

By: Price

H.B. No. 2510

A BILL TO BE ENTITLED

AN ACT

relating to the Department of State Health Services, the provision of health services in this state, and the regulation of certain health-related occupations and activities.

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

ARTICLE 1. STATE MENTAL HEALTH HOSPITAL SYSTEM

SECTION 1.001. Subchapter D, Chapter 1001, Health and Safety Code, is amended by adding Section 1001.086 to read as follows:

Sec. 1001.086. TREATMENT ALTERNATIVES TRAINING CURRICULUM FOR JUDGES AND ATTORNEYS. (a) The department shall work with the court of criminal appeals to develop and maintain a training curriculum for judges and attorneys that provides information on inpatient and outpatient treatment alternatives to inpatient commitment to a state hospital for a patient whom a court is ordering to receive mental health services:

(1) to attain competency to stand trial under Chapter 46B, Code of Criminal Procedure; or

(2) following an acquittal by reason of insanity under Chapter 46C, Code of Criminal Procedure.

(b) The training curriculum developed and maintained under Subsection (a) must include a guide to treatment alternatives, other than inpatient treatment at a state hospital, from which a patient described by Subsection (a) may receive mental health

1 services.

2 SECTION 1.002. Not later than March 1, 2016, the Department
3 of State Health Services and the court of criminal appeals shall
4 develop the training curriculum required by Section 1001.086,
5 Health and Safety Code, as added by this article.

6 ARTICLE 2. COMMUNITY MENTAL HEALTH PROGRAMS

7 SECTION 2.001. Subchapter B, Chapter 533, Health and Safety
8 Code, is amended by adding Section 533.0347 to read as follows:

9 Sec. 533.0347. REVIEW RELATING TO BEHAVIORAL HEALTH
10 SERVICES PROVIDER CONTRACTS. (a) In this section:

11 (1) "Behavioral health services" means mental health
12 services, substance abuse services, or both.

13 (2) "Department" means the Department of State Health
14 Services.

15 (b) The commission shall conduct a strategic review to
16 evaluate and improve the performance measures and payment
17 mechanisms that are included in the department's contracts with
18 providers of behavioral health services. The commission shall
19 conduct the review in three phases and with the assistance of a
20 third party who has expertise in health purchasing.

21 (c) In the first phase of the review, the commission shall:

22 (1) identify for elimination from the department's
23 contracts with providers of behavioral health services performance
24 measures that are not required by state or federal law,
25 particularly those that measure inputs and processes rather than
26 outcomes;

27 (2) review and identify refinements to the metrics and

1 methodology associated with the withholding of funds from local
2 mental health authorities for use as performance-based incentive
3 payments for the authorities as directed by Rider 78, page II-76,
4 Chapter 1411 (S.B. 1), Acts of the 83rd Legislature, Regular
5 Session, 2013 (the General Appropriations Act); and

6 (3) consider adopting strategies that are similar to
7 strategies associated with the performance measures and
8 accountability processes for managed care organizations.

9 (d) The commission and the department may not include a
10 performance measure identified for elimination under Subsection
11 (c)(1) in a contract between the department and a provider of
12 behavioral health services that is entered into or renewed on or
13 after September 1, 2015.

14 (e) Not later than September 1, 2015, the commission and the
15 department shall implement the refinements identified under
16 Subsection (c)(2) to the metrics and methodology associated with
17 the withholding of funds from local mental health authorities for
18 use as performance-based incentive payments for the authorities.

19 (f) In the second phase of the review:

20 (1) the commission and the third party shall develop
21 outcome measures for inclusion in contracts with providers of
22 behavioral health services that are based on best practices in
23 performance measurement and contracting;

24 (2) the commission shall use a subset of priority
25 outcome measures from those developed under Subdivision (1) to
26 develop and implement incentive payments and financial sanctions
27 for inclusion in contracts with providers of behavioral health

services that are aligned with the models used by the commission for purchasing health care services; and

(3) the commission and the department shall jointly:

(A) identify obstacles to the timely processing of contracts with providers of behavioral health services and determine ways to eliminate those obstacles; and

(B) determine ways to streamline contracts with providers of behavioral health services, including the reporting requirements for performance measures included in those contracts, to minimize the administrative burden on providers of behavioral health services, the commission, and the department.

(g) For a contract between the department and a provider of behavioral health services that is entered into or renewed on or after September 1, 2016, the commission and the department shall:

(1) include:

(A) the outcome measures developed under Subsection (f)(1); and

(B) the incentive payments and financial sanctions developed under Subsection (f)(2); and

(2) ensure that the contract is streamlined in accordance with the commission's and department's determinations under Subsection (f)(3)(B).

(h) In the third phase of the review, the commission shall develop and make available to the public online, not later than December 1, 2016, a web-based dashboard that enables the public to make comparisons between behavioral health services providers.

(i) This section expires September 1, 2017.

SECTION 2.002. Section 533.0359(a), Health and Safety Code, is amended to read as follows:

(a) In developing rules governing local mental health authorities under Sections 533.035, [~~533.0351~~], 533.03521, 533.0357, and 533.0358, the executive commissioner shall use rulemaking procedures under Subchapter B, Chapter 2001, Government Code.

SECTION 2.003. Subchapter B, Chapter 533, Health and Safety Code, is amended by adding Section 533.0515 to read as follows:

Sec. 533.0515. REGIONAL ALLOCATION OF MENTAL HEALTH BEDS IN STATE HOSPITALS. (a) The commission, with input from the local mental health authorities and local behavioral health authorities, and after considering any plan developed under Section 533.051, shall divide the state into regions for the purpose of allocating to each region beds in the state hospitals for patients who are:

(1) voluntarily admitted to a state hospital under Subchapter B, Chapter 462, or Chapter 572;

(2) admitted to a state hospital for emergency detention under Subchapter C, Chapter 462, or Chapter 573;

(3) ordered by a court to receive at a state hospital inpatient chemical dependency treatment under Subchapter D, Chapter 462, or inpatient mental health services under Chapter 574;

(4) committed to a state hospital to attain competency to stand trial under Chapter 46B, Code of Criminal Procedure; or

(5) committed to a state hospital to receive inpatient mental health services following an acquittal by reason of insanity under Chapter 46C, Code of Criminal Procedure.

1 (b) The local mental health authorities and local
2 behavioral health authorities shall develop and submit to the
3 commission for approval a methodology for allocating to each region
4 designated under Subsection (a) a certain number of state hospital
5 beds for the patients described by Subsection (a). The commission
6 may approve the allocation methodology only if the authorities
7 demonstrate that the methodology fairly allocates state hospital
8 beds across the state.

9 (c) After the commission approves the allocation
10 methodology, the Department of State Health Services shall begin
11 allocating state hospital beds to the regions according to the
12 methodology.

13 (d) On a quarterly basis, the commission shall assess and
14 collect from each local mental health authority and local
15 behavioral health authority in a region a daily fee, in an amount
16 prescribed by rule by the executive commissioner, for each bed day
17 that a patient from that region and described by Subsection (a)
18 spends in a state hospital in excess of the number of state hospital
19 beds allocated to that region under Subsection (c).

20 (e) The commission shall distribute the fees collected
21 under Subsection (d) to the local mental health authorities and
22 local behavioral health authorities in each region in which
23 patients described by Subsection (a) underuse the state hospital
24 beds allocated to the region during the quarter. The commission
25 shall distribute the fees to the local mental health authorities
26 and local behavioral health authorities in proportion to the
27 underuse of state hospital beds in the regions in which the

authorities are located.

SECTION 2.004. Subchapter D, Chapter 533, Health and Safety Code, is amended by adding Sections 533.088 and 533.089 to read as follows:

Sec. 533.088. ESTABLISHMENT OF NEW FACILITY TYPES; FUNDING.

(a) In this section:

(1) "Department" means the Department of State Health Services.

(2) "Executive commissioner" means the executive commissioner of the Health and Human Services Commission.

(b) The executive commissioner may adopt rules establishing new types of community-based crisis and treatment facilities for persons with mental health disorders, substance abuse disorders, or co-occurring mental health and substance abuse disorders. A new type of facility established by rule under this section must provide mental health or substance abuse services to patients in a residential setting and according to best practices.

(c) The department shall give priority in the award of state funding for crisis and treatment facilities for persons with mental health or substance abuse disorders to a facility that is approved by the department to operate as a new facility type under Subsection (b) or that otherwise delivers mental health or substance abuse services in an innovative manner.

Sec. 533.089. REVIEW RELATING TO CERTAIN COMMUNITY-BASED CRISIS AND TREATMENT FACILITIES. (a) In this section:

(1) "Department" means the Department of State Health Services.

1 (2) "Executive commissioner" means the executive
2 commissioner of the Health and Human Services Commission.

3 (b) The department shall conduct a comprehensive review of
4 department rules and department contract requirements governing
5 community-based crisis and treatment facilities for persons with
6 mental health and substance abuse disorders. As part of the review,
7 department regulatory staff, department behavioral health program
8 staff, and stakeholders shall work together to identify best
9 practices for and unnecessary barriers to the effective delivery of
10 mental health and substance abuse services by community-based
11 crisis and treatment facilities.

12 (c) The department shall:

13 (1) develop proposed rules based on the work of the
14 department staff and stakeholders in Subsection (b); and

15 (2) submit to the appropriate behavioral health
16 services advisory body designated by the executive commissioner the
17 proposed rules for the body's review.

18 (d) Not later than September 1, 2016, the executive
19 commissioner shall adopt rules relating to the delivery of mental
20 health and substance abuse services by community-based crisis and
21 treatment facilities after considering any recommendations made by
22 the advisory body under Subsection (c)(2). The rules may include
23 the establishment of new types of community-based crisis and
24 treatment facilities for persons with mental health disorders,
25 substance abuse disorders, or co-occurring mental health and
26 substance abuse disorders as authorized by Section 533.088.

27 (e) This section expires September 1, 2017.

SECTION 2.005. Subchapter D, Chapter 1001, Health and Safety Code, is amended by adding Sections 1001.0731 and 1001.0732 to read as follows:

Sec. 1001.0731. CONTRACTING FOR CERTAIN FUNCTIONS RELATING TO SUBSTANCE ABUSE. The department may contract only with local mental health authorities and local behavioral health authorities to administer outreach, screening, assessment, and referral functions relating to the provision of substance abuse services.

Sec. 1001.0732. MENTAL HEALTH AND SUBSTANCE ABUSE HOTLINES. The department shall ensure that each local mental health authority and local behavioral health authority operates a toll-free telephone hotline that enables a person to call a single hotline number to obtain information from the authority about mental health services, substance abuse services, or both.

SECTION 2.006. The following provisions are repealed:

- (1) Section 7.030, Education Code;
- (2) Section 461.017, Health and Safety Code; and
- (3) Section 533.0351, Health and Safety Code.

SECTION 2.007. As soon as practicable after the effective date of this Act, the Health and Human Services Commission shall divide the state into regions and the local mental health authorities and local behavioral health authorities shall develop and submit to the commission for approval the state hospital bed allocation methodology required by Section 533.0515, Health and Safety Code, as added by this article. Before the commission approves the methodology, the Department of State Health Services shall continue to allocate beds in the state hospitals according to

1 the department's policy as it existed immediately before the
2 effective date of this Act, and the policy is continued in effect
3 for that purpose.

4 SECTION 2.008. Section 1001.0731, Health and Safety Code,
5 as added by this article, applies only to a contract that is entered
6 into or renewed on or after the effective date of this Act. A
7 contract that is entered into or renewed before that date is
8 governed by the law as it existed immediately before the effective
9 date of this Act, and that law is continued in effect for that
10 purpose.

11 ARTICLE 3. EMERGENCY MEDICAL SERVICES REGULATION

12 SECTION 3.001. Section 773.050, Health and Safety Code, is
13 amended by adding Subsection (i) to read as follows:

14 (i) The department may develop and administer at least twice
15 each calendar year a jurisprudence examination to determine the
16 knowledge that an applicant for an emergency medical services
17 provider license or emergency medical services personnel
18 certification has of this chapter, department rules, and any other
19 applicable laws affecting the applicant's activities regulated
20 under this chapter. Department rules must specify who must take the
21 examination on behalf of an entity applying for an emergency
22 medical services provider license.

23 SECTION 3.002. Section 773.0571, Health and Safety Code, as
24 amended by Chapters 1089 (H.B. 3556) and 1311 (S.B. 8), Acts of the
25 83rd Legislature, Regular Session, 2013, is reenacted and amended
26 to read as follows:

27 Sec. 773.0571. REQUIREMENTS FOR PROVIDER LICENSE. The

1 department shall issue to an emergency medical services provider
2 applicant a license that is valid for two years if the department is
3 satisfied that:

4 (1) the applicant has adequate staff to meet the
5 staffing standards prescribed by this chapter and the rules adopted
6 under this chapter;

7 (2) each emergency medical services vehicle is
8 adequately constructed, equipped, maintained, and operated to
9 render basic or advanced life support services safely and
10 efficiently;

11 (3) the applicant offers safe and efficient services
12 for emergency prehospital care and transportation of patients;

13 (4) the applicant:

14 (A) possesses sufficient professional experience
15 and qualifications to provide emergency medical services; and

16 (B) has not been excluded from participation in
17 the state Medicaid program;

18 (5) the applicant holds a letter of approval issued
19 under Section 773.0573 by the governing body of the municipality or
20 the commissioners court of the county in which the applicant is
21 located and is applying to provide emergency medical services, as
22 applicable; ~~and~~

23 (6) the applicant employs a medical director; ~~and~~

24 (7) the applicant operates out of a physical location
25 in compliance with Section 773.05715;

26 (8) the applicant owns or has a long-term lease
27 agreement for all equipment necessary for safe operation of an

emergency medical services provider, as provided by Section 773.05716; and

(9) ~~[(6)]~~ the applicant complies with the rules adopted under this chapter.

SECTION 3.003. Section 773.05713, Health and Safety Code, is amended to read as follows:

Sec. 773.05713. REPORT TO LEGISLATURE. Not later than December 1 of each even-numbered year, the department shall electronically submit a report to the lieutenant governor, the speaker of the house of representatives, and the standing committees of the house and senate with jurisdiction over the department on the effect of Sections 773.05711 and 773.05712 that includes:

(1) the total number of applications for emergency medical services provider licenses submitted to the department and the number of applications for which licenses were issued or licenses were denied by the department;

(2) the number of emergency medical services provider licenses that were suspended or revoked by the department for violations of those sections and a description of the types of violations that led to the license suspension or revocation;

(3) the number of occurrences and types of fraud committed by licensed emergency medical services providers related to those sections;

(4) the number of complaints made against licensed emergency medical services providers for violations of those sections and a description of the types of complaints, reported in

1 the manner required by Section 773.0605(d); and

2 (5) the status of any coordination efforts of the
3 department and the Texas Medical Board related to those sections.

4 SECTION 3.004. Subchapter C, Chapter 773, Health and Safety
5 Code, is amended by adding Sections 773.05715 and 773.05716 to read
6 as follows:

7 Sec. 773.05715. PHYSICAL LOCATION REQUIRED. (a) An
8 emergency medical services provider must have a permanent physical
9 location as the provider's primary place of business. An applicant
10 for an emergency medical services provider license must demonstrate
11 proof of the location of the primary place of business in the manner
12 required by the department.

13 (b) The physical location may be owned or leased by the
14 emergency medical services provider.

15 (c) The emergency medical services provider must remain in
16 the same physical location for the period of licensure, unless the
17 department approves a change in location.

18 (d) The emergency medical services provider must maintain
19 all patient care records in the physical location that is the
20 provider's primary place of business, unless the department
21 approves an alternate location.

22 (e) Only one emergency medical services provider may
23 operate out of a single physical location.

24 Sec. 773.05716. NECESSARY EQUIPMENT. (a) An emergency
25 medical services provider must own or hold a long-term lease for all
26 equipment necessary for the safe operation of an emergency medical
27 services provider, including emergency medical services vehicles,

heart rate monitors, defibrillators, stretchers, and any other equipment the department determines is required.

(b) An applicant for an emergency medical services provider license must demonstrate proof of compliance with this section in the manner required by the department.

SECTION 3.005. Subchapter C, Chapter 773, Health and Safety Code, is amended by adding Section 773.0605 to read as follows:

Sec. 773.0605. COMPLAINTS AND INVESTIGATIONS. (a) The department shall track and keep records of:

(1) each complaint received by the department regarding emergency medical services providers and emergency medical services personnel;

(2) each investigation initiated by the department under this chapter; and

(3) each disciplinary action initiated by the department under this chapter.

(b) The department shall develop a formal process to refer complaints outside the department's jurisdiction to the appropriate agency for disposition.

(c) The department shall track the types of complaints received outside the department's jurisdiction. The department shall separately track complaints outside the department's jurisdiction relating to potential billing fraud and make information relating to those complaints available to the appropriate state agency.

(d) The department shall annually report statistical information regarding each complaint received, and each

investigation or disciplinary action initiated, under this chapter. The report must include:

(1) the reason and basis for each complaint;

(2) the origin of each investigation, including whether the investigation:

(A) resulted from a complaint brought by a consumer;

(B) resulted from a complaint brought by another source; or

(C) was initiated by the department in the absence of a complaint;

(3) the average time to resolve each complaint from the date the complaint is received;

(4) the disposition of each investigation, including:

(A) the number of investigations commenced in which no disciplinary action was taken, and the reasons no disciplinary action was taken;

(B) the number of investigations resulting in disciplinary action, and the disciplinary actions taken; and

(C) the number of complaints referred to another agency for disposition; and

(5) the number, type, and age of each open investigation at the end of each fiscal year.

(e) The department shall make the report required by Subsection (d) available to the public through publication on the department's website and on request.

SECTION 3.006. Section [773.0611](#), Health and Safety Code, is

1 amended by adding Subsection (d) to read as follows:

2 (d) The department may use an inspection performed by an
3 entity to which the department has delegated inspection authority
4 as a basis for a disciplinary action under Section 773.061.

5 SECTION 3.007. (a) The changes in law made by Sections
6 773.05715 and 773.05716, Health and Safety Code, as added by this
7 article, apply only to a person that applies for a license or renews
8 a license as an emergency medical services provider on or after the
9 effective date of this Act.

10 (b) The Department of State Health Services shall develop
11 the formal process required by Section 773.0605(b), Health and
12 Safety Code, as added by this article, as soon as practicable after
13 the effective date of this Act.

14 (c) The Department of State Health Services may use an
15 inspection performed by an entity to which the department has
16 delegated inspection authority as a basis for a disciplinary
17 action, as provided by Section 773.0611(d), Health and Safety Code,
18 as added by this article, regardless of whether the inspection was
19 performed before, on, or after the effective date of this Act.

20 ARTICLE 4. PUBLIC HEALTH SYSTEM

21 SECTION 4.001. Section 117.101(a), Health and Safety Code,
22 is amended to read as follows:

23 (a) The committee shall:

24 (1) define the core public health services a local
25 health entity should provide in a county or municipality;

26 (2) evaluate public health in this state and identify
27 initiatives for areas that need improvement;

(3) identify all funding sources available for use by local health entities to perform core public health functions;

(4) establish public health policy priorities for this state; and

(5) not later than November 30 of each even-numbered year [~~at least annually~~], make formal recommendations to the department regarding:

(A) the use and allocation of funds available exclusively to local health entities to perform core public health functions;

(B) ways to improve the overall public health of citizens in this state;

(C) methods for transitioning from a contractual relationship between the department and the local health entities to a cooperative-agreement relationship between the department and the local health entities; and

(D) methods for fostering a continuous collaborative relationship between the department and the local health entities.

SECTION 4.002. Section [117.103](#), Health and Safety Code, is amended to read as follows:

Sec. 117.103. BIENNIAL [~~ANNUAL~~] REPORT. Not [~~Beginning in 2012, not~~] later than November 30 of each even-numbered year, the committee shall file a report on the implementation of this chapter with the governor, the lieutenant governor, and the speaker of the house of representatives.

SECTION 4.003. The heading to Section [117.151](#), Health and

Safety Code, is amended to read as follows:

Sec. 117.151. BIENNIAL [~~ANNUAL~~] REPORT.

SECTION 4.004. Section 117.151(a), Health and Safety Code, is amended to read as follows:

(a) Not [~~Beginning in 2012, not~~] later than November 30 of each even-numbered year, the department shall file a an annual report with the governor, the lieutenant governor, and the speaker of the house of representatives detailing:

(1) the implementation of the committee's recommendations for the previous biennium described in Section 117.101(a)(5); and

(2) an explanation of the department's reasons for not implementing a recommendation.

SECTION 4.005. Subchapter D, Chapter 1001, Health and Safety Code, is amended by adding Sections 1001.0785 and 1001.0786 to read as follows:

Sec. 1001.0785. INVENTORY OF PUBLIC HEALTH DUTIES. (a) The department shall develop and periodically update a comprehensive inventory of the roles, responsibilities, and capacity, relating to public health services, of:

(1) the department's central office;

(2) each public health region designated under Section 121.007; and

(3) each local health department, district, and authority in this state.

(b) The inventory under Subsection (a) must include:

(1) the specific services and programs each entity

1 currently provides; and

2 (2) the level of services provided.

3 (c) Using the inventory compiled under Subsection (a), the
4 department shall create and update a clear matrix of duties
5 specific to each region, indicating which duties are performed by
6 each entity listed in Subsection (a). The department shall clearly
7 delineate the division of duties between the department's central
8 office and the public health regions.

9 (d) To assist the department in updating the matrix under
10 Subsection (c), each entity described by Subsections (a)(2) and (3)
11 shall provide the department with information regarding any
12 significant change in public health services provided by that
13 entity.

14 (e) In creating the inventory and matrix of
15 responsibilities under this section, the department shall solicit
16 input from the Public Health Funding and Policy Committee
17 established under Section 117.051 and local health departments.

18 (f) The department shall biennially present the inventory
19 and matrix created or updated under this section at a meeting of the
20 Public Health Funding and Policy Committee and at a meeting of the
21 State Health Services Council.

22 (g) The department shall update the inventory and matrix
23 under this section not later than September 1 of each even-numbered
24 year.

25 Sec. 1001.0786. PUBLIC HEALTH ACTION PLAN. (a) The
26 department, in consultation with the Public Health Funding and
27 Policy Committee established under Section 117.051, shall:

1 (1) establish clear goals and statewide priorities for
2 developing and improving the public health services delivery system
3 in this state;

4 (2) develop an overarching vision for the department's
5 central office, each public health region designated under Section
6 121.007, and local health departments, districts, and authorities;

7 (3) develop goals and strategies for each region in
8 this state, with milestones, dates, performance measures, and
9 identification of the resources needed; and

10 (4) create a public health action plan with regional
11 strategies and milestones to achieve the goals described by
12 Subdivisions (1)-(3).

13 (b) The department shall complete an updated public health
14 action plan not later than November 30 of each even-numbered year
15 and present the plan, including progress on the goals established
16 in previous plans, to the Public Health Funding and Policy
17 Committee, the State Health Services Council, and the appropriate
18 standing committees of the legislature.

19 SECTION 4.006. The Department of State Health Services
20 shall submit the initial inventory required by Section 1001.0785,
21 Health and Safety Code, as added by this article, not later than
22 March 1, 2016.

23 ARTICLE 5. VITAL STATISTICS

24 SECTION 5.001. Subchapter A, Chapter 191, Health and Safety
25 Code, is amended by adding Section 191.0031 to read as follows:

26 Sec. 191.0031. CERTIFIED COPIES BY MAIL. The state
27 registrar or a local registrar may not issue a certified copy of a

1 record under this chapter to a person who has applied for the record
2 by mail unless the person has provided notarized proof of identity
3 in accordance with rules adopted by the executive commissioner of
4 the Health and Human Services Commission. The rules may require the
5 issuer of the certified copy to verify the notarization using the
6 records of the secretary of state under Section 406.012, Government
7 Code.

8 SECTION 5.002. Section 191.022, Health and Safety Code, is
9 amended by adding Subsection (g) to read as follows:

10 (g) Each local registrar shall annually submit a
11 self-assessment report to the state registrar. The department
12 shall prescribe the information that must be included in the report
13 to allow a thorough desk audit of a local registrar.

14 SECTION 5.003. Chapter 191, Health and Safety Code, is
15 amended by adding Subchapter D to read as follows:

16 SUBCHAPTER D. ACCESS TO RECORDS

17 Sec. 191.071. CRIMINAL BACKGROUND CHECK REQUIRED. (a) A
18 person may not access vital records maintained by the department
19 under this chapter and may not access the department's vital
20 records electronic registration system unless the department, or
21 another person acting on behalf of the department, has conducted a
22 fingerprint-based criminal background check, using state and
23 federal databases, on the person in accordance with department
24 policy and the person's record is satisfactory as determined under
25 department policy.

26 (b) The department may adopt a policy waiving the
27 requirement of a fingerprint-based background check for a person

1 who previously submitted to a fingerprint-based background check as
2 a condition of licensure by a state agency.

3 SECTION 5.004. Section 411.110(a), Government Code, is
4 amended to read as follows:

5 (a) The Department of State Health Services is entitled to
6 obtain from the department criminal history record information
7 maintained by the department that relates to:

8 (1) a person who is:

9 (A) an applicant for a license or certificate
10 under the Emergency Medical Services Act (Chapter 773, Health and
11 Safety Code);

12 (B) an owner or manager of an applicant for an
13 emergency medical services provider license under that Act; or

14 (C) the holder of a license or certificate under
15 that Act;

16 (2) an applicant for a license or a license holder
17 under Subchapter N, Chapter 431, Health and Safety Code;

18 (3) an applicant for a license, the owner or manager of
19 an applicant for a massage establishment license, or a license
20 holder under Chapter 455, Occupations Code;

21 (4) an applicant for employment at or current employee
22 of:

23 (A) the Texas Center for Infectious Disease; or

24 (B) the South Texas Health Care System; ~~or~~

25 (5) an applicant for employment at, current employee
26 of, or person who contracts or may contract to provide goods or
27 services with~~+~~

1 ~~[(A) the vital statistics unit of the Department~~
2 ~~of State Health Services; or~~

3 ~~[(B)]~~ the Council on Sex Offender Treatment or
4 other division or component of the Department of State Health
5 Services that monitors sexually violent predators as described by
6 Section 841.003(a), Health and Safety Code; or

7 (6) a person authorized to access vital records or the
8 vital records electronic registration system under Chapter 191,
9 Health and Safety Code, including an employee of or contractor for
10 the Department of State Health Services, a local registrar, a
11 medical professional, or a funeral director.

12 SECTION 5.005. In prescribing the initial requirements for
13 local registrar self-assessment reports under Section 191.022(g),
14 Health and Safety Code, as added by this article, the Department of
15 State Health Services shall solicit comment from local registrars
16 in this state.

17 SECTION 5.006. The Department of State Health Services
18 shall prescribe policies necessary to implement Subchapter D,
19 Chapter 191, Health and Safety Code, as added by this article, to
20 take effect March 1, 2016.

21 ARTICLE 6. TEXAS HEALTH CARE INFORMATION COLLECTION PROGRAM

22 SECTION 6.001. Section 108.009, Health and Safety Code, is
23 amended by amending Subsection (a) and adding Subsection (d-1) to
24 read as follows:

25 (a) The council may collect, and, except as provided by
26 Subsections ~~[(c) and]~~ (d) and (d-1), providers shall submit to the
27 council or another entity as determined by the council, all data

1 required by this section. The data shall be collected according to
2 uniform submission formats, coding systems, and other technical
3 specifications necessary to make the incoming data substantially
4 valid, consistent, compatible, and manageable using electronic
5 data processing, if available.

6 (d-1) A facility that has been granted a waiver by the
7 department under this subsection is not required to submit data as
8 required by this section. The executive commissioner shall adopt
9 rules to establish a process by which the department may grant a
10 waiver to exempt a facility from the requirements of this section if
11 the facility conducts not more than 600 procedures a year and does
12 not have information systems capable of automated reporting of
13 claims under this section. A waiver may be valid for not more than a
14 year and may be reissued upon a showing of evidence that the
15 facility continues to qualify for the waiver under this subsection.

16 SECTION 6.002. Chapter 108, Health and Safety Code, is
17 amended by adding Section 108.0145 to read as follows:

18 Sec. 108.0145. PROVIDER NOT LIABLE FOR RELEASE OF
19 INFORMATION. A provider that submits data under Section 108.009 is
20 not civilly or criminally liable for the use of the data under this
21 chapter or for a subsequent release of the data by the department or
22 another person.

23 SECTION 6.003. Section 108.016, Health and Safety Code, is
24 repealed.

25 ARTICLE 7. ABOLITION OF CERTAIN ADVISORY COMMITTEES, PANELS, AND
26 BOARDS

27 SECTION 7.001. (a) The Worksite Wellness Advisory Board is

1 abolished.

2 (b) Section 664.052, Government Code, is amended to read as
3 follows:

4 Sec. 664.052. RULES. The executive commissioner shall
5 adopt rules for the administration of this subchapter[~~, including~~
6 ~~rules prescribing the frequency and location of board meetings~~].

7 (c) Section 664.058, Government Code, is amended to read as
8 follows:

9 Sec. 664.058. DONATIONS. The department [~~board~~] may
10 receive in-kind and monetary gifts, grants, and donations from
11 public and private donors to be used for the purposes of this
12 subchapter.

13 (d) Section 664.061(a), Government Code, is amended to read
14 as follows:

15 (a) A state agency may:

16 (1) allow each employee 30 minutes during normal
17 working hours for exercise three times each week;

18 (2) allow all employees to attend on-site wellness
19 seminars when offered;

20 (3) provide eight hours of additional leave time each
21 year to an employee who:

22 (A) receives a physical examination; and

23 (B) completes either an online health risk
24 assessment tool provided by the department [~~board~~] or a similar
25 health risk assessment conducted in person by a worksite wellness
26 coordinator;

27 (4) provide financial incentives, notwithstanding

1 Section 2113.201, for participation in a wellness program developed
2 under Section 664.053(e) after the agency establishes a written
3 policy with objective criteria for providing the incentives;

4 (5) offer on-site clinic or pharmacy services in
5 accordance with Subtitles B and J, Title 3, Occupations Code,
6 including the requirements regarding delegation of certain medical
7 acts under Chapter 157, Occupations Code; and

8 (6) adopt additional wellness policies, as determined
9 by the agency.

10 (e) Sections 664.051(1), 664.054, 664.055, 664.056,
11 664.057, 664.059, and 664.060(c) and (f), Government Code, are
12 repealed.

13 SECTION 7.002. (a) The Sickle Cell Advisory Committee is
14 abolished.

15 (b) Section 33.052, Health and Safety Code, is amended to
16 read as follows:

17 Sec. 33.052. DUTIES OF DEPARTMENT. The department shall[+
18 [(1)] identify efforts related to the expansion and
19 coordination of education, treatment, and continuity of care
20 programs for individuals with sickle cell trait and sickle cell
21 disease[+

22 [~~(2) assist the advisory committee created under~~
23 ~~Section 33.053, and~~

24 [~~(3) provide the advisory committee created under~~
25 ~~Section 33.053 with staff support necessary for the advisory~~
26 ~~committee to fulfill its duties]~~.

27 (c) Section 33.053, Health and Safety Code, is repealed.

SECTION 7.003. (a) The Arthritis Advisory Committee is abolished.

(b) Section 97.007, Health and Safety Code, is repealed.

SECTION 7.004. (a) The Advisory Panel on Health Care-Associated Infections and Preventable Adverse Events is abolished.

(b) Section 536.002(b), Government Code, is amended to read as follows:

(b) The executive commissioner shall appoint the members of the advisory committee. The committee must consist of physicians and other health care providers, representatives of health care facilities, representatives of managed care organizations, and other stakeholders interested in health care services provided in this state, including:

(1) at least one member who is a physician with clinical practice experience in obstetrics and gynecology;

(2) at least one member who is a physician with clinical practice experience in pediatrics;

(3) at least one member who is a physician with clinical practice experience in internal medicine or family medicine;

(4) at least one member who is a physician with clinical practice experience in geriatric medicine;

(5) at least three members who are or who represent a health care provider that primarily provides long-term services and supports; and

(6) at least one member who is a consumer

1 (c) The ~~[In consultation with the advisory panel, the]~~
2 department shall publish the departmental summary in a format that
3 is easy to read.

4 (g) Section 98.108(a), Health and Safety Code, is amended to
5 read as follows:

6 (a) The ~~[In consultation with the advisory panel, the]~~
7 executive commissioner by rule shall establish the frequency of
8 reporting by health care facilities required under Sections 98.103
9 and 98.1045.

10 (h) The following provisions are repealed:

11 (1) Sections 98.001(1) and 98.002, Health and Safety
12 Code; and

13 (2) Subchapter B, Chapter 98, Health and Safety Code.

14 SECTION 7.005. (a) The Youth Camp Training Advisory
15 Committee is abolished.

16 (b) Section 141.0095(d), Health and Safety Code, is amended
17 to read as follows:

18 (d) In accordance with this section ~~[and the criteria and~~
19 ~~guidelines developed by the training advisory committee~~
20 ~~established under Section 141.0096]~~, the executive commissioner of
21 the Health and Human Services Commission by rule shall establish
22 criteria and guidelines for training and examination programs on
23 sexual abuse and child molestation. The department may approve
24 training and examination programs offered by trainers under
25 contract with youth camps or by online training organizations or
26 may approve programs offered in another format authorized by the
27 department.

(c) Section 141.0096, Health and Safety Code, is repealed.

SECTION 7.006. (a) The Texas Medical Child Abuse Resources and Education System (MEDCARES) Advisory Committee is abolished.

(b) Section 1001.155, Health and Safety Code, as added by Chapter 1238 (S.B. 2080), Acts of the 81st Legislature, Regular Session, 2009, is reenacted and amended to read as follows:

Sec. 1001.155. REQUIRED REPORT. Not later than December 1 of each even-numbered year, the department [~~, with the assistance of the advisory committee established under this subchapter,~~] shall submit a report to the governor and the legislature regarding the grant activities of the program and grant recipients, including the results and outcomes of grants provided under this subchapter.

(c) Section 1001.153, Health and Safety Code, as added by Chapter 1238 (S.B. 2080), Acts of the 81st Legislature, Regular Session, 2009, is repealed.

SECTION 7.007. If an entity that is abolished by this article has property, records, or other assets, the Health and Human Services Commission shall take custody of the entity's property, records, or other assets.

ARTICLE 8. REGULATORY PROGRAMS TRANSFERRED TO THE TEXAS DEPARTMENT
OF LICENSING AND REGULATION

PART 1. TRANSFERS DURING BIENNIUM ENDING AUGUST 31, 2017

SECTION 8.001. Section 203.002, Occupations Code, is amended by adding Subdivision (1) and amending Subdivisions (3), (4), (4-a), (6), and (9) to read as follows:

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

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

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

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

(6) "Midwife" means a person who practices midwifery and has met the licensing requirements established by this chapter and commission [~~midwifery board~~] rules.

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

SECTION 8.002. Section 203.005, Occupations Code, is amended to read as follows:

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

SECTION 8.003. The heading to Subchapter B, Chapter 203, Occupations Code, is amended to read as follows:

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

SECTION 8.004. Section 203.052, Occupations Code, is

1 amended to read as follows:

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

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

8 (2) one physician member who is certified by a
9 national professional organization of physicians that certifies
10 obstetricians and gynecologists;

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

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

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

21 SECTION 8.005. Subchapter B, Chapter 203, Occupations Code,
22 is amended by adding Section 203.0521 to read as follows:

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

26 SECTION 8.006. Section 203.055, Occupations Code, is
27 amended to read as follows:

1 Sec. 203.055. TERMS; VACANCIES. (a) Members of the
2 advisory [midwifery] board serve for staggered terms of six years.
3 The terms of three members expire on January 31 of each odd-numbered
4 year.

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

9 SECTION 8.007. Section 203.056, Occupations Code, is
10 amended to read as follows:

11 Sec. 203.056. PRESIDING OFFICER [OFFICERS]. The presiding
12 officer of the commission [commissioner] shall designate a public
13 member of the advisory [midwifery] board to serve as the presiding
14 officer of the advisory [midwifery] board to serve for a term of one
15 year [in that capacity at the pleasure of the commissioner]. The
16 presiding officer of the advisory board may vote on any matter
17 before the advisory board [midwifery board shall elect one of the
18 other members of the midwifery board as vice presiding officer].

19 SECTION 8.008. Section 203.059, Occupations Code, is
20 amended to read as follows:

21 Sec. 203.059. MEETINGS. ~~[(a)]~~ The advisory [midwifery]
22 board shall meet at ~~[least semiannually.]~~

23 ~~[(b) The midwifery board shall meet at other times at]~~ the
24 call of the presiding officer of the commission or the executive
25 director [midwifery board or the commissioner].

26 SECTION 8.009. The heading to Subchapter D, Chapter 203,
27 Occupations Code, is amended to read as follows:

SUBCHAPTER D. POWERS AND DUTIES [~~OF MIDWIFERY BOARD, EXECUTIVE
COMMISSIONER, AND DEPARTMENT~~]

SECTION 8.010. The heading to Section 203.151, Occupations Code, is amended to read as follows:

Sec. 203.151. GENERAL POWERS AND DUTIES [~~RULEMAKING
AUTHORITY OF MIDWIFERY BOARD~~].

SECTION 8.011. Section 203.151, Occupations Code, is amended by amending Subsection (a) and adding Subsections (a-1) and (a-2) to read as follows:

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

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

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

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

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

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

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

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

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

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

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

(3) ~~[(4) adopt rules prescribing a procedure for reporting and processing complaints relating to the practice of midwifery in this state;~~

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

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

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

(a-2) The department shall:

(1) implement rules governing:

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

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

- 1 (2) prepare and distribute basic midwifery
2 information and instructor manuals;
- 3 (3) enter into agreements necessary to carry out this
4 chapter; and
- 5 (4) establish a program for licensure as a midwife as
6 prescribed by commission rules.

7 SECTION 8.012. Section 203.152(b), Occupations Code, is
8 amended to read as follows:

9 (b) The commission [~~midwifery board~~] may not set a fee for
10 an amount less than the amount of that fee on September 1, 1993.

11 SECTION 8.013. Sections 203.153(a) and (c), Occupations
12 Code, are amended to read as follows:

13 (a) The [~~Subject to the approval of the~~] department [~~, the~~
14 ~~midwifery board~~] shall issue basic information manuals for the
15 practice of midwifery [~~. The midwifery board shall approve the~~
16 ~~basic information manuals~~] and instructor manuals that may be used
17 in basic midwifery education courses.

18 (c) A basic information manual must include information
19 about:

- 20 (1) the knowledge necessary to practice as a midwife;
- 21 (2) the basic education and continuing education
22 requirements for a midwife;
- 23 (3) the legal requirements and procedures relating to
24 midwifery;
- 25 (4) the standards of practice as a midwife; and
- 26 (5) other information or procedures required by the
27 commission [~~midwifery board~~] or the department.

SECTION 8.014. Section 203.154, Occupations Code, is amended to read as follows:

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

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

SECTION 8.015. The heading to Section 203.155, Occupations Code, is amended to read as follows:

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

SECTION 8.016. Sections 203.155(b) and (d), Occupations Code, are amended to read as follows:

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

~~[(1) distinguish among categories of complaints,~~
~~[(2) ensure that a person who files a complaint has an~~
~~opportunity to explain the allegations made in the complaint, and~~

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

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

SECTION 8.017. Section 203.252(a), Occupations Code, is amended to read as follows:

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

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

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

SECTION 8.018. Section 203.253, Occupations Code, is amended to read as follows:

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

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

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

SECTION 8.019. Section 203.254, Occupations Code, is amended to read as follows:

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

SECTION 8.020. Section 203.255(a), Occupations Code, is amended to read as follows:

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

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

6 (2) establish eligibility requirements for persons
7 taking a comprehensive midwifery examination.

8 SECTION 8.021. Section 203.2555, Occupations Code, is
9 amended to read as follows:

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

16 (b) The commission [~~Subject to the approval of the executive~~
17 ~~commissioner, the midwifery board~~] shall adopt rules to implement
18 this section, including rules related to the development and
19 administration of the examination, examination fees, guidelines
20 for reexamination, grading the examination, and providing notice of
21 examination results.

22 SECTION 8.022. Section 203.256, Occupations Code, is
23 amended to read as follows:

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

1 (1) is trained to perform the newborn screening tests
2 under Section 203.354 or has made arrangements for the performance
3 of those tests; and

4 (2) holds:

5 (A) a current certificate issued by the American
6 Heart Association in basic life support cardiopulmonary
7 resuscitation; or

8 (B) another form of certification acceptable to
9 the department that demonstrates proficiency in basic life support
10 cardiopulmonary resuscitation for adults and children.

11 SECTION 8.023. Section 203.304, Occupations Code, is
12 amended to read as follows:

13 Sec. 203.304. CONTINUING MIDWIFERY EDUCATION. (a) The
14 commission by rule [~~Subject to the approval of the executive~~
15 ~~commissioner, the midwifery board~~] shall establish requirements
16 for continuing midwifery education, including a minimum number of
17 hours of continuing education required to renew a license under
18 this chapter.

19 (b) On renewal of the license, a midwife must provide the
20 department [~~program coordinator~~] with evidence, acceptable under
21 commission [~~midwifery board~~] rules, of completion of continuing
22 midwifery education as prescribed by the commission by rule
23 [~~midwifery board~~].

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

26 SECTION 8.024. Section 203.305, Occupations Code, is
27 amended to read as follows:

1 Sec. 203.305. REQUIRED ATTENDANCE AT SPECIFIC MIDWIFERY
2 EDUCATION COURSES. The department [~~midwifery board~~] may assess the
3 continuing education needs of licensed midwives and may require
4 licensed midwives to attend continuing midwifery education courses
5 specified by the department [~~midwifery board~~].

6 SECTION 8.025. Section 203.306, Occupations Code, is
7 amended to read as follows:

8 Sec. 203.306. GROUNDS FOR REFUSING RENEWAL. The department
9 [~~midwifery board~~] may refuse to renew the license of a person who
10 fails to pay an administrative penalty [~~imposed under Subchapter~~
11 ~~J~~] unless enforcement of the penalty is stayed or a court has
12 ordered that the administrative penalty is not owed.

13 SECTION 8.026. Section 203.351(b), Occupations Code, is
14 amended to read as follows:

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

18 (1) statistics of the midwife's experience as a
19 midwife;

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

21 (3) the date the midwife's cardiopulmonary
22 resuscitation certification expires;

23 (4) the midwife's compliance with continuing education
24 requirements;

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

26 (6) the legal responsibilities of a midwife, including
27 statements concerning newborn blood screening, ophthalmia

1 neonatorum prevention, and prohibited acts under Sections
2 203.401-203.403.

3 SECTION 8.027. Section 203.352, Occupations Code, is
4 amended to read as follows:

5 Sec. 203.352. PRENATAL AND CERTAIN MEDICAL CARE ENCOURAGED.
6 A midwife shall encourage a client to seek:

- 7 (1) prenatal care; and
8 (2) medical care through consultation or referral, as
9 specified by commission [~~midwifery board~~] rules, if the midwife
10 determines that the pregnancy, labor, delivery, postpartum period,
11 or newborn period of a woman or newborn may not be classified as
12 normal for purposes of this chapter.

13 SECTION 8.028. Section 203.354(b), Occupations Code, is
14 amended to read as follows:

15 (b) A midwife may collect blood specimens for the newborn
16 screening tests if the midwife has been approved by the department
17 to collect the specimen. The commission [~~Subject to the approval
18 of the executive commissioner, the midwifery board~~] shall adopt
19 rules establishing the standards for approval. The standards must
20 recognize completion of a course of instruction that includes the
21 blood specimen collection procedure or verification by
22 appropriately trained health care providers that the midwife has
23 been instructed in the blood collection procedures.

24 SECTION 8.029. Section 203.355(b), Occupations Code, is
25 amended to read as follows:

26 (b) The Department of State Health Services [~~department~~]
27 and a local health department, a public health district, or a local

1 health unit shall provide clinical and laboratory support services
2 to a pregnant woman or a newborn who is a client of a midwife if the
3 midwife is required to provide the services under this chapter.

4 SECTION 8.030. Section 203.356(a), Occupations Code, is
5 amended to read as follows:

6 (a) A physician, a registered nurse, or other person who, on
7 the order of a physician, instructs a midwife in the approved
8 techniques for collecting blood specimens to be used for newborn
9 screening tests is immune from liability arising out of the failure
10 or refusal of the midwife to:

11 (1) collect the specimens in the approved manner; or

12 (2) submit the specimens to the Department of State
13 Health Services [~~department~~] in a timely manner.

14 SECTION 8.031. Sections 203.357(a) and (b), Occupations
15 Code, are amended to read as follows:

16 (a) The department [~~midwifery board~~] may require
17 information in addition to that required by Section 203.253 if it
18 determines the additional information is necessary and appropriate
19 to ascertain the nature and extent of midwifery in this state. The
20 department [~~midwifery board~~] may not require information regarding
21 any act that is prohibited under this chapter.

22 (b) The [~~With the approval of the midwifery board, the~~]
23 department shall prescribe forms for the additional information and
24 shall distribute those forms directly to each midwife. Each
25 midwife must complete and return the forms to the department as
26 requested.

27 SECTION 8.032. Section 203.401, Occupations Code, is

1 amended to read as follows:

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

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

6 (2) administer a prescription drug to a client other
7 than:

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

10 (B) prophylaxis approved by the Department of
11 State Health Services ~~[department]~~ to prevent ophthalmia
12 neonatorum; or

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

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

18 (4) remove placenta by invasive techniques;

19 (5) use a mechanical device or medicine to advance or
20 retard labor or delivery; or

21 (6) make on a birth certificate a false statement or
22 false record in violation of Section 195.003, Health and Safety
23 Code.

