that is:

4 (i) for the amount of the penalty; and

5 (ii) effective until all judicial review of
6 the medical board's order is final; or

7 (2) request the court to stay enforcement of the
8 penalty by:

9 (A) filing with the court a sworn affidavit of
10 the person stating that the person is financially unable to pay the
11 penalty and is financially unable to give the supersedeas bond; and

12 (B) sending a copy of the affidavit to the
13 medical board by certified mail.

14 (c) If the medical board receives a copy of an affidavit
15 under Subsection (b)(2), the medical board may file with the court,
16 within five days after the date the copy is received, a contest to
17 the affidavit. The court shall hold a hearing on the facts alleged
18 in the affidavit as soon as practicable and shall stay the
19 enforcement of the penalty on finding that the alleged facts are
20 true. The person who files an affidavit has the burden of proving
21 that the person is financially unable to pay the penalty or to give
22 a supersedeas bond.

23 SECTION 2.090. Sections [603.002](#)(2) and (3), Occupations
24 Code, are amended to read as follows:

25 (2) "Advisory committee" [~~"Committee"~~] means the
26 [~~Texas State~~] Perfusionist Licensure Advisory Committee.

27 (3) "Medical board" [~~"Department"~~] means the Texas

1 Medical Board [~~Department of State Health Services~~].

2 SECTION 2.091. Section 603.006, Occupations Code, is
3 amended to read as follows:

4 Sec. 603.006. APPLICABILITY OF OTHER LAW. Chapter 2110,
5 Government Code, does not apply to the advisory committee.

6 SECTION 2.092. The heading to Subchapter B, Chapter 603,
7 Occupations Code, is amended to read as follows:

8 SUBCHAPTER B. [~~TEXAS STATE~~] PERFUSIONIST LICENSURE ADVISORY
9 COMMITTEE

10 SECTION 2.093. Section 603.051, Occupations Code, as
11 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
12 2015, is amended to read as follows:

13 Sec. 603.051. ADVISORY COMMITTEE MEMBERSHIP. (a) The
14 advisory committee is an informal advisory committee to the medical
15 board. The advisory committee has no independent rulemaking
16 authority.

17 (a-1) The advisory committee [~~Texas State Perfusionist~~
18 ~~Advisory Committee~~] consists of seven [~~five~~] members appointed by
19 the president of the medical board [~~commissioner~~] as follows:

20 (1) four perfusionists licensed in this state [~~two~~
21 ~~licensed perfusionist members~~] who each have [~~been licensed under~~
22 ~~this chapter for~~] at least five [~~three~~] years of experience as a
23 perfusionist [~~before the date of appointment~~];

24 (2) two physicians [~~one physician member~~] licensed in
25 this state [~~by the Texas Medical Board~~] who supervise perfusionists
26 [~~is certified by that board in cardiovascular surgery~~]; and

27 (3) one member [~~two members~~] who represents

1 ~~represent~~ the public.

2 (b) Appointments to the advisory committee shall reflect
3 the historical and cultural diversity of the inhabitants of this
4 state.

5 (c) Appointments to the advisory committee shall be made
6 without regard to the race, color, disability, sex, religion, age,
7 or national origin of the appointee.

8 SECTION 2.094. Section 603.0511, Occupations Code, is
9 amended to read as follows:

10 Sec. 603.0511. PUBLIC MEMBER ELIGIBILITY [~~OF PUBLIC~~
11 ~~MEMBERS~~]. A person may not be a public member of the advisory
12 committee if the person or the person's spouse:

13 (1) is registered, certified, or licensed by a
14 regulatory agency in a ~~[the field of]~~ health care profession;

15 (2) is employed by or participates in the management
16 of a business entity or other organization regulated by or
17 receiving money from the medical board [~~department~~];

18 (3) owns or controls, directly or indirectly, more
19 than a 10 percent interest in a business entity or other
20 organization regulated by or receiving money from the medical board
21 [~~department~~]; or

22 (4) uses or receives a substantial amount of tangible
23 goods, services, or money from the medical board [~~department~~] other
24 than compensation or reimbursement authorized by law for advisory
25 committee membership, attendance, or expenses.

26 SECTION 2.095. Sections 603.052(b) and (c), Occupations
27 Code, are amended to read as follows:

1 (b) A person may not be an advisory [a] committee member
2 [~~and may not be a department employee employed in a "bona fide~~
3 ~~executive, administrative, or professional capacity," as that~~
4 ~~phrase is used for purposes of establishing an exemption to the~~
5 ~~overtime provisions of the federal Fair Labor Standards Act of 1938~~
6 ~~(29 U.S.C. Section 201 et seq.)~~] if:

7 (1) the person is an officer, employee, or paid
8 consultant of a Texas trade association in the field of health care;
9 or

10 (2) the person's spouse is an officer, manager, or paid
11 consultant of a Texas trade association in the field of health care.

12 (c) A person may not be a member of the advisory committee or
13 act as the general counsel to the advisory committee [~~or the~~
14 ~~department~~] if the person is required to register as a lobbyist
15 under Chapter 305, Government Code, because of the person's
16 activities for compensation on behalf of a profession related to
17 the operation of the advisory committee or medical board
18 [~~department~~].

19 SECTION 2.096. Section 603.053, Occupations Code, is
20 amended to read as follows:

21 Sec. 603.053. TERMS; VACANCY. (a) Members of the advisory
22 committee serve two-year [~~staggered six-year~~] terms. The terms of
23 the [~~one or two~~] members [~~, as appropriate,~~] expire on February 1 of
24 each odd-numbered year.

25 (b) If a vacancy occurs during a member's term, the
26 president of the medical board shall appoint a person to serve for
27 the unexpired term.

1 SECTION 2.097. Sections 603.054(a) and (b), Occupations
2 Code, are amended to read as follows:

3 (a) It is a ground for removal from the advisory committee
4 that a member:

5 (1) does not have at the time of taking office the
6 qualifications required by Section 603.051;

7 (2) does not maintain during service on the advisory
8 committee the qualifications required by Section 603.051;

9 (3) is ineligible for membership under Section
10 603.0511 or 603.052; or

11 (4) cannot, because of illness or disability,
12 discharge the member's duties for a substantial part of the member's
13 term[~~, or~~

14 [~~(5) is absent from more than half of the regularly~~
15 ~~scheduled committee meetings that the member is eligible to attend~~
16 ~~during a calendar year without an excuse approved by a majority vote~~
17 ~~of the committee].~~

18 (b) The validity of an action of the advisory committee is
19 not affected by the fact that it is taken when a ground for removal
20 of a member of the advisory committee exists.

21 SECTION 2.098. Section 603.056, Occupations Code, is
22 amended to read as follows:

23 Sec. 603.056. OFFICERS. (a) The president of the medical
24 board [~~Not later than the 30th day after the date the commissioner~~
25 ~~appoints new committee members, the commissioner]~~ shall designate
26 biennially an advisory committee member as the [a] presiding
27 officer of the advisory committee to serve in that capacity at the

1 will of the president. [~~The presiding officer serves at the~~
2 ~~pleasure of the commissioner.~~]

3 (b) The advisory committee may appoint additional officers
4 as necessary.

5 SECTION 2.099. Section 603.057, Occupations Code, is
6 amended to read as follows:

7 Sec. 603.057. MEETINGS. The advisory committee shall meet
8 as requested by the medical board [~~subject to the call of the~~
9 ~~commissioner~~]. A meeting may be held by telephone conference call.

10 SECTION 2.100. The heading to Subchapter D, Chapter 603,
11 Occupations Code, is amended to read as follows:

12 SUBCHAPTER D. MEDICAL BOARD POWERS AND DUTIES

13 SECTION 2.101. Section 603.151, Occupations Code, as
14 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
15 2015, is amended to read as follows:

16 Sec. 603.151. GENERAL POWERS AND DUTIES [~~OF DEPARTMENT~~].
17 The medical board [~~department~~] shall:

18 (1) establish the qualifications for a perfusionist to
19 practice in this state, including rules governing character and
20 conduct for applicants or license holders and fitness of applicants
21 or license holders to practice [~~for licenses, including renewed and~~
22 ~~reciprocal licenses~~];

23 (2) issue, revoke, restrict, suspend, [or] deny,
24 cancel, or accept the surrender of a license [~~, probate a license~~
25 ~~suspension, or reprimand a license holder for a violation of this~~
26 ~~chapter, a rule adopted by the executive commissioner under this~~
27 ~~chapter, or the code of ethics adopted by the executive~~

1 ~~commissioner~~];

2 (3) charge fees that are reasonable and necessary to
3 cover the costs of administering this chapter [~~spend money~~
4 ~~necessary to administer the department's duties~~];

5 (4) establish requirements for an examination for a
6 license under this chapter [~~request and receive necessary~~
7 ~~assistance from another state agency, including a state educational~~
8 ~~institution~~];

9 (5) establish minimum education and training
10 requirements necessary for a license under this chapter [~~adopt an~~
11 ~~official seal~~]; [and]

12 (6) prescribe the application form for a license under
13 this chapter;

14 (7) adopt and publish a [~~the~~] code of ethics;

15 (8) establish procedural rules governing
16 investigations, informal hearings, the issuance of cease and desist
17 orders, and disciplinary sanctions;

18 (9) conduct informal hearings concerning violations
19 of this chapter or rules adopted under this chapter;

20 (10) issue disciplinary sanctions, including agreed
21 orders and non-disciplinary remedial plans; and

22 (11) establish procedures for making a confidential
23 referral to the Texas Physician Health Program established under
24 Chapter 167, and for requiring participation in the program as a
25 prerequisite for issuing or maintaining a license under this
26 chapter [~~adopted by the executive commissioner~~].

27 SECTION 2.102. Section 603.152, Occupations Code, is

1 amended to read as follows:

2 Sec. 603.152. GENERAL RULEMAKING AUTHORITY. The medical
3 board [~~executive commissioner~~] may adopt rules necessary to:

- 4 (1) regulate the practice of perfusion;
5 (2) enforce this chapter; and
6 (3) perform medical board [~~department~~] duties under
7 this chapter.

8 SECTION 2.103. Section 603.153, Occupations Code, as
9 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
10 2015, is amended to read as follows:

11 Sec. 603.153. RULES RESTRICTING ADVERTISING OR COMPETITIVE
12 BIDDING. (a) The medical board [~~executive commissioner~~] may not
13 adopt a rule restricting advertising or competitive bidding by a
14 person regulated by the medical board [~~department~~] under this
15 chapter except to prohibit a false, misleading, or deceptive
16 practice.

17 (b) The medical board [~~executive commissioner~~] may not
18 include in rules to prohibit a false, misleading, or deceptive
19 practice by a person regulated by the medical board [~~department~~]
20 under this chapter a rule that:

- 21 (1) restricts the person's use of any medium for
22 advertising;
23 (2) restricts the person's personal appearance or use
24 of the person's voice in an advertisement;
25 (3) relates to the size or duration of any
26 advertisement by the person; or
27 (4) restricts the use by the person of a trade name in

1 advertising.

2 SECTION 2.104. Section 603.1535, Occupations Code, as
3 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
4 2015, is amended to read as follows:

5 Sec. 603.1535. RULES ON CONSEQUENCES OF CRIMINAL
6 CONVICTION. (a) The medical board [~~executive commissioner~~] shall
7 adopt rules necessary to comply with Chapter 53, except to the
8 extent the requirements of this chapter are stricter than the
9 requirements of Chapter 53.

10 (b) In rules under this section, the medical board
11 [~~executive commissioner~~] shall list the specific offenses for which
12 a conviction would constitute grounds for the medical board
13 [~~department~~] to take action under Section 53.021.

14 SECTION 2.105. Section 603.154, Occupations Code, as
15 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
16 2015, is amended by amending Subsection (a) to read as follows:

17 (a) The medical board [~~After consulting the commissioner or~~
18 ~~the department, the executive commissioner~~] shall set fees in
19 amounts reasonable and necessary to cover the costs of
20 administering this chapter.

21 SECTION 2.106. Section 603.155, Occupations Code, is
22 amended to read as follows:

23 Sec. 603.155. [~~EXECUTIVE COMMISSIONER AND DEPARTMENT~~]
24 DUTIES REGARDING COMPLAINTS. (a) The medical board [~~executive~~
25 ~~commissioner~~] by rule shall:

26 (1) adopt a form to standardize information concerning
27 complaints made to the medical board [~~department~~]; and

1 (2) prescribe information to be provided to a person
2 when the person files a complaint with the medical board
3 [~~department~~].

4 (b) The medical board [~~department~~] shall provide reasonable
5 assistance to a person who wishes to file a complaint with the
6 medical board [~~department~~].

7 SECTION 2.107. Section 603.156, Occupations Code, is
8 amended to read as follows:

9 Sec. 603.156. REGISTRY. The medical board [~~department~~]
10 shall prepare a registry of licensed perfusionists and
11 provisionally licensed perfusionists that is available to the
12 public, license holders, and appropriate state agencies.

13 SECTION 2.108. Section 603.201, Occupations Code, is
14 amended to read as follows:

15 Sec. 603.201. PUBLIC INTEREST INFORMATION. (a) The
16 medical board [~~department~~] shall prepare information of consumer
17 interest describing the profession of perfusion, the regulatory
18 functions of the medical board [~~department~~], and the procedures by
19 which consumer complaints are filed with and resolved by the
20 medical board [~~department~~].

21 (b) The medical board [~~department~~] shall make the
22 information available to the public and appropriate state agencies.

23 SECTION 2.109. Section 603.202, Occupations Code, as
24 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
25 2015, is amended to read as follows:

26 Sec. 603.202. COMPLAINTS. (a) The medical board
27 [~~executive commissioner~~] by rule shall establish methods by which

1 consumers and service recipients are notified of the name, mailing
2 address, and telephone number of the medical board [~~department~~] for
3 the purpose of directing complaints under this chapter to the
4 medical board [~~department~~]. The medical board [~~department~~] may
5 provide for that notice:

6 (1) on each license form, application, or written
7 contract for services of a person licensed under this chapter;

8 (2) on a sign prominently displayed in the place of
9 business of each person licensed under this chapter; or

10 (3) in a bill for services provided by a person
11 licensed under this chapter.

12 (b) The medical board [~~department~~] shall list with its
13 regular telephone number any toll-free telephone number
14 established under other state law that may be called to present a
15 complaint about a health professional.

16 SECTION 2.110. Section 603.203, Occupations Code, as
17 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
18 2015, is amended to read as follows:

19 Sec. 603.203. RECORDS OF COMPLAINTS. (a) The medical
20 board [~~department~~] shall maintain a system to promptly and
21 efficiently act on complaints filed [~~with the department~~] under
22 this chapter. The medical board [~~department~~] shall maintain:

23 (1) information about the parties to the complaint and
24 the subject matter of the complaint;

25 (2) a summary of the results of the review or
26 investigation of the complaint; and

27 (3) information about the disposition of the

1 complaint.

2 (b) The medical board [~~department~~] shall make information
3 available describing its procedures for complaint investigation
4 and resolution.

5 (c) The medical board [~~department~~] shall periodically
6 notify the parties of the status of the complaint until final
7 disposition of the complaint.

8 SECTION 2.111. Section 603.204, Occupations Code, is
9 amended by amending Subsections (a) and (d), as amended by S.B. 219,
10 Acts of the 84th Legislature, Regular Session, 2015, and amending
11 Subsection (b) to read as follows:

12 (a) The medical board [~~executive commissioner~~] shall adopt
13 rules concerning the investigation of a complaint filed [~~with the~~
14 ~~department~~] under this chapter. The rules shall:

- 15 (1) distinguish among categories of complaints;
- 16 (2) ensure that a complaint is not dismissed without
17 appropriate consideration;
- 18 (3) require that if [~~the department be advised of~~] a
19 complaint [~~that~~] is dismissed, [~~and that~~] a letter shall be sent to
20 the person who filed the complaint explaining the action taken on
21 the dismissed complaint;
- 22 (4) ensure that the person who filed the complaint has
23 an opportunity to explain the allegations made in the complaint;
24 and
- 25 (5) prescribe guidelines concerning the categories of
26 complaints that require the use of a private investigator and the
27 procedures for the medical board [~~department~~] to obtain the

1 services of a private investigator.

