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H.B. No. 2510

Substitute the following for H.B. No. 2510:

By: Raymond

C.S.H.B. No. 2510

A BILL TO BE ENTITLED

AN ACT

relating to the continuation and functions of 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

1 patient described by Subsection (a) may receive mental health  
2 services.

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

7 ARTICLE 2. COMMUNITY MENTAL HEALTH PROGRAMS

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

10 Sec. 533.0347. REVIEW RELATING TO BEHAVIORAL HEALTH  
11 SERVICES PROVIDER CONTRACTS. (a) In this section, "behavioral  
12 health services" means mental health services, substance abuse  
13 services, or both.

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

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

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

26 (2) review and identify refinements to the metrics and  
27 methodology associated with the withholding of funds from local

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

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

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

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

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

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

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

1 purchasing health care services; and

2 (3) the commission and the department shall jointly:

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

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

11 (g) For 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, 2016, the commission and the department shall:

14 (1) include:

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

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

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

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

26 (i) This section expires September 1, 2017.

27 SECTION 2.002. Section [533.0359](#)(a), Health and Safety Code,

1 is amended to read as follows:

2 (a) In developing rules governing local mental health  
3 authorities under Sections 533.035, [~~533.0351~~] 533.03521,  
4 533.0357, and 533.0358, the executive commissioner shall use  
5 rulemaking procedures under Subchapter B, Chapter 2001, Government  
6 Code.

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

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

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

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

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

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

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

27 (b) The local mental health authorities and local

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

8 (c) After the commission approves the allocation  
9 methodology, the department shall begin allocating state hospital  
10 beds to the regions according to the methodology.

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

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

27 SECTION 2.004. Subchapter D, Chapter 533, Health and Safety

1 Code, is amended by adding Sections 533.088 and 533.089 to read as  
2 follows:

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

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

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

17 Sec. 533.089. REVIEW RELATING TO CERTAIN COMMUNITY-BASED  
18 CRISIS AND TREATMENT FACILITIES. (a) The department shall conduct  
19 a comprehensive review of department rules and department contract  
20 requirements governing community-based crisis and treatment  
21 facilities for persons with mental health and substance abuse  
22 disorders. As part of the review, department regulatory staff,  
23 department behavioral health program staff, and stakeholders shall  
24 work together to identify best practices for and unnecessary  
25 barriers to the effective delivery of mental health and substance  
26 abuse services by community-based crisis and treatment facilities.

27 (b) The department shall:

1           (1) develop proposed rules based on the work of the  
2 department staff and stakeholders in Subsection (a); and

3           (2) submit to the appropriate behavioral health  
4 services advisory body designated by the executive commissioner the  
5 proposed rules for the body's review.

6           (c) Not later than September 1, 2016, the executive  
7 commissioner shall adopt rules relating to the delivery of mental  
8 health and substance abuse services by community-based crisis and  
9 treatment facilities after considering any recommendations made by  
10 the advisory body under Subsection (b)(2). The rules may include  
11 the establishment of new types of community-based crisis and  
12 treatment facilities for persons with mental health disorders,  
13 substance abuse disorders, or co-occurring mental health and  
14 substance abuse disorders as authorized by Section 533.088.

15           (d) This section expires September 1, 2017.

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

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

24           Sec. 1001.0732. MENTAL HEALTH AND SUBSTANCE ABUSE HOTLINES.  
25 The department shall ensure that each local mental health authority  
26 and local behavioral health authority operates a toll-free  
27 telephone hotline that enables a person to call a single hotline

1 number to obtain information from the authority about mental health  
2 services, substance abuse services, or both.

3 SECTION 2.006. The following provisions, including  
4 provisions amended by S.B. 219, Acts of the 84th Legislature,  
5 Regular Session, 2015, are repealed:

6 (1) Section 7.030, Education Code;

7 (2) Subchapter F, Chapter 461A, Health and Safety  
8 Code; and

9 (3) Section 533.0351, Health and Safety Code.

10 SECTION 2.007. As soon as practicable after the effective  
11 date of this Act, the Health and Human Services Commission shall  
12 divide the state into regions and the local mental health  
13 authorities and local behavioral health authorities shall develop  
14 and submit to the commission for approval the state hospital bed  
15 allocation methodology required by Section 533.0515, Health and  
16 Safety Code, as added by this article. Before the commission  
17 approves the methodology, the Department of State Health Services  
18 shall continue to allocate beds in the state hospitals according to  
19 the department's policy as it existed immediately before the  
20 effective date of this Act, and the policy is continued in effect  
21 for that purpose.

22 SECTION 2.008. Section 1001.0731, Health and Safety Code,  
23 as added by this article, applies only to a contract that is entered  
24 into or renewed on or after the effective date of this Act. A  
25 contract that is entered into or renewed before that date is  
26 governed by the law as it existed immediately before the effective  
27 date of this Act, and that law is continued in effect for that

1 purpose.

2 ARTICLE 3. EMERGENCY MEDICAL SERVICES REGULATION

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

5 (i) The department may develop and administer at least twice  
6 each calendar year a jurisprudence examination to determine the  
7 knowledge that an applicant for an emergency medical services  
8 provider license or emergency medical services personnel  
9 certification has of this chapter, department rules, and any other  
10 applicable laws affecting the applicant's activities regulated  
11 under this chapter. Department rules must specify who must take the  
12 examination on behalf of an entity applying for an emergency  
13 medical services provider license.