24 SECTION 8.033. Section 203.404, Occupations Code, is
25 amended to read as follows:

26 Sec. 203.404. GROUNDS FOR DISCIPLINARY ACTION. (a) The
27 commission or executive director ~~[midwifery board]~~ may discipline a

1 licensed midwife, refuse to renew a midwife's license, or refuse to
2 issue a license to an applicant if the person:

3 (1) violates this chapter or a rule adopted under this
4 chapter;

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

7 (3) is convicted of a misdemeanor involving moral
8 turpitude or a felony;

9 (4) uses alcohol or drugs intemperately;

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

12 (6) is unable to practice midwifery with reasonable
13 skill and safety because of illness, disability, or psychological
14 impairment;

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

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

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

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

25 (b) The commission or executive director ~~[midwifery board]~~
26 may discipline a licensed midwife and may refuse to issue a license
27 to an applicant for a disciplinary action taken by another

jurisdiction that affects the person's authority to practice midwifery, including a suspension, a revocation, or another action.

SECTION 8.034. Section 203.406, Occupations Code, is amended to read as follows:

Sec. 203.406. REFUND. (a) Subject to Subsection (b), the commission or executive director ~~[midwifery board]~~ may order a licensed midwife to pay a refund to a consumer as provided in an agreed settlement, default order, or commission order ~~[agreement resulting from an informal settlement conference]~~ instead of or in addition to imposing an administrative penalty against the license holder ~~[under this chapter]~~.

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

SECTION 8.035. Section 203.501(a), Occupations Code, is amended to read as follows:

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

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

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

SECTION 8.036. Section 203.502(b), Occupations Code, is

1 amended to read as follows:

2 (b) If the executive director ~~[commissioner]~~ or a health
3 authority determines that a person has violated this chapter the
4 executive director may institute an action as described by Section
5 51.352 ~~[and that the violation creates an immediate threat to the~~
6 ~~health and safety of the public, the commissioner or the health~~
7 ~~authority, with the concurrence of the commissioner, may request~~
8 ~~the attorney general or a district, county, or city attorney to~~
9 ~~bring an action in a district court for a restraining order to~~
10 ~~restrain the violation]~~.

11 SECTION 8.037. Section 203.503(a), Occupations Code, is
12 amended to read as follows:

13 (a) Venue for a civil action arising out of the imposition
14 of an administrative penalty ~~[brought under Section 203.451 or~~
15 ~~203.452]~~ is in the county in which the defendant resides or in the
16 county in which the violation occurred.

17 SECTION 8.038. Section 203.505(b), Occupations Code, is
18 amended to read as follows:

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

22 SECTION 8.039. Section 401.001, Occupations Code, is
23 amended by amending Subdivisions (1), (3), (4), and (4-a) and
24 adding Subdivisions (1-a) and (4-b) to read as follows:

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

27 (1-a) "Audiologist" means a person who meets the

1 qualifications of this chapter to practice audiology.

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

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

7 (4-a) "Executive director" means the executive
8 director of the department.

9 (4-b) "Hearing instrument" has the meaning assigned by
10 Section 402.001.

11 SECTION 8.040. Section 401.052, Occupations Code, is
12 amended to read as follows:

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

17 (1) licensed in this state; and

18 (2) practicing in accordance with the standards of
19 professional conduct and ethics established by rules adopted by the
20 Texas Board of Nursing.

21 SECTION 8.041. Section 401.053, Occupations Code, is
22 amended to read as follows:

23 Sec. 401.053. PERSONS TRAINED BY DEPARTMENT OF STATE HEALTH
24 SERVICES. (a) This chapter does not apply to a person who shows
25 evidence of having received training by the Department of State
26 Health Services [~~department~~] in a communication, speech, language,
27 or hearing screening training program approved by that [~~the~~]

department if the person's activity is limited to screening as defined by commission [~~board~~] rule.

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

(1) practice speech-language pathology or audiology; or

(2) represent that the person is a speech-language pathologist or audiologist.

SECTION 8.042. Sections 401.054(b), (c), and (d), Occupations Code, are amended to read as follows:

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

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

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

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

(d) For the purposes of Subsection (b)(1), an applicant's educational credentials are equivalent to a master's degree in

communicative disorders if the credentials:

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

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

SECTION 8.043. The heading to Subchapter C, Chapter 401, Occupations Code, is amended to read as follows:

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

SECTION 8.044. Section 401.102, Occupations Code, is amended to read as follows:

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

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

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

(1) have been a resident of this state for the two years preceding the date of appointment;

(2) be from the various geographic regions of the state; and

(3) be from varying employment settings.

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

(1) have been engaged in teaching, research, or providing services in speech-language pathology or audiology for at least five years; and

(2) be licensed under this chapter.

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

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

SECTION 8.045. Subchapter C, Chapter 401, Occupations Code, is amended by adding Section 401.10205 to read as follows:

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

SECTION 8.046. The heading to Section 401.105, Occupations Code, is amended to read as follows:

Sec. 401.105. TERMS; VACANCIES.

SECTION 8.047. Section 401.105(b), Occupations Code, is amended to read as follows:

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

1 ~~terms~~].

2 SECTION 8.048. Section 401.107, Occupations Code, is
3 amended to read as follows:

4 Sec. 401.107. PRESIDING OFFICER [~~BOARD OFFICERS~~]. (a) The
5 presiding officer of the commission [~~governor~~] shall designate a
6 member of the advisory board to serve as the presiding officer of
7 the advisory board for a term of one year [~~to serve in that capacity~~
8 ~~at the will of the governor~~].

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

12 SECTION 8.049. Section 401.108, Occupations Code, is
13 amended to read as follows:

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

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

19 SECTION 8.050. The heading to Subchapter E, Chapter 401,
20 Occupations Code, is amended to read as follows:

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

22 SECTION 8.051. Section 401.201, Occupations Code, is
23 amended by amending Subsection (a) and adding Subsection (a-1) to
24 read as follows:

25 (a) The executive director shall administer and enforce
26 this chapter.

27 (a-1) The [~~With the assistance of the~~] department [~~, the~~

1 ~~board~~] shall:

2 (1) ~~[administer, coordinate, and enforce this~~
3 ~~chapter,~~

4 ~~[(2)]~~ evaluate the qualifications of license
5 applicants;

6 (2) ~~[(3)]~~ provide for the examination of license
7 applicants;

8 (3) ~~[(4)]~~ in connection with a hearing under this
9 chapter ~~[Section 401.454]~~, issue subpoenas, examine witnesses, and
10 administer oaths under the laws of this state; and

11 (4) ~~[(5) conduct hearings and keep records and~~
12 ~~minutes necessary to the orderly administration of this chapter,~~
13 ~~and~~

14 ~~[(6)]~~ investigate persons engaging in practices that
15 violate this chapter.

16 SECTION 8.052. Section 401.202, Occupations Code, is
17 amended to read as follows:

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

22 SECTION 8.053. Section 401.2021, Occupations Code, is
23 amended to read as follows:

24 Sec. 401.2021. ~~[JOINT]~~ RULES FOR HEARING
25 INSTRUMENTS. With the assistance of the advisory ~~[department,~~
26 ~~the]~~ board and the Hearing Instrument Fitters and Dispensers
27 Advisory Board, the commission ~~[State Committee of Examiners in the~~

~~Fitting and Dispensing of Hearing Instruments~~] shall ~~[jointly]~~ adopt rules to establish requirements for each sale of a hearing instrument for purposes of this chapter and Chapter 402. The rules must:

(1) address:

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

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

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

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

SECTION 8.054. Section [401.2022](#), Occupations Code, is amended to read as follows:

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

(b) With the assistance of the advisory [department, the] board and the Hearing Instrument Fitters and Dispensers Advisory Board, the commission [State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments] shall ~~[jointly]~~ adopt rules

1 to establish requirements for the fitting and dispensing of hearing
2 instruments by the use of telepractice for purposes of this chapter
3 and Chapter 402, including rules that establish the qualifications
4 and duties of license holders who use telepractice.

5 SECTION 8.055. The heading to Section 401.203, Occupations
6 Code, is amended to read as follows:

7 Sec. 401.203. ASSISTANCE FILING COMPLAINT [~~BOARD DUTIES~~
8 ~~REGARDING COMPLAINTS~~].

9 SECTION 8.056. Section 401.203(c), Occupations Code, is
10 amended to read as follows:

11 (c) The department [~~board~~] shall provide reasonable
12 assistance to a person who wishes to file a complaint with the
13 department regarding a person or activity regulated under this
14 chapter [~~board~~].

15 SECTION 8.057. Section 401.251, Occupations Code, is
16 amended to read as follows:

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

21 SECTION 8.058. The heading to Section 401.253, Occupations
22 Code, is amended to read as follows:

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

25 SECTION 8.059. Section 401.253(a), Occupations Code, is
26 amended to read as follows:

27 (a) For purposes of Section 51.252, the commission must [~~The~~

1 ~~board shall]~~ adopt rules to ~~[concerning the investigation of a~~
2 ~~complaint filed with the board. The rules must:~~

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

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

6 ~~[(3) require that the board be advised of a complaint~~
7 ~~that is dismissed and that a letter be sent to the person who filed~~
8 ~~the complaint explaining the action taken on the dismissed~~
9 ~~complaint,~~

10 ~~[(4) ensure that the person who filed the complaint~~
11 ~~has an opportunity to explain the allegations made in the~~
12 ~~complaint, and~~

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

17 SECTION 8.060. The heading to Section 401.2535, Occupations
18 Code, is amended to read as follows:

19 Sec. 401.2535. CONFIDENTIALITY OF COMPLAINT AND
20 DISCIPLINARY INFORMATION ~~[INVESTIGATION, SUBPOENA]~~.

21 SECTION 8.061. Sections 401.2535(h) and (i), Occupations
22 Code, are amended to read as follows:

23 (h) All information and materials subpoenaed or compiled by
24 the department ~~[board]~~ in connection with a complaint and
25 investigation are confidential and not subject to disclosure under
26 Chapter 552, Government Code, and not subject to disclosure,
27 discovery, subpoena, or other means of legal compulsion for their

1 release to anyone other than the department [~~board~~] or its
2 employees or agents involved in discipline of the holder of a
3 license, except that this information may be disclosed to:

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

6 (2) professional speech-language pathologist and
7 audiologist licensing or disciplinary boards in other
8 jurisdictions;

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

11 (4) law enforcement agencies; and

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

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

21 SECTION 8.062. Section 401.302, Occupations Code, is
22 amended to read as follows:

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

27 (b) The department [~~board~~] may issue to an applicant a

1 license in either speech-language pathology or audiology.

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

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

8 SECTION 8.063. Section 401.303(a), Occupations Code, is
9 amended to read as follows:

10 (a) A person who desires a license under this chapter must
11 apply to the department [~~board~~] on a form and in the manner
12 prescribed by the executive director [~~board prescribes~~].

13 SECTION 8.064. Sections 401.304(a) and (c), Occupations
14 Code, are amended to read as follows:

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

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

18 (A) speech-language pathology, possess at least
19 a master's degree with a major in at least one of the areas of
20 communicative sciences or disorders from a program accredited by a
21 national accrediting organization that is approved by the
22 commission or department [~~board~~] and recognized by the United
23 States secretary of education under the Higher Education Act of
24 1965 (20 U.S.C. Section 1001 et seq.) in an accredited or approved
25 college or university; or

26 (B) audiology, possess at least a doctoral degree
27 in audiology or a related hearing science from a program accredited

1 by a national accrediting organization that is approved by the
2 commission or department [~~board~~] and recognized by the United
3 States secretary of education under the Higher Education Act of
4 1965 (20 U.S.C. Section 1001 et seq.) in an accredited or approved
5 college or university;

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

9 (A) normal development and use of speech,
10 language, and hearing;

11 (B) evaluation, habilitation, and rehabilitation
12 of speech, language, and hearing disorders; and

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

15 (3) have successfully completed at least 36 semester
16 hours in courses that are acceptable toward a graduate degree by the
17 college or university in which the courses are taken, at least 24 of
18 which must be in the professional area for which the license is
19 requested;

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

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

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

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

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

SECTION 8.065. Section 401.3041, Occupations Code, is amended to read as follows:

Sec. 401.3041. CRIMINAL HISTORY RECORD INFORMATION REQUIREMENT FOR LICENSE ISSUANCE. (a) The department [~~board~~] shall require that an applicant for a license submit a complete and legible set of fingerprints, on a form prescribed by the department [~~board~~], to the department [~~board~~] or to the Department of Public Safety for the purpose of obtaining criminal history record information from the Department of Public Safety and the Federal Bureau of Investigation.

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

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

(1) provided by the individual under this section; and
(2) made available to the department [~~board~~] by the Department of Public Safety, the Federal Bureau of Investigation, and any other criminal justice agency under Chapter 411, Government Code.

(d) The department [~~Department of State Health Services on~~

1 ~~behalf of the 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 8.066. Section 401.305, Occupations Code, is
9 amended to read as follows:

10 Sec. 401.305. EXAMINATION. (a) To obtain a license, an
11 applicant must:

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

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

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

17 ~~[-1-]]~~ administer an examination at least twice each
18 year.

19 **(b-1) The commission by rule shall** ~~[+~~

20 ~~[-2-]]~~ determine standards for acceptable performance
21 on the examination ~~[, and~~

22 ~~[-3-] maintain a record of all examination scores for~~
23 ~~at least two years after the date of examination]~~.

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

25 (1) establish procedures for the administration of the
26 examination; and

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

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

SECTION 8.067. Section 401.307(b), Occupations Code, is amended to read as follows:

(b) An applicant who fails two examinations may not be reexamined until the person:

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

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

SECTION 8.068. Section 401.308, Occupations Code, is amended to read as follows:

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

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

(2) has passed a national or other examination recognized by the department [~~board~~] relating to speech-language

1 pathology or audiology; and

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

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

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

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

13 (1) who passes the examination required by Section
14 401.305;

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

18 (3) who satisfies any other license requirements under
19 this chapter.

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

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

27 SECTION 8.069. Section 401.310(a), Occupations Code, is

1 amended to read as follows:

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

4 (1) satisfies the requirements of Section 401.304;

5 (2) has not previously applied to take the
6 examination; and

7 (3) pays the nonrefundable application fee.

8 SECTION 8.070. Section 401.311(c), Occupations Code, is
9 amended to read as follows:

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

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

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

15 SECTION 8.071. Sections 401.312(a) and (b), Occupations
16 Code, are amended to read as follows:

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

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

23 SECTION 8.072. Section 401.352(a), Occupations Code, is
24 amended to read as follows:

25 (a) Each licensed speech-language pathologist or
26 audiologist must annually pay the nonrefundable fee for license
27 renewal. [~~The board shall allow a 60-day grace period. After~~

1 ~~expiration of the grace period, the board may renew a license on~~
2 ~~payment of a penalty set by board rule.]~~

3 SECTION 8.073. Section 401.355, Occupations Code, is
4 amended to read as follows:

5 Sec. 401.355. CONTINUING EDUCATION. (a) The commission by
6 rule [~~board~~] shall establish uniform mandatory continuing
7 education requirements. A license holder may not renew the
8 person's license unless the person meets the continuing education
9 requirements.

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

13 SECTION 8.074. Section 401.401(c), Occupations Code, is
14 amended to read as follows:

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

17 SECTION 8.075. Section 401.403(b), Occupations Code, is
18 amended to read as follows:

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

22 (1) register with the department [~~board~~] the person's
23 intention to fit and dispense hearing instruments;

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

25 (3) comply with the federal Food and Drug
26 Administration guidelines for fitting and dispensing hearing
27 instruments;

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

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

7 SECTION 8.076. Section 401.451(a), Occupations Code, is
8 amended to read as follows:

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

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

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

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

19 (4) engages in unprofessional conduct that:

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

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

25 SECTION 8.077. Section 401.453(a), Occupations Code, is
26 amended to read as follows:

27 (a) The commission or department [~~board~~] may deny a license

1 or may suspend or revoke a license if the applicant or license
2 holder has been convicted of a misdemeanor involving moral
3 turpitude or a felony. The commission or department [~~board~~] may
4 take action authorized by this section when:

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

7 (2) the judgment or conviction has been affirmed on
8 appeal; or

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

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

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

14 (C) dismisses an information or indictment.

15 SECTION 8.078. Section [401.5021](#), Occupations Code, is
16 amended to read as follows:

17 Sec. 401.5021. [~~BOARD-ORDERED~~] REFUND. The commission or
18 executive director [~~board~~] may order an audiologist to pay a refund
19 to a consumer who returns a hearing instrument during the 30-day
20 trial period required by rules adopted under Section [401.2021](#).

21 SECTION 8.079. Section [401.552](#)(a), Occupations Code, is
22 amended to read as follows:

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

SECTION 8.080. Section 402.001, Occupations Code, is amended by amending Subdivisions (1), (2), (3), and (6) and adding Subdivision (3-a) to read as follows:

(1) "Advisory board" [~~"Board"~~] means the Hearing Instrument Fitters and Dispensers Advisory Board [~~executive commissioner of the Health and Human Services Commission~~].

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

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

(3-a) "Executive director" means the executive director of the department.

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

SECTION 8.081. The heading to Subchapter B, Chapter 402, Occupations Code, is amended to read as follows:

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

SECTION 8.082. Section 402.051, Occupations Code, is amended to read as follows:

Sec. 402.051. ADVISORY BOARD [~~COMMITTEE~~] MEMBERSHIP. (a) The advisory board [~~State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments is part of the department and~~] consists of nine members appointed by the presiding officer of the

1 commission [~~governor~~] with the approval [~~advice and consent~~] of the
2 commission [~~senate~~] as follows:

3 (1) six members licensed under this chapter who have
4 been residents of this state actually engaged in fitting and
5 dispensing hearing instruments for at least five years preceding
6 appointment, not more than one of whom may be licensed under Chapter
7 401;

8 (2) one member who is actively practicing as a
9 physician licensed by the Texas Medical [~~State~~] Board [~~of Medical~~
10 ~~Examiners~~] and who:

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

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

14 (C) specializes in the practice of
15 otolaryngology; and

16 (3) two members of the public.

17 (b) Appointments to the advisory board [~~committee~~] shall be
18 made without regard to the race, creed, sex, religion, or national
19 origin of the appointee.

20 SECTION 8.083. Subchapter B, Chapter 402, Occupations Code,
21 is amended by adding Section 402.0511 to read as follows:

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

25 SECTION 8.084. Section 402.055, Occupations Code, is
26 amended to read as follows:

27 Sec. 402.055. TERMS; VACANCIES. (a) Members of the

advisory board ~~[committee]~~ serve staggered six-year terms. The terms of three members expire on February 1 of each odd-numbered year.

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

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

SECTION 8.085. Section 402.057, Occupations Code, is amended to read as follows:

Sec. 402.057. PRESIDING OFFICER ~~[OFFICERS]~~. ~~[(a)]~~ The presiding officer of the commission ~~[governor]~~ shall designate a member of the advisory board to serve ~~[committee]~~ as the presiding officer of the advisory board for a term of ~~[committee to serve in that capacity at the will of the governor.]~~

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

SECTION 8.086. Section 402.058, Occupations Code, is amended to read as follows:

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

1 ~~year.~~

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

5 SECTION 8.087. The heading to Subchapter C, Chapter 402,
6 Occupations Code, is amended to read as follows:

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

8 SECTION 8.088. Section 402.101, Occupations Code, is
9 amended to read as follows:

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

13 ~~[(1)]~~ administer ~~[, coordinate,]~~ and enforce this
14 chapter.

15 (b) The department shall:

16 (1) ~~+~~

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

18 (2) ~~[(3)]~~ examine applicants; and

19 (3) ~~[(4)]~~ in connection with a hearing under this
20 chapter ~~[Section 402.502]~~, issue subpoenas, examine witnesses, and
21 administer oaths under the laws of this state~~, and~~

22 ~~[(5) conduct hearings and keep records and minutes~~
23 ~~necessary to the orderly administration of this chapter]~~.

24 SECTION 8.089. Section 402.1021, Occupations Code, is
25 amended to read as follows:

26 Sec. 402.1021. ~~[JOINT]~~ RULES FOR HEARING
27 INSTRUMENTS. With the assistance of the advisory board and the

1 Speech-Language Pathologists and Audiologists Advisory Board
2 ~~[department]~~, the commission ~~[committee and the State Board of~~
3 ~~Examiners for Speech-Language Pathology and Audiology]~~ shall
4 ~~[jointly]~~ adopt rules to establish requirements for each sale of a
5 hearing instrument for purposes of this chapter and Chapter
6 401. The rules must:

7 (1) address:

8 (A) the information and other provisions
9 required in each written contract for the purchase of a hearing
10 instrument;

11 (B) records that must be retained under this
12 chapter or Chapter 401; and

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

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

19 SECTION 8.090. Section 402.1023, Occupations Code, is
20 amended to read as follows:

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

26 (b) With the assistance of the advisory board and the
27 Speech-Language Pathologists and Audiologists Advisory Board

1 ~~[department]~~, the commission ~~[committee and the State Board of~~
2 ~~Examiners for Speech-Language Pathology and Audiology]~~ shall
3 ~~[jointly]~~ adopt rules to establish requirements for the fitting and
4 dispensing of hearing instruments by the use of telepractice for
5 purposes of this chapter and Chapter 401, including rules that
6 establish the qualifications and duties of license holders who use
7 telepractice.

8 SECTION 8.091. The heading to Section 402.103, Occupations
9 Code, is amended to read as follows:

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

12 SECTION 8.092. Section 402.103(c), Occupations Code, is
13 amended to read as follows:

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

- 16 (1) contains a misrepresentation of fact;
17 (2) contains a false statement as to the license
18 holder's professional achievements, education, skills, or
19 qualifications in the hearing instrument dispensing profession;
20 (3) makes a partial disclosure of relevant fact,
21 including the advertisement of:

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

24 (i) the specific product being offered at
25 the discounted price; or

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

27 (B) the price of a specifically identified

1 hearing instrument, if more than one hearing instrument appears in
2 the same advertisement without an accompanying price;

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

7 (5) states that the license holder manufactures
8 hearing instruments at the license holder's office location unless
9 the next statement discloses that the instruments are manufactured
10 by a specified manufacturer and remanufactured by the license
11 holder; or

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

14 SECTION 8.093. Sections 402.104(a) and (e), Occupations
15 Code, are amended to read as follows:

16 (a) The department [~~committee~~] shall develop and maintain
17 an examination that may include written, oral, or practical
18 tests. The department shall administer or arrange for the
19 administration of the examination.

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

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

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

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

SECTION 8.094. Section 402.152, Occupations Code, is amended to read as follows:

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

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

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

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

SECTION 8.095. The heading to Section 402.154, Occupations Code, is amended to read as follows:

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

SECTION 8.096. Sections 402.154(h) and (i), Occupations Code, are amended to read as follows:

(h) All information and materials subpoenaed or compiled by the department [~~committee~~] in connection with a complaint and investigation are confidential and not subject to disclosure under Chapter 552, Government Code, and not subject to disclosure, discovery, subpoena, or other means of legal compulsion for their release to anyone other than the department [~~committee~~] or its agents or employees who are involved in discipline of the holder of

a license, except that this information may be disclosed to:

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

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

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

(4) law enforcement agencies; and

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

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

SECTION 8.097. Section 402.202(a), Occupations Code, is amended to read as follows:

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

SECTION 8.098. Sections 402.203(a) and (c), Occupations Code, are amended to read as follows:

(a) An applicant for examination must:

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

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

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

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

11 (3) pay any required fees for application and
12 examination.

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

16 SECTION 8.099. Section 402.205(b), Occupations Code, is
17 amended to read as follows:

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

21 SECTION 8.100. Section 402.207, Occupations Code, is
22 amended to read as follows:

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

27 (1) passed all parts of the examination with a score of

1 70 percent or greater;

2 (2) paid the required fees; and

3 (3) met all requirements of this chapter.

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

7 (c) An apprentice permit holder shall work under the
8 supervision of a license holder [~~licensed hearing instrument~~
9 ~~dispenser~~] for at least one year. During the apprentice year, the
10 apprentice permit holder shall complete 20 hours of classroom
11 continuing education as required by Section 402.303 for a license
12 holder.

13 SECTION 8.101. Section 402.208, Occupations Code, is
14 amended to read as follows:

15 Sec. 402.208. ISSUANCE OF LICENSE. The department
16 [~~committee~~] shall issue a [~~hearing instrument dispenser's~~] license
17 to an apprentice permit holder when the department [~~committee~~] has
18 received sufficient evidence that the apprentice permit holder has
19 met all the licensing requirements of this chapter.

20 SECTION 8.102. Sections 402.209(a), (c), (e), (f), and (i),
21 Occupations Code, are amended to read as follows:

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

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

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

5 (2) written verification that:

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

10 (B) the applicant holds a certification from a
11 professional organization approved by the commission [~~committee~~]
12 by rule;

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

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

18 (e) If the department approves an application, on the next
19 regularly scheduled examination date the applicant may take the
20 practical section of the examination required under Section 402.202
21 and a written examination of Texas law administered by the
22 department. If the applicant passes the examinations required
23 under this section, the department [~~committee~~] shall issue to the
24 applicant a license under this chapter.

25 (f) The department may allow an applicant under this section
26 who satisfies all application requirements other than the
27 requirement under Subsection (c)(2) to take all sections of the

examination required under Section 402.202. If the applicant passes the examination, the department ~~[committee]~~ shall issue to the applicant a license under this chapter.

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

SECTION 8.103. Section 402.210, Occupations Code, is amended to read as follows:

Sec. 402.210. CRIMINAL HISTORY RECORD INFORMATION REQUIREMENT FOR LICENSE ISSUANCE. (a) The department ~~[committee]~~ shall require that an applicant for a license submit a complete and legible set of fingerprints, on a form prescribed by the department ~~[committee]~~, to the department ~~[committee]~~ or to the Department of Public Safety for the purpose of obtaining criminal history record information from the Department of Public Safety and the Federal Bureau of Investigation.

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

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

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

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

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

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

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

SECTION 8.104. Section 402.251, Occupations Code, is amended to read as follows:

Sec. 402.251. TEMPORARY TRAINING PERMIT QUALIFICATIONS.

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

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

(2) possesses the qualifications required under Section 402.203(a);

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

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

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

SECTION 8.105. Section 402.252, Occupations Code, is amended to read as follows:

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

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

8 (1) the person will supervise the applicant[, ~~if~~
9 ~~granted a temporary training permit, will be supervised by the~~
10 ~~affiant~~] in all work done by the applicant under the temporary
11 training permit;

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

15 (3) if the person [~~affiant~~] is licensed under Chapter
16 401, the person [~~affiant~~] will comply with all provisions of this
17 chapter and rules adopted under this chapter that relate to the
18 supervision and training of a temporary training permit holder.

19 SECTION 8.106. Sections 402.253(b) and (c), Occupations
20 Code, are amended to read as follows:

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

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

27 SECTION 8.107. Section 402.254(a), Occupations Code, is

1 amended to read as follows:

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

5 SECTION 8.108. Section 402.255(d), Occupations Code, is
6 amended to read as follows:

7 (d) The supervisor shall maintain a log of the contact hours
8 by practicum category on a form prescribed ~~[provided]~~ by the
9 department ~~[committee]~~. After the temporary training permit holder
10 has completed 150 contact hours, the supervisor and the permit
11 holder shall sign the form, and the form shall be notarized and
12 mailed to the department ~~[committee]~~.

13 SECTION 8.109. Section 402.256, Occupations Code, is
14 amended to read as follows:

15 Sec. 402.256. AUTHORITY OF TEMPORARY TRAINING PERMIT
16 HOLDER. (a) A temporary training permit holder may provide routine
17 fitting and dispensing of hearing instruments that have ~~[has]~~ been
18 ordered by the supervisor. The supervisor is the sole judge of
19 whether the permit holder has the qualifications necessary to
20 perform routine fitting and dispensing. A supervisor is
21 accountable to the department ~~[committee]~~ for the actions and
22 misdeeds of a temporary training permit holder acting at the
23 supervisor's discretion.

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

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

27 (2) advertise or otherwise represent that the permit

holder holds a license under this chapter [~~as a hearing instrument dispenser~~].

SECTION 8.110. Sections 402.257(a), (c), and (d), Occupations Code, are amended to read as follows:

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

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

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

SECTION 8.111. Sections 402.301(a) and (f), Occupations Code, are amended to read as follows:

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

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

SECTION 8.112. Sections 402.303(a), (b), (c), (d), and (e-1), Occupations Code, are amended to read as follows:

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

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

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

(d) The commission [~~committee~~] shall adopt rules to establish reasonable requirements for continuing education sponsors and courses and to clearly define what constitutes a manufacturer or nonmanufacturer sponsor. The department shall review and approve continuing education sponsor and course applications. The department may request assistance from licensed members of the advisory board [~~committee~~] in approving a sponsor or course. The department must provide a list of approved continuing education sponsors and continuing education courses, including online courses. The list must be revised and updated periodically. Any continuing education activity must be provided

1 by an approved sponsor. The department shall approve at least five
2 hours of specific courses each year.

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

6 SECTION 8.113. Section 402.304(b), Occupations Code, is
7 amended to read as follows:

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

17 SECTION 8.114. Section 402.305, Occupations Code, is
18 amended to read as follows:

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

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

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

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

5 SECTION 8.115. Section 402.306, Occupations Code, is
6 amended to read as follows:

7 Sec. 402.306. DUPLICATE LICENSE. The department
8 ~~[committee]~~ shall issue a duplicate license to a license holder
9 whose license has been lost or destroyed. The department
10 ~~[committee]~~ may prescribe the procedure and requirements for
11 issuance of a duplicate license.

12 SECTION 8.116. Section 402.351, Occupations Code, is
13 amended to read as follows:

14 Sec. 402.351. DISPLAY OF LICENSE. A person engaged in
15 fitting and dispensing hearing instruments shall display the
16 person's license in a conspicuous place in the person's principal
17 office and, when required, shall exhibit the license to the
18 department ~~[committee]~~ or its authorized representative.

19 SECTION 8.117. Section 402.353(c), Occupations Code, is
20 amended to read as follows:

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

23 SECTION 8.118. Section 402.401, Occupations Code, is
24 amended to read as follows:

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

1 instrument.

2 SECTION 8.119. Section 402.403, Occupations Code, is
3 amended to read as follows:

4 Sec. 402.403. WRITTEN CONTRACT. The owner of a hearing
5 instrument fitting and dispensing practice shall ensure that each
6 client receives a written contract at the time of purchase of a
7 hearing instrument that contains:

8 (1) the signature of the license holder who dispensed
9 the hearing instrument;

10 (2) the printed name of the license holder who
11 dispensed the hearing instrument;

12 (3) the address of the principal office of the license
13 holder who dispensed the hearing instrument;

14 (4) the license number of the license holder who
15 dispensed the hearing instrument;

16 (5) a description of the make and model of the hearing
17 instrument;

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

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

21 (8) notice of the 30-day trial period under Section
22 402.401; and

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

25 SECTION 8.120. Section 402.404, Occupations Code, is
26 amended to read as follows:

27 Sec. 402.404. SURETY BONDING. (a) A sole proprietor,

1 partnership, corporation, or other legal entity engaged in the
2 fitting and dispensing of hearing instruments shall file with the
3 department [~~committee~~] security in a form provided by Subsection
4 (b) in the amount of \$10,000 and conditioned on the promise to pay
5 all:

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

8 (2) judgments that the entity may be required to pay
9 for:

10 (A) negligently or improperly dispensing hearing
11 instruments; or

12 (B) breaching a contract relating to the
13 dispensing of hearing instruments.

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

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

20 SECTION 8.121. Section [402.451](#)(a), Occupations Code, is
21 amended to read as follows:

22 (a) A person may not:

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

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

26 (3) wilfully make a false statement in an application
27 to the department [~~committee~~] for a license, a temporary training

1 permit, or the renewal of a license;

2 (4) falsely impersonate a license holder;

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

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

9 (7) sell a hearing instrument by mail.

10 SECTION 8.122. Section 402.453(a), Occupations Code, is
11 amended to read as follows:

12 (a) A license holder may not treat the ear in any manner for
13 any defect or administer any drug or physical treatment unless the
14 license holder is a physician licensed to practice by the Texas
15 Medical [State] Board [of Medical Examiners].

16 SECTION 8.123. Section 402.501, Occupations Code, is
17 amended to read as follows:

18 Sec. 402.501. GROUNDS FOR LICENSE DENIAL AND DISCIPLINARY
19 ACTION. The commission or executive director [committee] may
20 refuse to issue or renew a license, revoke or suspend a license or
21 permit, place on probation a person whose license or permit has been
22 suspended, or reprimand a license or permit holder who:

23 (1) makes a material misstatement in furnishing
24 information to the department [committee] or to another state or
25 federal agency;

26 (2) violates this chapter or a rule adopted under this
27 chapter;

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

5 (4) makes a misrepresentation for the purpose of
6 obtaining or renewing a license, including falsifying the
7 educational requirements under this chapter;

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

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

13 (7) does not provide information in response to a
14 written request made by the department [~~board~~] within 60 days;

15 (8) directly or indirectly knowingly employs, hires,
16 procures, or induces a person not licensed under this chapter to fit
17 and dispense hearing instruments unless the person is exempt under
18 this chapter;

19 (9) aids a person not licensed under this chapter in
20 the fitting or dispensing of hearing instruments unless the person
21 is exempt under this chapter;

22 (10) is habitually intoxicated or addicted to a
23 controlled substance;

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

27 (12) violates a term of probation;

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

2 (14) has a physical illness that results in the
3 inability to practice the profession with reasonable judgment,
4 skill, or safety, including the deterioration or loss of motor
5 skills through aging;

6 (15) solicits a service by advertising that is false
7 or misleading;

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

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

12 (18) falsely represents that the service of a licensed
13 physician or other health professional will be used or made
14 available in the fitting, adjustment, maintenance, or repair of a
15 hearing instrument;

16 (19) falsely uses the term "doctor," "audiologist,"
17 "clinic," "clinical audiologist," "state licensed," "state
18 certified," "licensed hearing instrument dispenser," "board
19 certified hearing instrument specialist," "hearing instrument
20 specialist," or "certified hearing aid audiologist," or uses any
21 other term, abbreviation, or symbol that falsely gives the
22 impression that:

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

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

27 (20) advertises a manufacturer's product or uses a

1 manufacturer's name or trademark in a way that implies a
2 relationship between a license or permit holder and a manufacturer
3 that does not exist;

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

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

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

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

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

18 (24) violates a regulation of the federal Food and
19 Drug Administration or the Federal Trade Commission relating to
20 hearing instruments.

21 SECTION 8.124. The heading to Section 402.551, Occupations
22 Code, is amended to read as follows:

23 Sec. 402.551. AMOUNT OF ADMINISTRATIVE PENALTY.

24 SECTION 8.125. Section 402.551(b), Occupations Code, is
25 amended to read as follows:

26 (b) The amount of an ~~[the]~~ administrative penalty imposed
27 for a violation of this chapter or a rule adopted or order issued

1 under this chapter may not exceed \$250 plus costs for the first
2 violation and \$1,000 plus costs for each subsequent violation.

3 SECTION 8.126. Section 402.5521, Occupations Code, is
4 amended to read as follows:

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

10 SECTION 8.127. Section 402.553(a), Occupations Code, is
11 amended to read as follows:

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

15 SECTION 8.128. Section 451.001, Occupations Code, is
16 amended by amending Subdivisions (2), (5), and (6) and adding
17 Subdivision (7) to read as follows:

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

23 (5) "Commission" [~~"Commissioner"~~] means the Texas
24 Commission of Licensing and Regulation [~~commissioner of public~~
25 ~~health~~].

26 (6) "Department" means the Texas Department of
27 Licensing and Regulation [~~Health~~].

1 (7) "Executive director" means the executive director
2 of the department.

3 SECTION 8.129. Section 451.002, Occupations Code, is
4 amended to read as follows:

5 Sec. 451.002. INTERPRETATION; PRACTICE OF MEDICINE. This
6 chapter does not authorize the practice of medicine by a person not
7 licensed by the Texas [~~State Board of~~] Medical Board [~~Examiners~~].

8 SECTION 8.130. Section 451.003, Occupations Code, is
9 amended to read as follows:

10 Sec. 451.003. APPLICABILITY. This chapter does not apply
11 to:

12 (1) a physician licensed by the Texas [~~State Board of~~]
13 Medical Board [~~Examiners~~];

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

16 (3) a licensed optometrist or therapeutic optometrist
17 engaged in the practice of optometry or therapeutic optometry as
18 defined by statute;

19 (4) an occupational therapist engaged in the practice
20 of occupational therapy;

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

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

24 (7) a physical therapist engaged in the practice of
25 physical therapy;

26 (8) a registered massage therapist engaged in the
27 practice of massage therapy;

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

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

9 SECTION 8.131. Section 451.051(b), Occupations Code, is
10 amended to read as follows:

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

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

15 (2) two members who represent the public.

16 SECTION 8.132. Subchapter B, Chapter 451, Occupations Code,
17 is amended by adding Section 451.0521 to read as follows:

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

21 SECTION 8.133. Section 451.053(b), Occupations Code, is
22 amended to read as follows:

23 (b) If a vacancy occurs on the board, the presiding officer
24 of the commission, with the commission's approval, [~~governor~~] shall
25 appoint a replacement who meets the qualifications for the vacant
26 position [~~successor~~] to serve for the unexpired portion of the
27 term.

SECTION 8.134. Section 451.055, Occupations Code, is amended to read as follows:

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

SECTION 8.135. Section 451.056, Occupations Code, is amended to read as follows:

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

SECTION 8.136. The heading to Subchapter C, Chapter 451, Occupations Code, is amended to read as follows:

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

SECTION 8.137. Section 451.101, Occupations Code, is amended by amending Subsection (a) and adding Subsections (a-1) and (a-2) to read as follows:

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

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

(1) adopt an official seal;

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

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

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

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

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

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

SECTION 8.138. The heading to Section 451.110, Occupations Code, is amended to read as follows:

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

SECTION 8.139. Sections 451.110(h) and (i), Occupations Code, are amended to read as follows:

(h) All information and materials subpoenaed or compiled by the department ~~[board]~~ in connection with a complaint and investigation are confidential and not subject to disclosure under Chapter 552, Government Code, and not subject to disclosure, discovery, subpoena, or other means of legal compulsion for their release to anyone other than the department ~~[board]~~ or its employees or agents involved in discipline of the holder of a

license, except that this information may be disclosed to:

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

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

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

(4) law enforcement agencies; and

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

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

SECTION 8.140. Section 451.152, Occupations Code, is amended to read as follows:

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

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

(2) the required examination fee.

SECTION 8.141. Section 451.153, Occupations Code, is amended to read as follows:

Sec. 451.153. APPLICANT QUALIFICATIONS. (a) An applicant

for an athletic trainer license must:

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

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

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

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

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

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

SECTION 8.142. Section 451.156, Occupations Code, is amended to read as follows:

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

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

(2) passes [~~satisfactorily completes~~] the examination

1 required ~~[administered]~~ by the department ~~[board]~~;

2 (3) pays the required license fee; and

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

5 SECTION 8.143. Section 451.157, Occupations Code, is
6 amended to read as follows:

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

10 (1) the requirements of Section 451.153 or 451.154;
11 and

12 (2) any other requirement established by the
13 commission ~~[board]~~.

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

16 SECTION 8.144. The heading to Section 451.201, Occupations
17 Code, is amended to read as follows:

18 Sec. 451.201. LICENSE EXPIRATION; RENEWAL.

19 SECTION 8.145. Section 451.201(a), Occupations Code, is
20 amended to read as follows:

21 (a) A license issued under Section 451.156 expires on the
22 first anniversary of the date of issuance and may be renewed
23 annually.

24 SECTION 8.146. Section 451.251(a), Occupations Code, is
25 amended to read as follows:

26 (a) The commission or executive director ~~[board]~~ may refuse
27 to issue a license to an applicant and shall reprimand a license

holder or suspend, revoke, or refuse to renew a person's license if the person:

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

(2) obtained the license by fraud or deceit;

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

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

SECTION 8.147. The heading to Section 451.351, Occupations Code, is amended to read as follows:

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

SECTION 8.148. Section 451.351(c), Occupations Code, is amended to read as follows:

(c) The amount of an administrative ~~[the]~~ penalty imposed for a violation of this chapter or a rule adopted or order issued under this chapter may not exceed \$500 for each violation, and each day a violation continues or occurs is a separate violation for purposes of imposing a penalty. The total amount of the penalty assessed for a violation continuing or occurring on separate days under this subsection may not exceed \$2,500.

SECTION 8.149. Section 605.002, Occupations Code, is amended by amending Subdivisions (1), (2), and (5) and adding Subdivision (5-a) to read as follows:

(1) "Advisory board" ~~["Board"]~~ means the Orthotists and Prosthetists Advisory ~~[Texas]~~ Board ~~[of Orthotics and~~

1 ~~Prosthetics~~].

2 (2) "Commission" [~~"Commissioner"~~] means the Texas
3 Commission of Licensing and Regulation [~~commissioner of public~~
4 ~~health~~].

5 (5) "Department" means the Texas Department of
6 Licensing and Regulation [~~Health~~].

7 (5-a) "Executive director" means the executive
8 director of the department.

9 SECTION 8.150. The heading to Subchapter B, Chapter 605,
10 Occupations Code, is amended to read as follows:

11 SUBCHAPTER B. ORTHOTISTS AND PROSTHETISTS ADVISORY [~~TEXAS~~] BOARD
12 [~~OF ORTHOTICS AND PROSTHETICS~~]

13 SECTION 8.151. Section 605.052, Occupations Code, is
14 amended to read as follows:

15 Sec. 605.052. ADVISORY [~~APPOINTMENT OF~~] BOARD [~~+~~]
16 MEMBERSHIP. (a) The advisory board consists of seven members
17 appointed by the presiding officer of the commission [~~governor~~]
18 with the approval [~~advice and consent~~] of the commission [~~senate~~]
19 as follows:

20 (1) one licensed orthotist member who has practiced
21 orthotics for the five years preceding the date of appointment;

22 (2) one licensed prosthetist member who has practiced
23 prosthetics for the five years preceding the date of appointment;

24 (3) one licensed prosthetist orthotist member who has
25 practiced orthotics and prosthetics for the five years preceding
26 the date of appointment;

27 (4) one member who is a representative of the public

1 who uses an orthosis;

2 (5) one member who is a representative of the public
3 who uses a prosthesis; and

4 (6) two members who are representatives of the public
5 who do not use an orthosis or prosthesis.

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

9 SECTION 8.152. Subchapter B, Chapter 605, Occupations Code,
10 is amended by adding Section 605.0521 to read as follows:

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

14 SECTION 8.153. Section 605.055, Occupations Code, is
15 amended to read as follows:

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

19 (b) If a vacancy occurs during a member's term, the
20 presiding officer of the commission, with the commission's
21 approval, [governor] shall appoint a replacement who meets the
22 qualifications for the vacant position [person] to serve for the
23 remainder of the term.

24 SECTION 8.154. Section 605.056, Occupations Code, is
25 amended to read as follows:

26 Sec. 605.056. PRESIDING OFFICER [OFFICERS]. The presiding
27 officer of the commission [members of the board] shall designate a

member of the advisory board to serve as the ~~[elect from the board's membership a]~~ presiding officer of the advisory board for a term of one year. The presiding officer of the advisory board may vote on any matter before the advisory board ~~[, a secretary, and other officers as required to conduct the board's business]~~.

SECTION 8.155. Section 605.059(b), Occupations Code, is amended to read as follows:

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

SECTION 8.156. Section 605.151, Occupations Code, is amended to read as follows:

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

~~[(1) investigate complaints,~~
~~[(2) issue, suspend, deny, and revoke licenses,~~
~~[(3) reprimand license holders and place license holders on probation,~~
~~[(4) in connection with a hearing under Section 605.353, issue subpoenas,~~
~~[(5) hold hearings, and~~
~~[(6) use personnel, facilities, furniture, equipment, and other items supplied by the department to administer this chapter].~~

SECTION 8.157. Section 605.155, Occupations Code, is

1 amended to read as follows:

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

5 SECTION 8.158. The heading to Subchapter E, Chapter 605,
6 Occupations Code, is amended to read as follows:

7 SUBCHAPTER E. [~~PUBLIC INTEREST INFORMATION AND~~] COMPLAINT
8 INFORMATION [~~PROCEDURES~~]

9 SECTION 8.159. The heading to Section 605.2021, Occupations
10 Code, is amended to read as follows:

11 Sec. 605.2021. CONFIDENTIALITY OF COMPLAINT AND
12 DISCIPLINARY INFORMATION [~~SUBPOENAS~~].

13 SECTION 8.160. Sections 605.2021(h) and (i), Occupations
14 Code, are amended to read as follows:

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

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

25 (2) professional orthotist or prosthetist
26 disciplinary boards in other jurisdictions;

27 (3) peer assistance programs approved by the

1 commission ~~[board]~~ under Chapter 467, Health and Safety Code;

2 (4) law enforcement agencies; and

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

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

12 SECTION 8.161. Section 605.251, Occupations Code, is
13 amended to read as follows:

14 Sec. 605.251. LICENSE REQUIRED. A person may not practice,
15 attempt to practice, or offer to practice orthotics or prosthetics,
16 act as an assistant to a person who practices orthotics or
17 prosthetics, or in any way hold the person out as being able to
18 practice orthotics or prosthetics unless the person holds a license
19 ~~[issued by the board]~~ under this chapter.