2 (b) The medical board [~~department~~] shall:

3 (1) dispose of each complaint in a timely manner; and

4 (2) establish, not later than the 30th day after the
5 date the medical board [~~department~~] receives a complaint, a
6 schedule for conducting each phase of the complaint resolution
7 process that is under the control of the medical board
8 [~~department~~].

9 (d) The executive director of the medical board [~~secretary~~]
10 shall notify the president of the medical board [~~department~~] of a
11 complaint that is not resolved within the time prescribed by the
12 medical board [~~department~~] for resolving the complaint so that the
13 president [~~department~~] may take necessary action on the complaint.

14 SECTION 2.112. The heading to Section 603.2041, Occupations
15 Code, is amended to read as follows:

16 Sec. 603.2041. SUBPOENAS; CONFIDENTIALITY OF INFORMATION.

17 SECTION 2.113. Section 603.2041, Occupations Code, is
18 amended by amending Subsections (a), (h), and (i), as amended by
19 S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, and
20 adding Subsection (a-1) to read as follows:

21 (a) The executive director of the medical board, the
22 director's designee, or the secretary-treasurer of the medical
23 board [~~In an investigation of a complaint filed with the~~
24 ~~department, the department~~] may issue a subpoena or subpoena duces
25 tecum:

26 (1) to conduct an investigation or a contested case
27 proceeding related to:

1 (A) alleged misconduct by a perfusionist;

2 (B) an alleged violation of this chapter or
3 another law related to the practice of perfusion; or

4 (C) the provision of health care under this
5 chapter; or

6 (2) for purposes of determining whether to issue,
7 suspend, restrict, or revoke a license under this chapter [~~to~~
8 ~~compel the attendance of a relevant witness or the production, for~~
9 ~~inspection or copying, of relevant evidence that is in this state].~~

10 (a-1) Failure to timely comply with a subpoena issued under
11 this section is a ground for:

12 (1) disciplinary action by the medical board or
13 another licensing or regulatory agency with jurisdiction over the
14 person subject to the subpoena; and

15 (2) denial of a license application.

16 (h) All information and materials subpoenaed or compiled by
17 the medical board [~~department~~] in connection with a complaint and
18 investigation under this chapter are confidential and not subject
19 to disclosure under Chapter 552, Government Code, and not subject
20 to disclosure, discovery, subpoena, or other means of legal
21 compulsion for their release to anyone other than the medical board
22 [~~department~~] or its agents or employees involved in discipline of
23 the holder of a license, except that this information may be
24 disclosed to:

25 (1) persons involved with the medical board
26 [~~department~~] in a disciplinary action against the holder of a
27 license under this chapter;

1 (2) professional perfusionist licensing or
2 disciplinary boards in other jurisdictions;

3 (3) peer assistance programs approved by the medical
4 board [~~department~~] under Chapter 467, Health and Safety Code;

5 (4) law enforcement agencies; and

6 (5) persons engaged in bona fide research, if all
7 individual-identifying information has been deleted.

8 (i) The filing of formal charges by the medical board
9 [~~department~~] against a holder of a license under this chapter, the
10 nature of those charges, disciplinary proceedings of the medical
11 board [~~department~~], and final disciplinary actions, including
12 warnings and reprimands, by the medical board [~~department~~] are not
13 confidential and are subject to disclosure in accordance with
14 Chapter 552, Government Code.

15 SECTION 2.114. Section 603.205, Occupations Code, as
16 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
17 2015, is amended to read as follows:

18 Sec. 603.205. PUBLIC PARTICIPATION. (a) The medical board
19 [~~department~~] shall develop and implement policies that provide the
20 public with a reasonable opportunity to appear before the medical
21 board [~~department~~] and to speak on any issue related to the practice
22 of perfusion.

23 (b) The medical board [~~department~~] shall prepare and
24 maintain a written plan that describes how a person who does not
25 speak English or who has a physical, mental, or developmental
26 disability may be provided reasonable access to the medical board's
27 [~~department's~~] programs under this chapter.

1 SECTION 2.115. Section 603.252(b), Occupations Code, as
2 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
3 2015, is amended to read as follows:

4 (b) The medical board [~~department~~] shall prescribe the
5 application form and [~~the executive commissioner~~] by rule may
6 establish dates by which applications and fees must be received.

7 SECTION 2.116. Sections 603.253(b), (c), (d), and (e),
8 Occupations Code, are amended to read as follows:

9 (b) The medical board [~~department~~] shall prepare or approve
10 an examination. The medical board [~~department~~] may prescribe an
11 examination that consists of or includes a written examination
12 given by the American Board of Cardiovascular Perfusion or by a
13 national or state testing service.

14 (c) The medical board [~~department~~] shall have any written
15 portion of the examination validated by an independent testing
16 professional.

17 (d) The medical board [~~department~~] shall administer an
18 examination to qualified applicants at least once each calendar
19 year.

20 (e) On receipt of an application and application fee, the
21 medical board [~~department~~] shall waive the examination requirement
22 for an applicant who, at the time of application:

23 (1) is licensed or certified by another state that has
24 licensing or certification requirements the medical board
25 [~~department~~] determines to be substantially equivalent to the
26 requirements of this chapter; or

27 (2) holds a certificate as a certified clinical

1 perfusionist issued by the American Board of Cardiovascular
2 Perfusion before January 1, 1994, authorizing the holder to
3 practice perfusion in a state that does not license or certify
4 perfusionists.

5 SECTION 2.117. Sections 603.2535(b) and (c), Occupations
6 Code, are amended to read as follows:

7 (b) The medical board [~~department~~] shall develop and
8 administer at least twice each calendar year a jurisprudence
9 examination to determine an applicant's knowledge of this chapter,
10 rules adopted under this chapter [~~by the executive commissioner~~],
11 and any other applicable laws of this state affecting the
12 applicant's practice of perfusion.

13 (c) The medical board [~~executive commissioner~~] shall adopt
14 rules to implement this section, including rules related to the
15 development and administration of the examination, examination
16 fees, guidelines for reexamination, grading the examination, and
17 providing notice of examination results.

18 SECTION 2.118. Section 603.254, Occupations Code, is
19 amended to read as follows:

20 Sec. 603.254. QUALIFICATION FOR EXAMINATION. (a) To
21 qualify for the licensing examinations under this chapter, an
22 applicant must have successfully completed a perfusion education
23 program approved by the medical board [~~department~~].

24 (b) The medical board [~~department~~] may approve a perfusion
25 education program only if the program has educational standards
26 that are:

27 (1) at least as stringent as those established by the

1 Accreditation Committee for Perfusion Education of the American
2 Medical Association or its successor; and

3 (2) approved by the Commission on Accreditation of the
4 Allied Health Education Program of the American Medical Association
5 or its successor.

6 SECTION 2.119. Section 603.255(a), Occupations Code, as
7 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
8 2015, is amended to read as follows:

9 (a) The medical board [~~department~~] shall notify an
10 applicant in writing of the receipt and investigation of the
11 applicant's application and any other relevant evidence relating to
12 qualifications established by [~~department~~] rule not later than:

13 (1) the 45th day after the date a properly submitted
14 and timely application is received; and

15 (2) the 30th day before the next examination date.

16 SECTION 2.120. Section 603.256, Occupations Code, is
17 amended to read as follows:

18 Sec. 603.256. EXAMINATION RESULTS. (a) The medical board
19 [~~department~~] shall notify each examinee of the examination results
20 not later than the 30th day after the date the examination is
21 administered. If an examination is graded or reviewed by a national
22 or state testing service, the medical board [~~department~~] shall
23 notify each examinee of the examination results not later than the
24 14th day after the date the medical board [~~department~~] receives the
25 results from the testing service.

26 (b) If the notice of the results of an examination graded or
27 reviewed by a national or state testing service will be delayed for

1 longer than 90 days after the examination date, the medical board
2 [~~department~~] shall notify each examinee of the reason for the delay
3 before the 90th day.

4 (c) If requested in writing by a person who fails the
5 examination, the medical board [~~department~~] shall provide to the
6 person an analysis of the person's performance on the examination.

7 SECTION 2.121. Section 603.257, Occupations Code, is
8 amended to read as follows:

9 Sec. 603.257. REEXAMINATION AND ALTERNATIVES TO
10 EXAMINATION. The medical board [~~executive commissioner~~] by rule
11 shall establish:

12 (1) a limit on the number of times an applicant who
13 fails an examination may retake the examination;

14 (2) requirements for retaking an examination; and

15 (3) alternative methods of examining competency.

16 SECTION 2.122. Subchapter F, Chapter 603, Occupations Code,
17 is amended by adding Section 603.2571 to read as follows:

18 Sec. 603.2571. CRIMINAL HISTORY RECORD INFORMATION
19 REQUIREMENT FOR LICENSE. (a) The medical board shall require that
20 an applicant for a license submit a complete and legible set of
21 fingerprints, on a form prescribed by the medical board, to the
22 medical board or to the Department of Public Safety for the purpose
23 of obtaining criminal history record information from the
24 Department of Public Safety and the Federal Bureau of
25 Investigation.

26 (b) The medical board may not issue a license to a person who
27 does not comply with the requirement of Subsection (a).

1 (c) The medical board shall conduct a criminal history check
2 of each applicant for a license using information:

3 (1) provided by the individual under this section; and
4 (2) made available to the medical board by the
5 Department of Public Safety, the Federal Bureau of Investigation,
6 and any other criminal justice agency under Chapter 411, Government
7 Code.

8 (d) The medical board may:

9 (1) enter into an agreement with the Department of
10 Public Safety to administer a criminal history check required under
11 this section; and

12 (2) authorize the Department of Public Safety to
13 collect from each applicant the costs incurred by the Department of
14 Public Safety in conducting the criminal history check.

15 SECTION 2.123. Section 603.259, Occupations Code, is
16 amended by amending Subsections (a) and (d) and Subsection (c), as
17 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
18 2015, to read as follows:

19 (a) The medical board [~~department~~] may issue a provisional
20 license to an applicant who files an application, pays an
21 application fee, and submits evidence satisfactory to the medical
22 board [~~department~~] of successful completion of the education
23 requirement under Section 603.254.

24 (c) A provisionally licensed perfusionist must practice
25 under the supervision and direction of a licensed perfusionist
26 while performing perfusion. If the medical board [~~department~~]
27 finds that a licensed perfusionist is not reasonably available to

1 provide supervision and direction and if the medical board
2 [~~department~~] approves an application submitted [~~to the department~~]
3 by the provisionally licensed perfusionist, supervision and
4 direction may be provided by a physician who is licensed by the
5 medical board [~~Texas Medical Board~~] and certified by the American
6 Board of Thoracic Surgery or certified in cardiovascular surgery by
7 the American Osteopathic Board of Surgery.

8 (d) The medical board [~~executive commissioner~~] may not
9 adopt a rule governing supervision and direction that requires the
10 immediate physical presence of the supervising person.

11 SECTION 2.124. Sections 603.301(b), (c), (d), and (f),
12 Occupations Code, are amended to read as follows:

13 (b) The medical board [~~executive commissioner~~] by rule may
14 adopt a system under which licenses expire on various dates during
15 the year.

16 (c) A person may renew an unexpired license by paying the
17 required renewal fee to the medical board [~~department~~] before the
18 license expiration date.

19 (d) A person whose license has been expired for 90 days or
20 less may renew the license by paying to the medical board
21 [~~department~~] a fee that is equal to 1-1/4 times the amount of the
22 renewal fee. If a license has been expired for more than 90 days but
23 less than one year, the person may renew the license by paying to
24 the medical board [~~department~~] a fee that is equal to 1-1/2 times
25 the amount of the renewal fee.

26 (f) Before the 30th day before a person's license expiration
27 date, the medical board [~~department~~] shall send written notice of

1 the impending license expiration to the person at the person's last
2 known address according to medical board [~~department~~] records.

3 SECTION 2.125. Section 603.303, Occupations Code, is
4 amended to read as follows:

5 Sec. 603.303. RENEWAL OF EXPIRED LICENSE BY OUT-OF-STATE
6 PRACTITIONER. (a) The medical board [~~department~~] may renew
7 without reexamination an expired license of a person who was
8 licensed as a perfusionist in this state, moved to another state,
9 and is licensed or certified and has been in practice in the other
10 state for the two years preceding the date the person applies for
11 renewal.

12 (b) The person must pay to the medical board [~~department~~] a
13 fee that is equal to the amount of the renewal fee for the license.

14 SECTION 2.126. Subchapter G, Chapter 603, Occupations Code,
15 is amended by adding Section 603.3031 to read as follows:

16 Sec. 603.3031. CRIMINAL HISTORY RECORD INFORMATION
17 REQUIREMENT FOR RENEWAL. (a) An applicant renewing a license
18 shall submit a complete and legible set of fingerprints for
19 purposes of performing a criminal history check of the applicant as
20 provided by Section 603.2571.

21 (b) The medical board may not renew the license of a person
22 who does not comply with the requirement of Subsection (a).

23 (c) A license holder is not required to submit fingerprints
24 under this section for the renewal of the license if the license
25 holder has previously submitted fingerprints under:

26 (1) Section 603.2571 for the initial issuance of the
27 license; or

1 (2) this section as part of a prior renewal of the
2 license.

3 SECTION 2.127. Section 603.304, Occupations Code, as
4 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
5 2015, is amended to read as follows:

6 Sec. 603.304. CONTINUING EDUCATION. (a) To renew a
7 license under this chapter, a person must submit proof satisfactory
8 to the medical board [~~department~~] that the person has complied with
9 the continuing education requirements prescribed by the medical
10 board [~~executive commissioner~~].

11 (b) The medical board [~~executive commissioner~~] shall
12 establish continuing education programs for licensed perfusionists
13 and provisionally licensed perfusionists under this chapter. The
14 standards of the programs must be at least as stringent as the
15 standards of the American Board of Cardiovascular Perfusion or its
16 successor.

17 (c) The medical board [~~executive commissioner~~] shall:

18 (1) establish a minimum number of hours of continuing
19 education required for license renewal under this chapter; and

20 (2) develop a process to evaluate and approve
21 continuing education courses.

22 (d) The medical board [~~executive commissioner~~] shall
23 identify key factors for a license holder's competent performance
24 of professional duties. The medical board [~~executive commissioner~~]
25 shall adopt a procedure to assess a license holder's participation
26 in continuing education programs.

27 SECTION 2.128. Section 603.305, Occupations Code, is

1 amended to read as follows:

2 Sec. 603.305. GROUNDS FOR REFUSING RENEWAL. The medical
3 board [~~department~~] may refuse to renew the license of a person who
4 fails to pay an administrative penalty imposed under Subchapter K
5 unless enforcement of the penalty is stayed or a court has ordered
6 that the administrative penalty is not owed.

7 SECTION 2.129. Section 603.352, Occupations Code, is
8 amended to read as follows:

9 Sec. 603.352. LICENSE HOLDER INFORMATION. A person
10 licensed under this chapter shall keep the medical board
11 [~~department~~] informed of any change in the license holder's
12 address.

13 SECTION 2.130. Section 603.353, Occupations Code, is
14 amended to read as follows:

15 Sec. 603.353. SURRENDER OF LICENSE. A license certificate
16 issued by the medical board [~~department~~] is the property of the
17 medical board [~~department~~] and shall be surrendered on demand.

18 SECTION 2.131. Section 603.401, Occupations Code, is
19 amended to read as follows:

20 Sec. 603.401. GROUNDS FOR DISCIPLINARY ACTION. If a
21 license holder violates this chapter or a rule or code of ethics
22 adopted under this chapter [~~by the executive commissioner~~], the
23 medical board may [~~department shall~~]:

- 24 (1) revoke, restrict, or suspend the license;
- 25 (2) place on probation the person if the person's
26 license has been suspended;
- 27 (3) reprimand the license holder; or

1 (4) refuse to renew the license.

2 SECTION 2.132. Section 603.402, Occupations Code, as
3 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
4 2015, is amended to read as follows:

5 Sec. 603.402. CONTESTED CASE HEARING. Chapter 2001,
6 Government Code, and medical board rules for a contested case
7 hearing apply to a proceeding by the medical board under this
8 chapter in which a formal complaint has been filed [~~(a) If the~~
9 ~~department proposes to revoke, suspend, or refuse to renew a~~
10 ~~person's license, the person is entitled to a hearing before a~~
11 ~~hearings officer appointed by the State Office of Administrative~~
12 ~~Hearings].~~

13 [~~(b) The executive commissioner shall prescribe procedures~~
14 ~~for appealing to the department a decision to revoke, suspend, or~~
15 ~~refuse to renew a license.]~~

16 SECTION 2.133. Section 603.404(a), Occupations Code, is
17 amended to read as follows:

18 (a) The medical board [~~executive commissioner~~] by rule
19 shall adopt a broad schedule of sanctions for a violation of this
20 chapter.

21 SECTION 2.134. Section 603.405, Occupations Code, is
22 amended to read as follows:

23 Sec. 603.405. PROBATION. The medical board [~~department~~]
24 may require a person whose license suspension is probated to:

25 (1) report regularly to the medical board [~~department~~]
26 on matters that are the basis of the probation;

27 (2) limit practice to areas prescribed by the medical

1 board [~~department~~]; or

2 (3) continue the person's professional education until
3 the license holder attains a degree of skill satisfactory to the
4 medical board [~~department~~] in those areas that are the basis of the
5 probation.

6 SECTION 2.135. Section 603.406, Occupations Code, is
7 amended to read as follows:

8 Sec. 603.406. MONITORING OF LICENSE HOLDER. (a) The
9 medical board [~~executive commissioner~~] by rule shall develop a
10 system for monitoring a license holder's compliance with the
11 requirements of this chapter.

12 (b) Rules adopted under this section must include
13 procedures to:

14 (1) monitor for compliance a license holder who is
15 ordered by the medical board [~~department~~] to perform certain acts;
16 and

17 (2) identify and monitor license holders who represent
18 a risk to the public.

19 SECTION 2.136. Section 603.407, Occupations Code, is
20 amended to read as follows:

21 Sec. 603.407. INFORMAL PROCEDURES. (a) The medical board
22 [~~executive commissioner~~] by rule shall adopt procedures governing:

23 (1) informal disposition of a contested case under
24 Section 2001.056, Government Code; and

25 (2) an informal proceeding held in compliance with
26 Section 2001.054, Government Code.

27 (b) Rules adopted under Subsection (a) must:

1 (1) provide the complainant, if applicable and
2 permitted by law, an opportunity to be heard;

3 (2) provide [~~and~~] the license holder an opportunity to
4 be heard; and

5 (3) [~~(2)~~] require the presence of a representative of
6 the attorney general or the medical board's [~~department's~~] legal
7 counsel to advise the medical board [~~department~~] or the medical
8 board's [~~department's~~] employees.

9 (c) Chapters 551 and 552, Government Code, do not apply to
10 an investigation file and investigative information in the
11 possession of or used by the medical board in an informal proceeding
12 under this section.

13 SECTION 2.137. Section 603.408(a), Occupations Code, is
14 amended to read as follows:

15 (a) The medical board or a three-member panel of medical
16 board members designated by the president of the medical board
17 [~~department~~] shall temporarily suspend the license of a license
18 holder if the medical board or panel [~~department~~] determines from
19 the evidence or information presented to it that continued practice
20 by the license holder would constitute a continuing and imminent
21 threat to the public welfare.

22 SECTION 2.138. Section 603.409, Occupations Code, is
23 amended to read as follows:

24 Sec. 603.409. REFUND. (a) Subject to Subsection (b), the
25 medical board [~~department~~] may order a license holder to pay a
26 refund to a consumer as provided in an agreement resulting from an
27 informal settlement conference instead of or in addition to

1 imposing an administrative penalty under this chapter.

2 (b) The amount of a refund ordered as provided in an
3 agreement resulting from an informal settlement conference may not
4 exceed the amount the consumer paid to the license holder for a
5 service regulated by this chapter. The medical board [~~department~~]
6 may not require payment of other damages or estimate harm in a
7 refund order.

8 SECTION 2.139. Section 603.451(a), Occupations Code, is
9 amended to read as follows:

10 (a) The medical board [~~department~~] may request the attorney
11 general or the appropriate county or district attorney to commence
12 an action to enjoin a violation of this chapter.

13 SECTION 2.140. Section 603.4515, Occupations Code, as
14 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
15 2015, is amended to read as follows:

16 Sec. 603.4515. CIVIL PENALTY. (a) A person who violates
17 this chapter or [~~7~~] a rule adopted [~~by the executive commissioner~~
18 ~~under this chapter,~~] or an order issued [~~adopted by the department~~]
19 under this chapter is liable for a civil penalty not to exceed
20 \$5,000 a day.

21 (b) At the request of the medical board [~~department~~], the
22 attorney general shall bring an action to recover a civil penalty
23 authorized under this section.

24 SECTION 2.141. Section 603.453(a), Occupations Code, as
25 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
26 2015, is amended to read as follows:

27 (a) If it appears to the medical board [~~department~~] that a

1 person who is not licensed under this chapter is violating this
2 chapter, a rule adopted under this chapter, or another state
3 statute or rule relating to the practice of perfusion, the medical
4 board [~~department~~] after notice and an opportunity for a hearing
5 may issue a cease and desist order prohibiting the person from
6 engaging in the activity.

7 SECTION 2.142. Section 603.501, Occupations Code, is
8 amended to read as follows:

9 Sec. 603.501. IMPOSITION OF ADMINISTRATIVE PENALTY. The
10 medical board [~~department~~] may impose an administrative penalty on
11 a person licensed under this chapter who violates this chapter or a
12 rule or order adopted under this chapter.

13 SECTION 2.143. Section 603.502(c), Occupations Code, as
14 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
15 2015, is amended to read as follows:

16 (c) The medical board [~~executive commissioner~~] by rule
17 shall adopt an administrative penalty schedule based on the
18 criteria listed in Subsection (b) for violations of this chapter or
19 applicable rules to ensure that the amounts of penalties imposed
20 are appropriate to the violation. The medical board [~~department~~]
21 shall provide the administrative penalty schedule to the public on
22 request.

23 SECTION 2.144. Section 603.503, Occupations Code, as
24 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
25 2015, is amended to read as follows:

26 Sec. 603.503. NOTICE OF VIOLATION AND PENALTY. If the
27 medical board [~~department~~] determines that a violation occurred,

1 the medical board [~~department~~] shall give written notice of the
2 violation to the person. The notice must:

- 3 (1) include a brief summary of the alleged violation;
4 (2) state the amount of the recommended administrative
5 penalty [~~recommended by the department~~]; and
6 (3) inform the person of the person's right to a
7 hearing on the occurrence of the violation, the amount of the
8 penalty, or both.

9 SECTION 2.145. Section 603.504, Occupations Code, as
10 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
11 2015, is amended to read as follows:

12 Sec. 603.504. PENALTY TO BE PAID OR HEARING REQUESTED.

13 (a) Within 10 days after the date the person receives the notice,
14 the person in writing may:

- 15 (1) accept the determination and recommended
16 administrative penalty of the medical board [~~department~~]; or
17 (2) make a request for a hearing on the occurrence of
18 the violation, the amount of the penalty, or both.

19 (b) If the person accepts the determination and recommended
20 penalty of the medical board [~~department~~], the medical board
21 [~~department~~] by order shall approve the determination and impose
22 the recommended penalty.

23 SECTION 2.146. Sections 603.505(a) and (c), Occupations
24 Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular
25 Session, 2015, are amended to read as follows:

26 (a) If the person requests a hearing or fails to respond in a
27 timely manner to the notice, the medical board [~~department~~] shall

1 set a hearing and give written notice of the hearing to the person.

2 (c) The administrative law judge shall make findings of fact
3 and conclusions of law and promptly issue to the medical board
4 [~~department~~] a proposal for a decision about the occurrence of the
5 violation and the amount of a proposed administrative penalty.

6 SECTION 2.147. Section 603.506, Occupations Code, as
7 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
8 2015, is amended to read as follows:

9 Sec. 603.506. DECISION BY MEDICAL BOARD [~~DEPARTMENT~~].

10 (a) Based on the findings of fact, conclusions of law, and
11 proposal for decision, the medical board [~~department~~] by order may
12 determine that:

13 (1) a violation occurred and impose an administrative
14 penalty; or

15 (2) a violation did not occur.

16 (b) The notice of the medical board's [~~department's~~] order
17 given to the person must include a statement of the right of the
18 person to judicial review of the order.

19 SECTION 2.148. Sections 603.507(a), (b), and (c),
20 Occupations Code, as amended by S.B. 219, Acts of the 84th
21 Legislature, Regular Session, 2015, are amended to read as follows:

22 (a) Within 30 days after the date the medical board's
23 [~~department's~~] order becomes final, the person shall:

24 (1) pay the administrative penalty; or

25 (2) file a petition for judicial review contesting the
26 occurrence of the violation, the amount of the penalty, or both.

27 (b) Within the 30-day period prescribed by Subsection (a), a

1 person who files a petition for judicial review may:

2 (1) stay enforcement of the penalty by:

3 (A) paying the penalty to the court for placement
4 in an escrow account; or

5 (B) giving the court a supersedeas bond approved
6 by the court that:

7 (i) is for the amount of the penalty; and

8 (ii) is effective until all judicial review
9 of the medical board's [~~department's~~] order is final; or

10 (2) request the court to stay enforcement of the
11 penalty by:

12 (A) filing with the court a sworn affidavit of
13 the person stating that the person is financially unable to pay the
14 penalty and is financially unable to give the supersedeas bond; and

15 (B) giving a copy of the affidavit to the medical
16 board [~~department~~] by certified mail.

17 (c) If the medical board [~~department~~] receives a copy of an
18 affidavit under Subsection (b)(2), the medical board [~~department~~]
19 may file with the court, within five days after the date the copy is
20 received, a contest to the affidavit.

21 SECTION 2.149. Sections [604.001](#)(1) and (2), Occupations
22 Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular
23 Session, 2015, are amended to read as follows:

24 (1) "Advisory board" means the Texas Board of
25 Respiratory Care [~~"Department" means the Department of State Health~~
26 ~~Services~~].

27 (2) "Medical board" means the Texas Medical Board

1 [~~"Executive commissioner" means the executive commissioner of the~~
2 ~~Health and Human Services Commission~~].

3 SECTION 2.150. Section 604.003, Occupations Code, is
4 amended to read as follows:

5 Sec. 604.003. EFFECT OF CHAPTER. This chapter does not
6 prohibit:

7 (1) the practice of respiratory care as an integral
8 part of the program of study by a student enrolled in a respiratory
9 care education program approved by the advisory board [~~department~~];

10 (2) the employment by a health care facility of a
11 person to deliver limited respiratory care support services under
12 the supervision of another person who holds a certificate issued
13 under this chapter, if the person delivering the services does not
14 perform an invasive procedure related to critical respiratory care,
15 including a therapeutic, diagnostic, or palliative procedure, as
16 part of the person's employment and if that person:

17 (A) is enrolled for credit in the clinical
18 portion of an approved respiratory care education program; or

19 (B) has completed all of the clinical portion of
20 an approved respiratory care education program within the preceding
21 12 months and is actively pursuing a course of study leading to
22 graduation from the program;

23 (3) the care of an ill person provided without charge
24 by a friend or family member;

25 (4) care provided in an emergency by a person who does
26 not claim to be a respiratory care practitioner;

27 (5) the performance by a respiratory care practitioner

1 of an advance in the art and techniques of respiratory care learned
2 through formal or specialized training;

3 (6) the practice of respiratory care by health care
4 personnel who have been formally trained in the care used and who
5 are:

6 (A) licensed under the law regulating their
7 professions; or

8 (B) acting under the delegated authority of a
9 licensed physician;

10 (7) the practice of a legally qualified respiratory
11 care practitioner who is discharging the practitioner's official
12 duties as an employee of the United States government; or

13 (8) the practice by a person of a profession or
14 occupation for which the person is licensed, registered, or
15 certified under another law of this state.

16 SECTION 2.151. Chapter 604, Occupations Code, is amended by
17 adding Subchapter A-1 to read as follows:

18 SUBCHAPTER A-1. TEXAS BOARD OF RESPIRATORY CARE

19 Sec. 604.021. TEXAS BOARD OF RESPIRATORY CARE. The Texas
20 Board of Respiratory Care is an advisory board to the Texas Medical
21 Board.

22 Sec. 604.022. APPOINTMENT OF ADVISORY BOARD. (a) The
23 advisory board consists of nine members appointed by the governor
24 with the advice and consent of the senate as follows:

25 (1) four respiratory care practitioners who each have
26 at least five years of experience as a respiratory care
27 practitioner;

1 (2) two physicians licensed in this state who
2 supervise respiratory care practitioners; and

3 (3) three members who represent the public.

4 (b) Appointments to the advisory board shall be made without
5 regard to the race, color, disability, sex, religion, age, or
6 national origin of the appointee.

7 Sec. 604.023. MEMBERSHIP ELIGIBILITY AND RESTRICTIONS.

8 (a) In this section, "Texas trade association" means a cooperative
9 and voluntarily joined statewide association of business or
10 professional competitors in this state designed to assist its
11 members and its industry or profession in dealing with mutual
12 business or professional problems and in promoting their common
13 interest.

14 (b) A person may not be a public member of the advisory board
15 if the person or the person's spouse:

16 (1) is registered, certified, or licensed by a
17 regulatory agency in a health care profession;

18 (2) is employed by or participates in the management
19 of a business entity or other organization regulated by or
20 receiving money from the medical board or advisory board;

21 (3) owns or controls, directly or indirectly, more
22 than a 10 percent interest in a business entity or other
23 organization regulated by or receiving money from the medical board
24 or advisory board; or

25 (4) uses or receives a substantial amount of tangible
26 goods, services, or money from the medical board or advisory board
27 other than compensation or reimbursement authorized by law for

1 advisory board membership, attendance, or expenses.

2 (c) A person may not be a member of the advisory board if:

3 (1) the person is an officer, employee, or paid
4 consultant of a Texas trade association in the field of health care;

5 or

6 (2) the person's spouse is an officer, manager, or paid
7 consultant of a Texas trade association in the field of health care.

8 (d) A person may not be a member of the advisory board or act
9 as the general counsel to the advisory board if the person is
10 required to register as a lobbyist under Chapter 305, Government
11 Code, because of the person's activities for compensation on behalf
12 of a profession related to the operation of the medical board or
13 advisory board.

14 Sec. 604.024. TERMS; VACANCIES. (a) Members of the
15 advisory board are appointed for staggered six-year terms. The
16 terms of three members expire on February 1 of each odd-numbered
17 year.

18 (b) A member may not serve more than:

19 (1) two consecutive full terms; or

20 (2) a total of three full terms.

21 (c) If a vacancy occurs during a member's term, the governor
22 shall appoint a new member to fill the unexpired term.

23 Sec. 604.025. OFFICERS. The governor shall designate a
24 member of the advisory board as the presiding officer of the
25 advisory board to serve in that capacity at the will of the
26 governor. The advisory board shall select from its membership an
27 assistant presiding officer and other officers as the advisory

1 board considers necessary to carry out the advisory board's duties.