20 SECTION 8.162. Section 605.252, Occupations Code, is
21 amended to read as follows:

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

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

1 (2) pay the nonrefundable application fee;

2 (3) be a resident of this state;

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

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

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

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

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

19 (A) an education program recognized and
20 accredited by the Commission on Accreditation of Allied Health
21 Education Programs that is offered at an institution of higher
22 education; or

23 (B) a practitioner education program that has
24 education standards that are equivalent to or exceed the standards
25 adopted by the Commission on Accreditation of Allied Health
26 Education Programs; or

27 (2) a bachelor's degree in another subject and an

1 orthotic or prosthetic certificate issued by a practitioner
2 education program:

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

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

8 (c) To meet the clinical residency requirements for a
9 license, the applicant must complete a professional clinical
10 residency that meets the requirements established by commission
11 ~~[board]~~ rule and is conducted under the direct supervision of a
12 licensed orthotist, licensed prosthetist, or a licensed
13 prosthetist orthotist in the discipline for which licensure is
14 sought. The clinical residency requirements adopted by the
15 commission ~~[board]~~ must be equivalent to or exceed the standards
16 set by the National Commission on Orthotic and Prosthetic
17 Education.

18 (d) The department ~~[board]~~ may accept as a substitute for
19 the examination requirement proof that the license applicant holds
20 a license in a state that has licensing requirements that are equal
21 to or exceed the requirements of this chapter.

22 SECTION 8.163. Sections 605.254(a) and (c), Occupations
23 Code, are amended to read as follows:

24 (a) A person is entitled to an exemption from the license
25 requirements established ~~[by the board]~~ under Section 605.252 if
26 the person is a resident of this state who [+]

27 ~~[(1) applies for the exemption not later than the~~

1 ~~181st day after the date on which the board's initial rules are~~
2 ~~finally adopted and:~~

3 ~~[(A) has provided comprehensive orthotic or~~
4 ~~prosthetic care for at least three years before the date of the~~
5 ~~application, including practicing orthotics or prosthetics in this~~
6 ~~state for the year preceding that date; or~~

7 ~~[(B) has provided comprehensive orthotic and~~
8 ~~prosthetic care for at least six years, including practicing~~
9 ~~orthotics and prosthetics in this state for the year preceding the~~
10 ~~application date; or~~

11 ~~[(2)]~~ presents evidence satisfactory to the
12 department ~~[board]~~ that the person possesses unique qualifications
13 to practice orthotics, prosthetics, or orthotics and prosthetics.

14 (c) The department ~~[board]~~ shall issue a license to a person
15 who is determined to be eligible for a license under Subsection (a)
16 ~~[or (b)]~~. A person to whom a license is issued under this
17 subsection is entitled to the same license privileges as if the
18 person met the educational and vocational requirements of Section
19 605.252. The license holder is subject to the license renewal
20 requirements established by the commission ~~[board]~~, other than the
21 academic, clinical training, and examination requirements, which
22 the commission ~~[board]~~ may not impose as a condition of the person's
23 license.

24 SECTION 8.164. Sections 605.255(a) and (b), Occupations
25 Code, are amended to read as follows:

26 (a) An applicant for a license as an orthotist assistant or
27 prosthetist assistant must:

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

4 (2) pay the nonrefundable application fee established
5 ~~[prescribed]~~ by the commission by rule ~~[board]~~; and

6 (3) present evidence satisfactory to the department
7 ~~[board]~~ that the applicant has completed an education program,
8 including courses in the anatomical, biological, and physical
9 sciences, and a clinical residency as prescribed and adopted by the
10 commission by rule ~~[board]~~.

11 (b) An assistant licensed under this section may provide
12 only ancillary patient care services, as defined by the commission
13 by rule ~~[board]~~, in the discipline in which the assistant's
14 supervisor is licensed under this chapter.

15 SECTION 8.165. Sections 605.256(a) and (b), Occupations
16 Code, are amended to read as follows:

17 (a) The department ~~[board]~~ may issue a license or
18 registration certificate under this chapter only to an individual.

19 (b) The department ~~[board]~~ shall issue a license in
20 orthotics or prosthetics to an applicant who meets the requirements
21 provided under this chapter. A license may be granted in either
22 orthotics or prosthetics, or in both, if the person meets the
23 requirements established by the department ~~[board]~~.

24 SECTION 8.166. Section 605.257, Occupations Code, is
25 amended to read as follows:

26 Sec. 605.257. TEMPORARY LICENSE. (a) The department
27 ~~[board]~~ may issue a temporary license to an individual who:

(1) has recently become a resident of this state;

(2) has applied for a license as an orthotist, prosthetist, or both; and

(3) has:

(A) practiced orthotics regularly since January 1, 1996; or

(B) been licensed by the state in which the person formerly resided if that state has license requirements that are equal to or exceed the requirements of this chapter.

(b) A temporary license is valid for one year from the date issued. A temporary license may be renewed for not more than one additional year if the applicant presents evidence sufficient to the department [~~board~~] of good cause for renewal.

SECTION 8.167. Section 605.258(a), Occupations Code, is amended to read as follows:

(a) The department [~~board~~] may issue a student registration certificate to an individual who is working toward fulfilling the requirements for a license as an orthotist, prosthetist, or prosthetist orthotist and:

(1) holds either:

(A) a bachelor's or graduate degree in orthotics and prosthetics from:

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

(ii) a practitioner education program that

1 has education standards that are equivalent to or exceed the
2 standards adopted by the Commission on Accreditation of Allied
3 Health Education Programs; or

4 (B) a bachelor's degree in another subject and an
5 orthotic or prosthetic certificate issued by a practitioner
6 education program:

7 (i) recognized and accredited by the
8 Commission on Accreditation of Allied Health Education Programs; or

9 (ii) that has education standards that are
10 equivalent to or exceed the standards adopted by the Commission on
11 Accreditation of Allied Health Education Programs; or

12 (2) is a student who:

13 (A) is currently enrolled in a graduate program
14 in this state in orthotics and prosthetics that:

15 (i) is recognized and accredited by the
16 Commission on Accreditation of Allied Health Education Programs;
17 and

18 (ii) incorporates a professional clinical
19 residency that meets the requirements of rules adopted under
20 Section 605.252(c); and

21 (B) submits to the department ~~[board]~~ a written
22 certification from the graduate program in which the student is
23 enrolled that the student has successfully completed the academic
24 prerequisites to enter a professional clinical residency.

25 SECTION 8.168. Section 605.259(a), Occupations Code, is
26 amended to read as follows:

27 (a) The department ~~[board]~~ may issue a registered orthotic

1 technician or registered prosthetic technician certificate to an
2 applicant who:

3 (1) submits an [~~files a written~~] application in the
4 manner and [~~with the board~~] on a form prescribed [~~provided~~] by the
5 executive director [~~board~~];

6 (2) pays the nonrefundable application fee; and

7 (3) presents evidence satisfactory to the department
8 [~~board~~] that the applicant has completed an education program and
9 laboratory experience as prescribed by the commission by rule
10 [~~board~~].

11 SECTION 8.169. Sections 605.260(a), (b), and (c),
12 Occupations Code, are amended to read as follows:

13 (a) The commission [~~board~~] by rule shall establish
14 requirements for the accreditation and the renewal of an
15 accreditation of an orthotic or prosthetic facility in which
16 orthotics or prosthetics are conducted. The department [~~board~~] may
17 issue an accreditation only to an orthotic or prosthetic facility.

18 (b) If a person owns more than one facility, the department
19 [~~board~~] may require only one application for the accreditation of
20 each of the person's facilities. Each orthotic or prosthetic
21 facility must meet the requirements established by commission rule
22 [~~the board~~].

23 (c) An orthotic or prosthetic facility must be under the
24 on-site direction of an orthotist or prosthetist licensed by the
25 department [~~board~~] in the discipline for which accreditation is
26 sought.

27 SECTION 8.170. Section 605.261, Occupations Code, is

1 amended to read as follows:

2 Sec. 605.261. CONTINUING EDUCATION. (a) The commission
3 ~~[board]~~ shall:

4 (1) adopt rules that require a license holder to
5 participate in an approved continuing education program to renew a
6 license issued under this chapter; and

7 (2) prepare or approve continuing education programs
8 for license holders.

9 (b) To renew a license under this chapter, an applicant must
10 submit to the department ~~[board]~~ evidence of satisfactory
11 completion of the continuing education requirements required by the
12 commission ~~[board]~~.

13 (c) The department ~~[board]~~ shall notify a license holder who
14 has failed to comply with the ~~[board's]~~ continuing education
15 requirements of the license holder's failure to comply and that
16 failure to obtain the required continuing education before the
17 expiration of three months after the date the notice is given
18 constitutes grounds for the commission or executive director
19 ~~[board]~~ to suspend or revoke the license holder's license.

20 SECTION 8.171. Section 605.353, Occupations Code, is
21 amended to read as follows:

22 Sec. 605.353. DISCIPLINARY ACTIONS. (a) After notice and
23 opportunity for a hearing, the commission or executive director
24 ~~[board]~~ may revoke, suspend, or refuse to renew a license issued
25 under this chapter on a finding that:

26 (1) the license was obtained by fraud,
27 misrepresentation, or concealment of a material fact;

1 (2) the person engaged in fraud or deceit in
2 connection with services provided by the person;

3 (3) the person engaged in unprofessional or unethical
4 conduct;

5 (4) the person engaged in gross negligence or
6 malpractice; or

7 (5) the person violated this chapter or a rule adopted
8 under this chapter.

9 (b) The commission or executive director [~~board~~] may
10 reinstate a license revoked under Subsection (a) after the first
11 anniversary of the date of the revocation on terms the commission or
12 executive director [~~board~~] determines to be necessary.

13 SECTION 8.172. Section 605.354(c), Occupations Code, is
14 amended to read as follows:

15 (c) The attorney general shall bring an action in the name
16 of the state at the department's [~~board's~~] request to collect a
17 civil penalty under this section.

18 SECTION 8.173. Section 605.402(a), Occupations Code, is
19 amended to read as follows:

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

25 SECTION 8.174. Section 701.002, Occupations Code, is
26 amended by amending Subdivisions (1), (2), and (4) and adding
27 Subdivision (1-a) to read as follows:

(1) "Advisory board" means the Dietitians Advisory Board.

(1-a) "Commission" [~~"Commissioner"~~] means the Texas Commission of Licensing and Regulation [~~commissioner of state health services~~].

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

(4) "Executive director" [~~"Dietitians board"~~] means the executive director of the department [~~Texas State Board of Examiners of Dietitians~~].

SECTION 8.175. The heading to Subchapter B, Chapter 701, Occupations Code, is amended to read as follows:

SUBCHAPTER B. [~~TEXAS STATE BOARD OF EXAMINERS OF~~] DIETITIANS

ADVISORY BOARD

SECTION 8.176. Section 701.051, Occupations Code, is amended to read as follows:

Sec. 701.051. DIETITIANS ADVISORY BOARD MEMBERSHIP. (a) The advisory board [~~Texas State Board of Examiners of Dietitians~~] consists of nine members appointed by the presiding officer of the commission [~~governor~~] with the approval [~~advice and consent~~] of the commission [~~senate~~] as follows:

(1) six licensed dietitian members, each of whom has been licensed under this chapter for not less than three years before the member's date of appointment; and

(2) three members who represent the public.

(b) In appointing dietitian members to the advisory [~~dietitians~~] board, the presiding officer of the commission

1 ~~[governor]~~ shall attempt to maintain balanced representation among
2 the following primary areas of expertise included in the
3 professional discipline of dietetics:

- 4 (1) clinical;
- 5 (2) educational;
- 6 (3) management;
- 7 (4) consultation; and
- 8 (5) community.

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

12 SECTION 8.177. Subchapter B, Chapter 701, Occupations Code,
13 is amended by adding Section 701.0511 to read as follows:

14 Sec. 701.0511. 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 8.178. Section 701.054, Occupations Code, is
18 amended to read as follows:

19 Sec. 701.054. TERMS; VACANCIES. (a) Members of the
20 advisory ~~[dietitians]~~ board serve staggered six-year terms. The
21 terms of three ~~[two]~~ members begin on September 1 of each
22 odd-numbered 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 8.179. Section 701.057, Occupations Code, is

1 amended to read as follows:

2 Sec. 701.057. PRESIDING OFFICER ~~[OFFICERS]~~. ~~[(a)]~~ The
3 presiding officer of the commission ~~[governor]~~ shall designate a
4 member of the advisory ~~[dietitians]~~ board as the presiding officer
5 of the advisory board to serve for a term of one year ~~[in that~~
6 ~~capacity at the pleasure of the governor]~~. The presiding officer of
7 the advisory board may vote on any matter before the advisory board.

8 ~~[(b) Not later than the 30th day after the date the governor~~
9 ~~appoints new board members, the dietitians board shall meet to~~
10 ~~elect an assistant presiding officer, who holds office according to~~
11 ~~board rules.]~~

12 SECTION 8.180. Section 701.058, Occupations Code, is
13 amended to read as follows:

14 Sec. 701.058. MEETINGS. The advisory ~~[dietitians]~~ board
15 shall meet at the call of the presiding officer of the commission or
16 the executive director ~~[hold at least two regular meetings each~~
17 ~~year as provided by board rules]~~.

18 SECTION 8.181. Section 701.151, Occupations Code, is
19 amended to read as follows:

20 Sec. 701.151. GENERAL POWERS AND DUTIES ~~[OF DIETITIANS~~
21 ~~BOARD]~~. (a) The executive director shall administer and enforce
22 this chapter.

23 (b) The department ~~[dietitians board]~~ shall:

- 24 (1) adopt an official seal;
- 25 (2) adopt and publish a code of ethics;
- 26 (3) establish the qualifications and fitness of
- 27 applicants for licenses, including renewed and reciprocal

1 licenses;

2 (4) revoke, suspend, or deny a license, probate a
3 license suspension, or reprimand a license holder for a violation
4 of this chapter, a ~~[board]~~ rule adopted under this chapter, or the
5 code of ethics; and

6 (5) request and receive any necessary assistance from
7 state educational institutions or other state agencies ~~[spend money~~
8 ~~necessary to properly administer the board's duties; and~~

9 ~~[(6) establish reasonable and necessary fees to~~
10 ~~administer this chapter].~~

11 SECTION 8.182. Subchapter D, Chapter 701, Occupations Code,
12 is amended by adding Section 701.1511 to read as follows:

13 Sec. 701.1511. REGISTRY. The department shall prepare a
14 registry of licensed dietitians and provisional licensed
15 dietitians and make the registry available to the public, license
16 holders, and appropriate state agencies.

17 SECTION 8.183. Section 701.154, Occupations Code, is
18 amended to read as follows:

19 Sec. 701.154. AMOUNT OF FEES. The commission ~~[(a) After~~
20 ~~consulting the commissioner or the department, the dietitians board~~
21 ~~by rule shall set fees in amounts reasonable and necessary to cover~~
22 ~~the cost of administering this chapter.~~

23 ~~[(b) The dietitians board]~~ may not set a fee that existed on
24 September 1, 1993, in an amount that is less than the amount of that
25 fee on that date.

26 SECTION 8.184. Section 701.155, Occupations Code, is
27 amended to read as follows:

1 Sec. 701.155. SEAL. (a) The commission [~~dietitians board~~]
2 by rule may require a license holder to:

3 (1) obtain a seal authorized by the department [~~board~~]
4 bearing the license holder's name and the legend "Licensed
5 Dietitian"; and

6 (2) affix the seal to formal documentation of
7 nutrition services provided by the license holder, as determined
8 necessary and appropriate by the department [~~board~~].

9 (b) If the commission [~~dietitians board~~] adopts rules under
10 Subsection (a), the rules must authorize a license holder to comply
11 with Subsection (a)(2) by maintaining a facsimile of the license
12 holder's seal on file at the location where services are provided
13 if:

14 (1) the services are provided:

15 (A) in a facility licensed under the Health and
16 Safety Code;

17 (B) on behalf of a local, state, or federal
18 government agency; or

19 (C) under other circumstances determined
20 reasonable and necessary by the department [~~board~~]; and

21 (2) the facsimile is maintained on file at all times
22 during which the services are provided.

23 SECTION 8.185. The heading to Subchapter E, Chapter 701,
24 Occupations Code, is amended to read as follows:

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

26 PROCEDURES

27 SECTION 8.186. The heading to Section [701.2041](#), Occupations

1 Code, is amended to read as follows:

2 Sec. 701.2041. CONFIDENTIALITY OF COMPLAINT AND
3 DISCIPLINARY INFORMATION [~~SUBPOENAS~~].

4 SECTION 8.187. Sections 701.2041(h) and (i), Occupations
5 Code, are amended to read as follows:

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

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

16 (2) professional dietitian licensing or disciplinary
17 boards in other jurisdictions;

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

20 (4) law enforcement agencies; and

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

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

1 commission, or executive director ~~[board]~~ are not confidential and
2 are subject to disclosure in accordance with Chapter 552,
3 Government Code.

4 SECTION 8.188. Section 701.252, Occupations Code, is
5 amended to read as follows:

6 Sec. 701.252. LICENSE APPLICATION. (a) Each applicant for
7 a dietitian license must submit an ~~[a sworn]~~ application in the
8 manner and on a form prescribed by the executive director
9 accompanied by the application fee.

10 (b) The commission ~~[dietitians board shall prescribe the~~
11 ~~application form and may]~~ by rule shall determine the information
12 and documentation required to be submitted as part of an
13 application ~~[establish dates by which applications and fees must be~~
14 ~~received]~~.

15 SECTION 8.189. Sections 701.253(c), (e), and (f),
16 Occupations Code, are amended to read as follows:

17 (c) The department ~~[dietitians board]~~ shall prepare or
18 approve an examination. An examination prescribed by the
19 department ~~[board]~~ may be or may include an examination given by the
20 Commission on Dietetic Registration or by a national or state
21 testing service instead of an examination prepared by the
22 department or the department's designee ~~[board]~~.

23 (e) The department ~~[dietitians board]~~ shall administer an
24 examination to qualified applicants at least twice each calendar
25 year.

26 (f) The department ~~[dietitians board]~~ shall waive the
27 examination requirement for an applicant who, at the time of

1 application, is a dietitian registered by the Commission on
2 Dietetic Registration.

3 SECTION 8.190. Section 701.254, Occupations Code, is
4 amended to read as follows:

5 Sec. 701.254. QUALIFICATIONS FOR EXAMINATION. To qualify
6 for the licensing examination under this chapter, an applicant
7 must:

8 (1) possess a baccalaureate or postbaccalaureate
9 degree, conferred by a college or university regionally accredited
10 at the time of conferral, with:

11 (A) a major course of study in human nutrition,
12 food and nutrition, nutrition education, dietetics, or food systems
13 management; or

14 (B) an equivalent major course of study approved
15 by the department [~~dietitians board~~]; and

16 (2) have completed an internship or preplanned,
17 documented, professional experience program in dietetics practice
18 of not less than 900 hours under the supervision of a licensed
19 dietitian or a registered dietitian approved by the department
20 [~~board~~].

21 SECTION 8.191. Section 701.255(a), Occupations Code, is
22 amended to read as follows:

23 (a) Not later than the 45th day after the date a properly
24 submitted and timely application is received and not later than the
25 30th day before the next examination date, the department shall
26 notify an applicant in writing of the receipt and investigation of
27 the applicant's application and any other relevant evidence

1 relating to applicant qualifications established by commission
2 ~~[dietitians board]~~ rule.

3 SECTION 8.192. Sections 701.2575(a) and (c), Occupations
4 Code, are amended to read as follows:

5 (a) The department ~~[dietitians board]~~ shall develop and
6 administer at least twice each calendar year a jurisprudence
7 examination to determine an applicant's knowledge of this chapter,
8 commission ~~[board]~~ rules under this chapter, and any other
9 applicable laws of this state affecting the applicant's dietetics
10 practice.

11 (c) The commission ~~[dietitians board]~~ shall adopt rules to
12 implement this section, including rules related to the development
13 and administration of the examination, examination fees,
14 guidelines for reexamination, grading the examination, and
15 providing notice of examination results.

16 SECTION 8.193. Section 701.258, Occupations Code, is
17 amended to read as follows:

18 Sec. 701.258. QUALIFIED PERSON ENTITLED TO LICENSE. The
19 department ~~[dietitians board]~~ shall issue a license ~~[certificate]~~
20 as a licensed dietitian to a person qualified for a license under
21 this chapter.

22 SECTION 8.194. Sections 701.259(a), (b), (c), and (d),
23 Occupations Code, are amended to read as follows:

24 (a) The department ~~[dietitians board]~~ may issue a license to
25 use the title "provisional licensed dietitian" to an applicant who
26 files an application, pays an application fee, and submits evidence
27 of successful completion of the education requirement under Section

1 701.254.

2 (b) A provisional licensed dietitian must practice under
3 the supervision and direction of a licensed dietitian. The
4 supervising licensed dietitian must be designated in ~~[sign]~~ the
5 applicant's initial application for a provisional license.

6 (c) The department ~~[dietitians board]~~ shall issue a license
7 ~~[certificate]~~ as a provisional licensed dietitian to a person
8 qualified for a provisional license under this chapter.

9 (d) A provisional license expires on the first anniversary
10 of the date of issuance and~~[, if the supervising licensed dietitian~~
11 ~~signs the renewal application,~~] may be renewed annually not more
12 than twice ~~[by complying with the renewal procedures under Section~~
13 ~~701.301]~~.

14 SECTION 8.195. Section 701.260, Occupations Code, is
15 amended to read as follows:

16 Sec. 701.260. TEMPORARY LICENSE. (a) On receipt of an
17 application and payment of an application fee, the department
18 ~~[dietitians board]~~ may grant a temporary license to an applicant
19 who:

20 (1) is licensed in good standing as a dietitian in
21 another state that has licensing requirements that are
22 substantially equivalent to the requirements of this chapter;

23 (2) has passed a national or other examination that is
24 recognized by the department ~~[board]~~ and relates to dietetics; and

25 (3) is sponsored by a person licensed by the
26 department ~~[board]~~ under this chapter with whom the temporary
27 license holder may practice.

1 (b) The department [~~dietitians board~~] may waive the
2 requirement of Subsection (a)(3) if the department [~~board~~]
3 determines that compliance with that provision is a hardship to an
4 applicant.

5 (c) A temporary license is valid until the date the
6 department [~~dietitians board~~] approves or denies the temporary
7 license holder's application for a license. The department [~~board~~]
8 shall issue a license under this chapter to the holder of a
9 temporary license if:

10 (1) the temporary license holder passes the competency
11 examination required by Section 701.253;

12 (2) the department [~~board~~] verifies that the temporary
13 license holder meets the academic and experience requirements for a
14 license under this chapter; and

15 (3) the temporary license holder satisfies any other
16 license requirements under this chapter.

17 (d) The department [~~dietitians board~~] must complete the
18 processing of a temporary license holder's application for a
19 license not later than the 180th day after the date the department
20 [~~board~~] issues the temporary license. The department [~~board~~] may
21 extend this deadline to receive pending examination results.

22 SECTION 8.196. Section 701.303, Occupations Code, is
23 amended to read as follows:

24 Sec. 701.303. CONTINUING EDUCATION. (a) The commission
25 [~~dietitians board~~] by rule shall establish a minimum number of
26 hours of continuing education required for license renewal under
27 this chapter.

1 (b) The commission or department [~~dietitians board~~] may
2 assess the continuing education needs of license holders and may
3 require license holders to attend continuing education courses
4 specified by the commission or department [~~board~~]. The department
5 [~~board~~] shall develop a process to evaluate and approve continuing
6 education courses.

7 (c) The commission or department [~~dietitians board~~] shall
8 identify key factors for a license holder's competent performance
9 of professional duties. The department [~~board~~] shall adopt a
10 procedure to assess the license holder's participation in
11 continuing education programs.

12 SECTION 8.197. Section 701.304, Occupations Code, is
13 amended to read as follows:

14 Sec. 701.304. GROUNDS FOR REFUSING RENEWAL. The commission
15 or department [~~dietitians board~~] may refuse to renew the license of
16 a person who fails to pay an administrative penalty imposed under
17 Subchapter K, unless enforcement of the penalty is stayed or a court
18 has ordered that the administrative penalty is not owed.

19 SECTION 8.198. Section 701.351, Occupations Code, is
20 amended to read as follows:

21 Sec. 701.351. DISPLAY OF LICENSE [~~CERTIFICATE~~]. (a) A
22 license holder shall display the person's license [~~certificate~~] in
23 an appropriate and public manner as prescribed by commission rule.

24 (b) A license [~~certificate~~] issued by the department
25 [~~dietitians board~~] is the property of the department [~~board~~] and
26 shall be surrendered on demand.

27 SECTION 8.199. Section 701.352, Occupations Code, is

1 amended to read as follows:

2 Sec. 701.352. LICENSE HOLDER INFORMATION. A license holder
3 shall keep the department informed of the license holder's current
4 address as provided by commission rule.

5 SECTION 8.200. Section 701.353(a), Occupations Code, is
6 amended to read as follows:

7 (a) A person may not use a seal authorized by the department
8 [~~dietitians board~~] unless the person holds a license issued under
9 this chapter.

10 SECTION 8.201. Section 701.401, Occupations Code, is
11 amended to read as follows:

12 Sec. 701.401. GROUNDS FOR DISCIPLINARY ACTION. The
13 commission or executive director [~~dietitians board~~] shall refuse to
14 renew a license, revoke or suspend a license, place on probation a
15 person whose license has been suspended, or reprimand a license
16 holder for a violation of this chapter, [or] a rule or code of
17 ethics adopted under this chapter, or an order of [~~by~~] the
18 commission or executive director [~~board~~].

19 SECTION 8.202. Section 701.403, Occupations Code, is
20 amended to read as follows:

21 Sec. 701.403. SANCTIONS. The State Office of
22 Administrative Hearings shall use the schedule of sanctions adopted
23 by the commission by [~~dietitians board~~] rule for a sanction imposed
24 as the result of a hearing conducted by the office.

25 SECTION 8.203. Section 701.502(a), Occupations Code, is
26 amended to read as follows:

27 (a) The amount of an [~~the~~] administrative penalty imposed

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

5 SECTION 8.204. Section 701.512, Occupations Code, is
6 amended to read as follows:

7 Sec. 701.512. REFUND. (a) Subject to Subsection (b), the
8 commission or executive director [~~dietitians board~~] may order a
9 license holder to pay a refund to a consumer as provided in an
10 agreement resulting from an informal settlement conference instead
11 of or in addition to imposing an administrative penalty under this
12 chapter.

13 (b) The amount of a refund ordered as provided in an
14 agreement resulting from an informal settlement conference may not
15 exceed the amount the consumer paid to the license holder for a
16 service regulated by this chapter. The commission or executive
17 director [~~board~~] may not require payment of other damages or
18 estimate harm in a refund order.

19 SECTION 8.205. The following provisions of the Occupations
20 Code are repealed:

- 21 (1) Section 203.006;
- 22 (2) Section 203.051;
- 23 (3) Section 203.053;
- 24 (4) Section 203.054;
- 25 (5) Section 203.057;
- 26 (6) Section 203.058;
- 27 (7) Section 203.060;

- 1 (8) Subchapter C, Chapter 203;
- 2 (9) Section 203.151(b);
- 3 (10) Section 203.1515;
- 4 (11) Section 203.152(a);
- 5 (12) Sections 203.155(a) and (c);
- 6 (13) Section 203.156;
- 7 (14) Section 203.158;
- 8 (15) Section 203.159;
- 9 (16) Section 203.160;
- 10 (17) Section 203.161;
- 11 (18) Subchapter E, Chapter 203;
- 12 (19) Section 203.255(b);
- 13 (20) Section 203.2556;
- 14 (21) Section 203.302;
- 15 (22) Section 203.303;
- 16 (23) Section 203.405;
- 17 (24) Subchapter J, Chapter 203;
- 18 (25) Section 203.502(c);
- 19 (26) Section 203.505(a);
- 20 (27) Section 401.002;
- 21 (28) Section 401.101;
- 22 (29) Section 401.103;
- 23 (30) Section 401.104;
- 24 (31) Section 401.106;
- 25 (32) Section 401.109;
- 26 (33) Section 401.110;
- 27 (34) Subchapter D, Chapter 401;

- 1 (35) Section 401.201(b);
- 2 (36) Sections 401.203(a) and (b);
- 3 (37) Section 401.204;
- 4 (38) Section 401.205;
- 5 (39) Section 401.206;
- 6 (40) Section 401.207;
- 7 (41) Section 401.252;
- 8 (42) Sections 401.253(b), (c), (d), and (e);
- 9 (43) Sections 401.2535(a), (b), (c), (d), (e), (f),
- 10 and (g);
- 11 (44) Section 401.254;
- 12 (45) Section 401.306;
- 13 (46) Section 401.307(c);
- 14 (47) Section 401.313;
- 15 (48) Section 401.315;
- 16 (49) Section 401.351;
- 17 (50) Sections 401.352(b) and (c);
- 18 (51) Section 401.353;
- 19 (52) Section 401.354;
- 20 (53) Section 401.405;
- 21 (54) Section 401.451(b);
- 22 (55) Section 401.452;
- 23 (56) Section 401.4531;
- 24 (57) Section 401.454;
- 25 (58) Section 401.455;
- 26 (59) Section 401.456;
- 27 (60) Section 401.457;

- 1 (61) Section 401.458;
- 2 (62) Section 401.459;
- 3 (63) Section 401.460;
- 4 (64) Section 401.502;
- 5 (65) Section 401.5022;
- 6 (66) Section 401.551;
- 7 (67) Section 401.553;
- 8 (68) Section 401.554;
- 9 (69) Section 401.555;
- 10 (70) Section 401.556;
- 11 (71) Section 401.557;
- 12 (72) Section 401.558;
- 13 (73) Section 401.559;
- 14 (74) Section 401.560;
- 15 (75) Section 401.561;
- 16 (76) Section 402.002;
- 17 (77) Section 402.052;
- 18 (78) Section 402.053;
- 19 (79) Section 402.054;
- 20 (80) Section 402.056;
- 21 (81) Section 402.0581;
- 22 (82) Section 402.059;
- 23 (83) Section 402.060;
- 24 (84) Section 402.061;
- 25 (85) Section 402.102;
- 26 (86) Section 402.1022;
- 27 (87) Sections 402.103(a) and (b);

- 1 (88) Section 402.105;
- 2 (89) Section 402.106;
- 3 (90) Section 402.151;
- 4 (91) Section 402.1511;
- 5 (92) Section 402.153;
- 6 (93) Sections 402.154(a), (b), (c), (d), (e), (f), and
- 7 (g);
- 8 (94) Section 402.205(d);
- 9 (95) Section 402.206;
- 10 (96) Sections 402.209(b) and (g);
- 11 (97) Section 402.257(b);
- 12 (98) Sections 402.301(b), (c), (d), and (e);
- 13 (99) Section 402.303(f);
- 14 (100) Section 402.354;
- 15 (101) Section 402.452;
- 16 (102) Section 402.502;
- 17 (103) Section 402.503;
- 18 (104) Section 402.504;
- 19 (105) Section 402.505;
- 20 (106) Section 402.506;
- 21 (107) Sections 402.551(a) and (c);
- 22 (108) Section 402.552;
- 23 (109) Section 402.5522;
- 24 (110) Section 402.553(b);
- 25 (111) Section 451.051(a);
- 26 (112) Section 451.0511;
- 27 (113) Section 451.0512;

- 1 (114) Section [451.0513](#);
- 2 (115) Section [451.052](#);
- 3 (116) Section [451.054](#);
- 4 (117) Section [451.057](#);
- 5 (118) Sections [451.101](#)(b) and (c);
- 6 (119) Section [451.1015](#);
- 7 (120) Section [451.1016](#);
- 8 (121) Section [451.102](#);
- 9 (122) Section [451.103](#);
- 10 (123) Section [451.1035](#);
- 11 (124) Section [451.104](#);
- 12 (125) Section [451.105](#);
- 13 (126) Section [451.106](#);
- 14 (127) Section [451.108](#);
- 15 (128) Section [451.109](#);
- 16 (129) Sections [451.110](#)(a), (b), (c), (d), (e), (f),
- 17 and (g);
- 18 (130) Section [451.155](#);
- 19 (131) Section [451.201](#)(b);
- 20 (132) Section [451.202](#);
- 21 (133) Section [451.203](#);
- 22 (134) Section [451.204](#);
- 23 (135) Section [451.2512](#);
- 24 (136) Section [451.252](#);
- 25 (137) Section [451.253](#);
- 26 (138) Section [451.254](#);
- 27 (139) Section [451.255](#);

1 (140) Sections [451.351](#)(a), (b), (e), (f), (g), (h),
2 (i), (j), (k), and (l);
3 (141) Section [451.352](#);
4 (142) Section [605.003](#);
5 (143) Section [605.051](#);
6 (144) Section [605.053](#);
7 (145) Section [605.054](#);
8 (146) Section [605.057](#);
9 (147) Section [605.058](#);
10 (148) Section [605.059](#)(a);
11 (149) Section [605.060](#);
12 (150) Section [605.061](#);
13 (151) Subchapter C, Chapter 605;
14 (152) Section [605.152](#);
15 (153) Section [605.153](#);
16 (154) Section [605.154](#);
17 (155) Section [605.201](#);
18 (156) Section [605.202](#);
19 (157) Sections [605.2021](#)(a), (b), (c), (d), (e), (f),
20 and (g);
21 (158) Section [605.203](#);
22 (159) Section [605.253](#);
23 (160) Section [605.254](#)(b);
24 (161) Section [605.255](#)(c);
25 (162) Section [605.259](#)(b);
26 (163) Section [605.3535](#);
27 (164) Section [605.355](#);

- 1 (165) Section 605.401;
- 2 (166) Section 605.403;
- 3 (167) Section 605.404;
- 4 (168) Section 605.405;
- 5 (169) Section 605.406;
- 6 (170) Section 605.407;
- 7 (171) Section 605.408;
- 8 (172) Section 605.409;
- 9 (173) Section 605.410;
- 10 (174) Section 605.411;
- 11 (175) Section 701.003;
- 12 (176) Section 701.052;
- 13 (177) Section 701.053;
- 14 (178) Section 701.055;
- 15 (179) Section 701.056;
- 16 (180) Section 701.059;
- 17 (181) Subchapter C, Chapter 701;
- 18 (182) Section 701.152;
- 19 (183) Section 701.153;
- 20 (184) Section 701.1535;
- 21 (185) Section 701.156;
- 22 (186) Section 701.157;
- 23 (187) Section 701.159;
- 24 (188) Section 701.160;
- 25 (189) Section 701.161;
- 26 (190) Section 701.201;
- 27 (191) Section 701.202;

1 (192) Section 701.203;
2 (193) Section 701.204;
3 (194) Sections 701.2041(a), (b), (c), (d), (e), (f),
4 and (g);
5 (195) Section 701.205;
6 (196) Section 701.206;
7 (197) Section 701.256;
8 (198) Section 701.261;
9 (199) Sections 701.301(b), (c), (d), (e), and (f);
10 (200) Section 701.302;
11 (201) Section 701.402;
12 (202) Section 701.404;
13 (203) Section 701.405;
14 (204) Section 701.406;
15 (205) Section 701.407;
16 (206) Section 701.408;
17 (207) Section 701.452;
18 (208) Section 701.453;
19 (209) Section 701.501;
20 (210) Section 701.502(c);
21 (211) Section 701.503;
22 (212) Section 701.504;
23 (213) Section 701.505;
24 (214) Section 701.506;
25 (215) Section 701.507;
26 (216) Section 701.508;
27 (217) Section 701.509;

(218) Section 701.510; and

(219) Section 701.511.

PART 2. TRANSFERS DURING BIENNIUM ENDING AUGUST 31, 2019

SECTION 8.206. Sections 106.115(a), (b-1), and (b-3), Alcoholic Beverage Code, are amended to read as follows:

(a) On the placement of a minor on deferred disposition for an offense under Section 49.02, Penal Code, or under Section 106.02, 106.025, 106.04, 106.041, 106.05, or 106.07, the court shall require the defendant to attend an alcohol awareness program approved by the Texas Department of Licensing and Regulation [~~State Health Services~~] under this section or a drug and alcohol driving awareness program approved by the Texas Education Agency. On conviction of a minor of an offense under one or more of those sections, the court, in addition to assessing a fine as provided by those sections, shall require a defendant who has not been previously convicted of an offense under one of those sections to attend an alcohol awareness program or a drug and alcohol driving awareness program described by this subsection. If the defendant has been previously convicted once or more of an offense under one or more of those sections, the court may require the defendant to attend an alcohol awareness program or a drug and alcohol driving awareness program described by this subsection. If the defendant is younger than 18 years of age, the court may require the parent or guardian of the defendant to attend the program with the defendant. The Texas Department of Licensing and Regulation or Texas Commission of Licensing and Regulation, as appropriate [~~State Health Services~~]:

1 (1) is responsible for the administration of the
2 certification of approved alcohol awareness programs;

3 (2) may charge a nonrefundable application fee for:

4 (A) initial certification of the approval; or

5 (B) renewal of the certification;

6 (3) shall adopt rules regarding alcohol awareness
7 programs approved under this section; and

8 (4) shall monitor, coordinate, and provide training to
9 a person who provides an alcohol awareness program.

10 (b-1) If the defendant resides in a county with a population
11 of 75,000 or less and access to an alcohol awareness program is not
12 readily available in the county, the court may allow the defendant
13 to take an online alcohol awareness program if the Texas Department
14 of Licensing and Regulation [~~State Health Services~~] approves online
15 courses or require the defendant to perform not less than eight
16 hours of community service related to alcohol abuse prevention or
17 treatment and approved by the Texas Department of Licensing and
18 Regulation [~~State Health Services~~] under Subsection (b-3) instead
19 of attending the alcohol awareness program. Community service
20 ordered under this subsection is in addition to community service
21 ordered under Section [106.071](#)(d).

22 (b-3) The Texas Department of Licensing and Regulation
23 [~~State Health Services~~] shall create a list of community services
24 related to alcohol abuse prevention or treatment in each county in
25 the state to which a judge may sentence a defendant under Subsection
26 (b-1).

27 SECTION 8.207. Sections 13(h) and (j), Article [42.12](#), Code

of Criminal Procedure, are amended to read as follows:

(h) If a person convicted of an offense under Sections 49.04-49.08, Penal Code, is placed on community supervision, the judge shall require, as a condition of the community supervision, that the defendant attend and successfully complete before the 181st day after the day community supervision is granted an educational program jointly approved by the Texas Department of Licensing and Regulation [~~Commission on Alcohol and Drug Abuse~~], the Department of Public Safety, the Traffic Safety Section of the Texas Department of Transportation, and the community justice assistance division of the Texas Department of Criminal Justice designed to rehabilitate persons who have driven while intoxicated. The Texas Department of Licensing and Regulation [~~Commission on Alcohol and Drug Abuse~~] shall publish the jointly approved rules and shall monitor, coordinate, and provide training to persons providing the educational programs. The Texas Department of Licensing and Regulation [~~Commission on Alcohol and Drug Abuse~~] is responsible for the administration of the certification of approved educational programs and may charge a nonrefundable application fee for the initial certification of approval and for renewal of a certificate. The judge may waive the educational program requirement or may grant an extension of time to successfully complete the program that expires not later than one year after the beginning date of the person's community supervision, however, if the defendant by a motion in writing shows good cause. In determining good cause, the judge may consider but is not limited to: the defendant's school and work schedule, the defendant's

1 health, the distance that the defendant must travel to attend an
2 educational program, and the fact that the defendant resides out of
3 state, has no valid driver's license, or does not have access to
4 transportation. The judge shall set out the finding of good cause
5 for waiver in the judgment. If a defendant is required, as a
6 condition of community supervision, to attend an educational
7 program or if the court waives the educational program requirement,
8 the court clerk shall immediately report that fact to the
9 Department of Public Safety, on a form prescribed by the
10 department, for inclusion in the person's driving record. If the
11 court grants an extension of time in which the person may complete
12 the program, the court clerk shall immediately report that fact to
13 the Department of Public Safety on a form prescribed by the
14 department. The report must include the beginning date of the
15 person's community supervision. Upon the person's successful
16 completion of the educational program, the person's instructor
17 shall give notice to the Department of Public Safety for inclusion
18 in the person's driving record and to the community supervision and
19 corrections department. The community supervision and corrections
20 department shall then forward the notice to the court clerk for
21 filing. If the Department of Public Safety does not receive notice
22 that a defendant required to complete an educational program has
23 successfully completed the program within the period required by
24 this section, as shown on department records, the department shall
25 revoke the defendant's driver's license, permit, or privilege or
26 prohibit the person from obtaining a license or permit, as provided
27 by Sections [521.344](#)(e) and (f), Transportation Code. The

1 Department of Public Safety may not reinstate a license suspended
2 under this subsection unless the person whose license was suspended
3 makes application to the department for reinstatement of the
4 person's license and pays to the department a reinstatement fee of
5 \$100. The Department of Public Safety shall remit all fees
6 collected under this subsection to the comptroller for deposit in
7 the general revenue fund. This subsection does not apply to a
8 defendant if a jury recommends community supervision for the
9 defendant and also recommends that the defendant's driver's license
10 not be suspended.

11 (j) The judge shall require a defendant who is punished
12 under Section 49.09, Penal Code, as a condition of community
13 supervision, to attend and successfully complete an educational
14 program for repeat offenders approved by the Texas Department of
15 Licensing and Regulation [~~Commission on Alcohol and Drug Abuse~~].
16 The Texas Commission of Licensing and Regulation [~~on Alcohol and~~
17 ~~Drug Abuse~~] shall adopt rules and shall monitor, coordinate, and
18 provide training to persons providing the educational programs.
19 The Texas Department of Licensing and Regulation [~~Commission on~~
20 ~~Alcohol and Drug Abuse~~] is responsible for the administration of
21 the certification of approved educational programs and may charge a
22 nonrefundable application fee for initial certification of
23 approval or for renewal of the certification. The judge may waive
24 the educational program requirement only if the defendant by a
25 motion in writing shows good cause. In determining good cause, the
26 judge may consider the defendant's school and work schedule, the
27 defendant's health, the distance that the defendant must travel to

1 attend an educational program, and whether the defendant resides
 2 out of state or does not have access to transportation. The judge
 3 shall set out the finding of good cause in the judgment. If a
 4 defendant is required, as a condition of community supervision, to
 5 attend an educational program, the court clerk shall immediately
 6 report that fact to the Department of Public Safety, on a form
 7 prescribed by the department, for inclusion in the defendant's
 8 driving record. The report must include the beginning date of the
 9 defendant's community supervision. On the defendant's successful
 10 completion of the educational program for repeat offenders, the
 11 defendant's instructor shall give notice to the Department of
 12 Public Safety for inclusion in the defendant's driving record and
 13 to the community supervision and corrections department. The
 14 community supervision and corrections department shall then
 15 forward the notice to the court clerk for filing. If the Department
 16 of Public Safety does not receive notice that a defendant required
 17 to complete an educational program has successfully completed the
 18 program for repeat offenders within the period required by the
 19 judge, as shown on department records, the department shall revoke
 20 the defendant's driver's license, permit, or privilege or prohibit
 21 the defendant from obtaining a license or permit, as provided by
 22 Sections 521.344(e) and (f), Transportation Code.

23 SECTION 8.208. Section 401.501, Health and Safety Code, is
 24 amended by amending Subdivisions (1) and (2) and adding Subdivision
 25 (1-a) to read as follows:

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

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

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

6 SECTION 8.209. Subchapter M, Chapter 401, Health and Safety
7 Code, is amended by adding Section 401.5011 to read as follows:

8 Sec. 401.5011. GENERAL POWERS AND DUTIES. The executive
9 director shall administer and enforce this chapter.

10 SECTION 8.210. Section 401.502, Health and Safety Code, is
11 amended to read as follows:

12 Sec. 401.502. EXAMINATION. The commission [~~executive~~
13 ~~commissioner~~] may adopt rules to govern the development and
14 administration of an examination for an applicant under this
15 subchapter.

16 SECTION 8.211. Section 401.503, Health and Safety Code, is
17 amended to read as follows:

18 Sec. 401.503. APPLICATION PROCESS. (a) An application for
19 a certificate or license under this subchapter must be submitted in
20 the manner and [~~made~~] on a form prescribed [~~and provided~~] by the
21 executive director [~~department~~].

22 (b) The application must require an applicant to provide
23 sworn statements relating to the applicant's education and to
24 provide other information required by the commission [~~department~~].

25 SECTION 8.212. Section 401.505(a), Health and Safety Code,
26 is amended to read as follows:

27 (a) An applicant for a laser hair removal professional

1 certificate must:

2 (1) be certified by a recognized certifying agency,
3 including the Society for Clinical and Medical Hair Removal or
4 another certification entity approved by the department;

5 (2) meet the requirements for a senior laser hair
6 removal technician certificate under Section 401.506; and

7 (3) pass an examination required ~~[administered]~~ by the
8 department.

9 SECTION 8.213. The heading to Section 401.512, Health and
10 Safety Code, is amended to read as follows:

11 Sec. 401.512. TERM ~~[RENEWAL]~~ OF CERTIFICATE OR LICENSE.

12 SECTION 8.214. Section 401.512(a), Health and Safety Code,
13 is amended to read as follows:

14 (a) A certificate or license expires on the second
15 anniversary of the date of issuance and may be renewed.