2 Sec. 604.026. GROUNDS FOR REMOVAL. (a) It is a ground for
3 removal from the advisory board that a member:

4 (1) does not have at the time of taking office the
5 qualifications required by Sections 604.022 and 604.023;

6 (2) does not maintain during service on the advisory
7 board the qualifications required by Sections 604.022 and 604.023;

8 (3) is ineligible for membership under Section
9 604.023;

10 (4) cannot, because of illness or disability,
11 discharge the member's duties for a substantial part of the member's
12 term; or

13 (5) is absent from more than half of the regularly
14 scheduled advisory board meetings that the member is eligible to
15 attend during a calendar year without an excuse approved by a
16 majority vote of the advisory board.

17 (b) The validity of an action of the advisory board is not
18 affected by the fact that it is taken when a ground for removal of an
19 advisory board member exists.

20 (c) If the executive director of the medical board has
21 knowledge that a potential ground for removal exists, the executive
22 director shall notify the presiding officer of the advisory board
23 of the potential ground. The presiding officer shall then notify
24 the governor and the attorney general that a potential ground for
25 removal exists. If the potential ground for removal involves the
26 presiding officer, the executive director shall notify the next
27 highest ranking officer of the advisory board, who shall then

1 notify the governor and the attorney general that a potential
2 ground for removal exists.

3 Sec. 604.027. PER DIEM. A member of the advisory board is
4 entitled to receive a per diem as set by legislative appropriation
5 for each day that the member engages in the business of the advisory
6 board.

7 Sec. 604.028. APPLICATION OF OPEN MEETINGS, OPEN RECORDS,
8 AND ADMINISTRATIVE PROCEDURE LAWS. Except as otherwise provided by
9 this chapter, the advisory board is subject to Chapters 551, 552,
10 and 2001, Government Code.

11 Sec. 604.029. MEETINGS; QUORUM REQUIREMENTS. (a) The
12 advisory board shall conduct regular meetings at least three times
13 a year at the times and places the advisory board considers most
14 convenient for applicants and advisory board members.

15 (b) The advisory board may hold special meetings in
16 accordance with rules adopted by the advisory board and approved by
17 the medical board.

18 (c) A majority of the advisory board members constitutes a
19 quorum for all purposes except for an advisory board activity
20 related to examining the credentials of applicants, acting as a
21 panel for disciplinary action under Section 604.202, or conducting
22 an informal meeting under Section 604.209.

23 Sec. 604.030. TRAINING. (a) A person who is appointed to
24 and qualifies for office as a member of the advisory board may not
25 vote, deliberate, or be counted as a member in attendance at a
26 meeting of the advisory board until the person completes a training
27 program that complies with this section.

1 (b) The training program must provide the person with
2 information regarding:

3 (1) this chapter and the advisory board's programs,
4 functions, rules, and budget;

5 (2) the results of the most recent formal audit of the
6 advisory board;

7 (3) the requirements of laws relating to open
8 meetings, public information, administrative procedure, and
9 conflicts of interest; and

10 (4) any applicable ethics policies adopted by the
11 advisory board or the Texas Ethics Commission.

12 (c) A person appointed to the advisory board is entitled to
13 reimbursement, as provided by the General Appropriations Act, for
14 the travel expenses incurred in attending the training program
15 regardless of whether the attendance at the program occurs before
16 or after the person qualifies for office.

17 SECTION 2.152. The heading to Subchapter B, Chapter 604,
18 Occupations Code, as amended by S.B. 219, Acts of the 84th
19 Legislature, Regular Session, 2015, is amended to read as follows:

20 SUBCHAPTER B. POWERS AND DUTIES OF ADVISORY BOARD [~~EXECUTIVE~~
21 ~~COMMISSIONER~~] AND MEDICAL BOARD [~~DEPARTMENT~~]

22 SECTION 2.153. The heading to Section 604.052, Occupations
23 Code, is amended to read as follows:

24 Sec. 604.052. GENERAL POWERS AND DUTIES OF ADVISORY BOARD
25 [~~RULES~~].

26 SECTION 2.154. Section 604.052(a), Occupations Code, as
27 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,

1 2015, is amended to read as follows:

2 (a) The advisory board [~~executive commissioner by rule~~]
3 shall:

4 (1) adopt rules that are reasonable and necessary for
5 the performance of the advisory board's duties under this chapter,
6 as provided by Chapter 2001, Government Code, including rules to
7 establish:

8 (A) the certification and permitting program;

9 (B) minimum qualifications for respiratory care
10 practitioners;

11 (C) standards of conduct and fitness for
12 respiratory care practitioners;

13 (D) grounds for disciplinary actions;

14 (E) procedures for disciplinary proceedings;

15 (F) guidelines for the issuance of sanctions;

16 (G) procedures for non-disciplinary remedial
17 plans; and

18 (H) procedures for requiring an applicant for or
19 holder of a certificate or temporary permit to submit to:

20 (i) an examination of the applicant's or
21 holder's physical or mental health; and

22 (ii) screening for alcohol or substance
23 abuse or behavioral issues;

24 (2) review and approve or reject each application for
25 the issuance or renewal of a certificate or temporary permit;

26 (3) adopt procedures for the issuance or renewal of
27 each certificate or permit;

1 (4) deny, suspend, restrict, cancel, or revoke
2 ~~[standards for issuing, denying, renewing, suspending, suspending~~
3 ~~on an emergency basis, or revoking]~~ a certificate or temporary
4 permit or otherwise discipline a certificate or permit holder; and

5 (5) take any other action necessary to carry out the
6 functions and duties of the advisory board under this chapter.

7 SECTION 2.155. Subchapter B, Chapter 604, Occupations Code,
8 is amended by adding Sections 604.0521 and 604.0522 to read as
9 follows:

10 Sec. 604.0521. GUIDELINES FOR EARLY INVOLVEMENT IN
11 RULEMAKING PROCESS. (a) The advisory board shall adopt guidelines
12 to establish procedures for receiving input during the rulemaking
13 process from individuals and groups that have an interest in
14 matters under the advisory board's jurisdiction. The guidelines
15 must provide an opportunity for those individuals and groups to
16 provide input before the advisory board submits the rule to the
17 medical board for approval.

18 (b) A rule adopted under this chapter may not be challenged
19 on the grounds that the advisory board did not comply with this
20 section. If the advisory board was unable to solicit a significant
21 amount of input from the public or affected persons early in the
22 rulemaking process, the advisory board shall state in writing the
23 reasons why it was unable to do so.

24 Sec. 604.0522. POWERS AND DUTIES OF MEDICAL BOARD RELATING
25 TO RESPIRATORY CARE PRACTITIONERS. (a) The medical board shall
26 adopt rules consistent with this chapter to regulate:

27 (1) respiratory care practitioners; and

1 (2) physicians who supervise respiratory care
2 practitioners.

3 (b) The medical board, by a majority vote, shall approve or
4 reject each rule adopted by the advisory board. If approved, the
5 rule may take effect. If the rule is rejected, the medical board
6 shall return the rule to the advisory board for revision.

7 SECTION 2.156. Section 604.053, Occupations Code, as
8 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
9 2015, is amended to read as follows:

10 Sec. 604.053. FEES. (a) The advisory board [~~executive~~
11 ~~commissioner~~] by rule shall set fees for an application,
12 examination, certificate, temporary permit, permit and certificate
13 renewal, and certificate reinstatement.

14 (b) The advisory board [~~executive commissioner~~] by rule
15 shall set fees in reasonable amounts that are sufficient to cover
16 the costs of administering this chapter. [~~The executive~~
17 ~~commissioner shall set fees for issuing or renewing a certificate~~
18 ~~or permit in amounts designed to allow the department to recover~~
19 ~~from the certificate and permit holders all of the department's~~
20 ~~direct and indirect costs in administering and enforcing this~~
21 ~~chapter.~~]

22 SECTION 2.157. Section 604.054, Occupations Code, is
23 amended to read as follows:

24 Sec. 604.054. APPROVAL OF EDUCATION PROGRAMS. In
25 determining whether to approve a respiratory care education
26 program, the advisory board [~~department~~] shall consider relevant
27 information about the quality of the program, including

1 accreditation of the program by a professional medical association,
2 such as the Commission on Accreditation of Allied Health Education
3 Programs.

4 SECTION 2.158. Section [604.055](#), Occupations Code, as
5 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
6 2015, is amended to read as follows:

7 Sec. 604.055. PEER ASSISTANCE PROGRAM. The advisory board
8 [~~department~~] may use the Texas Physician Health Program established
9 under Chapter 167 as the advisory board's [~~establish, approve, and~~
10 ~~fund a~~] peer assistance program [~~in accordance with Section~~
11 ~~467.003, Health and Safety Code, and department rules~~]. The
12 advisory board by rule may establish procedures for making a
13 confidential referral to the Texas Physician Health Program and for
14 requiring participation in the program as a prerequisite for
15 issuing or maintaining a certificate or temporary permit under this
16 chapter.

17 SECTION 2.159. Section [604.057](#), Occupations Code, as
18 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
19 2015, is amended to read as follows:

20 Sec. 604.057. RULES REGARDING ADVERTISING OR COMPETITIVE
21 BIDDING. (a) The advisory board [~~executive commissioner~~] may not
22 adopt rules restricting advertising or competitive bidding by a
23 temporary permit or certificate holder except to prohibit false,
24 misleading, or deceptive practices.

25 (b) In adopting rules to prohibit false, misleading, or
26 deceptive practices, the advisory board [~~executive commissioner~~]
27 may not include a rule that:

- 1 (1) restricts the use of any medium for advertising;
- 2 (2) restricts the use of a temporary permit or
3 certificate holder's personal appearance or voice in an
4 advertisement;
- 5 (3) relates to the size or duration of an
6 advertisement by the temporary permit or certificate holder; or
- 7 (4) restricts the temporary permit or certificate
8 holder's advertisement under a trade name.

9 SECTION 2.160. Subchapter B, Chapter 604, Occupations Code,
10 is amended by adding Sections 604.058, 604.059, and 604.060 to read
11 as follows:

12 Sec. 604.058. RULES ON CONSEQUENCES OF CRIMINAL CONVICTION.
13 The advisory board shall adopt rules and guidelines as necessary to
14 comply with Chapter 53, except to the extent the requirements of
15 this chapter are stricter than the requirements of Chapter 53.

16 Sec. 604.059. ASSISTANCE BY MEDICAL BOARD; DIVISION OF
17 RESPONSIBILITIES. (a) The medical board shall provide
18 administrative and clerical employees as necessary to enable the
19 advisory board to administer this chapter.

20 (b) Subject to the advice and approval of the medical board,
21 the advisory board shall develop and implement policies that
22 clearly separate the policy-making responsibilities of the
23 advisory board and the management responsibilities of the executive
24 director and staff of the medical board.

25 Sec. 604.060. PUBLIC PARTICIPATION. Subject to the advice
26 and approval of the medical board, the advisory board shall develop
27 and implement policies that provide the public with a reasonable

1 opportunity to appear before the advisory board and to speak on any
2 issue under the jurisdiction of the advisory board.

3 SECTION 2.161. Section 604.101(b), Occupations Code, as
4 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
5 2015, is amended to read as follows:

6 (b) A person may not practice respiratory care other than
7 under the direction of a qualified medical director or other
8 physician licensed by the medical board [~~Texas Medical Board~~].

9 SECTION 2.162. Section 604.103, Occupations Code, as
10 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
11 2015, is amended to read as follows:

12 Sec. 604.103. APPLICATION; APPLICATION FEE. An applicant
13 for a certificate or temporary permit must:

14 (1) apply to the advisory board [~~department~~] on a form
15 prescribed by [~~the department~~] and under rules adopted by the
16 advisory board [~~executive commissioner~~]; and

17 (2) submit a nonrefundable application fee with the
18 application.

19 SECTION 2.163. Subchapter C, Chapter 604, Occupations Code,
20 is amended by adding Section 604.1031 to read as follows:

21 Sec. 604.1031. CRIMINAL HISTORY RECORD INFORMATION
22 REQUIREMENT FOR CERTIFICATE OR TEMPORARY PERMIT. (a) The advisory
23 board shall require that an applicant for a certificate or
24 temporary permit submit a complete and legible set of fingerprints,
25 on a form prescribed by the advisory board, to the advisory board or
26 to the Department of Public Safety for the purpose of obtaining
27 criminal history record information from the Department of Public

1 Safety and the Federal Bureau of Investigation.

2 (b) The advisory board may not issue a certificate or
3 temporary permit to a person who does not comply with the
4 requirement of Subsection (a).

5 (c) The advisory board shall conduct a criminal history
6 check of each applicant for a certificate or temporary permit using
7 information:

8 (1) provided by the individual under this section; and

9 (2) made available to the advisory board by the
10 Department of Public Safety, the Federal Bureau of Investigation,
11 and any other criminal justice agency under Chapter 411, Government
12 Code.

13 (d) The advisory board may:

14 (1) enter into an agreement with the Department of
15 Public Safety to administer a criminal history check required under
16 this section; and

17 (2) authorize the Department of Public Safety to
18 collect from each applicant the costs incurred by the Department of
19 Public Safety in conducting the criminal history check.

20 SECTION 2.164. Section 604.104, Occupations Code, is
21 amended to read as follows:

22 Sec. 604.104. REQUIREMENT FOR CERTIFICATE. An applicant
23 for a certificate must submit to the advisory board [~~department~~]
24 written evidence, verified by oath, that the applicant has
25 completed:

26 (1) an approved four-year high school course of study
27 or the equivalent as determined by the appropriate educational

1 agency; and

2 (2) a respiratory care education program approved by
3 the advisory board [~~department~~].

4 SECTION 2.165. Section 604.1041, Occupations Code, as
5 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
6 2015, is amended to read as follows:

7 Sec. 604.1041. EXAMINATION. (a) The advisory board
8 [~~executive commissioner~~] by rule shall establish examination
9 requirements for a certificate under this chapter. The advisory
10 board [~~executive commissioner~~] may use the entry level examination
11 prepared by the National Board for Respiratory Care or an
12 equivalent examination.

13 (b) An applicant for a certificate or temporary permit must
14 pass a jurisprudence examination approved by the advisory board.

15 SECTION 2.166. Section 604.1042, Occupations Code, is
16 amended to read as follows:

17 Sec. 604.1042. NOTIFICATION OF EXAMINATION RESULTS.
18 (a) Not later than the 30th day after the date a person takes a
19 certification examination under this chapter, the advisory board
20 [~~department~~] shall notify the person of the results of the
21 examination.

22 (b) If the examination is graded or reviewed by a testing
23 service, the advisory board [~~department~~] shall notify the person of
24 the results of the examination not later than the 14th day after the
25 date the advisory board [~~department~~] receives the results from the
26 testing service. If notice of the examination results will be
27 delayed for longer than 90 days after the examination date, the

1 advisory board [~~department~~] shall notify the person of the reason
2 for the delay before the 90th day.

3 (c) The advisory board [~~department~~] may require a testing
4 service to notify a person of the results of the person's
5 examination.

6 (d) If requested in writing by a person who fails a
7 certification examination administered under this chapter, the
8 advisory board [~~department~~] shall furnish the person with an
9 analysis of the person's performance on the examination.

10 SECTION 2.167. Section 604.105, Occupations Code, is
11 amended to read as follows:

12 Sec. 604.105. ISSUANCE OF CERTIFICATE. The advisory board
13 [~~department~~] shall issue a certificate to an applicant who:

14 (1) meets the minimum qualifications [~~standards~~]
15 adopted under Section 604.052(a);

16 (2) passes the required examinations;

17 (3) complies with the criminal history record
18 information requirement of Section 604.1031;

19 (4) submits an application on a form prescribed by the
20 advisory board;

21 (5) certifies that the applicant is mentally and
22 physically able to be a respiratory care practitioner;

23 (6) submits to the advisory board any other
24 information the advisory board considers necessary to evaluate the
25 applicant's qualifications; and

26 (7) pays the certificate fee.