16 SECTION 8.215. Section 401.515(b), Health and Safety Code,
17 is amended to read as follows:

18 (b) The commission ~~[executive commissioner]~~ shall adopt
19 rules relating to the customer notice.

20 SECTION 8.216. Sections 401.516(a) and (b), Health and
21 Safety Code, are amended to read as follows:

22 (a) A laser hair removal facility shall post a warning sign
23 as prescribed by the commission ~~[department]~~ in a conspicuous
24 location readily visible to a person entering the facility. The
25 sign must provide a toll-free telephone number and e-mail address
26 for the department and inform the customer that the customer may
27 contact ~~[call]~~ the department.

1 (b) The commission [~~executive commissioner~~] shall adopt
2 rules specifying the size, content, and design of the sign, with
3 wording listing the potential dangers involved.

4 SECTION 8.217. Section 401.518(a), Health and Safety Code,
5 is amended to read as follows:

6 (a) A laser hair removal facility operator is responsible
7 for maintaining the laser hair removal facility's compliance with
8 the requirements of this subchapter and commission [~~department~~]
9 rules relating to laser and pulsed light devices.

10 SECTION 8.218. Section 401.519(b), Health and Safety Code,
11 is amended to read as follows:

12 (b) Under the rules of the commission [~~department~~], a laser
13 hair removal facility must document with the department the
14 facility's contractual relationship with the consulting physician.

15 SECTION 8.219. Section 401.521(b), Health and Safety Code,
16 is amended to read as follows:

17 (b) A person who violates Subsection (a) is practicing
18 medicine in violation of Subtitle B, Title 3, Occupations Code, and
19 is subject to the penalties under that subtitle and Subchapter F,
20 Chapter 51, Occupations Code [~~under Section 401.522~~].

21 SECTION 8.220. The heading to Section 401.522, Health and
22 Safety Code, is amended to read as follows:

23 Sec. 401.522. AMOUNT OF ADMINISTRATIVE PENALTY
24 [~~ENFORCEMENT, PENALTIES~~].

25 SECTION 8.221. Section 401.522(a), Health and Safety Code,
26 is amended to read as follows:

27 (a) The amount of [~~department may impose~~] an administrative

1 penalty imposed for a violation of this subchapter or a rule adopted
2 or order issued [~~on a person who violates this subchapter or a rule~~
3 ~~adopted~~] under this subchapter [~~. The amount of the penalty~~] may
4 not exceed \$5,000 for each violation.

5 SECTION 8.222. Section 455.001, Occupations Code, is
6 amended by amending Subdivisions (1) and (2) and adding Subdivision
7 (1-a) to read as follows:

8 (1) "Commission" means the Texas Commission of
9 Licensing and Regulation.

10 (1-a) "Department" means the Texas Department of
11 Licensing and Regulation [~~State Health Services~~].

12 (2) "Executive director" [commissioner] means the
13 executive director [~~commissioner~~] of the department [~~Health and~~
14 ~~Human Services Commission~~].

15 SECTION 8.223. The heading to Subchapter B, Chapter 455,
16 Occupations Code, is amended to read as follows:

17 SUBCHAPTER B. POWERS AND DUTIES [~~OF EXECUTIVE COMMISSIONER~~]

18 SECTION 8.224. Section 455.053, Occupations Code, is
19 amended to read as follows:

20 Sec. 455.053. RULES REGARDING MASSAGE SCHOOLS. Rules
21 adopted under this chapter relating to a massage school must
22 contain minimum standards for:

23 (1) the issuance, denial, renewal, suspension,
24 revocation, or probation of a license under this chapter;

25 (2) the qualifications of professional personnel;

26 (3) the supervision of professional personnel;

27 (4) the equipment essential to the education, health,

1 and safety of students, massage school personnel, and the public;

2 (5) the sanitary and hygienic conditions of a massage
3 school;

4 (6) the provision of massage therapy or other massage
5 services by a massage school or student;

6 (7) the maximum number of hours a student may
7 accumulate in a massage school's internship program before the
8 student is required to be licensed under this chapter;

9 (8) the educational and clinical records kept by a
10 massage school;

11 (9) the organizational structure of a massage school,
12 including the lines of authority and the delegation of
13 responsibility;

14 (10) fire prevention and safety in a massage school;

15 (11) the massage school's curriculum and educational
16 material;

17 (12) massage school inspections; and

18 (13) any other aspect of the operation of a massage
19 school that the commission [~~executive commissioner~~] considers
20 necessary to protect students, massage school personnel, or the
21 public.

22 SECTION 8.225. The heading to Subchapter C, Chapter 455,
23 Occupations Code, is amended to read as follows:

24 SUBCHAPTER C. POWERS AND DUTIES [~~OF DEPARTMENT~~]

25 SECTION 8.226. Section [455.101](#), Occupations Code, is
26 amended to read as follows:

27 Sec. 455.101. GENERAL POWERS AND DUTIES [~~OF DEPARTMENT~~].

1 (a) The executive director [~~department~~] shall [~~+~~

2 [~~(1)~~] administer and enforce this chapter.

3 (b) The department shall:

4 (1) [~~+~~

5 [~~(2)~~] investigate a person who may be engaging in a
6 practice that violates this chapter;

7 (2) [~~(3)~~] regulate the number and content of school
8 hours provided by a massage school or a massage therapy instructor;
9 and

10 (3) [~~(4)~~] prepare and administer a state examination
11 under this chapter.

12 SECTION 8.227. Section 455.103(a), Occupations Code, is
13 amended to read as follows:

14 (a) The commission [~~department~~] may enter into a memorandum
15 of understanding with the Texas Education Agency to regulate
16 massage schools.

17 SECTION 8.228. Section 455.151(d), Occupations Code, is
18 amended to read as follows:

19 (d) The department may issue one or more types of licenses
20 not otherwise provided for by this chapter that authorize the
21 license holder to perform a service described by Subsection
22 (c). The commission [~~department~~] may adopt rules governing a
23 license issued under this subsection.

24 SECTION 8.229. Section 455.153, Occupations Code, is
25 amended to read as follows:

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

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

(2) include with the application the application fee set by the commission by rule ~~[department]~~.

SECTION 8.230. Section 455.1572(e), Occupations Code, is amended to read as follows:

(e) The commission by rule ~~[department]~~ may establish a fee for a provisional license in an amount reasonable and necessary to cover the cost of issuing the license.

SECTION 8.231. The heading to Section 455.160, Occupations Code, is amended to read as follows:

Sec. 455.160. LICENSE TERM AND RENEWAL.

SECTION 8.232. Section 455.160(a), Occupations Code, is amended to read as follows:

(a) A license issued ~~[person licensed]~~ under this chapter expires on the second anniversary of the date of issuance. A license holder must ~~[periodically]~~ renew the ~~[person's]~~ license biennially. ~~[The license expires unless the license holder submits an application for renewal accompanied by the renewal fee prescribed by the department or by the late fee prescribed by this section.]~~

SECTION 8.233. Sections 455.203(a) and (b), Occupations Code, are amended to read as follows:

(a) A massage school must meet the minimum standards of operation established by commission ~~[executive commissioner]~~ rule.

(b) An instructor must meet the minimum requirements established by commission ~~[executive commissioner]~~ rule.

SECTION 8.234. Section 455.251, Occupations Code, is amended to read as follows:

Sec. 455.251. GROUNDS FOR LICENSE DENIAL OR DISCIPLINARY ACTION. (a) The commission or executive director ~~[department]~~ may refuse to issue a license to a person and shall suspend, revoke, or refuse to renew the license of a person or shall reprimand a person licensed under this chapter if the person:

(1) obtains a license by fraud, misrepresentation, or concealment of material facts;

(2) sells, barter, or offers to sell or barter a license;

(3) violates a rule adopted by the commission ~~[executive commissioner]~~;

(4) engages in unprofessional conduct as defined by commission ~~[executive commissioner]~~ rule that endangers or is likely to endanger the health, welfare, or safety of the public;

(5) violates an order or ordinance adopted by a political subdivision under Chapter 243, Local Government Code; or

(6) violates this chapter.

(b) The commission or executive director ~~[department]~~ shall revoke the license of a person licensed as a massage therapist or massage therapy instructor if:

(1) the person is convicted of, enters a plea of nolo contendere or guilty to, or receives deferred adjudication for an offense involving prostitution or another sexual offense; or

(2) the commission or executive director ~~[department]~~ determines the person has practiced or administered massage therapy

at or for a sexually oriented business.

(c) The commission or executive director ~~[department]~~ shall revoke the license of a person licensed as a massage school or massage establishment if the commission or executive director ~~[department]~~ determines that:

(1) the school or establishment is a sexually oriented business; or

(2) an offense involving prostitution or another sexual offense that resulted in a conviction for the offense, a plea of nolo contendere or guilty to the offense, or a grant of deferred adjudication for the offense occurred on the premises of the school or establishment.

SECTION 8.235. The heading to Section 455.302, Occupations Code, is amended to read as follows:

Sec. 455.302. AMOUNT OF ADMINISTRATIVE PENALTY.

SECTION 8.236. Section 455.302(a), Occupations Code, is amended to read as follows:

(a) The amount of an administrative penalty imposed for a violation of this chapter or a rule adopted or order issued under this chapter may not exceed \$1,000 for each violation. Each day a violation continues or occurs is a separate violation for purposes of imposing a penalty.

SECTION 8.237. Section 1952.001, Occupations Code, is amended by adding Subdivisions (3-a) and (5) and amending Subdivision (4) to read as follows:

(3-a) "Commission" means the Texas Commission of Licensing and Regulation.

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

(5) "Executive director" means the executive director
of the department.

SECTION 8.238. The heading to Subchapter B, Chapter 1952,
Occupations Code, is amended to read as follows:

SUBCHAPTER B. ~~[BOARD]~~ POWERS AND DUTIES

SECTION 8.239. Section 1952.051, Occupations Code, is
amended to read as follows:

Sec. 1952.051. GENERAL POWERS AND DUTIES ~~[RULES]~~. (a) The
executive director shall administer and enforce this chapter.

(b) The commission ~~[board]~~ by rule shall ~~[+]~~
~~[(1)]~~ adopt standards and education requirements
consistent with those established under Chapter 654, Government
Code, for the registration of:

- (1) ~~[(A)]~~ code enforcement officers; and
- (2) ~~[(B)]~~ code enforcement officers in training ~~[+ and~~
~~[(2) prescribe application forms for original and~~
~~renewal certificates of registration]~~.

SECTION 8.240. Section 1952.053(b), Occupations Code, is
amended to read as follows:

- (b) The register must include:
- (1) the name, residence, date of birth, and social
security number of the applicant;
 - (2) the name and address of the employer or business of
the applicant;
 - (3) the date of the application;

(4) the education and experience qualifications of the applicant;

(5) the action taken by the department regarding the application and the date of the action;

(6) the serial number of any certificate of registration issued to the applicant; and

(7) any other information required by commission ~~[board]~~ rule.

SECTION 8.241. Subchapter B, Chapter 1952, Occupations Code, is amended by adding Section 1952.055 to read as follows:

Sec. 1952.055. ADVISORY COMMITTEE. The department may establish an advisory committee to provide advice and recommendations to the department on technical matters relevant to the administration of this chapter.

SECTION 8.242. Section 1952.102, Occupations Code, is amended to read as follows:

Sec. 1952.102. ELIGIBILITY TO REGISTER AS CODE ENFORCEMENT OFFICER. To be eligible to receive a certificate of registration as a code enforcement officer, a person must:

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

(2) have at least one year of full-time experience in the field of code enforcement;

(3) [~~(2)~~ pass the examination required ~~[conducted]~~ by the department ~~[or the department's designee];~~

(4) [~~(3)~~ pay the application, examination, and registration fees; and

1 (5) [~~4~~] meet any other requirements prescribed by
2 this chapter or by commission [~~board~~] rule.

3 SECTION 8.243. Section 1952.103(a), Occupations Code, is
4 amended to read as follows:

5 (a) An applicant for a certificate of registration under
6 this chapter who has less than one year of full-time experience in
7 code enforcement is entitled to receive a certificate of
8 registration as a code enforcement officer in training on:

9 (1) passing the examination described by Section
10 1952.102(3) [~~1952.102(2)~~]; [~~and~~]

11 (2) paying the required fees; and

12 (3) meeting any other requirement prescribed by this
13 chapter or by commission rule.

14 SECTION 8.244. The heading to Section 1952.105, Occupations
15 Code, is amended to read as follows:

16 Sec. 1952.105. TERM [~~RENEWAL OR REINSTATEMENT~~] OF
17 CERTIFICATE; RENEWAL.

18 SECTION 8.245. Section 1952.105(a), Occupations Code, is
19 amended to read as follows:

20 (a) A certificate of registration issued under this chapter
21 expires on the first anniversary of the date of issuance and may be
22 renewed annually on payment of the required renewal fee and on
23 completion of the annual continuing education requirements
24 prescribed by the commission by rule [~~board~~].

25 SECTION 8.246. Section 1952.1051, Occupations Code, is
26 amended to read as follows:

27 Sec. 1952.1051. CONTINUING EDUCATION. The commission

1 ~~[board]~~ by rule shall prescribe annual continuing education
2 requirements for code enforcement officers and code enforcement
3 officers in training that:

4 (1) establish the number of hours of continuing
5 education required for renewal of a certificate of registration;

6 (2) establish an approved curriculum that includes
7 material regarding changes in applicable law; and

8 (3) provide that the approved curriculum may be taught
9 by suitable public agencies and by private entities approved by the
10 department.

11 SECTION 8.247. Section 1952.151, Occupations Code, is
12 amended to read as follows:

13 Sec. 1952.151. DENIAL OF CERTIFICATE; DISCIPLINARY ACTION.

14 (a) The commission or executive director ~~[department]~~ may deny a
15 person's application for a certificate of registration if the
16 person's certificate or license to engage in code enforcement or a
17 related profession has been revoked by another licensing entity in
18 this state or another state for:

19 (1) unprofessional conduct;

20 (2) fraud, deceit, or negligence; or

21 (3) misconduct in the practice of code enforcement or
22 a related profession.

23 (b) The commission or executive director ~~[department]~~ shall
24 suspend or revoke a certificate of registration issued under this
25 chapter if the commission or executive director ~~[department]~~
26 determines that the certificate holder:

27 (1) engaged in fraud or deceit in obtaining a

1 certificate; or

2 (2) is grossly negligent, incompetent, or guilty of
3 misconduct in the practice of code enforcement.

4 SECTION 8.248. Section 1952.252(a), Occupations Code, is
5 amended to read as follows:

6 (a) 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 be less than \$50 or more than \$5,000 for
9 each violation. Each day a violation continues or occurs is a
10 separate violation for the purpose of imposing a penalty.

11 SECTION 8.249. Section 1953.001, Occupations Code, is
12 amended by amending Subdivision (1) and adding Subdivisions (1-a)
13 and (1-b) to read as follows:

14 (1) "Commission" ~~["Board"]~~ means the Texas Commission
15 of Licensing and Regulation ~~[Board of Health]~~.

16 (1-a) "Department" means the Texas Department of
17 Licensing and Regulation.

18 (1-b) "Executive director" means the executive
19 director of the department.

20 SECTION 8.250. Section 1953.003, Occupations Code, is
21 amended to read as follows:

22 Sec. 1953.003. EXEMPTIONS. This chapter does not apply to a
23 person, including a physician, dentist, engineer, or veterinarian,
24 who is licensed by an agency of this state other than the department
25 ~~[board]~~ and who, by nature of the person's employment or duties,
26 might be construed as being subject to this chapter.

27 SECTION 8.251. The heading to Subchapter B, Chapter 1953,

1 Occupations Code, is amended to read as follows:

2 SUBCHAPTER B. [~~BOARD~~] POWERS AND DUTIES

3 SECTION 8.252. Section 1953.051, Occupations Code, is
4 amended to read as follows:

5 Sec. 1953.051. GENERAL POWERS AND DUTIES [~~OF BOARD~~]. (a)

6 The executive director [~~board~~] shall [~~+~~

7 [~~(1) adopt rules to~~] administer and enforce this
8 chapter.

9 (b) The department shall:

10 (1) [~~+~~

11 [~~(2)~~] administer continuing education requirements;

12 and

13 (2) [~~(3)~~] prescribe necessary forms.

14 SECTION 8.253. Subchapter B, Chapter 1953, Occupations
15 Code, is amended by adding Section 1953.0511 to read as follows:

16 Sec. 1953.0511. ADVISORY COMMITTEE. The department may
17 establish an advisory committee to provide advice and
18 recommendations to the department on technical matters relevant to
19 the administration of this chapter.

20 SECTION 8.254. Section 1953.053, Occupations Code, is
21 amended to read as follows:

22 Sec. 1953.053. REGISTER OF APPLICATIONS. (a) The
23 department [~~board~~] shall keep a register of each application for a
24 certificate of registration under this chapter.

25 (b) The register must include:

26 (1) the name, age, and place of residence of the
27 applicant;

(2) the name and address of the employer or business connection of the applicant;

(3) the date of the application;

(4) complete information regarding the applicant's education and experience qualifications;

(5) the date the department [~~board~~] reviewed and acted on the application;

(6) a description of the department's [~~board's~~] action on the application;

(7) the serial number of any certificate of registration issued to the applicant; and

(8) any other information the department [~~board~~] determines necessary.

SECTION 8.255. Section 1953.102, Occupations Code, is amended to read as follows:

Sec. 1953.102. ELIGIBILITY REQUIREMENTS. (a) To be eligible to receive a certificate of registration as a professional sanitarian, a person must:

(1) hold at least a bachelor's degree from an accredited college or university that includes at least 30 semester hours in basic or applied science;

(2) complete any additional training in the basic sciences or public health the department [~~board~~] determines necessary to effectively serve as a professional sanitarian; and

(3) have at least two years of full-time experience in sanitation.

(b) The commission [~~board~~] by rule may establish other

1 qualifications for registration.

2 SECTION 8.256. Section 1953.104, Occupations Code, is
3 amended to read as follows:

4 Sec. 1953.104. ISSUANCE OF CERTIFICATE: PROFESSIONAL
5 SANITARIAN. The department ~~[board]~~ shall issue a certificate of
6 registration as a professional sanitarian to a person who:

7 (1) applies in the manner and on the form prescribed by
8 the executive director ~~[board]~~;

9 (2) pays the registration fee set by the commission by
10 rule ~~[board]~~;

11 (3) meets the eligibility requirements prescribed by
12 Section 1953.102; and

13 (4) passes an examination under Subchapter D.

14 SECTION 8.257. Section 1953.105(a), Occupations Code, is
15 amended to read as follows:

16 (a) The department ~~[On approval by the board, the board]~~
17 shall issue a certificate of registration as a sanitarian in
18 training to a person who:

19 (1) is employed in sanitation;

20 (2) meets the eligibility requirements prescribed by
21 Section 1953.102, other than the requirements relating to
22 experience;

23 (3) pays a registration fee prescribed by the
24 commission by rule ~~[board]~~ for a sanitarian in training; and

25 (4) passes an examination under Subchapter D.

26 SECTION 8.258. The heading to Section 1953.106, Occupations
27 Code, is amended to read as follows:

1 Sec. 1953.106. RENEWAL [~~OR REINSTATEMENT~~] OF CERTIFICATE.

2 SECTION 8.259. Section 1953.106(a), Occupations Code, is
3 amended to read as follows:

4 (a) To renew a certificate of registration under this
5 chapter, a professional sanitarian must:

6 (1) pay [~~to~~] the [~~board-a~~] renewal fee prescribed by
7 the commission by rule [~~board~~]; and

8 (2) provide proof of completion of continuing
9 education requirements [~~contact hours as~~] prescribed by the
10 commission by rule [~~board~~].

11 SECTION 8.260. Section 1953.151, Occupations Code, is
12 amended to read as follows:

13 Sec. 1953.151. EXAMINATION. (a) To obtain a certificate of
14 registration under this chapter, an applicant must pass a written
15 examination prescribed by the department [~~board~~] that provides
16 evidence satisfactory to the department [~~board~~] that the applicant
17 is qualified for registration under this chapter.

18 (b) An applicant for a certificate of registration may not
19 take the examination unless the applicant pays the required
20 examination fee [~~prescribed by the board~~].

21 (c) In evaluating an applicant's performance on the
22 examination, the department [~~board~~] shall carefully consider the
23 applicant's knowledge and understanding of the principles of
24 sanitation and the physical, biological, and social sciences.

25 SECTION 8.261. Section 1953.201, Occupations Code, is
26 amended to read as follows:

27 Sec. 1953.201. DENIAL OF CERTIFICATE; DISCIPLINARY ACTION.

1 (a) The commission or executive director [~~board~~] may deny a
2 person's application for a certificate of registration if:

3 (1) the person's certificate or license to engage in a
4 profession in this state or elsewhere has been revoked for
5 unprofessional conduct, fraud, deceit, negligence, or misconduct
6 in the practice of the profession; or

7 (2) satisfactory proof is presented to the commission
8 or executive director [~~board~~] establishing that the person has been
9 found guilty of unprofessional conduct, fraud, deceit, negligence,
10 or misconduct in the practice of a profession.

11 (b) The commission or executive director [~~board~~] may
12 suspend or revoke a certificate of registration if the certificate
13 holder:

14 (1) practiced fraud or deceit in obtaining the
15 certificate; or

16 (2) acted in a manner constituting gross negligence,
17 incompetency, or misconduct in the practice of sanitation.

18 SECTION 8.262. Section [1953.302](#)(a), Occupations Code, is
19 amended to read as follows:

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

25 SECTION 8.263. Section [1958.001](#), Occupations Code, is
26 amended by amending Subdivisions (2) and (3) and adding Subdivision
27 (3-a) to read as follows:

1 (2) "Commission" [~~"Commissioner"~~] means the Texas
2 Commission of Licensing and Regulation [~~commissioner of public~~
3 ~~health~~].

4 (3) "Department" means the Texas Department of
5 Licensing and Regulation [~~Health~~].

6 (3-a) "Executive director" means the executive
7 director of the department.

8 SECTION 8.264. Section 1958.051, Occupations Code, is
9 amended to read as follows:

10 Sec. 1958.051. GENERAL POWERS AND DUTIES [~~OF DEPARTMENT,~~
11 ~~SCOPE OF AUTHORITY~~]. The executive director [~~department~~] shall
12 administer and enforce this chapter to protect the public from the
13 adverse health effects of mold.

14 SECTION 8.265. Section 1958.054, Occupations Code, is
15 amended to read as follows:

16 Sec. 1958.054. RULES REGARDING PERFORMANCE STANDARDS AND
17 WORK PRACTICES. The commission [~~board~~] by rule shall establish
18 minimum performance standards and work practices for conducting a
19 mold assessment or mold remediation in this state.

20 SECTION 8.266. Section 1958.055(b), Occupations Code, is
21 amended to read as follows:

22 (b) A fee set by the commission for purposes of this chapter
23 [~~under this section~~] may not exceed:

- 24 (1) \$400 for a license issued to an individual;
25 (2) \$750 for a license issued to a person who is not an
26 individual; and
27 (3) \$60 for a registration issued to an employee of a

1 license holder.

2 SECTION 8.267. Section 1958.056(b), Occupations Code, is
3 amended to read as follows:

4 (b) The commission [~~board~~] shall adopt rules regarding
5 compliance investigations.

6 SECTION 8.268. Section 1958.058, Occupations Code, is
7 amended to read as follows:

8 Sec. 1958.058. SAFETY STANDARDS. The commission by rule
9 [~~board~~] may develop and establish mold safety standards for license
10 holders if appropriate scientific information exists regarding the
11 effect of mold.

12 SECTION 8.269. Section 1958.059, Occupations Code, is
13 amended to read as follows:

14 Sec. 1958.059. CODE OF ETHICS. The commission [~~board~~] by
15 rule shall adopt a code of ethics for license holders that promotes
16 the education of mold assessors and mold remediators concerning the
17 ethical, legal, and business principles that should govern their
18 conduct.

19 SECTION 8.270. Section 1958.101(b), Occupations Code, is
20 amended to read as follows:

21 (b) The commission [~~board~~] shall adopt rules regarding:

22 (1) the scope of mold-related work for which a license
23 is required, including the supervision of employees or other
24 persons by license holders; and

25 (2) renewal requirements for a license issued under
26 this chapter.

27 SECTION 8.271. Section 1958.103, Occupations Code, is

1 amended to read as follows:

2 Sec. 1958.103. REGISTRATION REQUIREMENTS FOR EMPLOYEES.

3 The commission [~~board~~] may adopt rules to require the registration
4 of employees supervised by license holders.

5 SECTION 8.272. Section 1958.104, Occupations Code, is
6 amended to read as follows:

7 Sec. 1958.104. RULES REGARDING LICENSE APPLICATION. The
8 commission [~~board~~] shall adopt rules regarding a license
9 application. The commission [~~board~~] shall adopt rules that
10 establish minimum requirements for a license, including:

- 11 (1) the type of license;
- 12 (2) the term of the license;
- 13 (3) the qualifications for the license, including any
14 previous training required under Section 1958.106;
- 15 (4) renewal requirements for the license, including
16 ongoing continuing education required under Section 1958.106; and
- 17 (5) liability insurance requirements for the license.

18 SECTION 8.273. Section 1958.106(a), Occupations Code, is
19 amended to read as follows:

20 (a) The commission [~~board~~] shall adopt rules regarding
21 training required under this chapter and continuing education
22 required for a license holder under this chapter.

23 SECTION 8.274. Section 1958.153(c), Occupations Code, is
24 amended to read as follows:

25 (c) The commission [~~board~~] shall adopt rules to implement
26 this section, including rules:

- 27 (1) describing the information that must be provided

1 in the notice; and

2 (2) authorizing verbal notification to the department
3 in an emergency.

4 SECTION 8.275. Section 1958.154(c), Occupations Code, is
5 amended to read as follows:

6 (c) The commission [~~board~~] shall adopt rules to implement
7 this section, other than rules described by Subsection (d).

8 SECTION 8.276. Section 1958.155(c), Occupations Code, is
9 amended to read as follows:

10 (c) A license holder who is not an individual shall disclose
11 to the department the name, address, and occupation of each person
12 that has an ownership interest in the license holder. The license
13 holder shall report any changes in ownership to the department. The
14 commission [~~board~~] shall adopt rules to implement this section,
15 including rules regarding the form of the disclosure and the time
16 required to make disclosures or to report a change in ownership.

17 SECTION 8.277. Section 1958.201, Occupations Code, is
18 amended to read as follows:

19 Sec. 1958.201. DISCIPLINARY ACTION. If a license holder
20 violates this chapter or an order or rule adopted under this
21 chapter, the commission or executive director [~~department~~], after
22 providing the person with notice and an opportunity for a hearing,
23 shall take one or more of the following actions:

- 24 (1) revoke, suspend, or refuse to renew the license;
25 (2) impose an administrative penalty;
26 (3) bring an action to collect a civil penalty; or
27 (4) reprimand the person.

SECTION 8.278. Section 1958.252, Occupations Code, is amended to read as follows:

Sec. 1958.252. AMOUNT OF PENALTY. (a) The amount of an administrative penalty imposed for a violation of this chapter or a rule adopted or order issued under this chapter may not exceed \$5,000 for each violation. Each day a violation continues under Section 1958.101 or 1958.155 may be considered a separate violation for purposes of imposing a penalty.

(b) The amount shall be based on ~~[In determining the amount of the penalty, the commissioner shall consider]~~:

(1) whether the violation was committed knowingly, intentionally, or fraudulently;

(2) the seriousness of the violation;

(3) any hazard created to the health and safety of the public;

(4) the person's history of previous violations; and

(5) any other matter that justice may require.

SECTION 8.279. Section 1958.253(a), Occupations Code, is amended to read as follows:

(a) The commission or executive director ~~[commissioner]~~ may choose not to impose an administrative penalty under this subchapter if, not later than the 10th day after the date of written notice of the violation ~~[under Section 1958.254]~~, the person provides conclusive evidence that the circumstances giving rise to the violation have been corrected and all actual damages are paid.

SECTION 8.280. Section 1958.301(b), Occupations Code, is amended to read as follows:

1 (b) The department [~~commissioner~~] may request the attorney
2 general or the district, county, or city attorney having
3 jurisdiction to bring an action to collect a civil penalty under
4 this section.

5 SECTION 8.281. Section 521.374(a), Transportation Code, is
6 amended to read as follows:

7 (a) A person whose license is suspended under Section
8 521.372 may attend an educational program, approved by the
9 Department of State Health Services [~~Texas Commission on Alcohol~~
10 ~~and Drug Abuse~~] under rules adopted by the Department of State
11 Health Services [~~commission~~] and the department, that is designed
12 to educate persons on the dangers of drug abuse.

13 SECTION 8.282. Section 521.375, Transportation Code, is
14 amended to read as follows:

15 Sec. 521.375. JOINT ADOPTION OF RULES. (a) The Texas
16 Commission of Licensing and Regulation [~~on Alcohol and Drug Abuse~~]
17 and the department shall jointly adopt rules for the qualification
18 and approval of providers of educational programs under Section
19 521.374.

20 (b) The Texas Department of Licensing and Regulation
21 [~~Commission on Alcohol and Drug Abuse~~] shall publish the jointly
22 adopted rules.

23 SECTION 8.283. Section 521.376, Transportation Code, is
24 amended to read as follows:

25 Sec. 521.376. DUTIES OF TEXAS DEPARTMENT OF LICENSING AND
26 REGULATION [~~COMMISSION ON ALCOHOL AND DRUG ABUSE~~]; APPLICATION AND
27 RENEWAL FEES. The Texas Department of Licensing and Regulation

~~[Commission on Alcohol and Drug Abuse]:~~

(1) shall monitor, coordinate, and provide training to persons who provide educational programs under Section 521.374;

(2) shall administer the approval of those educational programs; and

(3) may charge a nonrefundable application fee for:

(A) initial certification of approval; and

(B) renewal of the certification.

SECTION 8.284. The following provisions of the Health and Safety Code are repealed:

(1) Section 401.509;

(2) Section 401.511;

(3) Sections 401.512(b) and (c); and

(4) Sections 401.522(b) and (c).

SECTION 8.285. The following provisions of the Occupations Code are repealed:

(1) Section 455.051;

(2) Section 455.056;

(3) Section 455.057;

(4) Section 455.1565;

(5) Section 455.1571;

(6) Sections 455.160(b), (c), (d), (e), (f), and (g);

(7) Section 455.161;

(8) Section 455.252;

(9) Section 455.253;

(10) Section 455.254;

(11) Section 455.301;

- 1 (12) Section [455.303](#);
- 2 (13) Section [455.304](#);
- 3 (14) Section [455.305](#);
- 4 (15) Section [455.306](#);
- 5 (16) Section [455.307](#);
- 6 (17) Section [455.308](#);
- 7 (18) Section [455.309](#);
- 8 (19) Section [455.310](#);
- 9 (20) Section [455.311](#);
- 10 (21) Section [1952.001](#)(1);
- 11 (22) Section [1952.052](#);
- 12 (23) Section [1952.054](#);
- 13 (24) Section [1952.105](#)(b);
- 14 (25) Section [1952.152](#);
- 15 (26) Section [1952.251](#);
- 16 (27) Section [1952.253](#);
- 17 (28) Section [1952.254](#);
- 18 (29) Section [1952.255](#);
- 19 (30) Section [1952.256](#);
- 20 (31) Section [1952.257](#);
- 21 (32) Section [1952.258](#);
- 22 (33) Section [1952.259](#);
- 23 (34) Section [1952.260](#);
- 24 (35) Section [1952.261](#);
- 25 (36) Section [1953.052](#);
- 26 (37) Section [1953.054](#);
- 27 (38) Section [1953.055](#);

- 1 (39) Section 1953.103;
- 2 (40) Section 1953.106(b);
- 3 (41) Section 1953.152;
- 4 (42) Section 1953.202;
- 5 (43) Section 1953.301;
- 6 (44) Section 1953.303;
- 7 (45) Section 1953.304;
- 8 (46) Section 1953.305;
- 9 (47) Section 1953.306;
- 10 (48) Section 1953.307;
- 11 (49) Section 1953.308;
- 12 (50) Section 1953.309;
- 13 (51) Section 1953.310;
- 14 (52) Section 1953.311;
- 15 (53) Section 1958.001(1);
- 16 (54) Section 1958.053;
- 17 (55) Section 1958.055(a);
- 18 (56) Section 1958.057;
- 19 (57) Section 1958.107;
- 20 (58) Section 1958.251;
- 21 (59) Section 1958.254;
- 22 (60) Section 1958.255;
- 23 (61) Section 1958.256;
- 24 (62) Section 1958.257;
- 25 (63) Section 1958.258; and
- 26 (64) Section 1958.302.

PART 3. TRANSITION PROVISIONS

SECTION 8.286. (a) A rule or fee of the Department of State Health Services that relates to a program transferred under this article and that is in effect on the effective date of the transfer remains in effect until changed by the Texas Commission of Licensing and Regulation.

(b) A license, permit, certificate of registration, or other authorization issued by the Department of State Health Services for a program transferred under this article is continued in effect as a license, permit, certificate, or other authorization of the Texas Department of Licensing and Regulation after the effective date of the transfer.

(c) A complaint, investigation, contested case, or other proceeding before the Department of State Health Services relating to a program transferred under this article that is pending on the effective date of the transfer is transferred without change in status to the Texas Commission of Licensing and Regulation or Texas Department of Licensing and Regulation, as appropriate.

SECTION 8.287. (a) As soon as practicable after the effective date of a transfer under this article, the Department of State Health Services and the Texas Department of Licensing and Regulation shall adopt a transition plan to provide for the orderly transfer of powers, duties, functions, programs, and activities under this article. The transition plan must provide for the transfer to be completed:

(1) not later than August 31, 2017, for a program transferred under Part 1 of this article; or

1 (2) not later than August 31, 2019, for a program
2 transferred under Part 2 of this article.

3 (b) The Department of State Health Services shall provide
4 the Texas Department of Licensing and Regulation with access to any
5 systems or information necessary for the Texas Department of
6 Licensing and Regulation to accept a program transferred under this
7 article.

8 (c) 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, if applicable, the existing board associated with the
12 program is abolished and the Texas Department of Licensing and
13 Regulation shall, as soon as practicable after that date, appoint
14 the advisory board for the program.

15 (d) Not later than August 31, 2017, the Texas Department of
16 Licensing and Regulation shall create a health professions division
17 to oversee programs transferred under this article and to ensure
18 the department develops the necessary health-related expertise.

19 ARTICLE 9. REGULATORY PROGRAMS TRANSFERRED TO THE TEXAS MEDICAL
20 BOARD

21 SECTION 9.001. Section 151.004, Occupations Code, is
22 amended to read as follows:

23 Sec. 151.004. APPLICATION OF SUNSET ACT. The Texas Medical
24 Board is subject to Chapter 325, Government Code (Texas Sunset
25 Act). Unless continued in existence as provided by that chapter,
26 the board is abolished and this subtitle and Chapters 204, 205,
27 ~~and~~ 206, 601, 602, 603, and 604 expire September 1, 2017.

SECTION 9.002. Section 601.002, Occupations Code, is amended by amending Subdivisions (1) and (5) and adding Subdivisions (1-a), (5-a), and (5-b) to read as follows:

(1) "Advisory board" means the Texas Board of Medical Radiologic Technology.

(1-a) "Authorized person" means a person who meets or exceeds the minimum educational standards of the advisory board under Section 601.201.

(5) "Education program" means clinical training or any other program offered by an organization approved by the advisory board that:

(A) has a specified objective;

(B) includes planned activities for participants; and

(C) uses an approved method for measuring the progress of participants.

(5-a) "Hospital" has the meaning assigned by Section 157.051.

(5-b) "Medical board" means the Texas Medical Board.

SECTION 9.003. Chapter 601, Occupations Code, is amended by adding Subchapter A-1 to read as follows:

SUBCHAPTER A-1. TEXAS BOARD OF MEDICAL RADIOLOGIC TECHNOLOGY

Sec. 601.021. TEXAS BOARD OF MEDICAL RADIOLOGIC TECHNOLOGY.

The Texas Board of Medical Radiologic Technology is an advisory board to the Texas Medical Board.

Sec. 601.022. APPOINTMENT OF ADVISORY BOARD. (a) The advisory board consists of nine members appointed by the governor

with the advice and consent of the senate as follows:

(1) four medical radiologic technologists who each have at least five years of experience as a medical radiologic technologist;

(2) two physicians licensed in this state who supervise medical radiologic technologists; and

(3) three members who represent the public.

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

Sec. 601.023. MEMBERSHIP ELIGIBILITY AND RESTRICTIONS. (a) In this section, "Texas trade association" means a cooperative and voluntarily joined statewide association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(b) A person may not be a public member of the advisory board if the person or the person's spouse:

(1) is registered, certified, or licensed by a regulatory agency in a health care profession;

(2) is employed by or participates in the management of a business entity or other organization regulated by or receiving money from the medical board or advisory board;

(3) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by or receiving money from the medical board

1 or advisory board; or

2 (4) uses or receives a substantial amount of tangible
3 goods, services, or money from the medical board or advisory board
4 other than compensation or reimbursement authorized by law for
5 advisory board membership, attendance, or expenses.

6 (c) A person may not be a member of the advisory board 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 (d) A person may not be a member of the advisory board or act
13 as the general counsel to the advisory board if the person is
14 required to register as a lobbyist under Chapter 305, Government
15 Code, because of the person's activities for compensation on behalf
16 of a profession related to the operation of the medical board or
17 advisory board.

18 Sec. 601.024. TERMS; VACANCIES. (a) Members of the
19 advisory board are appointed for staggered six-year terms. The
20 terms of three members expire on February 1 of each odd-numbered
21 year.

22 (b) A member may not serve more than:

23 (1) two consecutive full terms; or

24 (2) a total of three full terms.

25 (c) If a vacancy occurs during a member's term, the governor
26 shall appoint a new member to fill the unexpired term.

27 Sec. 601.025. OFFICERS. The governor shall designate a

1 member of the advisory board as the presiding officer of the
2 advisory board to serve in that capacity at the will of the
3 governor. The advisory board shall select from its membership an
4 assistant presiding officer and other officers as the advisory
5 board considers necessary to carry out the advisory board's duties.

6 Sec. 601.026. GROUNDS FOR REMOVAL. (a) It is a ground for
7 removal from the advisory board that a member:

8 (1) does not have at the time of taking office the
9 qualifications required by Sections 601.022 and 601.023;

10 (2) does not maintain during service on the advisory
11 board the qualifications required by Sections 601.022 and 601.023;

12 (3) is ineligible for membership under Section
13 601.023;

14 (4) cannot, because of illness or disability,
15 discharge the member's duties for a substantial part of the member's
16 term; or

17 (5) is absent from more than half of the regularly
18 scheduled advisory board meetings that the member is eligible to
19 attend during a calendar year without an excuse approved by a
20 majority vote of the advisory board.

21 (b) The validity of an action of the advisory board is not
22 affected by the fact that it is taken when a ground for removal of an
23 advisory board member exists.

24 (c) If the executive director of the medical board has
25 knowledge that a potential ground for removal exists, the executive
26 director shall notify the presiding officer of the advisory board
27 of the potential ground. The presiding officer shall then notify

1 the governor and the attorney general that a potential ground for
2 removal exists. If the potential ground for removal involves the
3 presiding officer, the executive director shall notify the next
4 highest ranking officer of the advisory board, who shall then
5 notify the governor and the attorney general that a potential
6 ground for removal exists.

7 Sec. 601.027. PER DIEM. A member of the advisory board is
8 entitled to receive a per diem as set by legislative appropriation
9 for each day that the member engages in the business of the advisory
10 board.

11 Sec. 601.028. APPLICATION OF OPEN MEETINGS, OPEN RECORDS,
12 AND ADMINISTRATIVE PROCEDURE LAWS. Except as otherwise provided
13 by this chapter, the advisory board is subject to Chapters 551, 552,
14 and 2001, Government Code.

15 Sec. 601.029. MEETINGS; QUORUM REQUIREMENTS. (a) The
16 advisory board shall conduct regular meetings at least three times
17 a year at the times and places the advisory board considers most
18 convenient for applicants and advisory board members.

19 (b) The advisory board may hold special meetings in
20 accordance with rules adopted by the advisory board and approved by
21 the medical board.

22 (c) A majority of the advisory board members constitutes a
23 quorum for all purposes except for an advisory board activity
24 related to examining the credentials of applicants, acting as a
25 panel for disciplinary action under Section 601.306, or conducting
26 an informal meeting under Section 601.311.

27 Sec. 601.030. TRAINING. (a) A person who is appointed to

1 and qualifies for office as a member of the advisory board may not
2 vote, deliberate, or be counted as a member in attendance at a
3 meeting of the advisory board until the person completes a training
4 program that complies with this section.

5 (b) The training program must provide the person with
6 information regarding:

7 (1) this chapter and the advisory board's programs,
8 functions, rules, and budget;

9 (2) the results of the most recent formal audit of the
10 advisory board;

11 (3) the requirements of laws relating to open
12 meetings, public information, administrative procedure, and
13 conflicts of interest; and

14 (4) any applicable ethics policies adopted by the
15 advisory board or the Texas Ethics Commission.

16 (c) A person appointed to the advisory board is entitled to
17 reimbursement, as provided by the General Appropriations Act, for
18 the travel expenses incurred in attending the training program
19 regardless of whether the attendance at the program occurs before
20 or after the person qualifies for office.

21 SECTION 9.004. The heading to Subchapter B, Chapter 601,
22 Occupations Code, is amended to read as follows:

23 SUBCHAPTER B. POWERS AND DUTIES OF ADVISORY BOARD AND MEDICAL BOARD

24 [~~DEPARTMENT~~]

25 SECTION 9.005. Section 601.052, Occupations Code, is
26 amended to read as follows:

27 Sec. 601.052. GENERAL POWERS AND DUTIES OF ADVISORY

1 BOARD [RULES]. The advisory board shall:

2 (1) [may] adopt rules that are reasonable and
3 necessary for the performance of the advisory board's duties under
4 [to—implement] this chapter, as provided by Chapter 2001,
5 Government Code, including rules to establish:

6 (A) the certification program required by
7 Subchapter C, including minimum standards for issuing, renewing,
8 suspending, or revoking a certificate;

9 (B) certification renewal dates;

10 (C) the registry required by Subchapter E;

11 (D) procedures for disciplinary actions;

12 (E) minimum standards for approving and
13 rescinding approval of curricula and education programs to train
14 individuals, registered nurses, and physician assistants to
15 perform radiologic procedures; and

16 (F) minimum standards for approving and
17 rescinding approval of instructors to teach approved curricula or
18 education programs to train individuals to perform radiologic
19 procedures;

20 (2) review and approve or reject each application for
21 the issuance or renewal of a certificate;

22 (3) issue each certificate;

23 (4) deny, suspend, or revoke a certificate or
24 otherwise discipline a certificate holder; and

25 (5) take any action necessary to carry out the
26 functions and duties of the advisory board under this chapter.

27 SECTION 9.006. Subchapter B, Chapter 601, Occupations Code,

is amended by adding Sections 601.0521 and 601.0522 to read as follows:

Sec. 601.0521. GUIDELINES FOR EARLY INVOLVEMENT IN RULEMAKING PROCESS. (a) The advisory board shall adopt guidelines to establish procedures for receiving input during the rulemaking process from individuals and groups that have an interest in matters under the advisory board's jurisdiction. The guidelines must provide an opportunity for those individuals and groups to provide input before the advisory board submits the rule to the medical board for approval.

(b) A rule adopted under this chapter may not be challenged on the grounds that the advisory board did not comply with this section. If the advisory board was unable to solicit a significant amount of input from the public or affected persons early in the rulemaking process, the advisory board shall state in writing the reasons why it was unable to do so.

Sec. 601.0522. POWERS AND DUTIES OF MEDICAL BOARD RELATING TO RADIOLOGIC PROCEDURES. (a) The medical board shall adopt rules consistent with this chapter to regulate individuals who:

(1) perform radiologic procedures; and
(2) are licensed by the medical board and supervise an individual who performs radiologic procedures.

(b) The medical board, by a majority vote, shall approve or reject each rule adopted by the advisory board. If approved, the rule may take effect. If the rule is rejected, the medical board shall return the rule to the advisory board for revision.

SECTION 9.007. Section [601.054](#), Occupations Code, is

1 amended to read as follows:

2 Sec. 601.054. APPROVAL AND REVIEW OF CURRICULA AND TRAINING
3 PROGRAMS. (a) An applicant for approval of a curriculum or
4 training program must apply to the advisory board [~~department~~] on a
5 form and under rules adopted by the advisory board.

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 may set a fee for approval of a
11 curriculum or training program not to exceed the estimated amount
12 that the advisory board [~~department~~] projects to be required for
13 the evaluation of the curriculum or training program.

14 SECTION 9.008. Section 601.055, Occupations Code, is
15 amended to read as follows:

16 Sec. 601.055. APPROVAL AND REVIEW OF INSTRUCTOR APPROVAL.

17 (a) An applicant for approval of an instructor must apply to the
18 advisory board [~~department~~] on a form and under rules adopted by the
19 advisory board.

20 (b) The advisory board [~~department~~] shall approve an
21 instructor who meets the minimum standards adopted under Section
22 601.052 [~~601.053~~]. The advisory board [~~department~~] may review the
23 approval annually.

24 SECTION 9.009. Sections 601.056(a) and (b), Occupations
25 Code, are amended to read as follows:

26 (a) The advisory board with the assistance of other
27 appropriate state agencies shall identify by rule radiologic

1 procedures, other than radiologic procedures described by
2 Subsection (c), that are dangerous or hazardous and that may be
3 performed only by a practitioner or a medical radiologic
4 technologist certified under this chapter.

5 (b) In adopting rules under Subsection (a), the advisory
6 board may consider whether the radiologic procedure will be
7 performed by a registered nurse or a licensed physician assistant.

8 SECTION 9.010. Section 601.057, Occupations Code, is
9 amended to read as follows:

10 Sec. 601.057. FEES. The advisory board by rule may set fees
11 for examination, certificate issuance, registration of a person
12 under Section 601.202, and application processing under Section
13 601.203 in amounts that are reasonable to cover the costs of
14 administering this chapter without the use of additional general
15 revenue.

16 SECTION 9.011. Subchapter B, Chapter 601, Occupations Code,
17 is amended by adding Sections 601.0571 and 601.0572 to read as
18 follows:

19 Sec. 601.0571. FEE REFUND ON CANCELLATION. The advisory
20 board may adopt rules relating to the refund of a fee for the
21 issuance or renewal of a certificate after the cancellation of a
22 certificate.

23 Sec. 601.0572. RULES ON CONSEQUENCES OF CRIMINAL
24 CONVICTION. The advisory board shall adopt rules and guidelines as
25 necessary to comply with Chapter 53, except to the extent the
26 requirements of this chapter are stricter than the requirements of
27 Chapter 53.

SECTION 9.012. Section 601.058, Occupations Code, is amended to read as follows:

Sec. 601.058. RULES RESTRICTING ADVERTISING OR COMPETITIVE BIDDING. (a) The advisory board may not adopt rules restricting advertising or competitive bidding by a medical radiologic technologist except to prohibit false, misleading, or deceptive practices.

(b) In its rules to prohibit false, misleading, or deceptive practices, the advisory board may not include a rule that:

- (1) restricts the use of any medium for advertising;
- (2) restricts the use of a medical radiologic technologist's personal appearance or voice in an advertisement;
- (3) relates to the size or duration of an advertisement by the medical radiologic technologist; or
- (4) restricts the medical radiologic technologist's advertisement under a trade name.

SECTION 9.013. Subchapter B, Chapter 601, Occupations Code, is amended by adding Sections 601.059 and 601.060 to read as follows:

Sec. 601.059. ASSISTANCE BY MEDICAL BOARD; DIVISION OF RESPONSIBILITIES. (a) The medical board shall provide administrative and clerical employees as necessary to enable the advisory board to administer this chapter.

(b) Subject to the advice and approval of the medical board, the advisory board shall develop and implement policies that clearly separate the policy-making responsibilities of the advisory board and the management responsibilities of the executive

director and staff of the medical board.

Sec. 601.060. PUBLIC PARTICIPATION. Subject to the advice and approval of the medical board, the advisory board shall develop and implement policies that provide the public with a reasonable opportunity to appear before the advisory board and to speak on any issue under the jurisdiction of the advisory board.

SECTION 9.014. Section 601.102, Occupations Code, is amended to read as follows:

Sec. 601.102. CLASSES OF CERTIFICATES. (a) The advisory board shall establish classes of certificates to include all radiologic procedures used in the course and scope of the practice of practitioners licensed in this state.

(b) The advisory board may issue to a person:

(1) a general certificate to perform radiologic procedures; or

(2) a limited certificate that authorizes the person to perform radiologic procedures only on specific parts of the human body.

(c) The advisory board may issue to a person a temporary general certificate or a temporary limited certificate that authorizes the person to perform radiologic procedures for a period not to exceed one year.

SECTION 9.015. Subchapter C, Chapter 601, Occupations Code, is amended by adding Section 601.1031 to read as follows:

Sec. 601.1031. CRIMINAL HISTORY RECORD INFORMATION REQUIREMENT FOR REGISTRATION. (a) The advisory board shall require that an applicant for a certificate submit a complete and

1 legible set of fingerprints, on a form prescribed by the advisory
2 board, to the advisory board or to the Department of Public Safety
3 for the purpose of obtaining criminal history record information
4 from the Department of Public Safety and the Federal Bureau of
5 Investigation.

6 (b) The advisory board may not issue a certificate to a
7 person who does not comply with the requirement of Subsection (a).

8 (c) The advisory board shall conduct a criminal history
9 check of each applicant for a certificate using information:

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

11 (2) made available to the advisory board by the
12 Department of Public Safety, the Federal Bureau of Investigation,
13 and any other criminal justice agency under Chapter 411, Government
14 Code.

15 (d) The advisory board may:

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

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

22 SECTION 9.016. Section 601.104, Occupations Code, is
23 amended to read as follows:

24 Sec. 601.104. EXAMINATION. (a) The advisory board may
25 prepare and conduct an examination for applicants for a
26 certificate.

27 (b) An applicant for a certificate must pass a jurisprudence

1 examination approved by the advisory board.

2 SECTION 9.017. Section 601.1041, Occupations Code, is
3 amended to read as follows:

4 Sec. 601.1041. NOTIFICATION OF EXAMINATION RESULTS. (a)
5 Not later than the 30th day after the date a person takes an
6 examination for a certificate under this chapter, the advisory
7 board [~~department~~] shall notify the person of the results of the
8 examination.

9 (b) If the examination is graded or reviewed by a testing
10 service, the advisory board [~~department~~] shall notify the person of
11 the results of the examination not later than the 14th day after the
12 date the advisory board [~~department~~] receives the results from the
13 testing service. If notice of the examination results will be
14 delayed for longer than 90 days after the examination date, the
15 advisory board [~~department~~] shall notify the person of the reason
16 for the delay before the 90th day.

17 (c) The advisory board [~~department~~] may require a testing
18 service to notify a person of the results of the person's
19 examination.

20 (d) If requested in writing by a person who fails an
21 examination for a certificate administered under this chapter, the
22 advisory board [~~department~~] shall furnish the person with an
23 analysis of the person's performance on the examination.

24 SECTION 9.018. Section 601.105, Occupations Code, is
25 amended to read as follows:

26 Sec. 601.105. ISSUANCE OF CERTIFICATE; TERM. (a) The
27 advisory board [~~department~~] shall issue a certificate to an

1 applicant who:

2 (1) meets the minimum standards for certification
3 established under Section 601.052;

4 (2) passes the required examinations;

5 (3) complies with the criminal history record
6 information requirement of Section 601.1031;

7 (4) submits an application on a form prescribed by the
8 advisory board;

9 (5) pays the required application fee;

10 (6) certifies that the applicant is mentally and
11 physically able to perform radiologic procedures; and

12 (7) submits to the advisory board any other
13 information the advisory board considers necessary to evaluate the
14 applicant's qualifications [601.053].

15 (b) A certificate is valid for two years from the date of
16 issuance [~~a period established by the board~~].

17 (c) The advisory board may delegate authority to medical
18 board employees to issue certificates under this chapter to
19 applicants who clearly meet all certification requirements. If the
20 medical board employees determine that the applicant does not
21 clearly meet all certification requirements, the application must
22 be returned to the advisory board. A certificate issued under this
23 subsection does not require formal advisory board approval.

24 SECTION 9.019. Section 601.107, Occupations Code, is
25 amended to read as follows:

26 Sec. 601.107. CERTIFICATION BY ENDORSEMENT. In adopting
27 minimum standards for certifying medical radiologic technologists,

1 the advisory board may establish criteria for issuing a certificate
2 to a person licensed or otherwise registered as a medical
3 radiologic technologist by the American Registry of Radiologic
4 Technologists, the American Registry of Clinical Radiography
5 Technologists, or another state whose requirements for licensure or
6 registration were on the date of licensing or registration
7 substantially equal to the requirements of this chapter.

8 SECTION 9.020. Section 601.108, Occupations Code, is
9 amended to read as follows:

10 Sec. 601.108. CONTINUING EDUCATION AND OTHER GUIDELINES.

11 (a) The advisory board may establish guidelines.

12 (b) The advisory board shall prepare, recognize, or
13 administer continuing education programs for medical radiologic
14 technologists in which participation is required, to the extent
15 required by the advisory board, to keep the person's certificate.

16 SECTION 9.021. Section 601.109, Occupations Code, is
17 amended to read as follows:

18 Sec. 601.109. PROVISIONAL CERTIFICATE. (a) The advisory
19 board may issue a provisional certificate to an applicant currently
20 licensed or certified in another jurisdiction who seeks
21 certification in this state and who:

22 (1) has been licensed or certified in good standing as
23 a medical radiologic technologist for at least two years in another
24 jurisdiction, including a foreign country, that has licensing or
25 certification requirements substantially equivalent to the
26 requirements of this chapter;

27 (2) has passed a national or other examination

1 recognized by the advisory board relating to the practice of
2 radiologic technology; and

3 (3) is sponsored by a medical radiologic technologist
4 certified by the advisory board under this chapter with whom the
5 provisional certificate holder will practice during the time the
6 person holds a provisional certificate.

7 (b) The advisory board may waive the requirement of
8 Subsection (a)(3) for an applicant if the advisory board determines
9 that compliance with that subsection would be a hardship to the
10 applicant.

11 (c) A provisional certificate is valid until the date the
12 advisory board approves or denies the provisional certificate
13 holder's application for a certificate. The advisory board shall
14 issue a certificate under this chapter to the provisional
15 certificate holder if:

16 (1) the provisional certificate holder is eligible to
17 be certified under Section 601.107; or

18 (2) the provisional certificate holder passes the part
19 of the examination under Section 601.104 that relates to the
20 applicant's knowledge and understanding of the laws and rules
21 relating to the practice of radiologic technology in this state
22 and:

23 (A) the advisory board verifies that the
24 provisional certificate holder meets the academic and experience
25 requirements for a certificate under this chapter; and

26 (B) the provisional certificate holder satisfies
27 any other licensing requirements under this chapter.

1 (d) The advisory board must approve or deny a provisional
2 certificate holder's application for a certificate not later than
3 the 180th day after the date the provisional certificate is issued.
4 The advisory board may extend the 180-day period if the results of
5 an examination have not been received by the advisory board before
6 the end of that period.

7 (e) The advisory board may establish a fee for a provisional
8 certificate in an amount reasonable and necessary to cover the cost
9 of issuing the certificate.

10 SECTION 9.022. Section 601.110, Occupations Code, is
11 amended to read as follows:

12 Sec. 601.110. CERTIFICATE EXPIRATION. (a) Not later than
13 the 30th day before the date a person's certificate is scheduled to
14 expire, the advisory board [~~department~~] shall send written notice
15 of the impending expiration to the person at the person's last known
16 address according to the records of the advisory board
17 [~~department~~].

18 (b) The advisory board by rule may adopt a system under
19 which certificates expire on various dates during the year. For the
20 year in which the certificate expiration date is changed, the
21 advisory board [~~department~~] shall prorate certificate fees on a
22 monthly basis so that each certificate holder pays only that
23 portion of the certificate fee that is allocable to the number of
24 months during which the certificate is valid. On renewal of the
25 certificate on the new expiration date, the total certificate
26 renewal fee is payable.

27 SECTION 9.023. Section 601.111, Occupations Code, is

1 amended to read as follows:

2 Sec. 601.111. CERTIFICATE RENEWAL [~~PROCEDURE~~]. (a) On
3 notification from the advisory board, a [~~A~~] person who is otherwise
4 eligible to renew a certificate may renew an unexpired certificate
5 by:

6 (1) paying the required renewal fee to the advisory
7 board [~~department~~] before the expiration date of the certificate;

8 (2) submitting the appropriate form; and

9 (3) meeting any other requirement established by
10 advisory board rule.

11 (a-1) A person whose certificate has expired may not engage
12 in activities that require a certificate until the certificate has
13 been renewed.

14 (b) A person whose certificate has been expired for 90 days
15 or less may renew the certificate by paying to the advisory board
16 [~~department~~] a renewal fee that is equal to 1-1/2 times the normally
17 required renewal fee.

18 (c) A person whose certificate has been expired for more
19 than 90 days but less than one year may renew the certificate by
20 paying to the advisory board [~~department~~] a renewal fee that is
21 equal to two times the normally required renewal fee.

22 (d) A person whose certificate has been expired for one year
23 or more may not renew the certificate. The person may obtain a new
24 certificate by complying with the requirements and procedures,
25 including the examination requirements, for an original
26 certificate.

27 SECTION 9.024. Subchapter C, Chapter 601, Occupations Code,

is amended by adding Section 601.1111 to read as follows:

Sec. 601.1111. CRIMINAL HISTORY RECORD INFORMATION REQUIREMENT FOR RENEWAL. (a) An applicant for renewal of a certificate shall submit a complete and legible set of fingerprints for purposes of performing a criminal history check of the applicant as provided by Section 601.1031.

(b) The advisory board may not renew the certificate of a person who does not comply with the requirement of Subsection (a).

(c) A certificate holder is not required to submit fingerprints under this section for the renewal of the certificate if the holder has previously submitted fingerprints under:

(1) Section 601.1031 for the initial issuance of the certificate of registration; or

(2) this section as part of a prior renewal of a certificate of registration.

SECTION 9.025. The heading to Section 601.112, Occupations Code, is amended to read as follows:

Sec. 601.112. RENEWAL OF CERTIFICATE BY OUT-OF-STATE PERSON [~~PRACTITIONER~~].

SECTION 9.026. Section 601.112(b), Occupations Code, is amended to read as follows:

(b) The person must pay to the advisory board [~~department~~] a fee that is equal to two times the normally required renewal fee for the certificate.

SECTION 9.027. Section 601.154, Occupations Code, is amended to read as follows:

Sec. 601.154. HOSPITAL PROCEDURES. A person is not

1 required to hold a certificate issued under this chapter to perform
2 a radiologic procedure in a hospital if:

3 (1) the hospital participates in the federal Medicare
4 program or is accredited by the Joint Commission on Accreditation
5 of Hospitals; and

6 (2) the person has completed a training program
7 approved by the advisory board under Section 601.201.

8 SECTION 9.028. Section 601.156, Occupations Code, is
9 amended to read as follows:

10 Sec. 601.156. PROCEDURE PERFORMED AS PART OF CONTINUING
11 EDUCATION PROGRAM. A person is not required to hold a certificate
12 issued under this chapter or to comply with the registration
13 requirements adopted under Section 601.252 if the person is:

14 (1) licensed or otherwise registered as a medical
15 radiologic technologist by another state, the American Registry of
16 Radiologic Technologists, the American Registry of Clinical
17 Radiography Technologists, or a professional organization or
18 association recognized by the advisory board;

19 (2) enrolled in a continuing education program that
20 meets the requirements adopted under Section 601.108; and

21 (3) performing a radiologic procedure as part of the
22 continuing education program for not more than 10 days.

23 SECTION 9.029. Subchapter E, Chapter 601, Occupations Code,
24 is amended to read as follows:

25 SUBCHAPTER E. MANDATORY TRAINING FOR CERTAIN AUTHORIZED PERSONS

26 Sec. 601.201. MANDATORY TRAINING. (a) The minimum
27 standards of the advisory board for approval of a curriculum or an

1 education program under Section 601.052 [~~601.053~~] must include
2 mandatory training guidelines for a person, other than a
3 practitioner or a medical radiologic technologist, who
4 intentionally uses radiologic technology, including a person who
5 does not hold a certificate issued under this chapter and who is
6 performing a radiologic procedure at a hospital or under the
7 direction of a practitioner, other than a dentist.

8 (b) The training program approved by the advisory board must
9 contain an appropriate number of hours of education that must be
10 completed before the person may perform a radiologic procedure.

11 Sec. 601.202. REGISTRY. The advisory board by rule shall
12 establish a registry of persons required to comply with this
13 subchapter.

14 Sec. 601.203. HARDSHIP EXEMPTION. (a) On application to
15 the advisory board [~~department~~] by a hospital, a federally
16 qualified health center as defined by 42 U.S.C. Section 1396d, or a
17 practitioner, the advisory board [~~department~~] shall exempt the
18 applicant from the requirements of Section 601.201 in employing a
19 person certified under this chapter or trained as required by
20 Section 601.201 if the applicant shows a hardship in employing a
21 person certified under this chapter or trained as required by
22 Section 601.201.

23 (b) The following conditions are considered to be a hardship
24 for the purposes of Subsection (a):

25 (1) that the applicant reports an inability to attract
26 and retain medical radiologic technologists;

27 (2) that the applicant is located at a great distance

1 from a school of medical radiologic technology;

2 (3) that there is a list of qualified persons who have
3 applied to a school of medical radiologic technology whose
4 admissions are pending because of a lack of faculty or space;

5 (4) that the school of medical radiologic technology
6 produces an insufficient number of graduates in medical radiologic
7 technology to meet the needs of the applicant; or

8 (5) any other criteria determined by advisory board
9 ~~[department]~~ rule.

10 SECTION 9.030. Chapter 601, Occupations Code, is amended by
11 adding Subchapter F-1 to read as follows:

12 SUBCHAPTER F-1. COMPLAINTS AND INVESTIGATIVE INFORMATION

13 Sec. 601.271. COMPLAINT INFORMATION AND STATUS. (a) The
14 advisory board shall maintain a system to promptly and efficiently
15 act on complaints filed with the advisory board. The advisory
16 board shall maintain:

17 (1) information about the parties to the complaint and
18 the subject matter of the complaint;

19 (2) a summary of the results of the review or
20 investigation of the complaint; and

21 (3) information about the disposition of the
22 complaint.

23 (b) The advisory board shall make information available
24 describing its procedures for complaint investigation and
25 resolution.

26 (c) If a written complaint is filed with the advisory board
27 relating to a certificate holder or a person approved under Section

1 601.054 or 601.055, the advisory board, as often as quarterly and
2 until final determination of the action to be taken on the
3 complaint, shall notify the parties to the complaint of the status
4 of the complaint unless the notice would jeopardize an active
5 investigation.

6 Sec. 601.272. CONDUCT OF INVESTIGATION. The advisory board
7 shall complete a preliminary investigation of a complaint filed
8 with the advisory board not later than the 45th day after the date
9 of receiving the complaint. The advisory board shall first
10 determine whether the person constitutes a continuing threat to the
11 public welfare. On completion of the preliminary investigation,
12 the advisory board shall determine whether to officially proceed on
13 the complaint. If the advisory board fails to complete the
14 preliminary investigation in the time required by this section, the
15 advisory board's official investigation of the complaint is
16 considered to commence on that date.

17 Sec. 601.273. ACCESS TO COMPLAINT INFORMATION. (a) Except
18 as provided by Subsection (b), the advisory board shall provide a
19 person who is the subject of a formal complaint filed under this
20 chapter with access to all information in its possession that the
21 advisory board intends to offer into evidence in presenting its
22 case in chief at the contested hearing on the complaint, subject to
23 any other privilege or restriction established by rule, statute, or
24 legal precedent. The advisory board shall provide the information
25 not later than the 30th day after receipt of a written request from
26 the person or the person's counsel, unless good cause is shown for
27 delay.

1 (b) The advisory board is not required to provide:

2 (1) advisory board investigative reports;

3 (2) investigative memoranda;

4 (3) the identity of a nontestifying complainant;

5 (4) attorney-client communications;

6 (5) attorney work product; or

7 (6) other material covered by a privilege recognized
8 by the Texas Rules of Civil Procedure or the Texas Rules of
9 Evidence.

10 (c) Providing information under this section does not
11 constitute a waiver of privilege or confidentiality under this
12 chapter or other law.

13 Sec. 601.274. HEALTH CARE ENTITY REQUEST FOR INFORMATION.
14 On the written request of a health care entity, the advisory board
15 shall provide to the entity:

16 (1) information about a complaint filed against a
17 person that was resolved after investigation by:

18 (A) a disciplinary order of the advisory board;
19 or

20 (B) an agreed settlement; and

21 (2) the basis of and current status of any complaint
22 that has been referred by the executive director of the medical
23 board for enforcement action.

24 Sec. 601.275. CONFIDENTIALITY OF INVESTIGATIVE
25 INFORMATION. A complaint, adverse report, investigation file,
26 other report, or other investigative information in the possession
27 of or received or gathered by the advisory board, the medical board,

or an employee or agent of the medical board relating to a certificate holder, a person approved under Section 601.054 or 601.055, an application for certification or approval, or a criminal investigation or proceeding is privileged and confidential and is not subject to discovery, subpoena, or other means of legal compulsion for release to any person other than the advisory board, the medical board, or an employee or agent of the advisory board or medical board involved in discipline under this chapter. For purposes of this section, "investigative information" includes information related to the identity of a person performing or supervising compliance monitoring for the advisory board or medical board and a report prepared by the person related to compliance monitoring.

Sec. 601.276. PERMITTED DISCLOSURE OF INVESTIGATIVE INFORMATION. (a) Investigative information in the possession of the advisory board, the medical board, or an employee or agent of the medical board that relates to the discipline of a certificate holder or a person approved under Section 601.054 or 601.055, may be disclosed to:

(1) a licensing authority in another state or country in which the certificate holder or person is licensed, certified, or permitted or has applied for a license, certification, or permit; or

(2) a medical peer review committee reviewing:
(A) an application for privileges; or
(B) the qualifications of the certificate holder or person with respect to retaining privileges.

(b) If investigative information in the possession of the advisory board, the medical board, or an employee or agent of the medical board indicates that a crime may have been committed, the advisory board or medical board, as appropriate, shall report the information to the proper law enforcement agency. The advisory board and medical board shall cooperate with and assist each law enforcement agency conducting a criminal investigation of a certificate holder or a person approved under Section 601.054 or 601.055 by providing information relevant to the investigation. Confidential information disclosed to a law enforcement agency under this subsection remains confidential and may not be disclosed by the law enforcement agency except as necessary to further the investigation.

SECTION 9.031. Subchapter G, Chapter 601, Occupations Code, is amended to read as follows:

SUBCHAPTER G. CERTIFICATE DENIAL AND DISCIPLINARY ACTION

Sec. 601.301. CERTIFICATE DENIAL AND DISCIPLINARY ACTION. The advisory board ~~[department]~~ may, for a violation of this chapter or a rule adopted under this chapter:

- (1) suspend, revoke, or refuse to renew a certificate;
- (2) rescind approval of a curriculum, training program, or instructor;
- (3) deny an application for certification or approval;
- (4) issue a reprimand; or
- (5) place the offender's certificate on probation and require compliance with a requirement of the advisory board ~~[department]~~, including requiring the offender to:

- 1 (A) submit to medical or psychological
2 treatment;
- 3 (B) meet additional education requirements;
- 4 (C) pass an examination; or
- 5 (D) work under the supervision of a medical
6 radiologic technologist or other practitioner.

7 Sec. 601.302. GROUNDS FOR CERTIFICATE DENIAL OR
8 DISCIPLINARY ACTION. The advisory board [~~department~~] may take
9 action under Section [601.301](#) against a person subject to this
10 chapter for:

11 (1) obtaining or attempting to obtain a certificate
12 issued under this chapter by bribery or fraud;

13 (2) making or filing a false report or record made in
14 the person's capacity as a medical radiologic technologist;

15 (3) intentionally or negligently failing to file a
16 report or record required by law;

17 (4) intentionally obstructing or inducing another to
18 intentionally obstruct the filing of a report or record required by
19 law;

20 (5) engaging in unprofessional conduct, including the
21 violation of the standards of practice of radiologic technology
22 established by the advisory board;

23 (6) developing an incapacity that prevents the
24 practice of radiologic technology with reasonable skill,
25 competence, and safety to the public as the result of:

26 (A) an illness;

27 (B) drug or alcohol dependency; or

1 (C) another physical or mental condition or
2 illness;

3 (7) failing to report to the advisory board
4 ~~[department]~~ the violation of this chapter by another person;

5 (8) employing, for the purpose of applying ionizing
6 radiation to a person, a person who is not certified under or in
7 compliance with this chapter;

8 (9) violating this chapter, a rule adopted under this
9 chapter, an order of the advisory board ~~[department]~~ previously
10 entered in a disciplinary proceeding, or an order to comply with a
11 subpoena issued by the advisory board ~~[department]~~;

12 (10) having a certificate revoked, suspended, or
13 otherwise subjected to adverse action or being denied a certificate
14 by another certification authority in another state, territory, or
15 country; or

16 (11) being convicted of or pleading nolo contendere to
17 a crime directly related to the practice of radiologic technology.

18 Sec. 601.303. STUDENT PRACTICING WITHOUT DIRECT
19 SUPERVISION. The advisory board ~~[department]~~ may take disciplinary
20 action against a student for intentionally practicing radiologic
21 technology without direct supervision.

22 Sec. 601.304. ADMINISTRATIVE PROCEDURE. The procedure by
23 which the advisory board ~~[department]~~ takes a disciplinary action
24 and the procedure by which a disciplinary action is appealed are
25 governed by:

26 (1) advisory board ~~[department]~~ rules for a contested
27 case hearing; and

(2) Chapter 2001, Government Code.

Sec. 601.305. SURRENDER OF CERTIFICATE ~~[REINSTATEMENT]~~.

(a) The advisory board may accept the voluntary surrender of a certificate. A person who has surrendered a certificate may not engage in activities that require a certificate, and the advisory board may not return the certificate to the person, until the person demonstrates to the satisfaction of the advisory board ~~[subject to disciplinary action under Section 601.302(6) shall, at reasonable intervals, be given an opportunity to demonstrate]~~ that the person is able to resume the practice of radiologic technology.

(b) The advisory board shall by rule establish guidelines for determining when a person is competent to resume ~~[may not reinstate a certificate to a holder or issue a certificate to an applicant previously denied a certificate unless the board is satisfied that the holder or applicant has complied with requirements set by the board and is capable of engaging in]~~ the practice of radiologic technology.

Sec. 601.306. EMERGENCY SUSPENSION. (a) The presiding officer of the advisory board shall appoint a three-member disciplinary panel consisting of advisory board members to determine whether a certificate should be temporarily suspended.

(a-1) The disciplinary panel ~~[department]~~ shall temporarily suspend the certificate of a certificate holder if the panel ~~[department]~~ determines from the evidence or information presented to it that continued practice by the certificate holder would constitute a continuing ~~[and imminent]~~ threat to the public welfare.

1 (b) A certificate may be suspended under this section
2 without notice or hearing on the complaint if:

3 (1) action is taken to initiate proceedings for a
4 hearing before the advisory board [~~State Office of Administrative~~
5 ~~Hearings~~] simultaneously with the temporary suspension; and

6 (2) a hearing is held as soon as practicable under this
7 chapter and Chapter 2001, Government Code.

8 (c) Notwithstanding Chapter 551, Government Code, the
9 disciplinary panel may hold a meeting by telephone conference call
10 if immediate action is required and convening of the panel at one
11 location is inconvenient for any member of the panel [~~The State~~
12 ~~Office of Administrative Hearings shall hold a preliminary hearing~~
13 ~~not later than the 14th day after the date of the temporary~~
14 ~~suspension to determine if there is probable cause to believe that a~~
15 ~~continuing and imminent threat to the public welfare still exists.~~
16 ~~A final hearing on the matter shall be held not later than the 61st~~
17 ~~day after the date of the temporary suspension)].~~

18 Sec. 601.307. DELEGATION OF CERTAIN COMPLAINT
19 DISPOSITIONS. (a) The advisory board may delegate to a committee
20 of medical board employees the authority to dismiss or enter into an
21 agreed settlement of a complaint that does not relate directly to
22 patient care or that involves only administrative violations. The
23 disposition determined by the committee must be approved by the
24 advisory board at a public meeting.

25 (b) A complaint delegated under this section shall be
26 referred for an informal proceeding under Section 601.311 if:

27 (1) the committee of employees determines that the

complaint should not be dismissed or settled;

(2) the committee is unable to reach an agreed settlement; or

(3) the affected person requests that the complaint be referred for an informal proceeding.

Sec. 601.308. SUBPOENA. (a) The executive director of the medical board, the director's designee, or the secretary-treasurer of the medical board may issue a subpoena or subpoena duces tecum for the advisory board:

(1) to conduct an investigation or a contested proceeding related to:

(A) alleged misconduct by a certificate holder or a person approved under Section 601.054 or 601.055;

(B) an alleged violation of this chapter or other law related to radiologic technology; or

(C) the provision of health care under this chapter; or

(2) for purposes of determining whether to issue, suspend, restrict, or revoke a certificate or approval under this chapter.

(b) Failure to timely comply with a subpoena issued under this section is a ground for:

(1) disciplinary action by the advisory board or another licensing or regulatory agency with jurisdiction over the person subject to the subpoena; and

(2) denial of an application for certification or approval.

1 Sec. 601.309. PROTECTION OF PATIENT IDENTITY. In a
2 disciplinary investigation or proceeding conducted under this
3 chapter, the advisory board shall protect the identity of each
4 patient whose medical records are examined and used in a public
5 proceeding unless the patient:

- 6 (1) testifies in the public proceeding; or
7 (2) submits a written release in regard to the
8 patient's records or identity.

9 Sec. 601.310. REQUIRED SUSPENSION OF LICENSE OF
10 INCARCERATED CERTIFICATE HOLDER. Regardless of the offense, the
11 advisory board shall suspend the certificate or approval of a
12 person serving a prison term in a state or federal penitentiary
13 during the term of the incarceration.

14 Sec. 601.311. INFORMAL PROCEEDINGS. (a) The advisory
15 board by rule shall adopt procedures governing:

16 (1) informal disposition of a contested case under
17 Section 2001.056, Government Code; and

18 (2) informal proceedings held in compliance with
19 Section 2001.054, Government Code.

20 (b) Rules adopted under this section must require that:

21 (1) an informal meeting in compliance with Section
22 2001.054, Government Code, be scheduled and the advisory board give
23 notice to the person who is the subject of a complaint of the time
24 and place of the meeting not later than the 45th day before the date
25 the meeting is held;

26 (2) the complainant and the person who is the subject
27 of the complaint be provided an opportunity to be heard;

1 (3) at least one of the advisory board members
2 participating in the informal meeting as a panelist be a member who
3 represents the public;

4 (4) a member of the medical board's staff be at the
5 meeting to present to the advisory board's representative the facts
6 the staff reasonably believes it could prove by competent evidence
7 or qualified witnesses at a hearing; and

8 (5) the advisory board's legal counsel or a
9 representative of the attorney general be present to advise the
10 advisory board or the medical board's staff.

11 (c) The person who is the subject of the complaint is
12 entitled to:

13 (1) reply to the staff's presentation; and

14 (2) present the facts the person reasonably believes
15 the person could prove by competent evidence or qualified witnesses
16 at a hearing.

17 (d) After ample time is given for the presentations, the
18 advisory board representative shall recommend that the
19 investigation be closed or shall attempt to mediate the disputed
20 matters and make a recommendation regarding the disposition of the
21 case in the absence of a hearing under applicable law concerning
22 contested cases.

23 (e) If the person who is the subject of the complaint has
24 previously been the subject of disciplinary action by the advisory
25 board, the advisory board shall schedule the informal meeting as
26 soon as practicable.

27 Sec. 601.312. ADVISORY BOARD REPRESENTATION IN INFORMAL

1 PROCEEDINGS. (a) In an informal meeting under Section 601.311, at
2 least two panelists shall be appointed to determine whether an
3 informal disposition is appropriate.

4 (b) Notwithstanding Subsection (a) and Section
5 601.311(b)(3), an informal proceeding may be conducted by one
6 panelist if the person who is the subject of the complaint waives
7 the requirement that at least two panelists conduct the informal
8 proceeding. If the person waives that requirement, the panelist
9 may be any member of the advisory board.

10 (c) Except as provided by Subsection (d), the panel
11 requirements described by Subsections (a) and (b) apply to an
12 informal proceeding conducted by the advisory board under Section
13 601.311, including a proceeding to:

14 (1) consider a disciplinary case to determine if a
15 violation has occurred; or

16 (2) request modification or termination of an order.

17 (d) The panel requirements described by Subsections (a) and
18 (b) do not apply to an informal proceeding conducted by the advisory
19 board under Section 601.311 to show compliance with an order of the
20 advisory board.

21 Sec. 601.313. ROLES AND RESPONSIBILITIES OF PARTICIPANTS IN
22 INFORMAL PROCEEDINGS. (a) An advisory board member who serves as a
23 panelist at an informal meeting under Section 601.311 shall make
24 recommendations for the disposition of a complaint or
25 allegation. The member may request the assistance of a medical
26 board employee at any time.

27 (b) Medical board employees shall present a summary of the

allegations against the person who is the subject of the complaint and of the facts pertaining to the allegation that the employees reasonably believe may be proven by competent evidence at a formal hearing.

(c) An attorney for the advisory board or medical board shall act as counsel to the panel and, notwithstanding Subsection (e), shall be present during the informal meeting and the panel's deliberations to advise the panel on legal issues that arise during the proceeding. The attorney may ask questions of a participant in the informal meeting to clarify any statement made by the participant. The attorney shall provide to the panel a historical perspective on comparable cases that have appeared before the advisory board or medical board, keep the proceedings focused on the case being discussed, and ensure that the medical board's employees and the person who is the subject of the complaint have an opportunity to present information related to the case. During the panel's deliberations, the attorney may be present only to advise the panel on legal issues and to provide information on comparable cases that have appeared before the advisory board or medical board.

(d) The panel and medical board employees shall provide an opportunity for the person who is the subject of the complaint and the person's authorized representative to reply to the medical board employees' presentation and to present oral and written statements and facts that the person and representative reasonably believe could be proven by competent evidence at a formal hearing.

(e) An employee of the medical board who participated in the

1 presentation of the allegation or information gathered in the
2 investigation of the complaint, the person who is the subject of the
3 complaint, the person's authorized representative, the
4 complainant, the witnesses, and members of the public may not be
5 present during the deliberations of the panel. Only the members of
6 the panel and the attorney serving as counsel to the panel may be
7 present during the deliberations.

8 (f) The panel shall recommend the dismissal of the complaint
9 or allegations or, if the panel determines that the person has
10 violated a statute or advisory board rule, the panel may recommend
11 advisory board action and terms for an informal settlement of the
12 case.

13 (g) The panel's recommendations under Subsection (f) must
14 be made in a written order and presented to the affected person and
15 the person's authorized representative. The person may accept the
16 proposed settlement within the time established by the panel at the
17 informal meeting. If the person rejects the proposed settlement or
18 does not act within the required time, the advisory board may
19 proceed with the filing of a formal complaint with the State Office
20 of Administrative Hearings.

21 Sec. 601.314. LIMIT ON ACCESS TO INVESTIGATION FILES. The
22 advisory board shall prohibit or limit access to an investigation
23 file relating to a person subject to an informal proceeding in the
24 manner provided by Sections [164.007\(c\)](#) and 601.275.

25 Sec. 601.315. REFUND. (a) Subject to Subsection (b), the
26 advisory board may order a certificate holder to pay a refund to a
27 consumer as provided in an agreement resulting from an informal

1 settlement conference instead of or in addition to imposing an
2 administrative penalty under Subchapter H.

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 certificate holder for a
6 service regulated by this chapter. The advisory board may not
7 require payment of other damages or estimate harm in a refund order.

8 Sec. 601.316. EXPERT IMMUNITY. An expert who assists the
9 advisory board is immune from suit and judgment and may not be
10 subjected to a suit for damages for any investigation, report,
11 recommendation, statement, evaluation, finding, or other action
12 taken in the course of assisting the advisory board in a
13 disciplinary proceeding. The attorney general shall represent the
14 expert in any suit resulting from a service provided by the person
15 in good faith to the advisory board.

16 SECTION 9.032. Section 601.351, Occupations Code, is
17 amended to read as follows:

18 Sec. 601.351. IMPOSITION OF PENALTY. The advisory board
19 ~~[department]~~ may impose an administrative penalty against a person
20 who violates this chapter or a rule adopted under this chapter.

21 SECTION 9.033. Section 601.353(a), Occupations Code, is
22 amended to read as follows:

23 (a) If, after investigating a possible violation and the
24 facts surrounding that possible violation, the advisory board
25 ~~[department]~~ determines that a violation occurred, the advisory
26 board ~~[department]~~ shall give written notice of the violation to
27 the person alleged to have committed the violation.

SECTION 9.034. Section 601.354, Occupations Code, is amended to read as follows:

Sec. 601.354. PENALTY TO BE PAID OR HEARING REQUESTED. (a) Not later than the 20th day after the date the person receives the notice, the person may:

(1) accept the ~~[department's]~~ determination, including the proposed administrative penalty; or

(2) make a written request for a hearing on that determination.

(b) If the person accepts the ~~[department's]~~ determination, the advisory board ~~[commissioner of public health or that commissioner's designee]~~ by order shall approve the determination and impose the proposed penalty.

SECTION 9.035. Section 601.355, Occupations Code, is amended to read as follows:

Sec. 601.355. HEARING. (a) If the person timely requests a hearing, the advisory board ~~[department]~~ shall:

(1) set a hearing;

(2) give written notice of the hearing to the person;

and

(3) designate a hearings examiner to conduct the hearing.

(b) The hearings examiner shall make findings of fact and conclusions of law and promptly issue to the advisory board ~~[commissioner of public health or that commissioner's designee]~~ a proposal for decision as to the occurrence of the violation and the amount of any proposed administrative penalty.

SECTION 9.036. Section 601.356, Occupations Code, is amended to read as follows:

Sec. 601.356. DECISION BY ADVISORY BOARD [~~COMMISSIONER~~].

(a) Based on the findings of fact and conclusions of law and the recommendations of the hearings examiner, the advisory board [~~commissioner of public health or the commissioner's designee~~] by order may determine that:

(1) a violation has occurred and may impose an administrative penalty; or

(2) a violation did not occur.

(b) The advisory board [~~department~~] shall give notice of the order to the person. The notice must include:

(1) separate statements of the findings of fact and conclusions of law;

(2) the amount of any penalty imposed; and

(3) a statement of the right of the person to judicial review of the order.

SECTION 9.037. Sections 601.357(b) and (c), Occupations Code, are amended to read as follows:

(b) Within the 30-day period, a person who acts under Subsection (a)(3) may:

(1) stay enforcement of the penalty by:

(A) paying the penalty to the court for placement in an escrow account; or

(B) giving to the court a supersedeas bond that is approved by the court for the amount of the penalty and that is effective until all judicial review of the order is final; or

(2) request the court to stay enforcement of the penalty by:

(A) filing with the court a sworn affidavit of the person stating that the person is financially unable to pay the penalty and is financially unable to give the supersedeas bond; and

(B) giving a copy of the affidavit to the advisory board ~~[department]~~ by certified mail.

(c) If the advisory board ~~[department]~~ receives a copy of an affidavit as provided by Subsection (b)(2), the advisory board ~~[department]~~ may file with the court a contest to the affidavit not later than the fifth day after the date the copy is received.

SECTION 9.038. Section 601.358, Occupations Code, is amended to read as follows:

Sec. 601.358. COLLECTION OF PENALTY. If the person does not pay the administrative penalty and the enforcement of the penalty is not stayed, the advisory board ~~[department]~~ may refer the matter to the attorney general for collection.

SECTION 9.039. Section 601.360(a), Occupations Code, is amended to read as follows:

(a) If, after judicial review, the administrative penalty is reduced or not imposed by the court, the court shall, after the judgment becomes final:

(1) order the appropriate amount, plus accrued interest, be remitted to the person by the advisory board ~~[department]~~ if the person paid the penalty under Section 601.357(a)(2); or

(2) if the person paid the penalty under Section

1 601.357(b)(1)(A) or posted a supersedeas bond, order the advisory
2 board ~~[department]~~ to:

3 (A) execute a complete release of the escrow
4 account or bond, as appropriate, if the penalty is not imposed; or

5 (B) release the escrow account or bond, as
6 appropriate, after the reduced penalty has been paid from the
7 account or by the person.

8 SECTION 9.040. Section 601.361, Occupations Code, is
9 amended to read as follows:

10 Sec. 601.361. EXPENSES AND COSTS. (a) In this section,
11 "reasonable expenses and costs" includes expenses incurred by the
12 advisory board ~~[department]~~ and the attorney general in the
13 investigation, initiation, or prosecution of an action, including
14 reasonable investigative costs, court costs, attorney's fees,
15 witness fees, and deposition expenses.

16 (b) The advisory board ~~[department]~~ may assess reasonable
17 expenses and costs against a person in an administrative hearing
18 if, as a result of the hearing, an administrative penalty is
19 assessed against the person. The person shall pay expenses and
20 costs assessed under this subsection not later than the 30th day
21 after the date the order of the advisory board ~~[commissioner of~~
22 ~~public health or that commissioner's designee]~~ requiring the
23 payment of expenses and costs is final. The advisory board
24 ~~[department]~~ may refer the matter to the attorney general for
25 collection of the expenses and costs.

26 (c) If the attorney general brings an action against a
27 person to enforce an administrative penalty assessed under this

chapter and the person is found liable for an administrative penalty, the attorney general may recover, on behalf of the attorney general and the advisory board ~~[department]~~, reasonable expenses and costs.

SECTION 9.041. Sections 601.401(a) and (c), Occupations Code, are amended to read as follows:

(a) If it appears that a person has violated, is violating, or is threatening to violate this chapter or a rule adopted under this chapter, the advisory board ~~[or the department]~~ may bring an action to enjoin the continued or threatened violation.

(c) At the request of the advisory board ~~[or the department]~~, the attorney general shall bring an action in the name of the state for the injunctive relief, to recover the civil penalty, or both.

SECTION 9.042. Section 601.402(a), Occupations Code, is amended to read as follows:

(a) A person who is required to be certified under this chapter commits an offense if the person:

(1) knowingly administers a radiologic procedure to another person without holding a valid certificate issued by the advisory board ~~[department]~~;

(2) practices radiologic technology without holding a certificate under this chapter;

(3) uses or attempts to use a suspended or revoked certificate;

(4) knowingly allows a student enrolled in an education program to perform a radiologic procedure without direct

supervision;

(5) obtains or attempts to obtain a certificate through bribery or fraudulent misrepresentation;

(6) uses the title or name "certified medical radiologic technologist" or any other name or title that implies the person is certified to practice radiologic technology, unless the person is certified under this chapter;

(7) knowingly conceals information relating to enforcement of this chapter or a rule adopted under this chapter; or

(8) employs a person not certified by or in compliance with this chapter for the purpose of applying ionizing radiation to a person.

SECTION 9.043. Section 602.002, Occupations Code, is amended by amending Subdivisions (1) and (4) and adding Subdivision (5-a) to read as follows:

(1) "Advisory committee" [~~"Board"~~] means the Medical Physicist [Texas Board of] Licensure Advisory Committee [~~for Professional Medical Physicists in the Texas Department of Health~~].

(4) "License" means a certificate issued by the medical board that authorizes the holder to engage in the practice of medical physics.

(5-a) "Medical board" means the Texas Medical Board.

SECTION 9.044. The heading to Subchapter B, Chapter 602, Occupations Code, is amended to read as follows:

SUBCHAPTER B. MEDICAL PHYSICIST [~~TEXAS BOARD OF~~] LICENSURE ADVISORY COMMITTEE [~~FOR PROFESSIONAL MEDICAL PHYSICISTS~~]

SECTION 9.045. Section 602.051, Occupations Code, is

1 amended to read as follows:

2 Sec. 602.051. ADVISORY COMMITTEE [BOARD]. (a) The advisory
3 committee [~~Texas Board of Licensure for Professional Medical~~
4 ~~Physicists~~] is an informal advisory committee to the medical board
5 and is not subject to Chapter 2110, Government Code [~~the division of~~
6 ~~the department responsible for regulating the practice of medical~~
7 ~~physics~~].

8 (b) The advisory committee has no independent rulemaking
9 authority.

10 SECTION 9.046. The heading to Section 602.052, Occupations
11 Code, is amended to read as follows:

12 Sec. 602.052. APPOINTMENT OF ADVISORY COMMITTEE [BOARD
13 ~~MEMBERS~~].

14 SECTION 9.047. Sections 602.052(a) and (d), Occupations
15 Code, are amended to read as follows:

16 (a) The advisory committee [~~board~~] consists of seven [~~nine~~]
17 members appointed by the president of the medical board [~~governor~~
18 ~~with the advice and consent of the senate~~] as follows:

19 (1) four [~~five licensed~~] medical physicists licensed
20 in this state who each have at least five years of experience as a
21 medical physicist [~~, with at least one board certified~~
22 ~~representative of each of the following specialties:~~

23 [~~(A) diagnostic radiological physics,~~

24 [~~(B) medical health physics,~~

25 [~~(C) medical nuclear physics, and~~

26 [~~(D) therapeutic radiological physics~~];

27 (2) two [~~three~~] physicians licensed in this state who

1 each have at least five years of clinical experience related to
2 medical physics [~~, with a board-certified representative of each of~~
3 ~~the following specialties.~~

4 [~~(A) diagnostic radiology,~~

5 [~~(B) nuclear medicine, and~~

6 [~~(C) radiation therapy~~]; and

7 (3) one member who represents the public.

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

11 SECTION 9.048. The heading to Section 602.053, Occupations
12 Code, is amended to read as follows:

13 Sec. 602.053. PUBLIC MEMBER [~~BOARD MEMBERSHIP,~~]
14 ELIGIBILITY.

15 SECTION 9.049. Section 602.053(d), Occupations Code, is
16 amended to read as follows:

17 (d) An advisory committee [~~A public board~~] member
18 representing the public must be a resident of this [~~the~~] state for a
19 period of not less than four years preceding appointment. A person
20 may not be a [~~public~~] member of the advisory committee representing
21 the public [~~board~~] if the person or the person's spouse:

22 (1) is registered, certified, or licensed by a
23 regulatory agency in a health care profession [~~the field of medical~~
24 ~~physics~~];

25 (2) is employed by or participates in the management
26 of a business entity or other organization regulated by or
27 receiving money from the medical board;

1 (3) owns or controls, directly or indirectly, more
2 than a 10 percent interest in a business entity or other
3 organization regulated by or receiving money from the medical
4 board; or

5 (4) uses or receives a substantial amount of tangible
6 goods, services, or money from the medical board other than
7 compensation or reimbursement authorized by law for medical board
8 membership, attendance, or expenses.