27 SECTION 2.168. Section 604.106, Occupations Code, is

1 amended to read as follows:

2 Sec. 604.106. ISSUANCE OF CERTIFICATE BY RECIPROCITY. The
3 advisory board [~~department~~] may issue a certificate to a person who
4 is licensed or certified to practice respiratory care by another
5 state whose requirements for licensure or certification were on the
6 date the license or certificate was issued substantially equal to
7 the requirements of this chapter.

8 SECTION 2.169. Section 604.107, Occupations Code, is
9 amended to read as follows:

10 Sec. 604.107. REQUIREMENTS FOR TEMPORARY PERMIT. An
11 applicant for a temporary permit to practice respiratory care must
12 submit to the advisory board:

13 (1) [~~department~~] written evidence, verified by oath,
14 that the applicant is:

15 (A) [~~(1)~~] practicing or has within the 12-month
16 period preceding the application date practiced respiratory care in
17 another state or country and is licensed to practice respiratory
18 care in that state or country;

19 (B) [~~(2)~~] a student in an approved respiratory
20 care education program who expects to graduate from the program not
21 later than the 30th day after the date the temporary permit is
22 issued; or

23 (C) [~~(3)~~] a graduate of an approved respiratory
24 care education program; and

25 (2) any additional information required by advisory
26 board rules.

27 SECTION 2.170. Section 604.108, Occupations Code, is

1 amended by amending Subsection (a) and Subsection (b), as amended
2 by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, to
3 read as follows:

4 (a) The advisory board [~~department~~] shall issue a temporary
5 permit to an applicant who:

6 (1) meets the requirements of Sections [604.103](#) and
7 [604.107](#);

8 (2) complies with the criminal history record
9 information requirement of Section 604.1031; and

10 (3) pays the permit fee.

11 (b) A temporary permit is valid for the period set by
12 advisory board [~~department~~] rule. The period may not be less than
13 six months or more than 12 months.

14 SECTION 2.171. Subchapter C, Chapter 604, Occupations Code,
15 is amended by adding Section 604.110 to read as follows:

16 Sec. 604.110. DELEGATION OF AUTHORITY TO ISSUE CERTIFICATE
17 OR TEMPORARY PERMIT. The advisory board may delegate authority to
18 medical board employees to issue certificates or temporary permits
19 under this chapter to applicants who clearly meet all applicable
20 requirements. If the medical board employees determine that the
21 applicant does not clearly meet all applicable requirements, the
22 application must be returned to the advisory board. A certificate
23 or temporary permit issued under this section does not require
24 formal advisory board approval.

25 SECTION 2.172. Section [604.151](#)(b), Occupations Code, as
26 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
27 2015, is amended to read as follows:

1 (b) The advisory board [~~executive commissioner~~] by rule may
2 adopt a system under which certificates expire on various dates
3 during the year. For the year in which the certificate expiration
4 date is changed, the advisory board [~~department~~] shall prorate
5 certificate fees on a monthly basis so that each certificate holder
6 pays only that portion of the certificate fee that is allocable to
7 the number of months during which the certificate is valid. On
8 renewal of the certificate on the new expiration date, the total
9 certificate renewal fee is payable.

10 SECTION 2.173. Section 604.152, Occupations Code, is
11 amended to read as follows:

12 Sec. 604.152. NOTICE OF CERTIFICATE RENEWAL. (a) Not
13 later than the 30th day before the expiration date of a person's
14 certificate, the advisory board [~~department~~] shall mail a renewal
15 notice to the person at the person's last known address.

16 (b) To renew a certificate, the certificate holder must:

17 (1) complete the renewal notice and return the notice
18 with the renewal fee to the advisory board [~~department~~] on or before
19 the expiration date; and

20 (2) meet any other requirement established by advisory
21 board rule.

22 SECTION 2.174. Sections 604.1521(a) and (b), Occupations
23 Code, are amended to read as follows:

24 (a) A person whose certificate has been expired for 90 days
25 or less may renew the certificate by paying to the advisory board
26 [~~department~~] a renewal fee that is equal to 1-1/2 times the normally
27 required renewal fee.

1 (b) A person whose certificate has been expired for more
2 than 90 days but less than one year may renew the certificate by
3 paying to the advisory board [~~department~~] a renewal fee that is
4 equal to two times the normally required renewal fee.

5 SECTION 2.175. Section 604.1522(b), Occupations Code, is
6 amended to read as follows:

7 (b) The person must pay to the advisory board [~~department~~] a
8 fee that is equal to two times the normally required renewal fee for
9 the certificate.

10 SECTION 2.176. Subchapter D, Chapter 604, Occupations Code,
11 is amended by adding Section 604.1523 to read as follows:

12 Sec. 604.1523. CRIMINAL HISTORY RECORD INFORMATION
13 REQUIREMENT FOR RENEWAL. (a) An applicant for renewal of a
14 certificate or temporary permit shall submit a complete and legible
15 set of fingerprints for purposes of performing a criminal history
16 check of the applicant as provided by Section 604.1031.

17 (b) The advisory board may not renew the certificate or
18 temporary permit of a person who does not comply with the
19 requirement of Subsection (a).

20 (c) A person is not required to submit fingerprints under
21 this section for the renewal of a certificate or temporary permit if
22 the person has previously submitted fingerprints under:

23 (1) Section 604.1031 for the initial issuance of the
24 certificate or permit; or

25 (2) this section as part of a prior renewal of a
26 certificate or permit.

27 SECTION 2.177. Section 604.153(a), Occupations Code, is

1 amended to read as follows:

2 (a) The advisory board [~~department~~] shall issue to the
3 certificate holder a certificate for the renewal period on receipt
4 of the completed renewal notice and other information required by
5 advisory board rule and payment of the renewal fee.

6 SECTION 2.178. Section 604.154, Occupations Code, as
7 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
8 2015, is amended to read as follows:

9 Sec. 604.154. CONTINUING EDUCATION REQUIREMENTS. (a) The
10 advisory board [~~executive commissioner~~] shall establish for the
11 renewal of a certificate uniform continuing education requirements
12 of not less than 12 or more than 24 continuing education hours for
13 each renewal period.

14 (b) The advisory board [~~executive commissioner~~] may adopt
15 rules relating to meeting the continuing education requirements in
16 a hardship situation.

17 SECTION 2.179. Section 604.156, Occupations Code, as
18 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
19 2015, is amended to read as follows:

20 Sec. 604.156. INACTIVE STATUS. (a) A respiratory care
21 practitioner who does not practice respiratory care during a
22 renewal period and who notifies the advisory board [~~department~~]
23 that the practitioner is not practicing respiratory care is not
24 required to pay the renewal fee until the practitioner resumes
25 practice.

26 (b) To resume the practice of respiratory care, the
27 practitioner must:

- 1 (1) notify the advisory board [~~department~~];
2 (2) satisfy requirements adopted by the advisory board
3 [~~executive commissioner~~]; and
4 (3) pay the reinstatement fee and the renewal fee for
5 the renewal period in which the practitioner will resume practice.

6 SECTION 2.180. Section 604.157(b), Occupations Code, as
7 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
8 2015, is amended to read as follows:

9 (b) The advisory board [~~department~~] may renew a temporary
10 permit for not more than one additional period, pending compliance
11 with this chapter and advisory board [~~department~~] rules. The
12 additional period may not be less than six months or more than 12
13 months.

14 SECTION 2.181. Chapter 604, Occupations Code, is amended by
15 adding Subchapter D-1 to read as follows:

16 SUBCHAPTER D-1. COMPLAINTS AND INVESTIGATIVE INFORMATION

17 Sec. 604.171. COMPLAINT INFORMATION AND STATUS. (a) The
18 advisory board shall maintain a system to promptly and efficiently
19 act on complaints filed with the advisory board. The advisory
20 board shall maintain:

21 (1) information about the parties to the complaint and
22 the subject matter of the complaint;

23 (2) a summary of the results of the review or
24 investigation of the complaint; and

25 (3) information about the disposition of the
26 complaint.

27 (b) The advisory board shall make information available

1 describing its procedures for complaint investigation and
2 resolution.

3 (c) If a written complaint is filed with the advisory board
4 relating to a certificate or temporary permit holder, the advisory
5 board, as often as quarterly and until final determination of the
6 action to be taken on the complaint, shall notify the parties to the
7 complaint of the status of the complaint unless the notice would
8 jeopardize an active investigation.

9 Sec. 604.172. CONDUCT OF INVESTIGATION. The advisory board
10 shall complete a preliminary investigation of a complaint filed
11 with the advisory board not later than the 45th day after the date
12 of receiving the complaint. The advisory board shall first
13 determine whether the person constitutes a continuing threat to the
14 public welfare. On completion of the preliminary investigation,
15 the advisory board shall determine whether to officially proceed on
16 the complaint. If the advisory board fails to complete the
17 preliminary investigation in the time required by this section, the
18 advisory board's official investigation of the complaint is
19 considered to commence on that date.

20 Sec. 604.173. ACCESS TO COMPLAINT INFORMATION. (a) Except
21 as provided by Subsection (b), the advisory board shall provide a
22 person who is the subject of a formal complaint filed under this
23 chapter with access to all information in its possession that the
24 advisory board intends to offer into evidence in presenting its
25 case in chief at the contested hearing on the complaint, subject to
26 any other privilege or restriction established by rule, statute, or
27 legal precedent. The advisory board shall provide the information

1 not later than the 30th day after receipt of a written request from
2 the person or the person's counsel, unless good cause is shown for
3 delay.

4 (b) The advisory board is not required to provide:

5 (1) advisory board investigative reports;

6 (2) investigative memoranda;

7 (3) the identity of a nontestifying complainant;

8 (4) attorney-client communications;

9 (5) attorney work product; or

10 (6) other material covered by a privilege recognized
11 by the Texas Rules of Civil Procedure or the Texas Rules of
12 Evidence.

13 (c) Providing information under this section does not
14 constitute a waiver of privilege or confidentiality under this
15 chapter or other law.

16 Sec. 604.174. HEALTH CARE ENTITY REQUEST FOR INFORMATION.
17 On the written request of a health care entity, the advisory board
18 shall provide to the entity:

19 (1) information about a complaint filed against a
20 person that was resolved after investigation by:

21 (A) a disciplinary order of the advisory board;

22 or

23 (B) an agreed settlement; and

24 (2) the basis of and current status of any complaint
25 that has been referred by the executive director of the medical
26 board for enforcement action.

27 Sec. 604.175. CONFIDENTIALITY OF INVESTIGATIVE

1 INFORMATION. A complaint, adverse report, investigation file,
2 other report, or other investigative information in the possession
3 of or received or gathered by the advisory board, the medical board,
4 or an employee or agent of the medical board relating to a
5 certificate or temporary permit holder, an application for a
6 certificate or temporary permit, or a criminal investigation or
7 proceeding is privileged and confidential and is not subject to
8 discovery, subpoena, or other means of legal compulsion for release
9 to any person other than the advisory board, the medical board, or
10 an employee or agent of the advisory board or medical board involved
11 in discipline under this chapter. For purposes of this section,
12 "investigative information" includes information related to the
13 identity of a person performing or supervising compliance
14 monitoring for the advisory board or medical board and a report
15 prepared by the person related to compliance monitoring.

16 Sec. 604.176. PERMITTED DISCLOSURE OF INVESTIGATIVE
17 INFORMATION. (a) Investigative information in the possession of
18 the advisory board, the medical board, or an employee or agent of
19 the medical board that relates to the discipline of a certificate or
20 temporary permit holder may be disclosed to:

21 (1) a licensing authority in another state or country
22 in which the certificate or temporary permit holder is licensed,
23 certified, or permitted or has applied for a license,
24 certification, or permit; or

25 (2) a medical peer review committee reviewing:

26 (A) an application for privileges; or

27 (B) the qualifications of the certificate holder

1 or person with respect to retaining privileges.

2 (b) If investigative information in the possession of the
3 advisory board, the medical board, or an employee or agent of the
4 medical board indicates that a crime may have been committed, the
5 advisory board or medical board, as appropriate, shall report the
6 information to the proper law enforcement agency. The advisory
7 board and medical board shall cooperate with and assist each law
8 enforcement agency conducting a criminal investigation of a
9 certificate or temporary permit holder by providing information
10 relevant to the investigation. Confidential information disclosed
11 to a law enforcement agency under this subsection remains
12 confidential and may not be disclosed by the law enforcement agency
13 except as necessary to further the investigation.

14 SECTION 2.182. Section [604.201](#), Occupations Code, is
15 amended to read as follows:

16 Sec. 604.201. DISCIPLINARY ACTION. (a) For a violation of
17 this chapter or a rule adopted under this chapter, the advisory
18 board [~~department~~] may:

19 (1) deny, suspend, suspend on an emergency basis,
20 restrict, revoke, or refuse to renew a certificate or temporary
21 permit;

22 (2) place the certificate or permit holder on
23 probation under conditions set by the advisory board [~~department~~];
24 or

25 (3) reprimand the certificate or permit holder.

26 (b) The advisory board [~~department~~] shall take disciplinary
27 action authorized under Subsection (a) if the advisory board

1 ~~[department]~~ determines that a person who holds a certificate or
2 temporary permit:

3 (1) is guilty of fraud or deceit in procuring,
4 renewing, or attempting to procure a certificate or temporary
5 permit;

6 (2) is unfit or incompetent because of negligence or
7 another cause of incompetency;

8 (3) is addicted to or has improperly obtained,
9 possessed, used, or distributed a habit-forming drug or narcotic or
10 is habitually intemperate in the use of alcoholic beverages;

11 (4) is guilty of dishonest or unethical conduct as
12 determined by the advisory board ~~[department]~~;

13 (5) has practiced respiratory care after the person's
14 certificate or temporary permit has expired;

15 (6) has practiced respiratory care under a certificate
16 or temporary permit illegally or fraudulently obtained or issued;

17 (7) has practiced respiratory care without the
18 direction of a qualified medical director or other licensed
19 physician; ~~[or]~~

20 (8) has violated this chapter or aided or abetted
21 another in violating this chapter; or

22 (9) has violated:

23 (A) a rule adopted under this chapter;

24 (B) an order of the advisory board previously
25 entered in a disciplinary proceeding; or

26 (C) an order to comply with a subpoena issued
27 under this chapter.

1 SECTION 2.183. Subchapter E, Chapter 604, Occupations Code,
2 is amended by adding Section 604.2011 to read as follows:

3 Sec. 604.2011. SURRENDER OF CERTIFICATE OR TEMPORARY
4 PERMIT. (a) The advisory board may accept the voluntary surrender
5 of a certificate or temporary permit. A person who has surrendered
6 a certificate or temporary permit may not engage in activities that
7 require a certificate or permit, and the advisory board may not
8 return the certificate or permit to the person, until the person
9 demonstrates to the satisfaction of the advisory board that the
10 person is able to resume practice as a respiratory care
11 practitioner.

12 (b) The advisory board shall by rule establish guidelines
13 for determining when a person is competent to resume practice as a
14 respiratory care practitioner.

15 SECTION 2.184. Section 604.202, Occupations Code, is
16 amended to read as follows:

17 Sec. 604.202. EMERGENCY SUSPENSION. (a) The presiding
18 officer of the advisory board shall appoint a three-member
19 disciplinary panel consisting of advisory board members to
20 determine whether a certificate or permit should be temporarily
21 suspended.

22 (a-1) The disciplinary panel shall temporarily [department
23 may] suspend a certificate or temporary permit issued under this
24 chapter on a determination that continued practice by a certificate
25 or temporary permit holder would constitute a continuing threat to
26 the public welfare [the health and safety of a person is threatened
27 and may make the suspension effective immediately].