9 SECTION 9.050. Sections 602.054(b) and (c), Occupations
10 Code, are amended to read as follows:

11 (b) A person may not be a member of the advisory committee
12 ~~[board]~~ if:

13 (1) the person is an officer, employee, or paid
14 consultant of a Texas trade association in the field of medicine; or

15 (2) the person's spouse is an officer, manager, or paid
16 consultant of a Texas trade association in the field of medicine.

17 (c) A person may not serve as a member of the advisory
18 committee ~~[board]~~ if the person is required to register as a
19 lobbyist under Chapter 305, Government Code, because of the
20 person's activities for compensation on behalf of a profession
21 related to the operation of the advisory committee or medical
22 board.

23 SECTION 9.051. Section 602.055, Occupations Code, is
24 amended to read as follows:

25 Sec. 602.055. TERMS; VACANCY. (a) Members of the advisory
26 committee ~~[board]~~ serve two-year ~~[staggered six-year]~~ terms. The
27 terms of the ~~[three]~~ members expire on February 1 of each

1 odd-numbered year.

2 (b) A person is not eligible to serve more than two [~~one~~]
3 consecutive full terms [~~six-year term~~]. [~~A person may serve~~
4 ~~consecutively one six-year term and a shorter term that arises~~
5 ~~because of filling an unexpired vacancy.~~]

6 (c) If a vacancy occurs during a member's term [~~on the~~
7 ~~board~~], the president of the medical board [~~governor~~] shall appoint
8 a person to serve for the unexpired term.

9 SECTION 9.052. Sections 602.056(a) and (b), Occupations
10 Code, are amended to read as follows:

11 (a) It is a ground for removal from the advisory committee
12 [~~board~~] that a member:

13 (1) does not have at the time of appointment the
14 qualifications required by Section 602.052 [~~602.053~~] for
15 appointment to the board;

16 (2) does not maintain during service on the board the
17 qualifications required by Section 602.052 [~~602.053~~] for
18 appointment to the board;

19 (3) is ineligible for membership under Section
20 602.053(d) or Section 602.054; or

21 (4) cannot, because of illness or disability,
22 discharge the member's duties for a substantial part of the member's
23 term[, ~~or~~

24 [~~(5) does not attend at least half of the regularly~~
25 ~~scheduled board meetings held in a calendar year, excluding~~
26 ~~meetings held while the person was not a board member, without an~~
27 ~~excuse approved by the board~~].

1 (b) The validity of an [A board] action of the advisory
2 committee is not affected by the fact that it is taken while a
3 ground for removal of a member of the advisory committee [board]
4 exists [~~is not invalid for that reason~~].

5 SECTION 9.053. Section 602.057, Occupations Code, is
6 amended to read as follows:

7 Sec. 602.057. COMPENSATION. A member of the advisory
8 committee [board] is entitled to a per diem in an amount set by the
9 legislature for each day that the member engages in the business of
10 the advisory committee [board].

11 SECTION 9.054. Section 602.058, Occupations Code, is
12 amended to read as follows:

13 Sec. 602.058. ADVISORY COMMITTEE [BOARD] OFFICERS;
14 MEETINGS. (a) The president of the medical board [governor] shall
15 biennially designate a member of the advisory committee [board] as
16 the presiding officer of the advisory committee [board] to serve in
17 that capacity at the will of the president [governor]. The advisory
18 committee may [~~At the first regularly scheduled meeting of each~~
19 ~~calendar year, the board shall~~] elect from its members additional
20 officers as necessary [~~an assistant presiding officer~~].

21 (b) The advisory committee [board] shall meet as requested
22 by the medical board. A meeting may be held by telephone conference
23 call [~~hold a meeting at least once a year and at other times in~~
24 ~~accordance with board rule~~].

25 SECTION 9.055. The heading to Subchapter D, Chapter 602,
26 Occupations Code, is amended to read as follows:

27 SUBCHAPTER D. MEDICAL BOARD POWERS AND DUTIES

SECTION 9.056. Section 602.151, Occupations Code, is amended to read as follows:

Sec. 602.151. GENERAL POWERS AND DUTIES. The medical board shall:

(1) adopt ~~[and revise, with the department's approval]~~ rules reasonably necessary to properly perform its duties under this chapter;

(2) establish ~~[adopt an official seal;~~
~~[(3) determine the]~~ qualifications for a medical
physicist to practice in this state ~~[and fitness of each applicant~~
~~for a license or license renewal]~~;

(3) establish minimum education and training
requirements necessary for a license under this chapter;

(4) establish requirements for ~~[charge a fee, in an~~
~~amount necessary to cover the costs incurred by the board in~~
~~administering this chapter, for processing and issuing or renewing~~
~~a license,~~

~~[(5) conduct]~~ examinations for licensure;

(5) prescribe the application form for a license under
this chapter; and

(6) ~~[issue, deny, renew, revoke, and suspend licenses,~~

~~[(7)]~~ adopt and publish a code of ethics~~[, and~~

~~[(8) conduct hearings on complaints concerning~~
~~violations of this chapter or rules adopted under this chapter].~~

SECTION 9.057. Section 602.152, Occupations Code, is amended to read as follows:

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 9.058. 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 9.059. 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 9.060. Section 602.1525, Occupations Code, is
11 amended by amending Subsections (a), (h), and (i) and adding
12 Subsection (a-1) to read as follows:

13 (a) The executive director of the medical board, the
14 director's designee, or the secretary-treasurer of the medical
15 board may issue [~~In an investigation of a complaint filed with the~~
16 ~~board, the board may request that the commissioner of public health~~
17 ~~or the commissioner's designee approve the issuance of~~] a subpoena
18 or subpoena duces tecum:

19 (1) to conduct an investigation or a contested case
20 proceeding related to:

21 (A) alleged misconduct by a medical physicist;

22 (B) an alleged violation of this chapter or
23 another law related to the practice of medical physics; or

24 (C) the provision of health care under this
25 chapter; or

26 (2) for purposes of determining whether to issue,
27 suspend, restrict, or revoke a license under this chapter [~~. If the~~

~~request is approved, the board may issue a subpoena to compel the attendance of a relevant witness or the production, for inspection or copying, of relevant evidence that is in this state].~~

(a-1) Failure to timely comply with a subpoena issued under this section is a ground for:

(1) disciplinary action by the medical board or another licensing or regulatory agency with jurisdiction over the person subject to the subpoena; and

(2) denial of a license application.

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

(1) persons involved with the medical board in a disciplinary action against the holder of a license;

(2) professional medical physics licensing or disciplinary boards in other jurisdictions;

(3) peer assistance programs approved by the medical board under Chapter 467, Health and Safety Code;

(4) law enforcement agencies; and

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

(i) The filing of formal charges by the medical board

1 against a holder of a license, the nature of those charges,
2 disciplinary proceedings of the medical board, and final
3 disciplinary actions, including warnings and reprimands, by the
4 medical board are not confidential and are subject to disclosure in
5 accordance with Chapter 552, Government Code.

6 SECTION 9.061. Section 602.153, Occupations Code, is
7 amended to read as follows:

8 Sec. 602.153. CONTINUING EDUCATION. The medical board
9 shall recognize, prepare, or administer continuing education
10 programs for persons licensed under this chapter [~~by the board~~]. A
11 license holder must participate in the programs to the extent
12 required by the medical board to keep the person's license.

13 SECTION 9.062. Section 602.154, Occupations Code, is
14 amended to read as follows:

15 Sec. 602.154. RULES RELATING TO ADVERTISING OR COMPETITIVE
16 BIDDING. (a) The medical board may not adopt rules restricting
17 advertising or competitive bidding by a license holder except to
18 prohibit false, misleading, or deceptive practices.

19 (b) In its rules to prohibit false, misleading, or deceptive
20 practices, the medical board may not include a rule that:

- 21 (1) restricts the use of any medium for advertising;
22 (2) restricts the use of a license holder's personal
23 appearance or voice in an advertisement;
24 (3) relates to the size or duration of an
25 advertisement by the license holder; or
26 (4) restricts the license holder's advertisement under
27 a trade name.

SECTION 9.063. Subchapter D, Chapter 602, Occupations Code, is amended by adding Section 602.155 to read as follows:

Sec. 602.155. RULES ON CONSEQUENCES OF CRIMINAL CONVICTION.
The medical board shall adopt rules and guidelines as necessary to comply with Chapter 53, except to the extent the requirements of this chapter are stricter than the requirements of Chapter 53.

SECTION 9.064. Section 602.203, Occupations Code, is amended to read as follows:

Sec. 602.203. LICENSE APPLICATION. (a) A person may apply for a license by filing an application with the medical board.

(b) An application must be on a form prescribed by the medical board and must include:

(1) evidence of relevant work experience, including a description of the duties performed;

(2) an official transcript from the college or university granting the applicant's degree;

(3) a statement of the medical physics specialty for which the application is submitted;

(4) three professional references; and

(5) any additional information required by medical board rule.

(c) The applicant must submit with the application the fee prescribed by the medical board.

(d) The medical board [~~or the executive secretary~~] may require an applicant to appear before the medical board [~~or secretary~~] to present additional information in support of the application.

SECTION 9.065. Section 602.205, Occupations Code, is amended to read as follows:

Sec. 602.205. TEMPORARY LICENSE. The medical board may issue a temporary license to an applicant who has satisfied the educational requirements for a license but who has not yet completed the experience and examination requirements of Section 602.207.

SECTION 9.066. Section 602.206(a), Occupations Code, is amended to read as follows:

(a) The medical board shall administer a written examination for a license to qualified applicants at least two times each year.

SECTION 9.067. Section 602.207(a), Occupations Code, is amended to read as follows:

(a) To be eligible to take an examination for a license, an applicant must:

(1) have a master's or doctoral degree from an accredited college or university that signifies the completion of courses approved by the medical board in physics, medical physics, biophysics, radiological physics, medical health physics, or equivalent courses;

(2) have demonstrated, to the medical board's satisfaction, completion of at least two years of full-time work experience in the five years preceding the date of application in the medical physics specialty for which application is made; and

(3) submit a completed application as required by Section 602.203.

SECTION 9.068. Section 602.208, Occupations Code, is amended to read as follows:

Sec. 602.208. EXAMINATION RESULTS; REEXAMINATION. (a) The medical board shall notify each examinee of the results of the examination not later than the 30th day after the date the examination is administered. If an examination is graded or reviewed by a national or state testing service, the medical board shall notify each examinee of the results of the examination not later than the 14th day after the date the medical board receives the results from the testing service.

(b) If the medical board learns that the notice of the examination results will be delayed for more than 90 days after the examination date, the medical board shall notify each examinee of the reason for the delay not later than the 90th day.

(c) If requested by a person who fails the examination, the medical board shall provide to the person an analysis of the person's performance on the examination.

(d) The medical board by rule shall establish procedures and requirements for reexamination of an applicant who fails the examination.

SECTION 9.069. Subchapter E, Chapter 602, Occupations Code, is amended by adding Section 602.2081 to read as follows:

Sec. 602.2081. CRIMINAL HISTORY RECORD INFORMATION REQUIREMENT FOR LICENSE. (a) The medical board shall require that an applicant for a license submit a complete and legible set of fingerprints, on a form prescribed by the medical board, to the medical board or to the Department of Public Safety for the purpose

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

4 (b) The medical board may not issue a license to a person who
5 does not comply with the requirement of Subsection (a).

6 (c) The medical board shall conduct a criminal history check
7 of each applicant for a license using information:

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

9 (2) made available to the medical 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 medical 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 9.070. Sections 602.209(a), (b), (c), and (e),
21 Occupations Code, are amended to read as follows:

22 (a) The medical board may issue a license to an eligible
23 applicant who:

24 (1) passes the examination under Section 602.206; and

25 (2) meets all other license requirements.

26 (b) Not later than the 30th day after the date the medical
27 board makes a decision on an application submitted under Section

1 602.203, the medical board shall notify the applicant of the
2 decision.

3 (c) If the medical board approves the application, the
4 medical board shall issue a license to the applicant. If the
5 medical board denies the application, the medical board shall
6 include in the notice of decision a description of the areas of
7 deficiency.

8 (e) A license certificate is the medical board's property
9 and must be surrendered on demand.

10 SECTION 9.071. Section 602.210, Occupations Code, is
11 amended to read as follows:

12 Sec. 602.210. LICENSE TERM AND RENEWAL. (a) A license is
13 valid for two years [~~one year~~] from the date granted and may be
14 renewed biennially [~~annually~~].

15 (b) The medical board by rule may adopt a system under which
16 licenses expire on various dates during the year.

17 (c) A person may renew an unexpired license by paying the
18 required renewal fee to the medical board before the expiration
19 date of the license.

20 (d) If a person's license has been expired for 90 days or
21 less, the person may renew the license by paying to the medical
22 board the required renewal fee and a penalty fee in an amount equal
23 to one-half of the amount of the renewal fee.

24 (e) If a person's license has been expired for longer than
25 90 days but less than one year [~~two years~~], the person may renew the
26 license by paying to the medical board the renewal fee that was due
27 at expiration and a penalty fee in an amount equal to the amount of

the renewal fee.

(f) If a person's license has been expired for one year [~~two years~~] or longer, the person may not renew the license. To obtain a new license, a person must comply with the requirements and procedures for obtaining an original license, including the examination requirement [~~application requirements of this chapter and must submit to the board:~~

~~[(1) a supplemental experience record as required by the board;~~

~~[(2) a description of professional activities undertaken during the expiration period;~~

~~[(3) a list of current professional references; and~~

~~[(4) a transcript for any degree or college credit earned since the person's previous license application].~~

(g) Not later than the 30th day before the date a person's license expires, the medical board shall send written notice of the impending license expiration to the person at the license holder's last known address according to the records of the medical board.

SECTION 9.072. Subchapter E, Chapter 602, Occupations Code, is amended by adding Section 602.2101 to read as follows:

Sec. 602.2101. CRIMINAL HISTORY RECORD INFORMATION REQUIREMENT FOR RENEWAL. (a) An applicant renewing a license shall submit a complete and legible set of fingerprints for purposes of performing a criminal history check of the applicant as provided by Section 602.2081.

(b) The medical board may not renew the license of a person who does not comply with the requirement of Subsection (a).

1 (c) A license holder is not required to submit fingerprints
2 under this section for the renewal of the license if the license
3 holder has previously submitted fingerprints under:

4 (1) Section 602.2081 for the initial issuance of the
5 license; or

6 (2) this section as part of a prior renewal of the
7 license.

8 SECTION 9.073. Section 602.211, Occupations Code, is
9 amended to read as follows:

10 Sec. 602.211. LICENSE BY ENDORSEMENT OR RECIPROCITY. (a)
11 On receipt of an application and fee under Section 602.203, the
12 medical board may waive any prerequisite for obtaining a license to
13 a person who holds a license to practice medical or radiological
14 physics in another state, territory, or jurisdiction acceptable to
15 the medical board that has requirements for the licensing of
16 medical or radiological physicists that are substantially the same
17 as the requirements of this chapter.

18 (b) The medical board may waive any prerequisite for
19 obtaining a license to practice medical physics in this state for an
20 applicant who holds a license issued by another jurisdiction with
21 which this state has a reciprocity agreement. The medical board may
22 make an agreement, subject to the approval of the governor, with
23 another state to allow for licensing by reciprocity.

24 SECTION 9.074. Section 602.212, Occupations Code, is
25 amended to read as follows:

26 Sec. 602.212. LICENSE HOLDER DUTIES. A license holder
27 shall:

1 (1) publicly display the license holder's license in
2 an appropriate manner; and

3 (2) report immediately to the medical board any change
4 in the license holder's address.

5 SECTION 9.075. Section 602.213, Occupations Code, is
6 amended to read as follows:

7 Sec. 602.213. PROVISIONAL LICENSE. (a) The medical board
8 may issue a provisional license to an applicant currently licensed
9 or certified in another jurisdiction who seeks a license in this
10 state and who:

11 (1) has been licensed or certified in good standing as
12 a practitioner of medical or radiologic physics for at least two
13 years in another jurisdiction, including a foreign country, that
14 has licensing or certification requirements substantially
15 equivalent to the requirements of this chapter;

16 (2) has passed a national or other examination
17 recognized by the medical board relating to the practice of medical
18 or radiologic physics; and

19 (3) is sponsored by a person licensed by the medical
20 board under this chapter with whom the provisional license holder
21 will practice during the time the person holds a provisional
22 license.

23 (b) The medical board may waive the requirement of
24 Subsection (a)(3) for an applicant if the medical board determines
25 that compliance with that subsection would be a hardship to the
26 applicant.

27 (c) A provisional license is valid until the date the

1 medical board approves or denies the provisional license holder's
2 application for a license. The medical board shall issue a license
3 under this chapter to the provisional license holder if:

4 (1) the provisional license holder is eligible to be
5 certified under Section 602.211; or

6 (2) the provisional license holder passes the part of
7 the examination under Section 602.206 that relates to the
8 applicant's knowledge and understanding of the laws and rules
9 relating to the practice of medical physics in this state and:

10 (A) the medical board verifies that the
11 provisional license holder meets the academic and experience
12 requirements for a license under this chapter; and

13 (B) the provisional license holder satisfies any
14 other licensing requirements under this chapter.

15 (d) The medical board must approve or deny a provisional
16 license holder's application for a license not later than the 180th
17 day after the date the provisional license is issued. The medical
18 board may extend the 180-day period if the results of an examination
19 have not been received by the medical board before the end of that
20 period.

21 (e) The medical board may establish a fee for provisional
22 licenses in an amount reasonable and necessary to cover the cost of
23 issuing the license.

24 SECTION 9.076. Section 602.251, Occupations Code, is
25 amended to read as follows:

26 Sec. 602.251. GROUNDS FOR LICENSE DENIAL OR DISCIPLINARY
27 ACTION. The medical board shall refuse to issue or renew a license,

1 suspend or revoke a license, or reprimand a license holder for:

2 (1) obtaining or renewing a license by means of fraud,
3 misrepresentation, or concealment of a material fact;

4 (2) having previously applied for or held a license
5 issued by the licensing authority of another state, territory, or
6 jurisdiction that was denied, suspended, or revoked by that
7 licensing authority;

8 (3) engaging in unprofessional conduct that
9 endangered or is likely to endanger the health, safety, or welfare
10 of the public as defined by medical board rule;

11 (4) violating this chapter, a lawful order or rule of
12 the medical board, or the medical board's code of ethics; or

13 (5) being convicted of:

14 (A) a felony; or

15 (B) a misdemeanor involving moral turpitude or
16 that directly relates to the person's duties as a licensed medical
17 physicist.

18 SECTION 9.077. Section [602.252](#), Occupations Code, is
19 amended to read as follows:

20 Sec. 602.252. ADMINISTRATIVE PROCEDURE. Chapters 2001 and
21 2002, Government Code, and medical board rules for a contested
22 hearing apply to a proceeding by the medical board under this
23 subchapter.

24 SECTION 9.078. Subchapter F, Chapter 602, Occupations Code,
25 is amended by adding Section 602.2521 to read as follows:

26 Sec. 602.2521. INFORMAL PROCEDURES. (a) The medical board
27 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 Subsection (a) must:

6 (1) provide the complainant, if applicable and
7 permitted by law, an opportunity to be heard;

8 (2) provide the license holder an opportunity to be
9 heard; and

10 (3) require the medical board's legal counsel or a
11 representative of the attorney general to be present to advise the
12 medical board or the medical board's employees.

13 SECTION 9.079. Section 602.253, Occupations Code, is
14 amended to read as follows:

15 Sec. 602.253. PROBATION. The medical board may place on
16 probation a person whose license is suspended. If a license
17 suspension is probated, the medical board may require the person
18 to:

19 (1) report regularly to the medical board ~~[department]~~
20 on matters that are the basis of the probation;

21 (2) limit practice to the areas prescribed by the
22 medical board; or

23 (3) continue or review professional education until
24 the person attains a degree of skill satisfactory to the medical
25 board in those areas that are the basis of the probation.

26 SECTION 9.080. Section 602.254(a), Occupations Code, is
27 amended to read as follows:

1 (a) The medical board or a three-member panel [~~committee~~] of
2 medical board members designated by the president of the medical
3 board shall temporarily suspend the license of a license holder if
4 the medical board or panel [~~committee~~] determines from the evidence
5 or information presented to it that continued practice by the
6 license holder would constitute a continuing and imminent threat to
7 the public welfare.

8 SECTION 9.081. Section 602.301, Occupations Code, is
9 amended to read as follows:

10 Sec. 602.301. INJUNCTION. The medical board shall
11 prosecute or file suit to enjoin a violation of this chapter or a
12 rule adopted under this chapter.

13 SECTION 9.082. Section 602.3015, Occupations Code, is
14 amended to read as follows:

15 Sec. 602.3015. CIVIL PENALTY. (a) A person who violates
16 this chapter or a rule adopted or order issued [~~adopted by the~~
17 ~~board~~] under this chapter is liable for a civil penalty not to
18 exceed \$5,000 a day.

19 (b) At the request of the medical board, the attorney
20 general shall bring an action to recover a civil penalty authorized
21 under this section.

22 SECTION 9.083. Sections 602.351(a), (e), (g), (h), (i),
23 (j), (k), and (l), Occupations Code, are amended to read as follows:

24 (a) The medical board may impose an administrative penalty
25 on a person licensed under this chapter who violates this chapter or
26 a rule adopted or order issued [~~adopted~~] under this chapter. A
27 penalty collected under this subchapter shall be deposited in the

1 state treasury in the general revenue fund.

2 (e) If the medical board [~~executive secretary~~] determines
3 that a violation occurred, the medical board [~~executive secretary~~]
4 shall give written notice [~~of the report~~] by certified mail to the
5 person.

6 (g) Within 20 days after the date the person receives the
7 notice under Subsection (e), the person in writing may:

8 (1) accept the determination and recommended penalty
9 [~~of the executive secretary~~]; or

10 (2) make a request for a hearing on the occurrence of
11 the violation, the amount of the penalty, or both.

12 (h) If the person accepts the determination and recommended
13 penalty or if the person fails to respond to the notice, the medical
14 board by order shall approve the determination and impose the
15 recommended penalty.

16 (i) If the person requests a hearing, the medical board
17 shall refer the matter to the State Office of Administrative
18 Hearings, which shall promptly set a hearing date and give written
19 notice of the time and place of the hearing to the person. An
20 administrative law judge of the State Office of Administrative
21 Hearings shall conduct the hearing.

22 (j) The administrative law judge shall make findings of fact
23 and conclusions of law and promptly issue to the medical board a
24 proposal for a decision about the occurrence of the violation and
25 the amount of a proposed penalty.

26 (k) Based on the findings of fact, conclusions of law, and
27 proposal for a decision, the medical board by order may determine

1 that:

2 (1) a violation occurred and impose a penalty; or

3 (2) a violation did not occur.

4 (1) The notice of the medical board's order under Subsection
5 (k) that is sent to the person in accordance with Chapter 2001,
6 Government Code, must include a statement of the right of the person
7 to judicial review of the order.

8 SECTION 9.084. Sections 602.352(a), (b), and (c),
9 Occupations Code, are amended to read as follows:

10 (a) Within 30 days after the date an order of the medical
11 board under Section 602.351(k) that imposes an administrative
12 penalty becomes final, the person shall:

13 (1) pay the penalty; or

14 (2) file a petition for judicial review of the medical
15 board's order contesting the occurrence of the violation, the
16 amount of the penalty, or both.

17 (b) Within the 30-day period prescribed by Subsection (a), a
18 person who files a petition for judicial review 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 the court a supersedeas bond approved
23 by the court that is:

24 (i) for the amount of the penalty; and

25 (ii) effective until all judicial review of
26 the medical board's order is final; or

27 (2) request the court to stay enforcement of the

1 penalty by:

2 (A) filing with the court a sworn affidavit of
3 the person stating that the person is financially unable to pay the
4 penalty and is financially unable to give the supersedeas bond; and

5 (B) sending a copy of the affidavit to the
6 medical board by certified mail.

7 (c) If the medical board receives a copy of an affidavit
8 under Subsection (b)(2), the medical board may file with the court,
9 within five days after the date the copy is received, a contest to
10 the affidavit. The court shall hold a hearing on the facts alleged
11 in the affidavit as soon as practicable and shall stay the
12 enforcement of the penalty on finding that the alleged facts are
13 true. The person who files an affidavit has the burden of proving
14 that the person is financially unable to pay the penalty or to give
15 a supersedeas bond.

16 SECTION 9.085. Sections 603.002(2) and (3), Occupations
17 Code, are amended to read as follows:

18 (2) "Advisory committee" [~~"Committee"~~] means the
19 [~~Texas State~~] Perfusionist Licensure Advisory Committee.

20 (3) "Medical board" [~~"Department"~~] means the Texas
21 Medical Board [~~Department of State Health Services~~].

22 SECTION 9.086. Section 603.006, Occupations Code, is
23 amended to read as follows:

24 Sec. 603.006. APPLICABILITY OF OTHER LAW. Chapter 2110,
25 Government Code, does not apply to the advisory committee.

26 SECTION 9.087. The heading to Subchapter B, Chapter 603,
27 Occupations Code, is amended to read as follows:

SUBCHAPTER B. [~~TEXAS STATE~~] PERFUSIONIST LICENSURE ADVISORY
COMMITTEE

SECTION 9.088. Section 603.051, Occupations Code, is amended to read as follows:

Sec. 603.051. ADVISORY COMMITTEE MEMBERSHIP. (a) The advisory committee is an informal advisory committee to the medical board. The advisory committee has no independent rulemaking authority.

(a-1) The advisory committee [~~Texas State Perfusionist Advisory Committee~~] consists of seven [~~five~~] members appointed by the president of the medical board [~~commissioner~~] as follows:

(1) four perfusionists licensed in this state [~~two licensed perfusionist members~~] who each have [~~been licensed under this chapter for~~] at least five [~~three~~] years of experience as a perfusionist [~~before the date of appointment~~];

(2) two physicians [~~one physician member~~] licensed in this state [~~by the Texas State Board of Medical Examiners~~] who supervise perfusionists [~~is certified by that board in cardiovascular surgery~~]; and

(3) one member [~~two members~~] who represents [~~represent~~] the public.

(b) Appointments to the advisory committee shall reflect the historical and cultural diversity of the inhabitants of this state.

(c) Appointments to the advisory committee shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.

SECTION 9.089. Section 603.0511, Occupations Code, is amended to read as follows:

Sec. 603.0511. PUBLIC MEMBER ELIGIBILITY [~~OF PUBLIC MEMBERS~~]. A person may not be a public member of the advisory committee if the person or the person's spouse:

(1) is registered, certified, or licensed by a regulatory agency in a [~~the field of~~] health care profession;

(2) is employed by or participates in the management of a business entity or other organization regulated by or receiving money from the medical board [~~department~~];

(3) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by or receiving money from the medical board [~~department~~]; or

(4) uses or receives a substantial amount of tangible goods, services, or money from the medical board [~~department~~] other than compensation or reimbursement authorized by law for advisory committee membership, attendance, or expenses.

SECTION 9.090. Sections 603.052(b) and (c), Occupations Code, are amended to read as follows:

(b) A person may not be an advisory [~~a~~] committee member [~~and may not be a department employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.)~~] if:

(1) the person is an officer, employee, or paid

consultant of a Texas trade association in the field of health care;
or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of health care.

(c) A person may not be a member of the advisory committee or act as the general counsel to the advisory committee ~~[or the department]~~ if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the advisory committee or medical board ~~[department]~~.

SECTION 9.091. Section 603.053, Occupations Code, is amended to read as follows:

Sec. 603.053. TERMS; VACANCY. (a) Members of the advisory committee serve two-year ~~[staggered six-year]~~ terms. The terms of the ~~[one or two]~~ members ~~[, as appropriate,]~~ expire on February 1 of each odd-numbered year.

(b) If a vacancy occurs during a member's term, the president of the medical board shall appoint a person to serve for the unexpired term.

SECTION 9.092. Sections 603.054(a) and (b), Occupations Code, are amended to read as follows:

(a) It is a ground for removal from the advisory committee that a member:

(1) does not have at the time of taking office the qualifications required by Section 603.051;

(2) does not maintain during service on the advisory

committee the qualifications required by Section 603.051;

(3) is ineligible for membership under Section 603.0511 or 603.052; or

(4) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term [~~or~~

~~(5) is absent from more than half of the regularly scheduled committee meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the committee].~~

(b) The validity of an action of the advisory committee is not affected by the fact that it is taken when a ground for removal of a member of the advisory committee exists.

SECTION 9.093. Section 603.056, Occupations Code, is amended to read as follows:

Sec. 603.056. OFFICERS. (a) The president of the medical board [~~Not later than the 30th day after the date the commissioner appoints new committee members, the commissioner~~] shall designate biennially an advisory committee member as the [a] presiding officer of the advisory committee to serve in that capacity at the will of the president. [~~The presiding officer serves at the pleasure of the commissioner.~~]

(b) The advisory committee may appoint additional officers as necessary.

SECTION 9.094. Section 603.057, Occupations Code, is amended to read as follows:

Sec. 603.057. MEETINGS. The advisory committee shall meet

1 as requested by the medical board ~~[subject to the call of the~~
2 ~~commissioner]~~. A meeting may be held by telephone conference call.

3 SECTION 9.095. The heading to Subchapter D, Chapter 603,
4 Occupations Code, is amended to read as follows:

5 SUBCHAPTER D. MEDICAL BOARD POWERS AND DUTIES

6 SECTION 9.096. Section 603.151, Occupations Code, is
7 amended to read as follows:

8 Sec. 603.151. GENERAL POWERS AND DUTIES ~~[OF COMMISSIONER]~~.
9 The medical board ~~[commissioner]~~ shall:

10 (1) establish the qualifications for a perfusionist to
11 practice in this state ~~[and fitness of applicants for licenses,~~
12 ~~including renewed and reciprocal licenses]~~;

13 (2) establish requirements for an examination for a
14 license under this chapter ~~[revoke, suspend, or deny a license,~~
15 ~~probate a license suspension, or reprimand a license holder for a~~
16 ~~violation of this chapter, a rule adopted by the executive~~
17 ~~commissioner, or the code of ethics adopted by the executive~~
18 ~~commissioner]~~;

19 (3) establish minimum education and training
20 requirements necessary for a license under this chapter ~~[spend~~
21 ~~money necessary to administer the department's duties]~~;

22 (4) prescribe the application form for a license under
23 this chapter; and ~~[request and receive necessary assistance from~~
24 ~~another state agency, including a state educational institution,]~~

25 (5) ~~[adopt an official seal, and~~

26 ~~[and]~~ adopt and publish a code of ethics.

27 SECTION 9.097. 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 9.098. Section 603.153, Occupations Code, is
9 amended to read as follows:

10 Sec. 603.153. RULES RESTRICTING ADVERTISING OR COMPETITIVE
11 BIDDING. (a) The medical board [~~executive commissioner~~] may not
12 adopt a rule restricting advertising or competitive bidding by a
13 person regulated by the medical board [~~department~~] except to
14 prohibit a false, misleading, or deceptive practice.

15 (b) The medical board [~~executive commissioner~~] may not
16 include in rules to prohibit a false, misleading, or deceptive
17 practice by a person regulated by the medical board [~~department~~] a
18 rule that:

- 19 (1) restricts the person's use of any medium for
20 advertising;
21 (2) restricts the person's personal appearance or use
22 of the person's voice in an advertisement;
23 (3) relates to the size or duration of any
24 advertisement by the person; or
25 (4) restricts the use by the person of a trade name in
26 advertising.

27 SECTION 9.099. Section 603.1535, Occupations Code, is

1 amended to read as follows:

2 Sec. 603.1535. RULES ON CONSEQUENCES OF CRIMINAL
3 CONVICTION. (a) The medical board [~~executive commissioner~~] shall
4 adopt rules necessary to comply with Chapter 53, except to the
5 extent the requirements of this chapter are stricter than the
6 requirements of Chapter 53.

7 (b) In rules under this section, the medical board
8 [~~executive commissioner~~] shall list the specific offenses for which
9 a conviction would constitute grounds for the medical board
10 [~~commissioner~~] to take action under Section 53.021.

11 SECTION 9.100. Section 603.154, Occupations Code, is
12 amended to read as follows:

13 Sec. 603.154. FEES. The medical board [~~After consulting the~~
14 ~~commissioner or the department, the executive commissioner~~] shall
15 set fees in amounts reasonable and necessary to cover the costs of
16 administering this chapter.

17 SECTION 9.101. Section 603.155, Occupations Code, is
18 amended to read as follows:

19 Sec. 603.155. [~~EXECUTIVE COMMISSIONER AND DEPARTMENT~~]
20 DUTIES REGARDING COMPLAINTS. (a) The medical board [~~executive~~
21 ~~commissioner~~] by rule shall:

22 (1) adopt a form to standardize information concerning
23 complaints made to the medical board [~~department~~]; and

24 (2) prescribe information to be provided to a person
25 when the person files a complaint with the medical board
26 [~~department~~].

27 (b) The medical board [~~department~~] shall provide reasonable

1 assistance to a person who wishes to file a complaint with the
2 medical board ~~[department]~~.

3 SECTION 9.102. Section 603.156, Occupations Code, is
4 amended to read as follows:

5 Sec. 603.156. REGISTRY. The medical board ~~[department]~~
6 shall prepare a registry of licensed perfusionists and
7 provisionally licensed perfusionists that is available to the
8 public, license holders, and appropriate state agencies.

9 SECTION 9.103. Section 603.201, Occupations Code, is
10 amended to read as follows:

11 Sec. 603.201. PUBLIC INTEREST INFORMATION. (a) The
12 medical board ~~[department]~~ shall prepare information of consumer
13 interest describing the profession of perfusion, the regulatory
14 functions of the medical board ~~[department]~~, and the procedures by
15 which consumer complaints are filed with and resolved by the
16 medical board ~~[department]~~.

17 (b) The medical board ~~[department]~~ shall make the
18 information available to the public and appropriate state agencies.

19 SECTION 9.104. Section 603.202, Occupations Code, is
20 amended to read as follows:

21 Sec. 603.202. COMPLAINTS. (a) The medical board
22 ~~[executive commissioner]~~ by rule shall establish methods by which
23 consumers and service recipients are notified of the name, mailing
24 address, and telephone number of the medical board ~~[department]~~ for
25 the purpose of directing complaints to the medical board
26 ~~[department]~~. The medical board ~~[department]~~ may provide for that
27 notice:

1 (1) on each license form, application, or written
2 contract for services of a person licensed under this chapter;

3 (2) on a sign prominently displayed in the place of
4 business of each person licensed under this chapter; or

5 (3) in a bill for services provided by a person
6 licensed under this chapter.

7 (b) The medical board ~~[department]~~ shall list with its
8 regular telephone number any toll-free telephone number
9 established under other state law that may be called to present a
10 complaint about a health professional.

11 SECTION 9.105. Section 603.203, Occupations Code, is
12 amended to read as follows:

13 Sec. 603.203. RECORDS OF COMPLAINTS. (a) The medical board
14 ~~[department]~~ shall maintain a system to promptly and efficiently
15 act on complaints filed under this chapter ~~[with the~~
16 ~~department]~~. The medical board ~~[department]~~ shall maintain:

17 (1) information about the parties to the complaint and
18 the subject matter of the complaint;

19 (2) a summary of the results of the review or
20 investigation of the complaint; and

21 (3) information about the disposition of the
22 complaint.

23 (b) The medical board ~~[department]~~ shall make information
24 available describing its procedures for complaint investigation
25 and resolution.

26 (c) The medical board ~~[department]~~ shall periodically
27 notify the parties of the status of the complaint until final

1 disposition of the complaint.

2 SECTION 9.106. Sections 603.204(a), (b), and (d),
3 Occupations Code, are amended to read as follows:

4 (a) The medical board [~~executive commissioner~~] shall adopt
5 rules concerning the investigation of a complaint filed under this
6 chapter [~~with the department~~]. The rules shall:

7 (1) distinguish among categories of complaints;

8 (2) ensure that a complaint is not dismissed without
9 appropriate consideration;

10 (3) require that if [~~the commissioner be advised of~~] a
11 complaint [~~that~~] is dismissed, [~~and that~~] a letter shall be sent to
12 the person who filed the complaint explaining the action taken on
13 the dismissed complaint;

14 (4) ensure that the person who filed the complaint has
15 an opportunity to explain the allegations made in the complaint;
16 and

17 (5) prescribe guidelines concerning the categories of
18 complaints that require the use of a private investigator and the
19 procedures for the medical board [~~department~~] to obtain the
20 services of a private investigator.

21 (b) The medical board [~~department~~] shall:

22 (1) dispose of each complaint in a timely manner; and

23 (2) establish, not later than the 30th day after the
24 date the medical board [~~department~~] receives a complaint, a
25 schedule for conducting each phase of the complaint resolution
26 process that is under the control of the medical board
27 [~~department~~].

(d) The executive director of the medical board ~~[secretary]~~ shall notify the president of the medical board ~~[commissioner]~~ of a complaint that is not resolved within the time prescribed by the medical board ~~[commissioner]~~ for resolving the complaint so that the president ~~[commissioner]~~ may take necessary action on the complaint.

SECTION 9.107. The heading to Section 603.2041, Occupations Code, is amended to read as follows:

Sec. 603.2041. SUBPOENAS; CONFIDENTIALITY OF INFORMATION.

SECTION 9.108. Section 603.2041, Occupations Code, is amended by amending Subsections (a), (h), and (i) and adding Subsection (a-1) to read as follows:

(a) The executive director of the medical board, the director's designee, or the secretary-treasurer of the medical board may issue ~~[In an investigation of a complaint filed with the department, the department may request that the commissioner or the commissioner's designee approve the issuance of]~~ a subpoena or subpoena duces tecum:

(1) to conduct an investigation or a contested case proceeding related to:

- (A) alleged misconduct by a perfusionist;
- (B) an alleged violation of this chapter or another law related to the practice of perfusion; or
- (C) the provision of health care under this chapter; or

(2) for purposes of determining whether to issue, suspend, restrict, or revoke a license under this chapter ~~[. If the~~

1 ~~request is approved, the department may issue a subpoena to compel~~
2 ~~the attendance of a relevant witness or the production, for~~
3 ~~inspection or copying, of relevant evidence that is in this state].~~

4 (a-1) Failure to timely comply with a subpoena issued under
5 this section is a ground for:

6 (1) disciplinary action by the medical board or
7 another licensing or regulatory agency with jurisdiction over the
8 person subject to the subpoena; and

9 (2) denial of a license application.

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

18 (1) persons involved with the medical board
19 [~~department~~] in a disciplinary action against the holder of a
20 license;

21 (2) professional perfusionist licensing or
22 disciplinary boards in other jurisdictions;

23 (3) peer assistance programs approved by the medical
24 board [~~department~~] 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 [~~department~~] against a holder of a license, the nature of those
3 charges, disciplinary proceedings of the medical board
4 [~~department~~], and final disciplinary actions, including warnings
5 and reprimands, by the medical board [~~department~~] are not
6 confidential and are subject to disclosure in accordance with
7 Chapter 552, Government Code.

8 SECTION 9.109. Section 603.205, Occupations Code, is
9 amended to read as follows:

10 Sec. 603.205. PUBLIC PARTICIPATION. (a) The medical board
11 [~~State Health Services Council~~] shall develop and implement
12 policies that provide the public with a reasonable opportunity to
13 appear before the medical board [~~State Health Services Council~~] and
14 to speak on any issue related to the practice of perfusion.

15 (b) The medical board [~~commissioner~~] shall prepare and
16 maintain a written plan that describes how a person who does not
17 speak English or who has a physical, mental, or developmental
18 disability may be provided reasonable access to the medical board's
19 [~~department's~~] programs.

20 SECTION 9.110. Section 603.252(b), Occupations Code, is
21 amended to read as follows:

22 (b) The medical board [~~executive commissioner~~] shall
23 prescribe the application form and by rule may establish dates by
24 which applications and fees must be received.

25 SECTION 9.111. Sections 603.253(b), (c), (d), and (e),
26 Occupations Code, are amended to read as follows:

27 (b) The medical board [~~department~~] shall prepare or approve

1 an examination. The medical board [~~department~~] may prescribe an
2 examination that consists of or includes a written examination
3 given by the American Board of Cardiovascular Perfusion or by a
4 national or state testing service.

5 (c) The medical board [~~department~~] shall have any written
6 portion of the examination validated by an independent testing
7 professional.

8 (d) The medical board [~~department~~] shall administer an
9 examination to qualified applicants at least once each calendar
10 year.

11 (e) On receipt of an application and application fee, the
12 medical board [~~department~~] shall waive the examination requirement
13 for an applicant who, at the time of application:

14 (1) is licensed or certified by another state that has
15 licensing or certification requirements the medical board
16 [~~department~~] determines to be substantially equivalent to the
17 requirements of this chapter; or

18 (2) holds a certificate as a certified clinical
19 perfusionist issued by the American Board of Cardiovascular
20 Perfusion before January 1, 1994, authorizing the holder to
21 practice perfusion in a state that does not license or certify
22 perfusionists.

23 SECTION 9.112. Sections [603.2535](#)(b) and (c), Occupations
24 Code, are amended to read as follows:

25 (b) The medical board [~~department~~] shall develop and
26 administer at least twice each calendar year a jurisprudence
27 examination to determine an applicant's knowledge of this chapter,

1 rules adopted under this chapter [~~by the executive commissioner~~],
2 and any other applicable laws of this state affecting the
3 applicant's practice of perfusion.

4 (c) The medical board [~~executive commissioner~~] shall adopt
5 rules to implement this section, including rules related to the
6 development and administration of the examination, examination
7 fees, guidelines for reexamination, grading the examination, and
8 providing notice of examination results.

9 SECTION 9.113. Section **603.254**, Occupations Code, is
10 amended to read as follows:

11 Sec. 603.254. QUALIFICATION FOR EXAMINATION. (a) To
12 qualify for the licensing examinations under this chapter, an
13 applicant must have successfully completed a perfusion education
14 program approved by the medical board [~~department~~].

15 (b) The medical board [~~department~~] may approve a perfusion
16 education program only if the program has educational standards
17 that are:

18 (1) at least as stringent as those established by the
19 Accreditation Committee for Perfusion Education of the American
20 Medical Association or its successor; and

21 (2) approved by the Commission on Accreditation of the
22 Allied Health Education Program of the American Medical Association
23 or its successor.

24 SECTION 9.114. Section **603.255(a)**, Occupations Code, is
25 amended to read as follows:

26 (a) The medical board [~~department~~] shall notify an
27 applicant in writing of the receipt and investigation of the

1 applicant's application and any other relevant evidence relating to
2 qualifications established by [~~an executive commissioner~~] rule not
3 later than:

4 (1) the 45th day after the date a properly submitted
5 and timely application is received; and

6 (2) the 30th day before the next examination date.

7 SECTION 9.115. Section 603.256, Occupations Code, is
8 amended to read as follows:

9 Sec. 603.256. EXAMINATION RESULTS. (a) The medical board
10 [~~department~~] shall notify each examinee of the examination results
11 not later than the 30th day after the date the examination is
12 administered. If an examination is graded or reviewed by a national
13 or state testing service, the medical board [~~department~~] shall
14 notify each examinee of the examination results not later than the
15 14th day after the date the medical board [~~department~~] receives the
16 results from the testing service.

17 (b) If the notice of the results of an examination graded or
18 reviewed by a national or state testing service will be delayed for
19 longer than 90 days after the examination date, the medical board
20 [~~department~~] shall notify each examinee of the reason for the delay
21 before the 90th day.

22 (c) If requested in writing by a person who fails the
23 examination, the medical board [~~department~~] shall provide to the
24 person an analysis of the person's performance on the examination.

25 SECTION 9.116. Section 603.257, Occupations Code, is
26 amended to read as follows:

27 Sec. 603.257. REEXAMINATION AND ALTERNATIVES TO

EXAMINATION. The medical board [~~executive commissioner~~] by rule shall establish:

(1) a limit on the number of times an applicant who fails an examination may retake the examination;

(2) requirements for retaking an examination; and

(3) alternative methods of examining competency.

SECTION 9.117. Subchapter F, Chapter 603, Occupations Code, is amended by adding Section 603.2571 to read as follows:

Sec. 603.2571. CRIMINAL HISTORY RECORD INFORMATION REQUIREMENT FOR LICENSE. (a) The medical board shall require that an applicant for a license submit a complete and legible set of fingerprints, on a form prescribed by the medical board, to the medical board or to the Department of Public Safety for the purpose of obtaining criminal history record information from the Department of Public Safety and the Federal Bureau of Investigation.

(b) The medical board may not issue a license to a person who does not comply with the requirement of Subsection (a).

(c) The medical board shall conduct a criminal history check of each applicant for a license using information:

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

(2) made available to the medical board by the Department of Public Safety, the Federal Bureau of Investigation, and any other criminal justice agency under Chapter 411, Government Code.

(d) The medical board may:

(1) enter into an agreement with the Department of

1 Public Safety to administer a criminal history check required under
2 this section; and

3 (2) authorize the Department of Public Safety to
4 collect from each applicant the costs incurred by the Department of
5 Public Safety in conducting the criminal history check.