1 (b) A [~~person whose~~] certificate or temporary permit may be
2 [~~is~~] suspended under this section without notice or hearing on the
3 complaint if:

4 (1) action is taken to initiate proceedings for [~~is~~
5 ~~entitled to~~] a hearing before the advisory board simultaneously
6 with the temporary suspension; and

7 (2) a hearing is held as soon as practicable under this
8 chapter and Chapter 2001, Government Code [~~department not later~~
9 ~~than the 10th day after the effective date of the emergency~~
10 ~~suspension~~].

11 (c) Notwithstanding Chapter 551, Government Code, the
12 disciplinary panel may hold a meeting by telephone conference call
13 if immediate action is required and convening of the panel at one
14 location is inconvenient for any member of the panel.

15 SECTION 2.185. Section 604.203, Occupations Code, as
16 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
17 2015, is amended to read as follows:

18 Sec. 604.203. ADMINISTRATIVE [~~DISCIPLINARY~~] PROCEDURE FOR
19 CONTESTED CASE HEARING. For a contested case hearing in which a
20 formal complaint has been filed under this chapter, the [~~The~~]
21 procedure by which the advisory board [~~department~~] takes a
22 disciplinary action and the procedure by which a disciplinary
23 action is appealed are governed by:

24 (1) advisory board [~~department~~] rules for a contested
25 case hearing; and

26 (2) Chapter 2001, Government Code.

27 SECTION 2.186. Subchapter E, Chapter 604, Occupations Code,

1 is amended by adding Sections 604.205 through 604.214 to read as
2 follows:

3 Sec. 604.205. DELEGATION OF CERTAIN COMPLAINT
4 DISPOSITIONS. (a) The advisory board may delegate to a committee
5 of medical board employees the authority to dismiss or enter into an
6 agreed settlement of a complaint that does not relate directly to
7 patient care or that involves only administrative violations. The
8 disposition determined by the committee must be approved by the
9 advisory board at a public meeting.

10 (b) A complaint delegated under this section shall be
11 referred for an informal proceeding under Section 604.209 if:

12 (1) the committee of employees determines that the
13 complaint should not be dismissed or settled;

14 (2) the committee is unable to reach an agreed
15 settlement; or

16 (3) the affected person requests that the complaint be
17 referred for an informal proceeding.

18 Sec. 604.206. SUBPOENA. (a) The executive director of the
19 medical board, the director's designee, or the secretary-treasurer
20 of the medical board may issue a subpoena or subpoena duces tecum
21 for the advisory board:

22 (1) to conduct an investigation or a contested
23 proceeding related to:

24 (A) alleged misconduct by a certificate or
25 temporary permit holder;

26 (B) an alleged violation of this chapter or other
27 law related to respiratory care; or

1 (C) the provision of health care under this
2 chapter; or

3 (2) for purposes of determining whether to issue,
4 suspend, restrict, or revoke a certificate or temporary permit
5 under this chapter.

6 (b) Failure to timely comply with a subpoena issued under
7 this section is a ground for:

8 (1) disciplinary action by the advisory board or
9 another licensing or regulatory agency with jurisdiction over the
10 person subject to the subpoena; and

11 (2) denial of an application for a certificate or
12 temporary permit.

13 Sec. 604.207. PROTECTION OF PATIENT IDENTITY. In a
14 disciplinary investigation or proceeding conducted under this
15 chapter, the advisory board shall protect the identity of each
16 patient whose medical records are examined and used in a public
17 proceeding unless the patient:

18 (1) testifies in the public proceeding; or

19 (2) submits a written release in regard to the
20 patient's records or identity.

21 Sec. 604.208. REQUIRED SUSPENSION OF LICENSE OF
22 INCARCERATED CERTIFICATE OR TEMPORARY PERMIT HOLDER. Regardless of
23 the offense, the advisory board shall suspend the certificate or
24 temporary permit of a person serving a prison term in a state or
25 federal penitentiary during the term of the incarceration.

26 Sec. 604.209. INFORMAL PROCEEDINGS. (a) The advisory
27 board by rule shall adopt procedures governing:

1 (1) informal disposition of a contested case under
2 Section 2001.056, Government Code; and

3 (2) informal proceedings held in compliance with
4 Section 2001.054, Government Code.

5 (b) Rules adopted under this section must require that:

6 (1) an informal meeting in compliance with Section
7 2001.054, Government Code, be scheduled and the advisory board give
8 notice to the person who is the subject of a complaint of the time
9 and place of the meeting not later than the 45th day before the date
10 the meeting is held;

11 (2) the complainant and the person who is the subject
12 of the complaint be provided an opportunity to be heard;

13 (3) at least one of the advisory board members
14 participating in the informal meeting as a panelist be a member who
15 represents the public;

16 (4) a member of the medical board's staff be at the
17 meeting to present to the advisory board's representative the facts
18 the staff reasonably believes it could prove by competent evidence
19 or qualified witnesses at a hearing; and

20 (5) the advisory board's legal counsel or a
21 representative of the attorney general be present to advise the
22 advisory board or the medical board's staff.

23 (c) The person who is the subject of the complaint is
24 entitled to:

25 (1) reply to the staff's presentation; and

26 (2) present the facts the person reasonably believes
27 the person could prove by competent evidence or qualified witnesses

1 at a hearing.

2 (d) After ample time is given for the presentations, the
3 advisory board representative shall recommend that the
4 investigation be closed or shall attempt to mediate the disputed
5 matters and make a recommendation regarding the disposition of the
6 case in the absence of a hearing under applicable law concerning
7 contested cases.

8 (e) If the person who is the subject of the complaint has
9 previously been the subject of disciplinary action by the advisory
10 board, the advisory board shall schedule the informal meeting as
11 soon as practicable.

12 (f) Section 604.175 applies to an investigation file and
13 investigative information in the possession of or used by the
14 advisory board in an informal proceeding under this section.

15 Sec. 604.210. ADVISORY BOARD REPRESENTATION IN INFORMAL
16 PROCEEDINGS. (a) In an informal meeting under Section 604.209, at
17 least two panelists shall be appointed to determine whether an
18 informal disposition is appropriate.

19 (b) Notwithstanding Subsection (a) and Section
20 604.209(b)(3), an informal proceeding may be conducted by one
21 panelist if the person who is the subject of the complaint waives
22 the requirement that at least two panelists conduct the informal
23 proceeding. If the person waives that requirement, the panelist
24 may be any member of the advisory board.

25 (c) Except as provided by Subsection (d), the panel
26 requirements described by Subsections (a) and (b) apply to an
27 informal proceeding conducted by the advisory board under Section

1 604.209, including a proceeding to:

2 (1) consider a disciplinary case to determine if a
3 violation has occurred; or

4 (2) request modification or termination of an order.

5 (d) The panel requirements described by Subsections (a) and
6 (b) do not apply to an informal proceeding conducted by the advisory
7 board under Section 604.209 to show compliance with an order of the
8 advisory board.

9 Sec. 604.211. ROLES AND RESPONSIBILITIES OF PARTICIPANTS IN
10 INFORMAL PROCEEDINGS. (a) An advisory board member who serves as
11 a panelist at an informal meeting under Section 604.209 shall make
12 recommendations for the disposition of a complaint or allegation.
13 The member may request the assistance of a medical board employee at
14 any time.

15 (b) Medical board employees shall present a summary of the
16 allegations against the person who is the subject of the complaint
17 and of the facts pertaining to the allegation that the employees
18 reasonably believe may be proven by competent evidence at a formal
19 hearing.

20 (c) An attorney for the advisory board or medical board
21 shall act as counsel to the panel and, notwithstanding Subsection
22 (e), shall be present during the informal meeting and the panel's
23 deliberations to advise the panel on legal issues that arise during
24 the proceeding. The attorney may ask questions of a participant in
25 the informal meeting to clarify any statement made by the
26 participant. The attorney shall provide to the panel a historical
27 perspective on comparable cases that have appeared before the

1 advisory board or medical board, keep the proceedings focused on
2 the case being discussed, and ensure that the medical board's
3 employees and the person who is the subject of the complaint have an
4 opportunity to present information related to the case. During the
5 panel's deliberations, the attorney may be present only to advise
6 the panel on legal issues and to provide information on comparable
7 cases that have appeared before the advisory board or medical
8 board.

9 (d) The panel and medical board employees shall provide an
10 opportunity for the person who is the subject of the complaint and
11 the person's authorized representative to reply to the medical
12 board employees' presentation and to present oral and written
13 statements and facts that the person and representative reasonably
14 believe could be proven by competent evidence at a formal hearing.

15 (e) An employee of the medical board who participated in the
16 presentation of the allegation or information gathered in the
17 investigation of the complaint, the person who is the subject of the
18 complaint, the person's authorized representative, the
19 complainant, the witnesses, and members of the public may not be
20 present during the deliberations of the panel. Only the members of
21 the panel and the attorney serving as counsel to the panel may be
22 present during the deliberations.

23 (f) The panel shall recommend the dismissal of the complaint
24 or allegations or, if the panel determines that the person has
25 violated a statute or advisory board rule, the panel may recommend
26 advisory board action and terms for an informal settlement of the
27 case.

1 (g) The panel's recommendations under Subsection (f) must
2 be made in a written order and presented to the affected person and
3 the person's authorized representative. The person may accept the
4 proposed settlement within the time established by the panel at the
5 informal meeting. If the person rejects the proposed settlement or
6 does not act within the required time, the advisory board may
7 proceed with the filing of a formal complaint with the State Office
8 of Administrative Hearings.

9 Sec. 604.212. LIMIT ON ACCESS TO INVESTIGATION FILES. The
10 advisory board shall prohibit or limit access to an investigation
11 file relating to a person subject to an informal proceeding in the
12 manner provided by Sections [164.007\(c\)](#) and [604.175](#).

13 Sec. 604.213. REFUND. (a) Subject to Subsection (b), the
14 advisory board may order a certificate or temporary permit holder
15 to pay a refund to a consumer as provided in an agreement resulting
16 from an informal settlement conference instead of or in addition to
17 imposing an administrative penalty under Subchapter F.

18 (b) The amount of a refund ordered as provided in an
19 agreement resulting from an informal settlement conference may not
20 exceed the amount the consumer paid to the certificate or temporary
21 permit holder for a service regulated by this chapter. The advisory
22 board may not require payment of other damages or estimate harm in a
23 refund order.

24 Sec. 604.214. EXPERT IMMUNITY. An expert who assists the
25 advisory board is immune from suit and judgment and may not be
26 subjected to a suit for damages for any investigation, report,
27 recommendation, statement, evaluation, finding, or other action

1 taken in the course of assisting the advisory board in a
2 disciplinary proceeding. The attorney general shall represent the
3 expert in any suit resulting from a service provided by the person
4 in good faith to the advisory board.

5 SECTION 2.187. Section 604.301, Occupations Code, is
6 amended to read as follows:

7 Sec. 604.301. IMPOSITION OF PENALTY. The advisory board
8 [~~department~~] may impose an administrative penalty on a person who
9 violates this chapter or a rule adopted under this chapter.

10 SECTION 2.188. Section 604.303, Occupations Code, is
11 amended to read as follows:

12 Sec. 604.303. NOTICE OF VIOLATION AND PENALTY. If, after
13 investigation of a possible violation and the facts surrounding the
14 possible violation, the advisory board [~~department~~] determines
15 that a violation occurred, the advisory board [~~department~~] shall
16 give written notice of the violation to the person alleged to have
17 committed the violation. The notice must:

- 18 (1) include a brief summary of the alleged violation;
19 (2) state the amount of the proposed administrative
20 penalty based on the factors set forth in Section 604.302(b); and
21 (3) inform the person of the person's right to a
22 hearing on the occurrence of the violation, the amount of the
23 penalty, or both.

24 SECTION 2.189. Section 604.304, Occupations Code, as
25 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
26 2015, is amended to read as follows:

27 Sec. 604.304. PENALTY TO BE PAID OR HEARING REQUESTED.

1 (a) Not later than the 20th day after the date the person receives
2 the notice under Section 604.303, the person may:

3 (1) accept the advisory board's [~~department's~~]
4 determination and proposed administrative penalty; or

5 (2) make a written request for a hearing on that
6 determination.

7 (b) If the person accepts the [~~department's~~] determination,
8 the advisory board [~~department~~] by order shall approve the
9 determination and assess the proposed penalty.

10 SECTION 2.190. Section 604.305, Occupations Code, as
11 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
12 2015, is amended to read as follows:

13 Sec. 604.305. HEARING. (a) If the person requests a
14 hearing in a timely manner, the advisory board [~~department~~] shall:

15 (1) set a hearing; and

16 (2) give written notice of the hearing to the person.

17 (b) The hearings examiner shall:

18 (1) make findings of fact and conclusions of law; and

19 (2) promptly issue to the advisory board [~~department~~]

20 a proposal for decision as to the occurrence of the violation and
21 the amount of any proposed administrative penalty.

22 SECTION 2.191. Section 604.306, Occupations Code, as
23 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
24 2015, is amended to read as follows:

25 Sec. 604.306. DECISION BY ADVISORY BOARD [~~DEPARTMENT~~].

26 (a) Based on the findings of fact, conclusions of law, and
27 proposal for decision, the advisory board [~~department~~] by order may

1 determine that:

2 (1) a violation occurred and impose an administrative
3 penalty; or

4 (2) a violation did not occur.

5 (b) The advisory board [~~department~~] shall give notice of the
6 order to the person. The notice must include:

7 (1) separate statements of the findings of fact and
8 conclusions of law;

9 (2) the amount of any penalty imposed; and

10 (3) a statement of the person's right to judicial
11 review of the order.

12 SECTION 2.192. Sections 604.307(b) and (c), Occupations
13 Code, are amended to read as follows:

14 (b) Within the 30-day period, a person who acts under
15 Subsection (a)(3) may:

16 (1) stay enforcement of the penalty by:

17 (A) paying the penalty to the court for placement
18 in an escrow account; or

19 (B) giving to the court a supersedeas bond
20 approved by the court that:

21 (i) is for the amount of the penalty; and

22 (ii) is effective until judicial review of
23 the order is final; or

24 (2) request the court to stay enforcement of the
25 penalty by:

26 (A) filing with the court a sworn affidavit of
27 the person stating that the person is financially unable to pay the

1 penalty and is financially unable to give the supersedeas bond; and

2 (B) giving a copy of the affidavit to the
3 advisory board [~~department~~] by certified mail.

4 (c) If the advisory board [~~department~~] receives a copy of an
5 affidavit under Subsection (b)(2), the advisory board [~~department~~]
6 may file with the court a contest to the affidavit not later than
7 the fifth day after the date the copy is received.

8 SECTION 2.193. Section 604.308, Occupations Code, is
9 amended to read as follows:

10 Sec. 604.308. COLLECTION OF PENALTY. If the person does not
11 pay the penalty and enforcement of the penalty is not stayed, the
12 advisory board [~~department~~] may refer the matter to the attorney
13 general for collection of the penalty.

14 SECTION 2.194. Section 604.311, Occupations Code, as
15 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
16 2015, is amended to read as follows:

17 Sec. 604.311. ADMINISTRATIVE PENALTY EXPENSES AND COSTS.

18 (a) In this section, "reasonable expenses and costs" includes
19 expenses incurred by the advisory board [~~department~~] or the
20 attorney general in the investigation, initiation, or prosecution
21 of an action, including reasonable investigative costs, court
22 costs, attorney's fees, witness fees, and deposition expenses.

23 (b) The advisory board [~~department~~] may assess reasonable
24 expenses and costs against a person in an administrative hearing
25 if, as a result of the hearing, an administrative penalty is
26 assessed against the person. The person shall pay expenses and
27 costs assessed under this subsection not later than the 30th day

1 after the date the order of the advisory board [~~department~~]
2 requiring the payment of expenses and costs is final. The advisory
3 board [~~department~~] may refer the matter to the attorney general for
4 collection of the expenses and costs.

5 (c) If the attorney general brings an action against a
6 person to enforce an administrative penalty assessed under this
7 subchapter and the person is found liable for an administrative
8 penalty, the attorney general may recover, on behalf of the
9 attorney general and the advisory board [~~department~~], reasonable
10 expenses and costs.

11 SECTION 2.195. The heading to Subchapter G, Chapter 604,
12 Occupations Code, is amended to read as follows:

13 SUBCHAPTER G. CRIMINAL PENALTIES AND ENFORCEMENT PROVISIONS

14 SECTION 2.196. Section 604.352(a), Occupations Code, is
15 amended to read as follows:

16 (a) A person commits an offense if the person knowingly:

17 (1) sells, fraudulently obtains, or furnishes a
18 respiratory care diploma, certificate, temporary permit, or
19 record;

20 (2) practices respiratory care under a respiratory
21 care diploma, certificate, temporary permit, or record illegally or
22 fraudulently obtained or issued;

23 (3) impersonates in any manner a respiratory care
24 practitioner;

25 (4) practices respiratory care while the person's
26 certificate or temporary permit is suspended, revoked, or expired;

27 (5) conducts a formal respiratory care education

1 program to prepare respiratory care personnel other than a program
2 approved by the advisory board [~~department~~];

3 (6) employs a person as a respiratory care
4 practitioner who does not hold a certificate or temporary permit in
5 the practice of respiratory care; or

6 (7) otherwise practices medicine in violation of
7 Section 604.002.

8 SECTION 2.197. The following provisions of the Occupations
9 Code, including provisions amended by S.B. 219, Acts of the 84th
10 Legislature, Regular Session, 2015, are repealed:

- 11 (1) Sections 601.002(2) and (5);
- 12 (2) Section 601.051;
- 13 (3) Section 601.053;
- 14 (4) Section 601.056(b);
- 15 (5) Section 601.103;
- 16 (6) Sections 602.002(1-a) and (2);
- 17 (7) Sections 602.052(b) and (c);
- 18 (8) Sections 602.053(a), (b), and (c);
- 19 (9) Section 602.056(c);
- 20 (10) Section 602.059;
- 21 (11) Subchapter C, Chapter 602;
- 22 (12) Sections 602.1525(b), (c), (d), (e), (f), and
23 (g);
- 24 (13) Section 602.155;
- 25 (14) Section 602.204;
- 26 (15) Sections 603.002(1) and (4);
- 27 (16) Section 603.005;

- 1 (17) Section 603.054(c);
- 2 (18) Section 603.058;
- 3 (19) Subchapter C, Chapter 603;
- 4 (20) Section 603.154(b);
- 5 (21) Section 603.158;
- 6 (22) Section 603.159;
- 7 (23) Sections 603.2041(b), (c), (d), (f), and (g);
- 8 (24) Section 604.051;
- 9 (25) Sections 604.052(b) and (c); and
- 10 (26) Section 604.056.

11 SECTION 2.198. Sections 601.1031, 601.1111, 602.2081,
12 602.2101, 603.2571, 603.3031, 604.1031, and 604.1523, Occupations
13 Code, as added by this article, apply only to an application for the
14 issuance or renewal of a license, certificate, or permit filed
15 under Chapter 601, 602, 603, or 604, Occupations Code, on or after
16 January 1, 2016. An application filed before that date is governed
17 by the law in effect at the time the application was filed, and the
18 former law is continued in effect for that purpose.

19 SECTION 2.199. (a) A rule or fee of the Department of State
20 Health Services that relates to a program transferred under this
21 article and that is in effect on the effective date of this Act
22 remains in effect until changed by the Texas Medical Board, the
23 Texas Board of Medical Radiologic Technology, or the Texas Board of
24 Respiratory Care, as appropriate.

25 (b) A license, certificate, or permit issued by the
26 Department of State Health Services for a program transferred under
27 this article is continued in effect as a license, certificate, or

1 permit of the Texas Medical Board, the Texas Board of Medical
2 Radiologic Technology, or the Texas Board of Respiratory Care, as
3 appropriate, after the effective date of this Act.

4 (c) A complaint, investigation, contested case, or other
5 proceeding before the Department of State Health Services relating
6 to a program transferred under this article that is pending on the
7 effective date of this Act is transferred without change in status
8 to the Texas Medical Board, the Texas Board of Medical Radiologic
9 Technology, or the Texas Board of Respiratory Care, as appropriate.

10 SECTION 2.200. (a) As soon as practicable after the
11 effective date of this Act, the Department of State Health Services
12 and the Texas Medical Board shall adopt a transition plan to provide
13 for the orderly transfer of powers, duties, functions, programs,
14 and activities under this article. The transition plan must
15 provide for the transfer to be completed as soon as practicable
16 after the effective date of this Act.

17 (b) The Department of State Health Services shall provide
18 the Texas Medical Board with access to any systems or information
19 necessary for the Texas Medical Board to accept a program
20 transferred under this article.

21 (c) On the effective date of this Act, the Texas Board of
22 Licensure for Professional Medical Physicists and the Texas State
23 Perfusionist Advisory Committee are abolished and the governor and
24 the president of the Texas Medical Board, as appropriate, shall, as
25 soon as practicable after the effective date of this Act, appoint
26 the members of the Texas Board of Medical Radiologic Technology,
27 the Medical Physicist Licensure Advisory Committee, the

1 Perfusionist Licensure Advisory Committee, and the Texas Board of
2 Respiratory Care.

3 (d) On the effective date of this Act, all full-time
4 equivalent employee positions at the Department of State Health
5 Services that primarily concern the administration or enforcement
6 of Chapter 601, 602, 603, or 604, Occupations Code, become
7 positions at the Texas Medical Board. The Texas Medical Board shall
8 post the positions for hiring and, when filling the positions,
9 shall give consideration to, but is not required to hire, an
10 applicant who, immediately before the effective date of this Act,
11 was an employee at the Department of State Health Services
12 primarily involved in administering or enforcing the applicable
13 law.

14 ARTICLE 3. DEREGULATION OF CERTAIN ACTIVITIES AND OCCUPATIONS

15 SECTION 3.001. Section 2165.303(b), Government Code, is
16 amended to read as follows:

17 (b) The commission shall report the findings and test
18 results obtained under a contract for air monitoring under this
19 section to the office [~~and the department~~] in a form and manner
20 prescribed by the office [~~and the department~~] for that purpose.

21 SECTION 3.002. Section 2165.305(c), Government Code, is
22 amended to read as follows:

23 (c) In developing a seminar required by this section, the
24 office shall receive assistance from:

- 25 (1) the commission; and
26 (2) [~~the department, and~~
27 [~~3~~] an entity that specializes in research and

1 technical assistance related to indoor air quality but does not
2 receive appropriations from the state.

3 SECTION 3.003. The heading to Subtitle G, Title 2, Health
4 and Safety Code, is amended to read as follows:

5 SUBTITLE G. LICENSES AND OTHER REGULATION

6 SECTION 3.004. The heading to Subchapter C, Chapter 144,
7 Health and Safety Code, is amended to read as follows:

8 SUBCHAPTER C. OPERATING PROCEDURES [~~FOR ALL LICENSE HOLDERS~~]

9 SECTION 3.005. Section 144.021, Health and Safety Code, as
10 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
11 2015, is amended to read as follows:

12 Sec. 144.021. GENERAL REQUIREMENTS FOR RENDERING
13 OPERATIONS [~~OPERATING LICENSES~~]. [~~(a)~~] Each rendering
14 establishment, related station, transfer station, dead animal
15 hauler, or renderable raw material hauler [~~applicant for or holder~~
16 ~~of an operating license~~] shall adopt operating procedures that:

17 (1) provide for the sanitary performance of rendering
18 operations and processes;

19 (2) prevent the spread of infectious or noxious
20 materials; and

21 (3) ensure that finished products are free from
22 disease-producing organisms.

23 [~~(b) As a condition of licensure, the department, in~~
24 ~~accordance with department rules, may prescribe other reasonable~~
25 ~~and appropriate construction, operational, maintenance, and~~
26 ~~inspection requirements to ensure compliance with this chapter and~~
27 ~~other applicable rules.~~]

1 SECTION 3.006. Section 144.022, Health and Safety Code, as
2 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
3 2015, is amended to read as follows:

4 Sec. 144.022. RECORDS. (a) Each ~~[licensed]~~ rendering
5 establishment, related station, or dead animal hauler shall have a
6 dead animal log that meets the requirements prescribed by
7 department rule. The name of the ~~[licensed]~~ rendering
8 establishment, related station, or dead animal hauler must be on
9 the front of the log.

10 (b) A rendering establishment, related station, or dead
11 animal hauler that ~~[When a license holder]~~ receives a dead animal~~,~~
12 ~~the license holder]~~ shall enter the following information in the
13 log:

- 14 (1) the date and time of the pickup of the dead animal;
15 (2) the name of the driver of the collection vehicle;
16 (3) a description of the dead animal;
17 (4) the location of the dead animal, including the
18 county; and
19 (5) the owner of the dead animal, if known.

20 (c) The rendering establishment, related station, or dead
21 animal hauler ~~[license holder]~~ shall also keep a record in the log,
22 or in an appendix to the log, of the general route followed in
23 making the collection.

24 (d) The log is subject to inspection at all reasonable times
25 by the department or a person with written authorization from the
26 department. ~~[Repeated or wilful failure or refusal to produce the~~
27 ~~log for inspection or to permit inspection by persons properly~~

1 ~~authorized to inspect the log constitutes grounds for license~~
2 ~~revocation.]~~

3 (e) This section does not apply to a [~~licensed~~] renderable
4 raw material hauler.

5 SECTION 3.007. The heading to Section 144.023, Health and
6 Safety Code, is amended to read as follows:

7 Sec. 144.023. VEHICLES [~~, PERMIT REQUIRED~~].

8 SECTION 3.008. Section 144.023(c), Health and Safety Code,
9 is amended to read as follows:

10 (c) A truck bed used to transport dead animals or renderable
11 raw materials shall be thoroughly washed and sanitized before use
12 for the transport of finished rendered products. A truck bed used
13 to transport dead animals or renderable raw materials to a
14 rendering establishment, or to transfer finished rendered products
15 from an establishment, shall, before being used to transport any
16 product intended for human consumption, be thoroughly sanitized
17 with a bactericidal agent that is [~~determined by the department to~~
18 ~~be~~] safe for use in a rendering establishment. A truck bed may not
19 be used to transport dead animals or renderable raw materials at the
20 same time the truck bed or any part of the truck bed is used to
21 transport any product intended for human consumption,
22 notwithstanding the manner in which part of the truck bed is sealed
23 or separated from the remainder of the bed.

24 SECTION 3.009. Section 144.027(c), Health and Safety Code,
25 is amended to read as follows:

26 (c) A drinking water supply [~~approved by the department~~]
27 shall be provided at convenient locations in the establishment for

1 the use of employees.

2 SECTION 3.010. Section 144.078(a), Health and Safety Code,
3 is amended to read as follows:

4 (a) The [~~On request of the department, the~~] attorney general
5 may bring an action in any district court of this state that has
6 jurisdiction and venue for an injunction to compel compliance with
7 this chapter or to restrain any actual or threatened violation of
8 this chapter.

9 SECTION 3.011. Section 144.079(c), Health and Safety Code,
10 is amended to read as follows:

11 (c) A renderer, hauler, or any other person may not [+
12 [~~(1) take possession of recyclable cooking oil from an~~
13 ~~unlicensed hauler or an employee or contractor of an unlicensed~~
14 ~~hauler, or~~
15 [~~(2)~~] knowingly take possession of stolen recyclable
16 cooking oil.

17 SECTION 3.012. Sections 145.006(a) and (b), Health and
18 Safety Code, as amended by S.B. 219, Acts of the 84th Legislature,
19 Regular Session, 2015, are amended to read as follows:

20 (a) A tanning facility shall post a warning sign in a
21 conspicuous location where it is readily visible by persons
22 entering the establishment. [~~The executive commissioner by rule~~
23 ~~shall specify the size, design, and graphic design of the sign.~~]
24 The sign must have dimensions of at least 11 inches by 17 inches and
25 must contain the following wording:

26 Repeated exposure to ultraviolet radiation may cause chronic
27 sun damage characterized by wrinkling, dryness, fragility,

1 bruising of the skin, and skin cancer.

2 DANGER: ULTRAVIOLET RADIATION

3 Failure to use protective eyewear may result in severe burns
4 or permanent injury to the eyes.

5 Medications or cosmetics may increase your sensitivity to
6 ultraviolet radiation. Consult a physician before using a sunlamp
7 if you are using medications, have a history of skin problems, or
8 believe you are especially sensitive to sunlight. Pregnant women
9 or women taking oral contraceptives who use this product may
10 develop discolored skin.

11 A tanning facility operator who violates a law relating to
12 the operation of a tanning facility is subject to a civil or
13 criminal penalty. If you suspect a violation, please contact your
14 local law enforcement authority or local health authority. [A
15 customer may call the Department of State Health Services at
16 (insert toll-free telephone number) to report an alleged injury
17 regarding this tanning facility.]

18 IF YOU DO NOT TAN IN THE SUN, YOU ARE UNLIKELY TO TAN FROM USE OF AN
19 ULTRAVIOLET LAMP OR SUNLAMP.

20 (b) A tanning facility operator shall also post a warning
21 sign at each tanning device in a conspicuous location that is
22 readily visible to a person about to use the device. [~~The executive~~
23 ~~commissioner by rule shall specify the size, design, and graphic~~
24 ~~design of the sign.~~] The sign must have dimensions of at least 11
25 inches by 17 inches and must contain the following wording:

26 DANGER: ULTRAVIOLET RADIATION

27 1. Follow the manufacturer's instructions for use of this

1 be maintained at the tanning facility at least until the third
2 anniversary of the date of the customer's last use of a tanning
3 device. [~~The executive commissioner by rule shall prescribe the~~
4 ~~form and content of the records.~~] The record shall include:

5 (1) the date and time of the customer's use of a
6 tanning device;

7 (2) the length of time the tanning device was used;

8 (3) any injury or illness resulting from the use of a
9 tanning device;

10 (4) any written informed consent statement required to
11 be signed under Subsection (e);

12 (5) the customer's skin type, as determined by the
13 customer by using the Fitzpatrick scale for classifying a skin
14 type;

15 (6) whether the customer has a family history of skin
16 cancer; and

17 (7) whether the customer has a past medical history of
18 skin cancer.

19 (j) An operator shall keep an incident log at each tanning
20 facility. The log shall be maintained at the tanning facility at
21 least until the third anniversary of the date of an incident. [~~The~~
22 ~~executive commissioner by rule shall prescribe the form and content~~
23 ~~of the log.~~] The log shall include each:

24 (1) alleged injury;

25 (2) use of a tanning device by a customer not wearing
26 protective eyewear;

27 (3) mechanical problem with a tanning device; and

1 (4) customer complaint.

2 SECTION 3.014. Section 145.0096, Health and Safety Code, is
3 amended by amending Subsections (a) and (b) and adding Subsection
4 (a-1) to read as follows:

5 (a) This section applies only to a business that:

6 (1) is operated under a license or permit as a sexually
7 oriented business issued in accordance with Section 243.007, Local
8 Government Code; or

9 (2) offers, as its primary business, a service or the
10 sale, rental, or exhibition of a device or other item that is
11 intended to provide sexual stimulation or sexual gratification to a
12 customer.

13 (a-1) A business to which this section applies [~~described by~~
14 ~~Section 145.0095(a)(1) or (2)~~] may not use the word "tan" or
15 "tanning" in a sign or any other form of advertising.

16 (b) A person commits an offense if the person violates
17 Subsection (a-1) [~~(a)~~]. Except as provided by Subsection (c), an
18 offense under this subsection is a Class C misdemeanor.