6 SECTION 9.118. Sections 603.259(a), (c), and (d),
7 Occupations Code, are amended to read as follows:

8 (a) The medical board [~~department~~] may issue a provisional
9 license to an applicant who files an application, pays an
10 application fee, and submits evidence satisfactory to the medical
11 board [~~department~~] of successful completion of the education
12 requirement under Section 603.254.

13 (c) A provisionally licensed perfusionist must practice
14 under the supervision and direction of a licensed perfusionist
15 while performing perfusion. If the medical board [~~department~~]
16 finds that a licensed perfusionist is not reasonably available to
17 provide supervision and direction and if the medical board
18 [~~department~~] approves an application submitted [~~to the department~~]
19 by the provisionally licensed perfusionist, supervision and
20 direction may be provided by a physician who is licensed by the
21 medical board [~~Texas State Board of Medical Examiners~~] and
22 certified by the American Board of Thoracic Surgeons, Inc., or
23 certified in cardiovascular surgery by the American Osteopathic
24 Board of Surgery.

25 (d) The medical board [~~executive commissioner~~] may not
26 adopt a rule governing supervision and direction that requires the
27 immediate physical presence of the supervising person.

SECTION 9.119. Sections 603.301(b), (c), (d), and (f), Occupations Code, are amended to read as follows:

(b) The medical board [~~executive commissioner~~] by rule may adopt a system under which licenses expire on various dates during the year.

(c) A person may renew an unexpired license by paying the required renewal fee to the medical board [~~department~~] before the license expiration date.

(d) A person whose license has been expired for 90 days or less may renew the license by paying to the medical board [~~department~~] a fee that is equal to 1-1/4 times the amount of the renewal fee. If a license has been expired for more than 90 days but less than one year, the person may renew the license by paying to the medical board [~~department~~] a fee that is equal to 1-1/2 times the amount of the renewal fee.

(f) Before the 30th day before a person's license expiration date, the medical board [~~department~~] shall send written notice of the impending license expiration to the person at the person's last known address according to medical board [~~department~~] records.

SECTION 9.120. Section 603.303, Occupations Code, is amended to read as follows:

Sec. 603.303. RENEWAL OF EXPIRED LICENSE BY OUT-OF-STATE PRACTITIONER. (a) The medical board [~~department~~] may renew without reexamination an expired license of a person who was licensed as a perfusionist in this state, moved to another state, and is licensed or certified and has been in practice in the other state for the two years preceding the date the person applies for

1 renewal.

2 (b) The person must pay to the medical board ~~[department]~~ a
3 fee that is equal to the amount of the renewal fee for the license.

4 SECTION 9.121. Subchapter G, Chapter 603, Occupations Code,
5 is amended by adding Section 603.3031 to read as follows:

6 Sec. 603.3031. CRIMINAL HISTORY RECORD INFORMATION
7 REQUIREMENT FOR RENEWAL. (a) An applicant renewing a license shall
8 submit a complete and legible set of fingerprints for purposes of
9 performing a criminal history check of the applicant as provided by
10 Section 603.2571.

11 (b) The medical board may not renew the license of a person
12 who does not comply with the requirement of Subsection (a).

13 (c) A license holder is not required to submit fingerprints
14 under this section for the renewal of the license if the license
15 holder has previously submitted fingerprints under:

16 (1) Section 603.2571 for the initial issuance of the
17 license; or

18 (2) this section as part of a prior renewal of the
19 license.

20 SECTION 9.122. Section 603.304, Occupations Code, is
21 amended to read as follows:

22 Sec. 603.304. CONTINUING EDUCATION. (a) To renew a license
23 under this chapter, a person must submit proof satisfactory to the
24 medical board ~~[department]~~ that the person has complied with the
25 continuing education requirements prescribed by the medical board
26 ~~[department]~~.

27 (b) The medical board ~~[executive commissioner]~~ shall

1 establish continuing education programs for licensed perfusionists
2 and provisionally licensed perfusionists under this chapter. The
3 standards of the programs must be at least as stringent as the
4 standards of the American Board of Cardiovascular Perfusion or its
5 successor.

6 (c) The medical board [~~executive commissioner~~] shall:

7 (1) establish a minimum number of hours of continuing
8 education required for license renewal under this chapter; and

9 (2) develop a process to evaluate and approve
10 continuing education courses.

11 (d) The medical board [~~executive commissioner~~] shall
12 identify key factors for a license holder's competent performance
13 of professional duties. The medical board [~~executive~~
14 ~~commissioner~~] shall adopt a procedure to assess a license holder's
15 participation in continuing education programs.

16 SECTION 9.123. Section **603.305**, Occupations Code, is
17 amended to read as follows:

18 Sec. 603.305. GROUNDS FOR REFUSING RENEWAL. The medical
19 board [~~department~~] may refuse to renew the license of a person who
20 fails to pay an administrative penalty imposed under Subchapter K
21 unless enforcement of the penalty is stayed or a court has ordered
22 that the administrative penalty is not owed.

23 SECTION 9.124. Section **603.352**, Occupations Code, is
24 amended to read as follows:

25 Sec. 603.352. LICENSE HOLDER INFORMATION. A person
26 licensed under this chapter shall keep the medical board
27 [~~department~~] informed of any change in the license holder's

1 address.

2 SECTION 9.125. Section 603.353, Occupations Code, is
3 amended to read as follows:

4 Sec. 603.353. SURRENDER OF LICENSE. A license certificate
5 issued by the medical board [~~department~~] is the property of the
6 medical board [~~department~~] and shall be surrendered on demand.

7 SECTION 9.126. Section 603.401, Occupations Code, is
8 amended to read as follows:

9 Sec. 603.401. GROUNDS FOR DISCIPLINARY ACTION. If a
10 license holder violates this chapter or a rule or code of ethics
11 adopted under this chapter [~~by the executive commissioner~~], the
12 medical board [~~department~~] shall:

- 13 (1) revoke or suspend the license;
14 (2) place on probation the person if the person's
15 license has been suspended;
16 (3) reprimand the license holder; or
17 (4) refuse to renew the license.

18 SECTION 9.127. Section 603.402, Occupations Code, is
19 amended to read as follows:

20 Sec. 603.402. HEARING. (a) If the medical board
21 [~~department~~] proposes to revoke, suspend, or refuse to renew a
22 person's license, the person is entitled to a hearing before a
23 hearings officer appointed by the State Office of Administrative
24 Hearings.

25 (b) The medical board [~~executive commissioner~~] shall
26 prescribe procedures for appealing [~~to the commissioner~~] a decision
27 to revoke, suspend, or refuse to renew a license.

SECTION 9.128. Section 603.404(a), Occupations Code, is amended to read as follows:

(a) The medical board [~~executive commissioner~~] by rule shall adopt a broad schedule of sanctions for a violation of this chapter.

SECTION 9.129. Section 603.405, Occupations Code, is amended to read as follows:

Sec. 603.405. PROBATION. The medical board [~~department~~] may require a person whose license suspension is probated to:

(1) report regularly to the medical board [~~department~~] on matters that are the basis of the probation;

(2) limit practice to areas prescribed by the medical board [~~department~~]; or

(3) continue the person's professional education until the license holder attains a degree of skill satisfactory to the medical board [~~department~~] in those areas that are the basis of the probation.

SECTION 9.130. Section 603.406, Occupations Code, is amended to read as follows:

Sec. 603.406. MONITORING OF LICENSE HOLDER. (a) The medical board [~~executive commissioner~~] by rule shall develop a system for monitoring a license holder's compliance with the requirements of this chapter.

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

(1) monitor for compliance a license holder who is ordered by the medical board [~~department~~] to perform certain acts;

1 and

2 (2) identify and monitor license holders who represent
3 a risk to the public.

4 SECTION 9.131. Section 603.407, Occupations Code, is
5 amended to read as follows:

6 Sec. 603.407. INFORMAL PROCEDURES. (a) The medical board
7 ~~[executive commissioner]~~ by rule shall adopt procedures governing:

8 (1) informal disposition of a contested case under
9 Section 2001.056, Government Code; and

10 (2) an informal proceeding held in compliance with
11 Section 2001.054, Government Code.

12 (b) Rules adopted under Subsection (a) must:

13 (1) provide the complainant, if applicable and
14 permitted by law, an opportunity to be heard;

15 (2) provide ~~[and]~~ the license holder an opportunity to
16 be heard; and

17 (3) ~~[(2)]~~ require the presence of a representative of
18 the attorney general or the medical board's ~~[department's]~~ legal
19 counsel to advise the medical board ~~[department]~~ or the medical
20 board's ~~[department's]~~ employees.

21 SECTION 9.132. Section 603.408(a), Occupations Code, is
22 amended to read as follows:

23 (a) The medical board or a three-member panel of medical
24 board members designated by the president of the medical board
25 ~~[department]~~ shall temporarily suspend the license of a license
26 holder if the medical board or panel ~~[department]~~ determines from
27 the evidence or information presented to it that continued practice

1 by the license holder would constitute a continuing and imminent
2 threat to the public welfare.

3 SECTION 9.133. Section 603.409, Occupations Code, is
4 amended to read as follows:

5 Sec. 603.409. REFUND. (a) Subject to Subsection (b), the
6 medical board [~~department~~] may order a license holder to pay a
7 refund to a consumer as provided in an agreement resulting from an
8 informal settlement conference instead of or in addition to
9 imposing an administrative penalty under this chapter.

10 (b) The amount of a refund ordered as provided in an
11 agreement resulting from an informal settlement conference may not
12 exceed the amount the consumer paid to the license holder for a
13 service regulated by this chapter. The medical board [~~department~~]
14 may not require payment of other damages or estimate harm in a
15 refund order.

16 SECTION 9.134. Section 603.451(a), Occupations Code, is
17 amended to read as follows:

18 (a) The medical board [~~department~~] may request the attorney
19 general or the appropriate county or district attorney to commence
20 an action to enjoin a violation of this chapter.

21 SECTION 9.135. Section 603.4515, Occupations Code, is
22 amended to read as follows:

23 Sec. 603.4515. CIVIL PENALTY. (a) A person who violates
24 this chapter or [~~7~~] a rule adopted [~~by the executive commissioner,~~]
25 or an order issued [~~adopted by the commissioner~~] under this chapter
26 is liable for a civil penalty not to exceed \$5,000 a day.

27 (b) At the request of the medical board [~~department~~], the

1 attorney general shall bring an action to recover a civil penalty
2 authorized under this section.

3 SECTION 9.136. Section 603.453(a), Occupations Code, is
4 amended to read as follows:

5 (a) If it appears to the medical board [~~commissioner~~] that a
6 person who is not licensed under this chapter is violating this
7 chapter, a rule adopted under this chapter, or another state
8 statute or rule relating to the practice of perfusion, the medical
9 board [~~commissioner~~] after notice and an opportunity for a hearing
10 may issue a cease and desist order prohibiting the person from
11 engaging in the activity.

12 SECTION 9.137. Section 603.501, Occupations Code, is
13 amended to read as follows:

14 Sec. 603.501. IMPOSITION OF ADMINISTRATIVE PENALTY. The
15 medical board [~~department~~] may impose an administrative penalty on
16 a person licensed under this chapter who violates this chapter or a
17 rule or order adopted under this chapter.

18 SECTION 9.138. Section 603.502(c), Occupations Code, is
19 amended to read as follows:

20 (c) The medical board [~~executive commissioner~~] by rule
21 shall adopt an administrative penalty schedule based on the
22 criteria listed in Subsection (b) for violations of this chapter or
23 applicable rules to ensure that the amounts of penalties imposed
24 are appropriate to the violation. The medical board [~~executive~~
25 ~~commissioner~~] shall provide the administrative penalty schedule to
26 the public on request.

27 SECTION 9.139. Section 603.503, Occupations Code, is

1 amended to read as follows:

2 Sec. 603.503. REPORT AND NOTICE OF VIOLATION AND PENALTY.

3 ~~[(a)]~~ If the medical board ~~[commissioner or the commissioner's~~
4 ~~designee]~~ determines that a violation occurred, the medical board
5 ~~[commissioner or the designee may issue to the department a report~~
6 ~~stating:~~

7 ~~[(1) the facts on which the determination is based,~~
8 ~~and~~

9 ~~[(2) the commissioner's or the designee's~~
10 ~~recommendation on the imposition of an administrative penalty,~~
11 ~~including a recommendation on the amount of the penalty.~~

12 ~~[(b) Within 14 days after the date the report is issued, the~~
13 ~~commissioner or the commissioner's designee]~~ shall give written
14 notice of the violation ~~[report]~~ to the person. The notice must:

15 (1) include a brief summary of the alleged violation;
16 (2) state the amount of the recommended administrative
17 penalty; and

18 (3) inform the person of the person's right to a
19 hearing on the occurrence of the violation, the amount of the
20 penalty, or both.

21 SECTION 9.140. Section 603.504, Occupations Code, is
22 amended to read as follows:

23 Sec. 603.504. PENALTY TO BE PAID OR HEARING REQUESTED. (a)
24 Within 10 days after the date the person receives the notice, the
25 person in writing may:

26 (1) accept the determination and recommended
27 administrative penalty of the medical board ~~[commissioner or the~~

1 ~~commissioner's designee~~]; or

2 (2) make a request for a hearing on the occurrence of
3 the violation, the amount of the penalty, or both.

4 (b) If the person accepts the determination and recommended
5 penalty of the medical board [~~commissioner or the commissioner's~~
6 ~~designee~~], the medical board [~~commissioner~~] by order shall approve
7 the determination and impose the recommended penalty.

8 SECTION 9.141. Sections 603.505(a) and (c), Occupations
9 Code, are amended to read as follows:

10 (a) If the person requests a hearing or fails to respond in a
11 timely manner to the notice, the medical board [~~commissioner or the~~
12 ~~commissioner's designee~~] shall set a hearing and give written
13 notice of the hearing to the person.

14 (c) The administrative law judge shall make findings of fact
15 and conclusions of law and promptly issue to the medical board
16 [~~commissioner~~] a proposal for a decision about the occurrence of
17 the violation and the amount of a proposed administrative penalty.

18 SECTION 9.142. Section 603.506, Occupations Code, is
19 amended to read as follows:

20 Sec. 603.506. DECISION BY MEDICAL BOARD [~~COMMISSIONER~~].

21 (a) Based on the findings of fact, conclusions of law, and proposal
22 for decision, the medical board [~~commissioner~~] by order may
23 determine that:

24 (1) a violation occurred and impose an administrative
25 penalty; or

26 (2) a violation did not occur.

27 (b) The notice of the medical board's [~~commissioner's~~] order

1 given to the person must include a statement of the right of the
2 person to judicial review of the order.

3 SECTION 9.143. Sections 603.507(a), (b), and (c),
4 Occupations Code, are amended to read as follows:

5 (a) Within 30 days after the date the medical board's
6 ~~[commissioner's]~~ order becomes final, the person shall:

7 (1) pay the administrative penalty; or

8 (2) file a petition for judicial review contesting the
9 occurrence of the violation, the amount of the penalty, or both.

10 (b) Within the 30-day period prescribed by Subsection (a), a
11 person who files a petition for judicial review may:

12 (1) stay enforcement of the penalty by:

13 (A) paying the penalty to the court for placement
14 in an escrow account; or

15 (B) giving the court a supersedeas bond approved
16 by the court that:

17 (i) is for the amount of the penalty; and

18 (ii) is effective until all judicial review
19 of the commissioner's order is final; or

20 (2) request the court to stay enforcement of the
21 penalty by:

22 (A) filing with the court a sworn affidavit of
23 the person stating that the person is financially unable to pay the
24 penalty and is financially unable to give the supersedeas bond; and

25 (B) giving a copy of the affidavit to the medical
26 board ~~[commissioner or the commissioner's designee]~~ by certified
27 mail.

1 (c) If the medical board [~~commissioner or the~~
2 ~~commissioner's designee~~] receives a copy of an affidavit under
3 Subsection (b)(2), the medical board [~~commissioner or the designee~~]
4 may file with the court, within five days after the date the copy is
5 received, a contest to the affidavit.

6 SECTION 9.144. Sections 604.001(1) and (2), Occupations
7 Code, are amended to read as follows:

8 (1) "Advisory board" [~~"Board"~~] means the Texas Board
9 of Respiratory Care [~~Health~~].

10 (2) "Medical board" [~~"Department"~~] means the Texas
11 Medical Board [~~Department of Health~~].

12 SECTION 9.145. Section 604.003, Occupations Code, is
13 amended to read as follows:

14 Sec. 604.003. EFFECT OF CHAPTER. This chapter does not
15 prohibit:

16 (1) the practice of respiratory care as an integral
17 part of the program of study by a student enrolled in a respiratory
18 care education program approved by the advisory board [~~department~~];

19 (2) the employment by a health care facility of a
20 person to deliver limited respiratory care support services under
21 the supervision of another person who holds a certificate issued
22 under this chapter, if the person delivering the services does not
23 perform an invasive procedure related to critical respiratory care,
24 including a therapeutic, diagnostic, or palliative procedure, as
25 part of the person's employment and if that person:

26 (A) is enrolled for credit in the clinical
27 portion of an approved respiratory care education program; or

1 (B) has completed all of the clinical portion of
2 an approved respiratory care education program within the preceding
3 12 months and is actively pursuing a course of study leading to
4 graduation from the program;

5 (3) the care of an ill person provided without charge
6 by a friend or family member;

7 (4) care provided in an emergency by a person who does
8 not claim to be a respiratory care practitioner;

9 (5) the performance by a respiratory care practitioner
10 of an advance in the art and techniques of respiratory care learned
11 through formal or specialized training;

12 (6) the practice of respiratory care by health care
13 personnel who have been formally trained in the care used and who
14 are:

15 (A) licensed under the law regulating their
16 professions; or

17 (B) acting under the delegated authority of a
18 licensed physician;

19 (7) the practice of a legally qualified respiratory
20 care practitioner who is discharging the practitioner's official
21 duties as an employee of the United States government; or

22 (8) the practice by a person of a profession or
23 occupation for which the person is licensed, registered, or
24 certified under another law of this state.

25 SECTION 9.146. Chapter 604, Occupations Code, is amended by
26 adding Subchapter A-1 to read as follows:

27 SUBCHAPTER A-1. TEXAS BOARD OF RESPIRATORY CARE

1 Sec. 604.021. TEXAS BOARD OF RESPIRATORY CARE. The Texas
2 Board of Respiratory Care is an advisory board to the Texas Medical
3 Board.

4 Sec. 604.022. APPOINTMENT OF ADVISORY BOARD. (a) The
5 advisory board consists of nine members appointed by the governor
6 with the advice and consent of the senate as follows:

7 (1) four respiratory care practitioners who each have
8 at least five years of experience as a respiratory care
9 practitioner;

10 (2) two physicians licensed in this state who
11 supervise respiratory care practitioners; and

12 (3) three members who represent the public.

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

16 Sec. 604.023. MEMBERSHIP ELIGIBILITY AND RESTRICTIONS. (a)
17 In this section, "Texas trade association" means a cooperative and
18 voluntarily joined statewide association of business or
19 professional competitors in this state designed to assist its
20 members and its industry or profession in dealing with mutual
21 business or professional problems and in promoting their common
22 interest.

23 (b) A person may not be a public member of the advisory board
24 if the person or the person's spouse:

25 (1) is registered, certified, or licensed by a
26 regulatory agency in a health care profession;

27 (2) is employed by or participates in the management

of a business entity or other organization regulated by or receiving money from the medical board or advisory board;

(3) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by or receiving money from the medical board or advisory board; or

(4) uses or receives a substantial amount of tangible goods, services, or money from the medical board or advisory board other than compensation or reimbursement authorized by law for advisory board membership, attendance, or expenses.

(c) A person may not be a member of the advisory board if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of health care; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of health care.

(d) A person may not be a member of the advisory board or act as the general counsel to the advisory board if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the medical board or advisory board.

Sec. 604.024. TERMS; VACANCIES. (a) Members of the advisory board are appointed for staggered six-year terms. The terms of three members expire on February 1 of each odd-numbered year.

(b) A member may not serve more than:

1 (1) two consecutive full terms; or

2 (2) a total of three full terms.

3 (c) If a vacancy occurs during a member's term, the governor
4 shall appoint a new member to fill the unexpired term.

5 Sec. 604.025. OFFICERS. The governor shall designate a
6 member of the advisory board as the presiding officer of the
7 advisory board to serve in that capacity at the will of the
8 governor. The advisory board shall select from its membership an
9 assistant presiding officer and other officers as the advisory
10 board considers necessary to carry out the advisory board's duties.

11 Sec. 604.026. GROUNDS FOR REMOVAL. (a) It is a ground for
12 removal from the advisory board that a member:

13 (1) does not have at the time of taking office the
14 qualifications required by Sections 604.022 and 604.023;

15 (2) does not maintain during service on the advisory
16 board the qualifications required by Sections 604.022 and 604.023;

17 (3) is ineligible for membership under Section
18 604.023;

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) is absent from more than half of the regularly
23 scheduled advisory board meetings that the member is eligible to
24 attend during a calendar year without an excuse approved by a
25 majority vote of the advisory board.

26 (b) The validity of an action of the advisory board is not
27 affected by the fact that it is taken when a ground for removal of an

1 advisory board member exists.

2 (c) If the executive director of the medical board has
3 knowledge that a potential ground for removal exists, the executive
4 director shall notify the presiding officer of the advisory board
5 of the potential ground. The presiding officer shall then notify
6 the governor and the attorney general that a potential ground for
7 removal exists. If the potential ground for removal involves the
8 presiding officer, the executive director shall notify the next
9 highest ranking officer of the advisory board, who shall then
10 notify the governor and the attorney general that a potential
11 ground for removal exists.

12 Sec. 604.027. PER DIEM. A member of the advisory board is
13 entitled to receive a per diem as set by legislative appropriation
14 for each day that the member engages in the business of the advisory
15 board.

16 Sec. 604.028. APPLICATION OF OPEN MEETINGS, OPEN RECORDS,
17 AND ADMINISTRATIVE PROCEDURE LAWS. Except as otherwise provided
18 by this chapter, the advisory board is subject to Chapters 551, 552,
19 and 2001, Government Code.

20 Sec. 604.029. MEETINGS; QUORUM REQUIREMENTS. (a) The
21 advisory board shall conduct regular meetings at least three times
22 a year at the times and places the advisory board considers most
23 convenient for applicants and advisory board members.

24 (b) The advisory board may hold special meetings in
25 accordance with rules adopted by the advisory board and approved by
26 the medical board.

27 (c) A majority of the advisory board members constitutes a

quorum for all purposes except for an advisory board activity related to examining the credentials of applicants, acting as a panel for disciplinary action under Section 604.202, or conducting an informal meeting under Section 604.209.

Sec. 604.030. TRAINING. (a) A person who is appointed to and qualifies for office as a member of the advisory board may not vote, deliberate, or be counted as a member in attendance at a meeting of the advisory board until the person completes a training program that complies with this section.

(b) The training program must provide the person with information regarding:

(1) this chapter and the advisory board's programs, functions, rules, and budget;

(2) the results of the most recent formal audit of the advisory board;

(3) the requirements of laws relating to open meetings, public information, administrative procedure, and conflicts of interest; and

(4) any applicable ethics policies adopted by the advisory board or the Texas Ethics Commission.

(c) A person appointed to the advisory board is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

SECTION 9.147. The heading to Subchapter B, Chapter 604, Occupations Code, is amended to read as follows:

SUBCHAPTER B. POWERS AND DUTIES OF ADVISORY BOARD AND MEDICAL BOARD
[~~DEPARTMENT~~]

SECTION 9.148. The heading to Section 604.052, Occupations Code, is amended to read as follows:

Sec. 604.052. GENERAL POWERS AND DUTIES OF ADVISORY BOARD
[~~RULES~~].

SECTION 9.149. Section 604.052(a), Occupations Code, is amended to read as follows:

(a) The advisory board [~~by rule~~] shall:

(1) adopt rules that are reasonable and necessary for the performance of the advisory board's duties under this chapter, as provided by Chapter 2001, Government Code, including rules to establish;

(A) the certification and permitting program;
and

(B) minimum qualifications for respiratory care practitioners;

(2) review and approve or reject each application for the issuance or renewal of a certificate or temporary permit;

(3) issue each certificate or permit;

(4) deny, suspend, or revoke [standards for issuing, denying, renewing, suspending, suspending on an emergency basis, or revoking] a certificate or temporary permit or otherwise discipline a certificate or permit holder; and

(5) take any action necessary to carry out the functions and duties of the advisory board under this chapter.

SECTION 9.150. Subchapter B, Chapter 604, Occupations Code,

is amended by adding Sections 604.0521 and 604.0522 to read as follows:

Sec. 604.0521. GUIDELINES FOR EARLY INVOLVEMENT IN RULEMAKING PROCESS. (a) The advisory board shall adopt guidelines to establish procedures for receiving input during the rulemaking process from individuals and groups that have an interest in matters under the advisory board's jurisdiction. The guidelines must provide an opportunity for those individuals and groups to provide input before the advisory board submits the rule to the medical board for approval.

(b) A rule adopted under this chapter may not be challenged on the grounds that the advisory board did not comply with this section. If the advisory board was unable to solicit a significant amount of input from the public or affected persons early in the rulemaking process, the advisory board shall state in writing the reasons why it was unable to do so.

Sec. 604.0522. POWERS AND DUTIES OF MEDICAL BOARD RELATING TO RESPIRATORY CARE PRACTITIONERS. (a) The medical board shall adopt rules consistent with this chapter to regulate:

(1) respiratory care practitioners; and
(2) physicians who supervise respiratory care practitioners.

(b) The medical board, by a majority vote, shall approve or reject each rule adopted by the advisory board. If approved, the rule may take effect. If the rule is rejected, the medical board shall return the rule to the advisory board for revision.

SECTION 9.151. Section [604.053](#), Occupations Code, is

1 amended to read as follows:

2 Sec. 604.053. FEES. (a) The advisory board by rule shall
3 set fees for an application, examination, certificate, temporary
4 permit, permit and certificate renewal, and certificate
5 reinstatement.

6 (b) The advisory board shall set fees in reasonable amounts
7 that are sufficient to cover the costs of administering this
8 chapter.

9 SECTION 9.152. Section 604.054, Occupations Code, is
10 amended to read as follows:

11 Sec. 604.054. APPROVAL OF EDUCATION PROGRAMS. In
12 determining whether to approve a respiratory care education
13 program, the advisory board [~~department~~] shall consider relevant
14 information about the quality of the program, including
15 accreditation of the program by a professional medical association,
16 such as the Commission on Accreditation of Allied Health Education
17 Programs.

18 SECTION 9.153. Section 604.055, Occupations Code, is
19 amended to read as follows:

20 Sec. 604.055. PEER ASSISTANCE PROGRAM. The medical board
21 [~~department~~] may establish, approve, and fund a peer assistance
22 program in accordance with Section 467.003, Health and Safety Code,
23 and medical board rules.

24 SECTION 9.154. Section 604.057, Occupations Code, is
25 amended to read as follows:

26 Sec. 604.057. RULES REGARDING ADVERTISING OR COMPETITIVE
27 BIDDING. (a) The advisory board may not adopt rules restricting

1 advertising or competitive bidding by a temporary permit or
2 certificate holder except to prohibit false, misleading, or
3 deceptive practices.

4 (b) In its rules to prohibit false, misleading, or deceptive
5 practices, the advisory board may not include a rule that:

6 (1) restricts the use of any medium for advertising;

7 (2) restricts the use of a temporary permit or
8 certificate holder's personal appearance or voice in an
9 advertisement;

10 (3) relates to the size or duration of an
11 advertisement by the temporary permit or certificate holder; or

12 (4) restricts the temporary permit or certificate
13 holder's advertisement under a trade name.

14 SECTION 9.155. Subchapter B, Chapter 604, Occupations Code,
15 is amended by adding Sections 604.058, 604.059, and 604.060 to read
16 as follows:

17 Sec. 604.058. RULES ON CONSEQUENCES OF CRIMINAL CONVICTION.
18 The advisory board shall adopt rules and guidelines as necessary to
19 comply with Chapter 53, except to the extent the requirements of
20 this chapter are stricter than the requirements of Chapter 53.

21 Sec. 604.059. ASSISTANCE BY MEDICAL BOARD; DIVISION OF
22 RESPONSIBILITIES. (a) The medical board shall provide
23 administrative and clerical employees as necessary to enable the
24 advisory board to administer this chapter.

25 (b) Subject to the advice and approval of the medical board,
26 the advisory board shall develop and implement policies that
27 clearly separate the policy-making responsibilities of the

1 advisory board and the management responsibilities of the executive
2 director and staff of the medical board.

3 Sec. 604.060. PUBLIC PARTICIPATION. Subject to the advice
4 and approval of the medical board, the advisory board shall develop
5 and implement policies that provide the public with a reasonable
6 opportunity to appear before the advisory board and to speak on any
7 issue under the jurisdiction of the advisory board.

8 SECTION 9.156. Section 604.101(b), Occupations Code, is
9 amended to read as follows:

10 (b) A person may not practice respiratory care other than
11 under the direction of a qualified medical director or other
12 physician licensed by the medical board [~~Texas State Board of~~
13 ~~Medical Examiners~~].

14 SECTION 9.157. Section 604.103, Occupations Code, is
15 amended to read as follows:

16 Sec. 604.103. APPLICATION; APPLICATION FEE. An applicant
17 for a certificate or temporary permit must:

18 (1) apply to the advisory board [~~department~~] on a form
19 and under rules prescribed by the advisory board; and

20 (2) submit a nonrefundable application fee with the
21 application.

22 SECTION 9.158. Subchapter C, Chapter 604, Occupations Code,
23 is amended by adding Section 604.1031 to read as follows:

24 Sec. 604.1031. CRIMINAL HISTORY RECORD INFORMATION
25 REQUIREMENT FOR CERTIFICATE OR TEMPORARY PERMIT. (a) The advisory
26 board shall require that an applicant for a certificate or
27 temporary permit submit a complete and legible set of fingerprints,

1 on a form prescribed by the advisory board, to the advisory board or
2 to the Department of Public Safety for the purpose of obtaining
3 criminal history record information from the Department of Public
4 Safety and the Federal Bureau of Investigation.

5 (b) The advisory board may not issue a certificate or
6 temporary permit to a person who does not comply with the
7 requirement of Subsection (a).

8 (c) The advisory board shall conduct a criminal history
9 check of each applicant for a certificate or temporary permit using
10 information:

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

12 (2) made available to the advisory 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 advisory 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 9.159. Section 604.104, Occupations Code, is
24 amended to read as follows:

25 Sec. 604.104. REQUIREMENT FOR CERTIFICATE. An applicant
26 for a certificate must submit to the advisory board ~~[department]~~
27 written evidence, verified by oath, that the applicant has

1 completed:

2 (1) an approved four-year high school course of study
3 or the equivalent as determined by the appropriate educational
4 agency; and

5 (2) a respiratory care education program approved by
6 the advisory board [~~department~~].

7 SECTION 9.160. Section 604.1041, Occupations Code, is
8 amended to read as follows:

9 Sec. 604.1041. EXAMINATION. (a) The advisory board by rule
10 shall establish examination requirements for a certificate under
11 this chapter. The advisory board may use the entry level
12 examination prepared by the National Board for Respiratory Care or
13 an equivalent examination.

14 (b) An applicant for a certificate or temporary permit must
15 pass a jurisprudence examination approved by the advisory board.

16 SECTION 9.161. Section 604.1042, Occupations Code, is
17 amended to read as follows:

18 Sec. 604.1042. NOTIFICATION OF EXAMINATION RESULTS. (a)
19 Not later than the 30th day after the date a person takes a
20 certification examination under this chapter, the advisory board
21 [~~department~~] shall notify the person of the results of the
22 examination.

23 (b) If the examination is graded or reviewed by a testing
24 service, the advisory board [~~department~~] shall notify the person of
25 the results of the examination not later than the 14th day after the
26 date the advisory board [~~department~~] receives the results from the
27 testing service. If notice of the examination results will be

1 delayed for longer than 90 days after the examination date, the
2 advisory board [~~department~~] shall notify the person of the reason
3 for the delay before the 90th day.

4 (c) The advisory board [~~department~~] may require a testing
5 service to notify a person of the results of the person's
6 examination.

7 (d) If requested in writing by a person who fails a
8 certification examination administered under this chapter, the
9 advisory board [~~department~~] shall furnish the person with an
10 analysis of the person's performance on the examination.

11 SECTION 9.162. Section 604.105, Occupations Code, is
12 amended to read as follows:

13 Sec. 604.105. ISSUANCE OF CERTIFICATE. The advisory board
14 [~~department~~] shall issue a certificate to an applicant who:

15 (1) meets the minimum standards adopted under Section
16 604.052(a);

17 (2) passes the required examinations;

18 (3) complies with the criminal history record
19 information requirement of Section 604.1031;

20 (4) submits an application on a form prescribed by the
21 advisory board;

22 (5) certifies that the applicant is mentally and
23 physically able to be a respiratory care practitioner;

24 (6) submits to the advisory board any other
25 information the advisory board considers necessary to evaluate the
26 applicant's qualifications; and

27 (7) pays the certificate fee.

SECTION 9.163. Section 604.106, Occupations Code, is amended to read as follows:

Sec. 604.106. ISSUANCE OF CERTIFICATE BY RECIPROCITY. The advisory board ~~[department]~~ may issue a certificate to a person who is licensed or certified to practice respiratory care by another state whose requirements for licensure or certification were on the date the license or certificate was issued substantially equal to the requirements of this chapter.

SECTION 9.164. Section 604.107, Occupations Code, is amended to read as follows:

Sec. 604.107. REQUIREMENTS FOR TEMPORARY PERMIT. An applicant for a temporary permit to practice respiratory care must submit to the advisory board:

(1) ~~[department]~~ written evidence, verified by oath, that the applicant is:

(A) ~~[(1)]~~ practicing or has within the 12-month period preceding the application date practiced respiratory care in another state or country and is licensed to practice respiratory care in that state or country;

(B) ~~[(2)]~~ a student in an approved respiratory care education program who expects to graduate from the program not later than the 30th day after the date the temporary permit is issued; or

(C) ~~[(3)]~~ a graduate of an approved respiratory care education program; and

(2) any additional information required by advisory board rules.

SECTION 9.165. Sections 604.108(a) and (b), Occupations Code, are amended to read as follows:

(a) The advisory board [~~department~~] shall issue a temporary permit to an applicant who:

(1) meets the requirements of Sections 604.103 and 604.107;

(2) complies with the criminal history record information requirement of Section 604.1031; and

(3) pays the permit fee.

(b) A temporary permit is valid for the period set by advisory board rule. The period may not be less than six months or more than 12 months.

SECTION 9.166. Subchapter C, Chapter 604, Occupations Code, is amended by adding Section 604.110 to read as follows:

Sec. 604.110. DELEGATION OF AUTHORITY TO ISSUE CERTIFICATE OR TEMPORARY PERMIT. The advisory board may delegate authority to medical board employees to issue certificates or temporary permits under this chapter to applicants who clearly meet all applicable requirements. If the medical board employees determine that the applicant does not clearly meet all applicable requirements, the application must be returned to the advisory board. A certificate or temporary permit issued under this section does not require formal advisory board approval.

SECTION 9.167. Section 604.151(b), Occupations Code, is amended to read as follows:

(b) The advisory board by rule may adopt a system under which certificates expire on various dates during the year. For the

1 year in which the certificate expiration date is changed, the
2 advisory board [~~department~~] shall prorate certificate fees on a
3 monthly basis so that each certificate holder pays only that
4 portion of the certificate fee that is allocable to the number of
5 months during which the certificate is valid. On renewal of the
6 certificate on the new expiration date, the total certificate
7 renewal fee is payable.

8 SECTION 9.168. Section 604.152, Occupations Code, is
9 amended to read as follows:

10 Sec. 604.152. NOTICE OF CERTIFICATE RENEWAL. (a) Not later
11 than the 30th day before the expiration date of a person's
12 certificate, the advisory board [~~department~~] shall mail a renewal
13 notice to the person at the person's last known address.

14 (b) To renew a certificate, the certificate holder must:

15 (1) complete the renewal notice and return the notice
16 with the renewal fee to the advisory board [~~department~~] on or before
17 the expiration date; and

18 (2) meet any other requirement established by advisory
19 board rule.

20 SECTION 9.169. Sections 604.1521(a) and (b), Occupations
21 Code, are amended to read as follows:

22 (a) A person whose certificate has been expired for 90 days
23 or less may renew the certificate by paying to the advisory board
24 [~~department~~] a renewal fee that is equal to 1-1/2 times the normally
25 required renewal fee.

26 (b) A person whose certificate has been expired for more
27 than 90 days but less than one year may renew the certificate by

1 paying to the advisory board [~~department~~] a renewal fee that is
2 equal to two times the normally required renewal fee.

3 SECTION 9.170. Section 604.1522(b), Occupations Code, is
4 amended to read as follows:

5 (b) The person must pay to the advisory board [~~department~~] a
6 fee that is equal to two times the normally required renewal fee for
7 the certificate.

8 SECTION 9.171. Subchapter D, Chapter 604, Occupations Code,
9 is amended by adding Section 604.1523 to read as follows:

10 Sec. 604.1523. CRIMINAL HISTORY RECORD INFORMATION
11 REQUIREMENT FOR RENEWAL. (a) An applicant for renewal of a
12 certificate or temporary permit shall submit a complete and legible
13 set of fingerprints for purposes of performing a criminal history
14 check of the applicant as provided by Section 604.1031.

15 (b) The advisory board may not renew the certificate or
16 temporary permit of a person who does not comply with the
17 requirement of Subsection (a).

18 (c) A person is not required to submit fingerprints under
19 this section for the renewal of a certificate or temporary permit if
20 the person has previously submitted fingerprints under:

21 (1) Section 604.1031 for the initial issuance of the
22 certificate or permit; or

23 (2) this section as part of a prior renewal of a
24 certificate or permit.

25 SECTION 9.172. Section 604.153(a), Occupations Code, is
26 amended to read as follows:

27 (a) The advisory board [~~department~~] shall issue to the

1 certificate holder a certificate for the renewal period on receipt
2 of the completed renewal notice and other information required by
3 advisory board rule and payment of the renewal fee.

4 SECTION 9.173. Section 604.154, Occupations Code, is
5 amended to read as follows:

6 Sec. 604.154. CONTINUING EDUCATION REQUIREMENTS. (a) The
7 advisory board shall establish for the renewal of a certificate
8 uniform continuing education requirements of not less than 12 or
9 more than 24 continuing education hours for each renewal period.

10 (b) The advisory board may adopt rules relating to meeting
11 the continuing education requirements in a hardship situation.

12 SECTION 9.174. Section 604.156, Occupations Code, is
13 amended to read as follows:

14 Sec. 604.156. INACTIVE STATUS. (a) A respiratory care
15 practitioner who does not practice respiratory care during a
16 renewal period and who notifies the advisory board [~~department~~]
17 that the practitioner is not practicing respiratory care is not
18 required to pay the renewal fee until the practitioner resumes
19 practice.

20 (b) To resume the practice of respiratory care, the
21 practitioner must:

22 (1) notify the advisory board [~~department~~];
23 (2) satisfy requirements adopted by the advisory
24 board; and

25 (3) pay the reinstatement fee and the renewal fee for
26 the renewal period in which the practitioner will resume practice.

27 SECTION 9.175. Section 604.157(b), Occupations Code, is

amended to read as follows:

(b) The advisory board [~~department~~] may renew a temporary permit for not more than one additional period, pending compliance with this chapter and advisory board rules. The additional period may not be less than six months or more than 12 months.

SECTION 9.176. Chapter 604, Occupations Code, is amended by adding Subchapter D-1 to read as follows:

SUBCHAPTER D-1. COMPLAINTS AND INVESTIGATIVE INFORMATION

Sec. 604.171. COMPLAINT INFORMATION AND STATUS. (a) The advisory board shall maintain a system to promptly and efficiently act on complaints filed with the advisory board. The advisory board shall maintain:

(1) information about the parties to the complaint and the subject matter of the complaint;

(2) a summary of the results of the review or investigation of the complaint; and

(3) information about the disposition of the complaint.

(b) The advisory board shall make information available describing its procedures for complaint investigation and resolution.

(c) If a written complaint is filed with the advisory board relating to a certificate or temporary permit holder, the advisory board, as often as quarterly and until final determination of the action to be taken on the complaint, shall notify the parties to the complaint of the status of the complaint unless the notice would jeopardize an active investigation.

1 Sec. 604.172. CONDUCT OF INVESTIGATION. The advisory board
2 shall complete a preliminary investigation of a complaint filed
3 with the advisory board not later than the 45th day after the date
4 of receiving the complaint. The advisory board shall first
5 determine whether the person constitutes a continuing threat to the
6 public welfare. On completion of the preliminary investigation,
7 the advisory board shall determine whether to officially proceed on
8 the complaint. If the advisory board fails to complete the
9 preliminary investigation in the time required by this section, the
10 advisory board's official investigation of the complaint is
11 considered to commence on that date.

12 Sec. 604.173. ACCESS TO COMPLAINT INFORMATION. (a) Except
13 as provided by Subsection (b), the advisory board shall provide a
14 person who is the subject of a formal complaint filed under this
15 chapter with access to all information in its possession that the
16 advisory board intends to offer into evidence in presenting its
17 case in chief at the contested hearing on the complaint, subject to
18 any other privilege or restriction established by rule, statute, or
19 legal precedent. The advisory board shall provide the information
20 not later than the 30th day after receipt of a written request from
21 the person or the person's counsel, unless good cause is shown for
22 delay.

23 (b) The advisory board is not required to provide:

- 24 (1) advisory board investigative reports;
25 (2) investigative memoranda;
26 (3) the identity of a nontestifying complainant;
27 (4) attorney-client communications;

1 (5) attorney work product; or

2 (6) other material covered by a privilege recognized
3 by the Texas Rules of Civil Procedure or the Texas Rules of
4 Evidence.

5 (c) Providing information under this section does not
6 constitute a waiver of privilege or confidentiality under this
7 chapter or other law.

8 Sec. 604.174. HEALTH CARE ENTITY REQUEST FOR INFORMATION.
9 On the written request of a health care entity, the advisory board
10 shall provide to the entity:

11 (1) information about a complaint filed against a
12 person that was resolved after investigation by:

13 (A) a disciplinary order of the advisory board;
14 or

15 (B) an agreed settlement; and

16 (2) the basis of and current status of any complaint
17 that has been referred by the executive director of the medical
18 board for enforcement action.

19 Sec. 604.175. CONFIDENTIALITY OF INVESTIGATIVE
20 INFORMATION. A complaint, adverse report, investigation file,
21 other report, or other investigative information in the possession
22 of or received or gathered by the advisory board, the medical board,
23 or an employee or agent of the medical board relating to a
24 certificate or temporary permit holder, an application for a
25 certificate or temporary permit, or a criminal investigation or
26 proceeding is privileged and confidential and is not subject to
27 discovery, subpoena, or other means of legal compulsion for release

1 to any person other than the advisory board, the medical board, or
2 an employee or agent of the advisory board or medical board involved
3 in discipline under this chapter. For purposes of this section,
4 "investigative information" includes information related to the
5 identity of a person performing or supervising compliance
6 monitoring for the advisory board or medical board and a report
7 prepared by the person related to compliance monitoring.

8 Sec. 604.176. PERMITTED DISCLOSURE OF INVESTIGATIVE
9 INFORMATION. (a) Investigative information in the possession of
10 the advisory board, the medical board, or an employee or agent of
11 the medical board that relates to the discipline of a certificate or
12 temporary permit holder may be disclosed to:

13 (1) a licensing authority in another state or country
14 in which the certificate or temporary permit holder is licensed,
15 certified, or permitted or has applied for a license,
16 certification, or permit; or

17 (2) a medical peer review committee reviewing:
18 (A) an application for privileges; or
19 (B) the qualifications of the certificate holder
20 or person with respect to retaining privileges.

21 (b) If investigative information in the possession of the
22 advisory board, the medical board, or an employee or agent of the
23 medical board indicates that a crime may have been committed, the
24 advisory board or medical board, as appropriate, shall report the
25 information to the proper law enforcement agency. The advisory
26 board and medical board shall cooperate with and assist each law
27 enforcement agency conducting a criminal investigation of a

1 certificate or temporary permit holder by providing information
2 relevant to the investigation. Confidential information disclosed
3 to a law enforcement agency under this subsection remains
4 confidential and may not be disclosed by the law enforcement agency
5 except as necessary to further the investigation.

6 SECTION 9.177. Section 604.201, Occupations Code, is
7 amended to read as follows:

8 Sec. 604.201. DISCIPLINARY ACTION. (a) For a violation of
9 this chapter or a rule adopted under this chapter, the advisory
10 board [~~department~~] may:

11 (1) deny, suspend, suspend on an emergency basis,
12 revoke, or refuse to renew a certificate or temporary permit;

13 (2) place the certificate or permit holder on
14 probation under conditions set by the advisory board [~~department~~];
15 or

16 (3) reprimand the certificate or permit holder.

17 (b) The advisory board [~~department~~] shall take disciplinary
18 action authorized under Subsection (a) if the advisory board
19 [~~department~~] determines that a person who holds a certificate or
20 temporary permit:

21 (1) is guilty of fraud or deceit in procuring,
22 renewing, or attempting to procure a certificate or temporary
23 permit;

24 (2) is unfit or incompetent because of negligence or
25 another cause of incompetency;

26 (3) is addicted to or has improperly obtained,
27 possessed, used, or distributed a habit-forming drug or narcotic or

1 is habitually intemperate in the use of alcoholic beverages;

2 (4) is guilty of dishonest or unethical conduct as
3 determined by the advisory board ~~[department]~~;

4 (5) has practiced respiratory care after the person's
5 certificate or temporary permit has expired;

6 (6) has practiced respiratory care under a certificate
7 or temporary permit illegally or fraudulently obtained or issued;

8 (7) has practiced respiratory care without the
9 direction of a qualified medical director or other licensed
10 physician; or

11 (8) has violated this chapter or aided or abetted
12 another in violating this chapter.

13 SECTION 9.178. Subchapter E, Chapter 604, Occupations Code,
14 is amended by adding Section 604.2011 to read as follows:

15 Sec. 604.2011. SURRENDER OF CERTIFICATE OR TEMPORARY
16 PERMIT. (a) The advisory board may accept the voluntary surrender
17 of a certificate or temporary permit. A person who has surrendered a
18 certificate or temporary permit may not engage in activities that
19 require a certificate or permit, and the advisory board may not
20 return the certificate or permit to the person, until the person
21 demonstrates to the satisfaction of the advisory board that the
22 person is able to resume practice as a respiratory care
23 practitioner.

24 (b) The advisory board shall by rule establish guidelines
25 for determining when a person is competent to resume practice as a
26 respiratory care practitioner.

27 SECTION 9.179. Section [604.202](#), Occupations Code, is

amended to read as follows:

Sec. 604.202. EMERGENCY SUSPENSION. (a) The presiding officer of the advisory board shall appoint a three-member disciplinary panel consisting of advisory board members to determine whether a certificate or permit should be temporarily suspended.

(a-1) The disciplinary panel shall temporarily ~~[department may]~~ suspend a certificate or temporary permit issued under this chapter on a determination that continued practice by a certificate or temporary permit holder would constitute a continuing threat to the public welfare ~~[the health and safety of a person is threatened and may make the suspension effective immediately]~~.

(b) A ~~[person whose]~~ certificate or temporary permit may be ~~[is]~~ suspended under this section without notice or hearing on the complaint if:

(1) action is taken to initiate proceedings for ~~[is entitled to]~~ a hearing before the advisory board simultaneously with the temporary suspension; and

(2) a hearing is held as soon as practicable under this chapter and Chapter 2001, Government Code ~~[department not later than the 10th day after the effective date of the emergency suspension]~~.

(c) Notwithstanding Chapter 551, Government Code, the disciplinary panel may hold a meeting by telephone conference call if immediate action is required and convening of the panel at one location is inconvenient for any member of the panel.

SECTION 9.180. Section [604.203](#), Occupations Code, is

1 amended to read as follows:

2 Sec. 604.203. DISCIPLINARY PROCEDURE. The procedure by
3 which the advisory board [~~department~~] takes a disciplinary action
4 and the procedure by which a disciplinary action is appealed are
5 governed by:

6 (1) advisory board rules for a contested case hearing;
7 and

8 (2) Chapter 2001, Government Code.

9 SECTION 9.181. Subchapter E, Chapter 604, Occupations Code,
10 is amended by adding Sections 604.205 through 604.214 to read as
11 follows:

12 Sec. 604.205. 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 604.209 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. 604.206. 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 or
7 temporary permit holder;

8 (B) an alleged violation of this chapter or other
9 law related to respiratory care; 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 temporary permit
14 under this 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 a certificate or
21 temporary permit.

22 Sec. 604.207. 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. 604.208. REQUIRED SUSPENSION OF LICENSE OF
4 INCARCERATED CERTIFICATE OR TEMPORARY PERMIT HOLDER. Regardless of
5 the offense, the advisory board shall suspend the certificate or
6 temporary permit of a person serving a prison term in a state or
7 federal penitentiary during the term of the incarceration.

8 Sec. 604.209. 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 Sec. 604.210. ADVISORY BOARD REPRESENTATION IN INFORMAL
22 PROCEEDINGS. (a) In an informal meeting under Section 604.209, at
23 least two panelists shall be appointed to determine whether an
24 informal disposition is appropriate.

25 (b) Notwithstanding Subsection (a) and Section
26 604.209(b)(3), an informal proceeding may be conducted by one
27 panelist if the person who is the subject of the complaint waives

1 the requirement that at least two panelists conduct the informal
2 proceeding. If the person waives that requirement, the panelist
3 may be any member of the advisory board.

4 (c) Except as provided by Subsection (d), the panel
5 requirements described by Subsections (a) and (b) apply to an
6 informal proceeding conducted by the advisory board under Section
7 604.209, including a proceeding to:

8 (1) consider a disciplinary case to determine if a
9 violation has occurred; or

10 (2) request modification or termination of an order.

11 (d) The panel requirements described by Subsections (a) and
12 (b) do not apply to an informal proceeding conducted by the advisory
13 board under Section 604.209 to show compliance with an order of the
14 advisory board.

15 Sec. 604.211. ROLES AND RESPONSIBILITIES OF PARTICIPANTS IN
16 INFORMAL PROCEEDINGS. (a) An advisory board member who serves as a
17 panelist at an informal meeting under Section 604.209 shall make
18 recommendations for the disposition of a complaint or
19 allegation. The member may request the assistance of a medical
20 board employee at any time.

21 (b) Medical board employees shall present a summary of the
22 allegations against the person who is the subject of the complaint
23 and of the facts pertaining to the allegation that the employees
24 reasonably believe may be proven by competent evidence at a formal
25 hearing.

26 (c) An attorney for the advisory board or medical board
27 shall act as counsel to the panel and, notwithstanding Subsection

1 (e), shall be present during the informal meeting and the panel's
 2 deliberations to advise the panel on legal issues that arise during
 3 the proceeding. The attorney may ask questions of a participant in
 4 the informal meeting to clarify any statement made by the
 5 participant. The attorney shall provide to the panel a historical
 6 perspective on comparable cases that have appeared before the
 7 advisory board or medical board, keep the proceedings focused on
 8 the case being discussed, and ensure that the medical board's
 9 employees and the person who is the subject of the complaint have an
 10 opportunity to present information related to the case. During the
 11 panel's deliberations, the attorney may be present only to advise
 12 the panel on legal issues and to provide information on comparable
 13 cases that have appeared before the advisory board or medical
 14 board.

15 (d) The panel and medical board employees shall provide an
 16 opportunity for the person who is the subject of the complaint and
 17 the person's authorized representative to reply to the medical
 18 board employees' presentation and to present oral and written
 19 statements and facts that the person and representative reasonably
 20 believe could be proven by competent evidence at a formal hearing.

21 (e) An employee of the medical board who participated in the
 22 presentation of the allegation or information gathered in the
 23 investigation of the complaint, the person who is the subject of the
 24 complaint, the person's authorized representative, the
 25 complainant, the witnesses, and members of the public may not be
 26 present during the deliberations of the panel. Only the members of
 27 the panel and the attorney serving as counsel to the panel may be

present during the deliberations.

(f) The panel shall recommend the dismissal of the complaint or allegations or, if the panel determines that the person has violated a statute or advisory board rule, the panel may recommend advisory board action and terms for an informal settlement of the case.

(g) The panel's recommendations under Subsection (f) must be made in a written order and presented to the affected person and the person's authorized representative. The person may accept the proposed settlement within the time established by the panel at the informal meeting. If the person rejects the proposed settlement or does not act within the required time, the advisory board may proceed with the filing of a formal complaint with the State Office of Administrative Hearings.

Sec. 604.212. LIMIT ON ACCESS TO INVESTIGATION FILES. The advisory board shall prohibit or limit access to an investigation file relating to a person subject to an informal proceeding in the manner provided by Sections [164.007\(c\)](#) and 604.175.

Sec. 604.213. REFUND. (a) Subject to Subsection (b), the advisory board may order a certificate or temporary permit holder to pay a refund to a consumer as provided in an agreement resulting from an informal settlement conference instead of or in addition to imposing an administrative penalty under Subchapter F.

(b) The amount of a refund ordered as provided in an agreement resulting from an informal settlement conference may not exceed the amount the consumer paid to the certificate or temporary permit holder for a service regulated by this chapter. The

advisory board may not require payment of other damages or estimate harm in a refund order.

Sec. 604.214. EXPERT IMMUNITY. An expert who assists the advisory board is immune from suit and judgment and may not be subjected to a suit for damages for any investigation, report, recommendation, statement, evaluation, finding, or other action taken in the course of assisting the advisory board in a disciplinary proceeding. The attorney general shall represent the expert in any suit resulting from a service provided by the person in good faith to the advisory board.

SECTION 9.182. Section [604.301](#), Occupations Code, is amended to read as follows:

Sec. 604.301. IMPOSITION OF PENALTY. The advisory board ~~[department]~~ may impose an administrative penalty on a person who violates this chapter or a rule adopted under this chapter.

SECTION 9.183. Section [604.303](#), Occupations Code, is amended to read as follows:

Sec. 604.303. NOTICE OF VIOLATION AND PENALTY. If, after investigation of a possible violation and the facts surrounding the possible violation, the advisory board ~~[department]~~ determines that a violation occurred, the advisory board ~~[department]~~ shall give written notice of the violation to the person alleged to have committed the violation. The notice must:

- (1) include a brief summary of the alleged violation;
- (2) state the amount of the proposed administrative penalty based on the factors set forth in Section [604.302\(b\)](#); and
- (3) inform the person of the person's right to a

1 hearing on the occurrence of the violation, the amount of the
2 penalty, or both.

3 SECTION 9.184. Section 604.304, Occupations Code, is
4 amended to read as follows:

5 Sec. 604.304. PENALTY TO BE PAID OR HEARING REQUESTED. (a)
6 Not later than the 20th day after the date the person receives the
7 notice under Section 604.303, the person may:

8 (1) accept the advisory board's ~~[department's]~~
9 determination and proposed administrative penalty; or

10 (2) make a written request for a hearing on that
11 determination.

12 (b) If the person accepts the ~~[department's]~~ determination,
13 the advisory board ~~[commissioner of public health or the~~
14 ~~commissioner's designee]~~ by order shall approve the determination
15 and assess the proposed penalty.

16 SECTION 9.185. Section 604.305, Occupations Code, is
17 amended to read as follows:

18 Sec. 604.305. HEARING. (a) If the person requests a
19 hearing in a timely manner, the advisory board ~~[department]~~ shall:

20 (1) set a hearing;

21 (2) give written notice of the hearing to the person;

22 and

23 (3) designate a hearings examiner to conduct the
24 hearing.

25 (b) The hearings examiner shall:

26 (1) make findings of fact and conclusions of law; and

27 (2) promptly issue to the advisory board

1 ~~[commissioner of public health or the commissioner's designee]~~ a
2 proposal for decision as to the occurrence of the violation and the
3 amount of any proposed administrative penalty.

4 SECTION 9.186. Section 604.306, Occupations Code, is
5 amended to read as follows:

6 Sec. 604.306. DECISION BY ADVISORY BOARD ~~[COMMISSIONER OR~~
7 ~~DESIGNEE]~~. (a) Based on the findings of fact, conclusions of law,
8 and proposal for decision, the advisory board ~~[commissioner of~~
9 ~~public health or the commissioner's designee]~~ by order may
10 determine that:

11 (1) a violation occurred and impose an administrative
12 penalty; or

13 (2) a violation did not occur.

14 (b) The advisory board ~~[department]~~ shall give notice of the
15 order to the person. The notice must include:

16 (1) separate statements of the findings of fact and
17 conclusions of law;

18 (2) the amount of any penalty imposed; and

19 (3) a statement of the person's right to judicial
20 review of the order.

21 SECTION 9.187. Sections 604.307(b) and (c), Occupations
22 Code, are amended to read as follows:

23 (b) Within the 30-day period, a person who acts under
24 Subsection (a)(3) may:

25 (1) stay enforcement of the penalty by:

26 (A) paying the penalty to the court for placement
27 in an escrow account; or

(B) giving to the court a supersedeas bond approved by the court that:

- (i) is for the amount of the penalty; and
- (ii) is effective until judicial review of the order is final; or

(2) request the court to stay enforcement of the penalty by:

(A) filing with the court a sworn affidavit of the person stating that the person is financially unable to pay the penalty and is financially unable to give the supersedeas bond; and

(B) giving a copy of the affidavit to the advisory board [~~department~~] by certified mail.

(c) If the advisory board [~~department~~] receives a copy of an affidavit under Subsection (b)(2), the advisory board [~~department~~] may file with the court a contest to the affidavit not later than the fifth day after the date the copy is received.

SECTION 9.188. Section 604.308, Occupations Code, is amended to read as follows:

Sec. 604.308. COLLECTION OF PENALTY. If the person does not pay the penalty and enforcement of the penalty is not stayed, the advisory board [~~department~~] may refer the matter to the attorney general for collection of the penalty.

SECTION 9.189. Section 604.311, Occupations Code, is amended to read as follows:

Sec. 604.311. ADMINISTRATIVE PENALTY EXPENSES AND COSTS.

(a) In this section, "reasonable expenses and costs" includes expenses incurred by the advisory board [~~department~~] or the

attorney general in the investigation, initiation, or prosecution of an action, including reasonable investigative costs, court costs, attorney's fees, witness fees, and deposition expenses.

(b) The advisory board ~~[department]~~ may assess reasonable expenses and costs against a person in an administrative hearing if, as a result of the hearing, an administrative penalty is assessed against the person. The person shall pay expenses and costs assessed under this subsection not later than the 30th day after the date the order of the advisory board ~~[commissioner of public health or the commissioner's designee]~~ requiring the payment of expenses and costs is final. The advisory board ~~[department]~~ may refer the matter to the attorney general for collection of the expenses and costs.

(c) If the attorney general brings an action against a person to enforce an administrative penalty assessed under this subchapter and the person is found liable for an administrative penalty, the attorney general may recover, on behalf of the attorney general and the advisory board ~~[department]~~, reasonable expenses and costs.

SECTION 9.190. The heading to Subchapter G, Chapter 604, Occupations Code, is amended to read as follows:

SUBCHAPTER G. CRIMINAL PENALTIES AND ENFORCEMENT PROVISIONS

SECTION 9.191. Section [604.352](#)(a), Occupations Code, is amended to read as follows:

(a) A person commits an offense if the person knowingly:

(1) sells, fraudulently obtains, or furnishes a respiratory care diploma, certificate, temporary permit, or

1 record;

2 (2) practices respiratory care under a respiratory
3 care diploma, certificate, temporary permit, or record illegally or
4 fraudulently obtained or issued;

5 (3) impersonates in any manner a respiratory care
6 practitioner;

7 (4) practices respiratory care while the person's
8 certificate or temporary permit is suspended, revoked, or expired;

9 (5) conducts a formal respiratory care education
10 program to prepare respiratory care personnel other than a program
11 approved by the advisory board [~~department~~];

12 (6) employs a person as a respiratory care
13 practitioner who does not hold a certificate or temporary permit in
14 the practice of respiratory care; or

15 (7) otherwise practices medicine in violation of
16 Section 604.002.

17 SECTION 9.192. The following provisions of the Occupations
18 Code are repealed:

19 (1) Sections 601.002(2) and (3);

20 (2) Section 601.051;

21 (3) Section 601.053;

22 (4) Section 601.103;

23 (5) Section 602.002(2);

24 (6) Sections 602.052(b) and (c);

25 (7) Sections 602.053(a), (b), and (c);

26 (8) Section 602.056(c);

27 (9) Section 602.059;

- (10) Subchapter C, Chapter 602;
- (11) Sections 602.1525(b), (c), (d), (e), (f), and (g);
- (12) Section 602.204;
- (13) Sections 603.002(1) and (4);
- (14) Section 603.005;
- (15) Section 603.054(c);
- (16) Section 603.058;
- (17) Subchapter C, Chapter 603;
- (18) Section 603.158;
- (19) Section 603.159;
- (20) Sections 603.2041(b), (c), (d), (e), (f), and (g);
- (21) Section 604.051;
- (22) Sections 604.052(b) and (c); and
- (23) Section 604.056.

SECTION 9.193. Sections 601.1031, 601.1111, 602.2081, 602.2101, 603.2571, 603.3031, 604.1031, and 604.1523, Occupations Code, as added by this article, apply only to an application for the issuance or renewal of a license, certificate, or permit filed under Chapter 601, 602, 603, or 604, Occupations Code, on or after January 1, 2016. An application filed before that date is governed by the law in effect at the time the application was filed, and the former law is continued in effect for that purpose.

SECTION 9.194. (a) A rule or fee of the Department of State Health Services that relates to a program transferred under this article and that is in effect on the effective date of this Act

1 remains in effect until changed by the Texas Medical Board, the
2 Texas Board of Medical Radiologic Technology, or the Texas Board of
3 Respiratory Care, as appropriate.

4 (b) A license, certificate, or permit issued by the
5 Department of State Health Services for a program transferred under
6 this article is continued in effect as a license, certificate, or
7 permit of the Texas Medical Board, the Texas Board of Medical
8 Radiologic Technology, or the Texas Board of Respiratory Care, as
9 appropriate, after the effective date of this Act.

10 (c) A complaint, investigation, contested case, or other
11 proceeding before the Department of State Health Services relating
12 to a program transferred under this article that is pending on the
13 effective date of this Act is transferred without change in status
14 to the Texas Medical Board, the Texas Board of Medical Radiologic
15 Technology, or the Texas Board of Respiratory Care, as appropriate.

16 SECTION 9.195. (a) As soon as practicable after the
17 effective date of this Act, the Department of State Health Services
18 and the Texas Medical Board shall adopt a transition plan to provide
19 for the orderly transfer of powers, duties, functions, programs,
20 and activities under this article. The transition plan must
21 provide for the transfer to be completed as soon as practicable
22 after the effective date of this Act.

23 (b) The Department of State Health Services shall provide
24 the Texas Medical Board with access to any systems or information
25 necessary for the Texas Medical Board to accept a program
26 transferred under this article.

27 (c) On the effective date of this Act, the Texas Board of

1 Licensure for Professional Medical Physicists and the Texas State
2 Perfusionist Advisory Committee are abolished and the governor and
3 the president of the Texas Medical Board, as appropriate, shall, as
4 soon as practicable after the effective date of this Act, appoint
5 the members of the Texas Board of Medical Radiologic Technology,
6 the Medical Physicist Licensure Advisory Committee, the
7 Perfusionist Licensure Advisory Committee, and the Texas Board of
8 Respiratory Care.

9 ARTICLE 10. DEREGULATION OF CERTAIN ACTIVITIES AND OCCUPATIONS

10 SECTION 10.001. Section 2165.303(b), Government Code, is
11 amended to read as follows:

12 (b) The commission shall report the findings and test
13 results obtained under a contract for air monitoring under this
14 section to the office [~~and the department~~] in a form and manner
15 prescribed by the office [~~and the department~~] for that purpose.

16 SECTION 10.002. Section 2165.305(c), Government Code, is
17 amended to read as follows:

18 (c) In developing a seminar required by this section, the
19 office shall receive assistance from:

- 20 (1) the commission; and
21 (2) [~~the department, and~~
22 ~~(3)~~] an entity that specializes in research and
23 technical assistance related to indoor air quality but does not
24 receive appropriations from the state.

25 SECTION 10.003. The heading to Subtitle G, Title 2, Health
26 and Safety Code, is amended to read as follows:

27 SUBTITLE G. LICENSES AND OTHER REGULATION

SECTION 10.004. The heading to Subchapter C, Chapter 144, Health and Safety Code, is amended to read as follows:

SUBCHAPTER C. OPERATING PROCEDURES [~~FOR ALL LICENSE HOLDERS~~]

SECTION 10.005. Section 144.021, Health and Safety Code, is amended to read as follows:

Sec. 144.021. GENERAL REQUIREMENTS FOR RENDERING OPERATIONS [~~OPERATING LICENSES~~]. [~~(a)~~] Each rendering establishment, related station, transfer station, dead animal hauler, or renderable raw material hauler [~~applicant for or holder of an operating license~~] shall adopt operating procedures that:

(1) provide for the sanitary performance of rendering operations and processes;

(2) prevent the spread of infectious or noxious materials; and

(3) ensure that finished products are free from disease-producing organisms.

~~[(b) As a condition of licensure, the department may prescribe other reasonable and appropriate construction, operational, maintenance, and inspection requirements to ensure compliance with this chapter and applicable rules of the department.]~~

SECTION 10.006. Section 144.022, Health and Safety Code, is amended to read as follows:

Sec. 144.022. RECORDS. (a) Each [~~licensed~~] rendering establishment, related station, or dead animal hauler shall have a dead animal log that meets the requirements prescribed by the department. The name of the [~~licensed~~] rendering establishment,

related station, or dead animal hauler must be on the front of the log.

(b) A rendering establishment, related station, or dead animal hauler that ~~[When a license holder]~~ receives a dead animal ~~[the license holder]~~ shall enter the following information in the log:

- (1) the date and time of the pickup of the dead animal;
- (2) the name of the driver of the collection vehicle;
- (3) a description of the dead animal;
- (4) the location of the dead animal, including the county; and
- (5) the owner of the dead animal, if known.

(c) The rendering establishment, related station, or dead animal hauler ~~[license holder]~~ shall also keep a record in the log, or in an appendix to the log, of the general route followed in making the collection.

(d) The log is subject to inspection at all reasonable times by the department or a person with written authorization from the department. ~~[Repeated or wilful failure or refusal to produce the log for inspection or to permit inspection by persons properly authorized to inspect the log constitutes grounds for license revocation.]~~

(e) This section does not apply to a ~~[licensed]~~ renderable raw material hauler.

SECTION 10.007. The heading to Section 144.023, Health and Safety Code, is amended to read as follows:

Sec. 144.023. VEHICLES~~[, PERMIT REQUIRED]~~.

SECTION 10.008. Section 144.023(c), Health and Safety Code, is amended to read as follows:

(c) A truck bed used to transport dead animals or renderable raw materials shall be thoroughly washed and sanitized before use for the transport of finished rendered products. A truck bed used to transport dead animals or renderable raw materials to a rendering establishment, or to transfer finished rendered products from an establishment, shall, before being used to transport any product intended for human consumption, be thoroughly sanitized with a bactericidal agent that is ~~[determined by the department to be]~~ safe for use in a rendering establishment. A truck bed may not be used to transport dead animals or renderable raw materials at the same time the truck bed or any part of the truck bed is used to transport any product intended for human consumption, notwithstanding the manner in which part of the truck bed is sealed or separated from the remainder of the bed.

SECTION 10.009. Section 144.027(c), Health and Safety Code, is amended to read as follows:

(c) A drinking water supply ~~[approved by the department]~~ shall be provided at convenient locations in the establishment for the use of employees.

SECTION 10.010. Section 144.078(a), Health and Safety Code, is amended to read as follows:

(a) The ~~[On request of the department, the]~~ attorney general may bring an action in any district court of this state that has jurisdiction and venue for an injunction to compel compliance with this chapter or to restrain any actual or threatened violation of

1 this chapter.

2 SECTION 10.011. Section 144.079(c), Health and Safety Code,
3 is amended to read as follows:

4 (c) A renderer, hauler, or any other person may not~~+~~
5 ~~[(1) take possession of recyclable cooking oil from an~~
6 ~~unlicensed hauler or an employee or contractor of an unlicensed~~
7 ~~hauler, or~~
8 ~~[(2)]~~ knowingly take possession of stolen recyclable
9 cooking oil.

10 SECTION 10.012. Sections 145.006(a) and (b), Health and
11 Safety Code, are amended to read as follows:

12 (a) A tanning facility shall post a warning sign in a
13 conspicuous location where it is readily visible by persons
14 entering the establishment. ~~[The board by rule shall specify the~~
15 ~~size, design, and graphic design of the sign.]~~ The sign must have
16 dimensions of at least 11 inches by 17 inches and must contain the
17 following wording:

18 Repeated exposure to ultraviolet radiation may cause chronic
19 sun damage characterized by wrinkling, dryness, fragility,
20 bruising of the skin, and skin cancer.

21 DANGER: ULTRAVIOLET RADIATION

22 Failure to use protective eyewear may result in severe burns
23 or permanent injury to the eyes.

24 Medications or cosmetics may increase your sensitivity to
25 ultraviolet radiation. Consult a physician before using a sunlamp
26 if you are using medications, have a history of skin problems, or
27 believe you are especially sensitive to sunlight. Pregnant women

1 or women taking oral contraceptives who use this product may
2 develop discolored skin.

3 ~~[A customer may call the Texas Department of Health at~~
4 ~~(insert toll-free telephone number) to report an alleged injury~~
5 ~~regarding this tanning facility.]~~

6 IF YOU DO NOT TAN IN THE SUN, YOU ARE UNLIKELY TO TAN FROM USE OF AN
7 ULTRAVIOLET LAMP OR SUNLAMP.

8 (b) A tanning facility operator shall also post a warning
9 sign at each tanning device in a conspicuous location that is
10 readily visible to a person about to use the device. ~~[The board by~~
11 ~~rule shall specify the size, design, and graphic design of the~~
12 ~~sign.]~~ The sign must have dimensions of at least 11 inches by 17
13 inches and must contain the following wording:

14 DANGER: ULTRAVIOLET RADIATION

15 1. Follow the manufacturer's instructions for use of this
16 device.

17 2. Avoid too frequent or lengthy exposure. As with natural
18 sunlight, exposure can cause serious eye and skin injuries and
19 allergic reactions. Repeated exposure may cause skin cancer.

20 3. Wear protective eyewear. Failure to use protective
21 eyewear may result in severe burns or permanent damage to the eyes.

22 4. Do not sunbathe before or after exposure to ultraviolet
23 radiation from sunlamps.

24 5. Medications or cosmetics may increase your sensitivity
25 to ultraviolet radiation. Consult a physician before using a
26 sunlamp if you are using medication, have a history of skin
27 problems, or believe you are especially sensitive to sunlight.

1 Pregnant women or women using oral contraceptives who use this
2 product may develop discolored skin.

3 ~~[A customer may call the Texas Department of Health at~~
4 ~~(insert toll-free telephone number) to report an alleged injury~~
5 ~~regarding this tanning device.]~~

6 IF YOU DO NOT TAN IN THE SUN, YOU ARE UNLIKELY TO TAN FROM USE OF
7 THIS DEVICE.

8 SECTION 10.013. Sections 145.008(i) and (j), Health and
9 Safety Code, are amended to read as follows:

10 (i) A record of each customer using a tanning device shall
11 be maintained at the tanning facility at least until the third
12 anniversary of the date of the customer's last use of a tanning
13 device. ~~[The executive commissioner of the Health and Human~~
14 ~~Services Commission by rule shall prescribe the form and content of~~
15 ~~the records.]~~ The record shall include:

16 (1) the date and time of the customer's use of a
17 tanning device;

18 (2) the length of time the tanning device was used;

19 (3) any injury or illness resulting from the use of a
20 tanning device;

21 (4) any written informed consent statement required to
22 be signed under Subsection (e);

23 (5) the customer's skin type, as determined by the
24 customer by using the Fitzpatrick scale for classifying a skin
25 type;

26 (6) whether the customer has a family history of skin
27 cancer; and

(7) whether the customer has a past medical history of skin cancer.

(j) An operator shall keep an incident log at each tanning facility. The log shall be maintained at the tanning facility at least until the third anniversary of the date of an incident. ~~[The board by rule shall prescribe the form and content of the log.]~~ The log shall include each:

(1) alleged injury;

(2) use of a tanning device by a customer not wearing protective eyewear;

(3) mechanical problem with a tanning device; and

(4) customer complaint.

SECTION 10.014. Section 145.0096, Health and Safety Code, is amended by amending Subsections (a) and (b) and adding Subsection (a-1) to read as follows:

(a) This section applies only to a business that:

(1) is operated under a license or permit as a sexually oriented business issued in accordance with Section 243.007, Local Government Code; or

(2) offers, as its primary business, a service or the sale, rental, or exhibition of a device or other item that is intended to provide sexual stimulation or sexual gratification to a customer.

(a-1) A business to which this section applies ~~[described by Section 145.0095(a)(1) or (2)]~~ may not use the word "tan" or "tanning" in a sign or any other form of advertising.

(b) A person commits an offense if the person violates

Subsection (a-1) ~~[(a)]~~. Except as provided by Subsection (c), an offense under this subsection is a Class C misdemeanor.

SECTION 10.015. The heading to Section 145.011, Health and Safety Code, is amended to read as follows:

Sec. 145.011. ACCESS TO RECORDS ~~[RULES, INSPECTION]~~.

SECTION 10.016. Section 145.011(c), Health and Safety Code, is amended to read as follows:

(c) A person who is required to maintain records under this chapter or a person in charge of the custody of those records shall, at the request of a ~~[an authorized agent or]~~ health authority, permit the ~~[authorized agent or]~~ health authority access to copy or verify the records at reasonable times.

SECTION 10.017. Sections 145.0121(a) and (f), Health and Safety Code, are amended to read as follows:

(a) If it appears that a person has violated or is violating this chapter ~~[or an order issued or a rule adopted under this chapter]~~, ~~[the commissioner may request]~~ the attorney general, or the district, ~~[or]~~ county, ~~[attorney]~~ or ~~[the]~~ municipal attorney ~~[of a municipality]~~ in the jurisdiction where the violation is alleged to have occurred or may occur, may ~~[to]~~ institute a civil suit for:

(1) an order enjoining the violation;

(2) a permanent or temporary injunction, a temporary restraining order, or other appropriate remedy ~~[if the department shows that the person has engaged in or is engaging in a violation]~~;

(3) the assessment and recovery of a civil penalty; or

(4) both injunctive relief and a civil penalty.

1 (f) The ~~[commissioner or the]~~ attorney general may ~~[each]~~
2 recover reasonable expenses incurred in obtaining injunctive
3 relief or a civil penalty under this section, including
4 investigation and court costs, reasonable attorney's fees, witness
5 fees, and other expenses. ~~[The expenses recovered by the~~
6 ~~commissioner under this section shall be used for the~~
7 ~~administration and enforcement of this chapter.]~~ The expenses
8 recovered by the attorney general shall be used by the attorney
9 general.

10 SECTION 10.018. Section 145.016(b), Health and Safety Code,
11 is amended to read as follows:

12 (b) An operator or other person may disclose a customer
13 record:

14 (1) if the customer, or a person authorized to act on
15 behalf of the customer, requests the record;

16 (2) if a ~~[the commissioner or an authorized agent or]~~
17 health authority requests the record under Section 145.011;

18 (3) if the customer consents in writing to the
19 disclosure to another person;

20 (4) in a criminal proceeding in which the customer is a
21 victim, witness, or defendant;

22 (5) if the record is requested in a criminal or civil
23 proceeding by court order or subpoena; or

24 (6) as otherwise required by law.

25 SECTION 10.019. Section 437.0057(a), Health and Safety
26 Code, is amended to read as follows:

27 (a) A county, a public health district, or the department

may require a food handler be certified through a food handler program that is accredited by the American National Standards Institute, if the ~~[certification under Subchapter D, Chapter 438, for each]~~ food handler ~~[who]~~ is employed by a food service establishment in which food is prepared on-site for sale to the public and which holds a permit issued by the county, the public health district, or the department. This section applies without regard to whether the food service establishment is at a fixed location or is a mobile food unit.

SECTION 10.020. Section 437.0195(a), Health and Safety Code, is amended to read as follows:

(a) An individual who operates a cottage food production operation must have successfully completed a basic food safety education or training program for food handlers accredited by the American National Standards Institute and the Conference for Food Protection ~~[under Subchapter D, Chapter 438]~~.

SECTION 10.021. The heading to Section 438.041, Health and Safety Code, is amended to read as follows:

Sec. 438.041. DEFINITIONS ~~[DEFINITION]~~.

SECTION 10.022. Section 438.041, Health and Safety Code, is amended by adding Subdivision (3) to read as follows:

(3) "Food manager" means an individual who manages or operates a food establishment.

SECTION 10.023. Section 438.042(a), Health and Safety Code, is amended to read as follows:

(a) The Texas Board of Health shall adopt standards and procedures for the accreditation of education and training programs

1 for food managers [~~persons employed in the food service industry~~].

2 SECTION 10.024. Section 438.042(b), Health and Safety Code,
3 as added by Chapter 539 (S.B. 873), Acts of the 72nd Legislature,
4 Regular Session, 1991, is amended to read as follows:

5 (b) The Texas Board of Health shall adopt standards and
6 procedures for the accreditation of education and training programs
7 for recertification of food managers [~~persons employed in the food
8 service industry~~] who have previously completed a program
9 accredited in accordance with this subchapter or have been
10 certified by a local health jurisdiction and have completed
11 training and testing requirements substantially similar to those
12 required by this subchapter for program accreditation. The
13 requirements for accreditation in Section 438.043 need not be met
14 by an education or training program for recertification.

15 SECTION 10.025. Sections 438.046(b) and (c), Health and
16 Safety Code, are amended to read as follows:

17 (b) A local health jurisdiction that requires training for a
18 food service worker shall accept as sufficient to meet the
19 jurisdiction's training and testing requirements a food manager
20 training course that is accredited by the department or a food
21 handler training course that is accredited by the American National
22 Standards Institute [~~and listed with the registry~~]. A food service
23 worker trained in a course for the employees of a single entity is
24 considered to have met a local health jurisdiction's training and
25 testing requirements only as to food service performed for that
26 entity.

27 (c) Any fee charged by a local health jurisdiction for a

1 certificate issued to a food service worker trained by an
2 accredited course as provided by Subsection (b) [~~listed in the~~
3 ~~registry~~] may not exceed the lesser of:

4 (1) the reasonable cost incurred by the jurisdiction
5 in issuing the certificate; or

6 (2) the fee charged by the jurisdiction to issue a
7 certificate to a food service worker certified by the jurisdiction
8 as having met the training and testing requirements by any other
9 means.

10 SECTION 10.026. Section 1001.071, Health and Safety Code,
11 is amended to read as follows:

12 Sec. 1001.071. GENERAL POWERS AND DUTIES OF DEPARTMENT
13 RELATED TO HEALTH CARE. The department is responsible for
14 administering human services programs regarding the public health,
15 including:

16 (1) implementing the state's public health care
17 delivery programs under the authority of the department;

18 (2) administering state health facilities, hospitals,
19 and health care systems;

20 (3) developing and providing health care services, as
21 directed by law;

22 (4) providing for the prevention and control of
23 communicable diseases;

24 (5) providing public education on health-related
25 matters, as directed by law;

26 (6) compiling and reporting health-related
27 information, as directed by law;

1 (7) acting as the lead agency for implementation of
2 state policies regarding the human immunodeficiency virus and
3 acquired immunodeficiency syndrome and administering programs
4 related to the human immunodeficiency virus and acquired
5 immunodeficiency syndrome;

6 (8) investigating the causes of injuries and methods
7 of prevention;

8 (9) administering a grant program to provide
9 appropriated money to counties, municipalities, public health
10 districts, and other political subdivisions for their use to
11 provide or pay for essential public health services;

12 (10) administering the registration of vital
13 statistics;

14 (11) licensing, inspecting, and enforcing regulations
15 regarding health facilities, other than long-term care facilities
16 regulated by the Department of Aging and Disability Services;

17 (12) implementing established standards and
18 procedures for the management and control of sanitation and for
19 health protection measures;

20 (13) enforcing regulations regarding radioactive
21 materials;

22 (14) enforcing regulations regarding food, ~~bottled~~
23 ~~and vended drinking water,~~ drugs, cosmetics, and health devices;

24 (15) enforcing regulations regarding food service
25 establishments, retail food stores, mobile food units, and roadside
26 food vendors;

27 (16) enforcing regulations controlling hazardous

substances in households and workplaces; and

(17) implementing a mental health program for veterans.

SECTION 10.027. Section 32.074(a), Human Resources Code, is amended to read as follows:

(a) In this section, "personal emergency response system" has the meaning assigned by Section 1702.331, Occupations ~~[781.001, Health and Safety]~~ Code.

SECTION 10.028. Section 843.002(24), Insurance Code, is amended to read as follows:

(24) "Provider" means:

(A) a person, other than a physician, who is licensed or otherwise authorized to provide a health care service in this state, including:

(i) a chiropractor, registered nurse, pharmacist, optometrist, ~~[registered optician]~~, or acupuncturist; or

(ii) a pharmacy, hospital, or other institution or organization;

(B) a person who is wholly owned or controlled by a provider or by a group of providers who are licensed or otherwise authorized to provide the same health care service; or

(C) a person who is wholly owned or controlled by one or more hospitals and physicians, including a physician-hospital organization.

SECTION 10.029. Sections 351.005(a) and (d), Occupations Code, are amended to read as follows:

(a) This chapter does not:

(1) apply to an officer or agent of the United States or this state in performing official duties;

(2) prevent or interfere with the right of a physician licensed by the Texas ~~[State Board of]~~ Medical Board ~~[Examiners]~~ to:

(A) treat or prescribe for a patient; or

(B) direct or instruct a person under the physician's control, supervision, or direction to aid or attend to the needs of a patient according to the physician's specific direction, instruction, or prescription;

(3) prevent a person from selling ready-to-wear eyeglasses as merchandise at retail;

(4) prevent an unlicensed person from making simple repairs to eyeglasses;

~~(5) [prevent or interfere with the right of a dispensing optician registered under Chapter 352 to engage in spectacle or contact lens dispensing under that chapter,~~

~~[(6)]~~ prevent an ophthalmic dispenser who does not practice optometry or therapeutic optometry from measuring interpupillary distances or making facial measurements to dispense or adapt an ophthalmic prescription, lens, product, or accessory in accordance with the specific directions of a written prescription signed by an optometrist, therapeutic optometrist, or licensed physician;

(6) ~~[(7)]~~ prevent the administrator or executor of the estate of a deceased optometrist or therapeutic optometrist from

1 employing an optometrist or therapeutic optometrist to continue the
2 practice of the deceased during estate administration; or

3 (7) ~~[(8)]~~ prevent an optometrist or therapeutic
4 optometrist from working for the administrator or executor of the
5 estate of a deceased optometrist or therapeutic optometrist to
6 continue the practice of the deceased during estate administration.

7 (d) Continuation of the practice of a deceased optometrist
8 or therapeutic optometrist by an estate under Subsections (a)(6)
9 and (7) ~~[(a)(7) and (8)]~~ must:

10 (1) be authorized by the county judge; and

11 (2) terminate before the first anniversary of the date
12 of death of the optometrist or therapeutic optometrist.

13 SECTION 10.030. Section 353.004, Occupations Code, is
14 amended to read as follows:

15 Sec. 353.004. PUBLIC INFORMATION ON PRESCRIPTION RELEASE.
16 ~~[(a)]~~ The ~~[board and the]~~ Texas Optometry Board shall prepare and
17 provide to the public and appropriate state agencies information
18 regarding the release and verification of contact lens
19 prescriptions.

20 ~~[(b) The board may adopt rules necessary to implement this~~
21 ~~section.]~~

22 SECTION 10.031. Section 353.1015(b), Occupations Code, is
23 amended to read as follows:

24 (b) A prescription is considered verified under this
25 section if:

26 (1) the prescribing physician, optometrist, or
27 therapeutic optometrist by a direct communication confirms that the

1 prescription is accurate;

2 (2) the prescribing physician, optometrist, or
3 therapeutic optometrist informs the person dispensing the contact
4 lenses that the prescription is inaccurate and provides the correct
5 prescription information; or

6 (3) the prescribing physician, optometrist, or
7 therapeutic optometrist fails to communicate with the person
8 dispensing the contact lenses not later than the eighth business
9 hour after the prescribing physician, optometrist, or therapeutic
10 optometrist receives from the person dispensing the contact lenses
11 the request for verification [~~or within another similar period~~
12 ~~specified by rule~~].

13 SECTION 10.032. Section 353.103(a), Occupations Code, is
14 amended to read as follows:

15 (a) If a patient presents a contact lens prescription to be
16 filled or asks a person who dispenses contact lenses [~~permit~~
17 ~~holder~~] to verify a contact lens prescription under Section
18 353.1015, but requests that fewer than the total number of lenses
19 authorized by the prescription be dispensed, the person dispensing
20 the lenses shall note on the prescription or verification:

21 (1) the number of lenses dispensed;

22 (2) the number of lenses that remain eligible to be
23 dispensed under the prescription; and

24 (3) the name, address, and telephone number [~~and~~
25 ~~license or permit number~~] of the person dispensing the lenses.

26 SECTION 10.033. Section 353.104(a), Occupations Code, is
27 amended to read as follows:

(a) If a patient needs an emergency refill of the patient's contact lens prescription, a physician, optometrist, or therapeutic optometrist may telephone or fax the prescription to a person who dispenses ~~[authorized to dispense]~~ contact lenses ~~[under Section 353.051]~~ or may verify a prescription under Section 353.1015.

SECTION 10.034. Section 353.151, Occupations Code, is amended to read as follows:

Sec. 353.151. DIRECTIONS FOR INDEPENDENT DISPENSER ~~[OPTICIAN]~~; DELEGATION. (a) If a physician's directions, instructions, or orders are to be performed or a physician's prescription is to be filled by a person ~~[an optician]~~ who is independent of the physician's office, the directions, instructions, orders, or prescription must be:

- (1) in writing or verified under Section 353.1015;
- (2) of a scope and content and communicated to the person ~~[optician]~~ in a form and manner that, in the professional judgment of the physician, best serves the health, safety, and welfare of the physician's patient; and
- (3) in a form and detail consistent with the person's ~~[optician's]~~ skill and knowledge.

(b) A person who dispenses contact lenses ~~[holds a contact lens dispensing permit issued under Subchapter B]~~ may measure the eye or cornea and may evaluate the physical fit of lenses for a particular patient of a physician if the physician has delegated in writing those responsibilities regarding that patient to the person in accordance with Subsection (a) and Section 351.005.

(c) If a physician notes on a spectacle prescription "fit for contacts" or similar language and has, as required by Subsections (a) and (b), specifically delegated to a specific person ~~[optician]~~ the authority to make the additional measurements and evaluations necessary for a fully written contact lens prescription, the person ~~[optician]~~ may dispense contact lenses to the patient even though the prescription is less than a fully written contact lens prescription.

SECTION 10.035. The heading to Subtitle G, Title 3, Occupations Code, is amended to read as follows:

SUBTITLE G. PROFESSIONS RELATED TO HEARING AND ~~[7]~~ SPEECH ~~[7-AND~~
~~DYSLEXIA]~~

SECTION 10.036. The following provisions of the Government Code are repealed:

- (1) Section 2165.301(2);
- (2) Section 2165.302; and
- (3) Section 2165.304.

SECTION 10.037. The following provisions of the Health and Safety Code are repealed:

- (1) Section 144.001;
- (2) Subchapter B, Chapter 144;
- (3) Sections 144.023(d) and (e);
- (4) Section 144.031;
- (5) Subchapter D, Chapter 144;
- (6) Subchapter E, Chapter 144;
- (7) Subchapter F, Chapter 144;
- (8) Section 144.071;

- 1 (9) Section [144.072](#);
- 2 (10) Section [144.073](#);
- 3 (11) Section [144.074](#);
- 4 (12) Section [144.075](#);
- 5 (13) Section [144.076](#);
- 6 (14) Section [144.077](#);
- 7 (15) Section [144.078](#)(c);
- 8 (16) Section [144.080](#);
- 9 (17) Section [144.081](#);
- 10 (18) Section [144.082](#);
- 11 (19) Section [144.083](#);
- 12 (20) Section [144.084](#);
- 13 (21) Section [144.085](#);
- 14 (22) Section [145.001](#);
- 15 (23) Section [145.002](#)(1);
- 16 (24) Section [145.004](#)(b);
- 17 (25) Section [145.006](#)(c);
- 18 (26) Section [145.008](#)(k);
- 19 (27) Section [145.009](#);
- 20 (28) Section [145.0095](#);
- 21 (29) Section [145.010](#);
- 22 (30) Sections [145.011](#)(a) and (b);
- 23 (31) Section [145.012](#);
- 24 (32) Section [145.0122](#);
- 25 (33) Section [145.015](#);
- 26 (34) Chapter 345;
- 27 (35) Chapter 385;

(36) Section 437.0057(b);

(37) Section 438.042(b), Health and Safety Code, as added by Chapter 885 (H.B. 1682), Acts of the 72nd Legislature, Regular Session, 1991;

(38) Section 438.0431;

(39) Chapter 441; and

(40) Chapter 781.

SECTION 10.038. The following provisions of the Occupations Code are repealed:

(1) Section 351.005(c);

(2) Chapter 352;

(3) Sections 353.002(1), (2), and (4);

(4) Section 353.005;

(5) Subchapter B, Chapter 353;

(6) Section 353.202;

(7) Section 353.2025;

(8) Section 353.203;

(9) Section 353.204(b);

(10) Section 353.205; and

(11) Chapter 403.

SECTION 10.039. On the effective date of this Act, a license, permit, certification of registration, or other authorization issued under a law that is repealed by this article expires.

SECTION 10.040. The changes in law made by this article do not affect the validity of a disciplinary action or other 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 10.041. (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 10.042. 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 11. GENERAL PROVISIONS AND EFFECTIVE DATE

14 SECTION 11.001. To the extent of any conflict, this Act
15 prevails over another Act of the 84th Legislature, Regular Session,
16 2015, relating to nonsubstantive additions to and corrections in
17 enacted codes.

18 SECTION 11.002. (a) Except as provided by Subsection (b) of
19 this section, this Act takes effect September 1, 2015.

20 (b) Part 2 of Article 8 of this Act takes effect September 1,
21 2017.