19 SECTION 3.015. The heading to Section 145.011, Health and
20 Safety Code, is amended to read as follows:

21 Sec. 145.011. ACCESS TO RECORDS [~~RULES, INSPECTION~~].

22 SECTION 3.016. Section 145.011(c), Health and Safety Code,
23 is amended to read as follows:

24 (c) A person who is required to maintain records under this
25 chapter or a person in charge of the custody of those records shall,
26 at the request of a a [~~an authorized agent or~~] health authority,
27 permit the [~~authorized agent or~~] health authority access to copy or

1 verify the records at reasonable times.

2 SECTION 3.017. Sections 145.0121(a) and (f), Health and
3 Safety Code, as amended by S.B. 219, Acts of the 84th Legislature,
4 Regular Session, 2015, are amended to read as follows:

5 (a) If it appears that a person has violated or is violating
6 this chapter ~~[or an order issued or a rule adopted under this~~
7 ~~chapter], [the department may request]~~ the attorney general, or the
8 district, ~~[or]~~ county, ~~[attorney]~~ or ~~[the]~~ municipal attorney ~~[of a~~
9 ~~municipality]~~ in the jurisdiction where the violation is alleged to
10 have occurred or may occur, may ~~[to]~~ institute a civil suit for:

- 11 (1) an order enjoining the violation;
- 12 (2) a permanent or temporary injunction, a temporary
13 restraining order, or other appropriate remedy ~~[if the department~~
14 ~~shows that the person has engaged in or is engaging in a violation];~~
- 15 (3) the assessment and recovery of a civil penalty; or
- 16 (4) both injunctive relief and a civil penalty.

17 (f) The ~~[department or the]~~ attorney general may ~~[each]~~
18 recover reasonable expenses incurred in obtaining injunctive
19 relief or a civil penalty under this section, including
20 investigation and court costs, reasonable attorney's fees, witness
21 fees, and other expenses. ~~[The expenses recovered by the~~
22 ~~department under this section shall be used for the administration~~
23 ~~and enforcement of this chapter.]~~ The expenses recovered by the
24 attorney general shall be used by the attorney general.

25 SECTION 3.018. Section 145.013(a), Health and Safety Code,
26 is amended to read as follows:

27 (a) A person, other than a customer, commits an offense if

1 the person violates this chapter [~~or a rule adopted under this~~
2 ~~chapter~~].

3 SECTION 3.019. Section 145.016(b), Health and Safety Code,
4 is amended to read as follows:

5 (b) An operator or other person may disclose a customer
6 record:

7 (1) if the customer, or a person authorized to act on
8 behalf of the customer, requests the record;

9 (2) if a [~~the commissioner or an authorized agent or~~]
10 health authority requests the record under Section 145.011;

11 (3) if the customer consents in writing to the
12 disclosure to another person;

13 (4) in a criminal proceeding in which the customer is a
14 victim, witness, or defendant;

15 (5) if the record is requested in a criminal or civil
16 proceeding by court order or subpoena; or

17 (6) as otherwise required by law.

18 SECTION 3.020. Section 1001.071(b), Health and Safety Code,
19 as redesignated by S.B. 219, Acts of the 84th Legislature, Regular
20 Session, 2015, is amended to read as follows:

21 (b) The department is responsible for administering human
22 services programs regarding the public health, including:

23 (1) implementing the state's public health care
24 delivery programs under the authority of the department;

25 (2) administering state health facilities, hospitals,
26 and health care systems;

27 (3) developing and providing health care services, as

1 directed by law;

2 (4) providing for the prevention and control of
3 communicable diseases;

4 (5) providing public education on health-related
5 matters, as directed by law;

6 (6) compiling and reporting health-related
7 information, as directed by law;

8 (7) acting as the lead agency for implementation of
9 state policies regarding the human immunodeficiency virus and
10 acquired immunodeficiency syndrome and administering programs
11 related to the human immunodeficiency virus and acquired
12 immunodeficiency syndrome;

13 (8) investigating the causes of injuries and methods
14 of prevention;

15 (9) administering a grant program to provide
16 appropriated money to counties, municipalities, public health
17 districts, and other political subdivisions for their use to
18 provide or pay for essential public health services;

19 (10) administering the registration of vital
20 statistics;

21 (11) licensing, inspecting, and enforcing regulations
22 regarding health facilities, other than long-term care facilities
23 regulated by the Department of Aging and Disability Services;

24 (12) implementing established standards and
25 procedures for the management and control of sanitation and for
26 health protection measures;

27 (13) enforcing regulations regarding radioactive

1 materials;

2 (14) enforcing regulations regarding food, [~~bottled~~
3 ~~and vended drinking water,~~] drugs, cosmetics, and health devices;

4 (15) enforcing regulations regarding food service
5 establishments, retail food stores, mobile food units, and roadside
6 food vendors;

7 (16) enforcing regulations controlling hazardous
8 substances in households and workplaces; and

9 (17) implementing a mental health program for
10 veterans.

11 SECTION 3.021. Section 32.074(a), Human Resources Code, is
12 amended to read as follows:

13 (a) In this section, "personal emergency response system"
14 has the meaning assigned by Section 1702.331, Occupations [~~781.001,~~
15 ~~Health and Safety~~] Code.

16 SECTION 3.022. Section 843.002(24), Insurance Code, is
17 amended to read as follows:

18 (24) "Provider" means:

19 (A) a person, other than a physician, who is
20 licensed or otherwise authorized to provide a health care service
21 in this state, including:

22 (i) a chiropractor, registered nurse,
23 pharmacist, optometrist, [~~registered optician,~~]
24 or

25 (ii) a pharmacy, hospital, or other
26 institution or organization;

27 (B) a person who is wholly owned or controlled by

1 a provider or by a group of providers who are licensed or otherwise
2 authorized to provide the same health care service; or

3 (C) a person who is wholly owned or controlled by
4 one or more hospitals and physicians, including a
5 physician-hospital organization.

6 SECTION 3.023. Sections 351.005(a) and (d), Occupations
7 Code, are amended to read as follows:

8 (a) This chapter does not:

9 (1) apply to an officer or agent of the United States
10 or this state in performing official duties;

11 (2) prevent or interfere with the right of a physician
12 licensed by the Texas [~~State Board of~~] Medical Board [~~Examiners~~]
13 to:

14 (A) treat or prescribe for a patient; or

15 (B) direct or instruct a person under the
16 physician's control, supervision, or direction to aid or attend to
17 the needs of a patient according to the physician's specific
18 direction, instruction, or prescription;

19 (3) prevent a person from selling ready-to-wear
20 eyeglasses as merchandise at retail;

21 (4) prevent an unlicensed person from making simple
22 repairs to eyeglasses;

23 [~~prevent or interfere with the right of a~~
24 ~~dispensing optician registered under Chapter 352 to engage in~~
25 ~~spectacle or contact lens dispensing under that chapter,~~

26 [(6)] prevent an ophthalmic dispenser who does not
27 practice optometry or therapeutic optometry from measuring

1 interpupillary distances or making facial measurements to dispense
2 or adapt an ophthalmic prescription, lens, product, or accessory in
3 accordance with the specific directions of a written prescription
4 signed by an optometrist, therapeutic optometrist, or licensed
5 physician;

6 (6) [~~(7)~~] prevent the administrator or executor of the
7 estate of a deceased optometrist or therapeutic optometrist from
8 employing an optometrist or therapeutic optometrist to continue the
9 practice of the deceased during estate administration; or

10 (7) [~~(8)~~] prevent an optometrist or therapeutic
11 optometrist from working for the administrator or executor of the
12 estate of a deceased optometrist or therapeutic optometrist to
13 continue the practice of the deceased during estate administration.

14 (d) Continuation of the practice of a deceased optometrist
15 or therapeutic optometrist by an estate under Subsections (a)(6)
16 and (7) [~~(a)(7) and (8)~~] must:

17 (1) be authorized by the county judge; and

18 (2) terminate before the first anniversary of the date
19 of death of the optometrist or therapeutic optometrist.

20 SECTION 3.024. Section 353.004, Occupations Code, as
21 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
22 2015, is amended to read as follows:

23 Sec. 353.004. PUBLIC INFORMATION ON PRESCRIPTION RELEASE.
24 [~~(a)~~] The [~~department and the~~] Texas Optometry Board shall prepare
25 and provide to the public and appropriate state agencies
26 information regarding the release and verification of contact lens
27 prescriptions.

1 ~~[(b) The executive commissioner may adopt rules necessary~~
2 ~~to implement this section.]~~

3 SECTION 3.025. Section 353.1015(b), Occupations Code, is
4 amended to read as follows:

5 (b) A prescription is considered verified under this
6 section if:

7 (1) the prescribing physician, optometrist, or
8 therapeutic optometrist by a direct communication confirms that the
9 prescription is accurate;

10 (2) the prescribing physician, optometrist, or
11 therapeutic optometrist informs the person dispensing the contact
12 lenses that the prescription is inaccurate and provides the correct
13 prescription information; or

14 (3) the prescribing physician, optometrist, or
15 therapeutic optometrist fails to communicate with the person
16 dispensing the contact lenses not later than the eighth business
17 hour after the prescribing physician, optometrist, or therapeutic
18 optometrist receives from the person dispensing the contact lenses
19 the request for verification ~~[or within another similar period~~
20 ~~specified by rule]~~.

21 SECTION 3.026. Section 353.103(a), Occupations Code, is
22 amended to read as follows:

23 (a) If a patient presents a contact lens prescription to be
24 filled or asks a person who dispenses contact lenses ~~[permit~~
25 ~~holder]~~ to verify a contact lens prescription under Section
26 353.1015, but requests that fewer than the total number of lenses
27 authorized by the prescription be dispensed, the person dispensing

1 the lenses shall note on the prescription or verification:

2 (1) the number of lenses dispensed;

3 (2) the number of lenses that remain eligible to be
4 dispensed under the prescription; and

5 (3) the name, address, and telephone number [~~and~~
6 ~~license or permit number~~] of the person dispensing the lenses.

7 SECTION 3.027. Section [353.104](#)(a), Occupations Code, is
8 amended to read as follows:

9 (a) If a patient needs an emergency refill of the patient's
10 contact lens prescription, a physician, optometrist, or
11 therapeutic optometrist may telephone or fax the prescription to a
12 person who dispenses [~~authorized to dispense~~] contact lenses [~~under~~
13 ~~Section [353.051](#)~~] or may verify a prescription under Section
14 [353.1015](#).

15 SECTION 3.028. Section [353.151](#), Occupations Code, is
16 amended to read as follows:

17 Sec. [353.151](#). DIRECTIONS FOR INDEPENDENT DISPENSER
18 [~~OPTICIAN~~]; DELEGATION. (a) If a physician's directions,
19 instructions, or orders are to be performed or a physician's
20 prescription is to be filled by a person [~~an optician~~] who is
21 independent of the physician's office, the directions,
22 instructions, orders, or prescription must be:

23 (1) in writing or verified under Section [353.1015](#);

24 (2) of a scope and content and communicated to the
25 person [~~optician~~] in a form and manner that, in the professional
26 judgment of the physician, best serves the health, safety, and
27 welfare of the physician's patient; and

1 (3) in a form and detail consistent with the person's
2 ~~[optician's]~~ skill and knowledge.

3 (b) A person who dispenses contact lenses ~~[holds a contact~~
4 ~~lens dispensing permit issued under Subchapter B]~~ may measure the
5 eye or cornea and may evaluate the physical fit of lenses for a
6 particular patient of a physician if the physician has delegated in
7 writing those responsibilities regarding that patient to the person
8 in accordance with Subsection (a) and Section 351.005.

9 (c) If a physician notes on a spectacle prescription "fit
10 for contacts" or similar language and has, as required by
11 Subsections (a) and (b), specifically delegated to a specific
12 person ~~[optician]~~ the authority to make the additional measurements
13 and evaluations necessary for a fully written contact lens
14 prescription, the person ~~[optician]~~ may dispense contact lenses to
15 the patient even though the prescription is less than a fully
16 written contact lens prescription.

17 SECTION 3.029. The following provisions of the Government
18 Code, including provisions amended by S.B. 219, Acts of the 84th
19 Legislature, Regular Session, 2015, are repealed:

- 20 (1) Section 2165.301(2);
21 (2) Section 2165.302; and
22 (3) Section 2165.304.

23 SECTION 3.030. The following provisions of the Health and
24 Safety Code, including provisions amended by S.B. 219, Acts of the
25 84th Legislature, Regular Session, 2015, are repealed:

- 26 (1) Section 144.001;
27 (2) Subchapter B, Chapter 144;

- 1 (3) Sections [144.023](#)(d) and (e);
- 2 (4) Section [144.031](#);
- 3 (5) Subchapter D, Chapter 144;
- 4 (6) Subchapter E, Chapter 144;
- 5 (7) Subchapter F, Chapter 144;
- 6 (8) Section [144.071](#);
- 7 (9) Section [144.072](#);
- 8 (10) Section [144.073](#);
- 9 (11) Section [144.074](#);
- 10 (12) Section [144.075](#);
- 11 (13) Section [144.076](#);
- 12 (14) Section [144.077](#);
- 13 (15) Section [144.078](#)(c);
- 14 (16) Section [144.080](#);
- 15 (17) Section [144.081](#);
- 16 (18) Section [144.082](#);
- 17 (19) Section [144.083](#);
- 18 (20) Section [144.084](#);
- 19 (21) Section [144.085](#);
- 20 (22) Section [145.001](#);
- 21 (23) Section [145.002](#)(1);
- 22 (24) Section [145.004](#)(b);
- 23 (25) Section [145.006](#)(c);
- 24 (26) Section [145.008](#)(k);
- 25 (27) Section [145.009](#);
- 26 (28) Section [145.0095](#);
- 27 (29) Section [145.010](#);

- 1 (30) Sections 145.011(a) and (b);
- 2 (31) Section 145.012;
- 3 (32) Section 145.0122;
- 4 (33) Section 145.015;
- 5 (34) Chapter 345;
- 6 (35) Chapter 385;
- 7 (36) Chapter 441; and
- 8 (37) Chapter 781.

9 SECTION 3.031. The following provisions of the Occupations
10 Code, including provisions amended by S.B. 219, Acts of the 84th
11 Legislature, Regular Session, 2015, are repealed:

- 12 (1) Section 351.005(c);
- 13 (2) Chapter 352;
- 14 (3) Sections 353.002(2) and (4);
- 15 (4) Section 353.005;
- 16 (5) Subchapter B, Chapter 353;
- 17 (6) Section 353.202;
- 18 (7) Section 353.2025;
- 19 (8) Section 353.203;
- 20 (9) Section 353.204(b); and
- 21 (10) Section 353.205.

22 SECTION 3.032. On the effective date of this Act, a license,
23 permit, certification of registration, or other authorization
24 issued under a law that is repealed by this article expires.

25 SECTION 3.033. The changes in law made by this article do
26 not affect the validity of a disciplinary action or other
27 proceeding that was initiated before the effective date of this Act

1 and that is pending before a court or other governmental entity on
2 the effective date of this Act.

3 SECTION 3.034. (a) An offense under or other violation of
4 a law that is repealed by this article is governed by the law in
5 effect when the offense or violation was committed, and the former
6 law is continued in effect for that purpose.

7 (b) For purposes of this section, an offense or violation
8 was committed before the effective date of this Act if any element
9 of the offense or violation occurred before that date.

10 SECTION 3.035. The repeal of a law by this article does not
11 entitle a person to a refund of an application, licensing, or other
12 fee paid by the person before the effective date of this Act.

13 ARTICLE 4. EFFECTIVE DATE

14 SECTION 4.001. (a) Except as provided by Subsection (b) of
15 this section, this Act takes effect September 1, 2015.

16 (b) Part 2 of Article 1 of this Act takes effect September 1,
17 2017.