14 SECTION 3.002. Section 773.0571, Health and Safety Code, as  
15 amended by Chapters 1089 (H.B. 3556) and 1311 (S.B. 8), Acts of the  
16 83rd Legislature, Regular Session, 2013, is reenacted and amended  
17 to read as follows:

18 Sec. 773.0571. REQUIREMENTS FOR PROVIDER LICENSE. The  
19 department shall issue to an emergency medical services provider  
20 applicant a license that is valid for two years if the department is  
21 satisfied that:

22 (1) the applicant has adequate staff to meet the  
23 staffing standards prescribed by this chapter and the rules adopted  
24 under this chapter;

25 (2) each emergency medical services vehicle is  
26 adequately constructed, equipped, maintained, and operated to  
27 render basic or advanced life support services safely and

1 efficiently;

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

4 (4) the applicant:

5 (A) possesses sufficient professional experience  
6 and qualifications to provide emergency medical services; and

7 (B) has not been excluded from participation in  
8 the state Medicaid program;

9 (5) the applicant holds a letter of approval issued  
10 under Section 773.0573 by the governing body of the municipality or  
11 the commissioners court of the county in which the applicant is  
12 located and is applying to provide emergency medical services, as  
13 applicable; ~~and~~

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

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

17 (8) the applicant owns or has a long-term lease  
18 agreement for all equipment necessary for safe operation of an  
19 emergency medical services provider, as provided by Section  
20 773.05716; and

21 (9) ~~(6)~~ (9) the applicant complies with the rules  
22 adopted under this chapter.

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

25 Sec. 773.05713. REPORT TO LEGISLATURE. Not later than  
26 December 1 of each even-numbered year, the department shall  
27 electronically submit a report to the lieutenant governor, the

1 speaker of the house of representatives, and the standing  
2 committees of the house and senate with jurisdiction over the  
3 department on the effect of Sections 773.05711 and 773.05712 that  
4 includes:

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

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

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

16 (4) the number of complaints made against licensed  
17 emergency medical services providers for violations of those  
18 sections and a description of the types of complaints, reported in  
19 the manner required by Section 773.0605(d); and

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

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

25 Sec. 773.05715. PHYSICAL LOCATION REQUIRED. (a) An  
26 emergency medical services provider must have a permanent physical  
27 location as the provider's primary place of business. An applicant

1 for an emergency medical services provider license must demonstrate  
2 proof of the location of the primary place of business in the manner  
3 required by the department.

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

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

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

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

15 Sec. 773.05716. NECESSARY EQUIPMENT. (a) An emergency  
16 medical services provider must own or hold a long-term lease for all  
17 equipment necessary for the safe operation of an emergency medical  
18 services provider, including emergency medical services vehicles,  
19 heart rate monitors, defibrillators, stretchers, and any other  
20 equipment the department determines is required.

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

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

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

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

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

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

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

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

17           (d) The department shall annually report statistical  
18 information regarding each complaint received, and each  
19 investigation or disciplinary action initiated, under this  
20 chapter. The report must include:

21                   (1) the reason and basis for each complaint;

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

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

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

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

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

5           (4) the disposition of each investigation, including:

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

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

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

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

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

18           SECTION 3.006. Section [773.0611](#), Health and Safety Code, is  
19 amended by adding Subsection (d) to read as follows:

20           (d) The department may use an inspection performed by an  
21 entity to which the department has delegated inspection authority  
22 as a basis for a disciplinary action under Section [773.061](#).

23           SECTION 3.007. (a) The changes in law made by Sections  
24 [773.05715](#) and [773.05716](#), Health and Safety Code, as added by this  
25 article, apply only to a person that applies for a license or renews  
26 a license as an emergency medical services provider on or after the  
27 effective date of this Act.

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

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

11 ARTICLE 4. PUBLIC HEALTH SYSTEM

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

14 (a) The committee shall:

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

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

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

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

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

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

1 functions;

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

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

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

11 SECTION 4.002. Section 117.103, Health and Safety Code, is  
12 amended to read as follows:

13 Sec. 117.103. BIENNIAL [~~ANNUAL~~] REPORT. Not [~~Beginning in~~  
14 ~~2012, not~~] later than November 30 of each even-numbered year, the  
15 committee shall file a report on the implementation of this chapter  
16 with the governor, the lieutenant governor, and the speaker of the  
17 house of representatives.

18 SECTION 4.003. The heading to Section 117.151, Health and  
19 Safety Code, is amended to read as follows:

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

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

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

27 (1) the implementation of the committee's

1 recommendations for the previous biennium described in Section  
2 [117.101](#)(a)(5); and

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

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

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

12 (1) the department's central office;

13 (2) each public health region designated under Section  
14 [121.007](#); and

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

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

18 (1) the specific services and programs each entity  
19 currently provides; and

20 (2) the level of services provided.

21 (c) Using the inventory compiled under Subsection (a), the  
22 department shall create and update a clear matrix of duties  
23 specific to each region, indicating which duties are performed by  
24 each entity listed in Subsection (a). The department shall clearly  
25 delineate the division of duties between the department's central  
26 office and the public health regions.

27 (d) To assist the department in updating the matrix under

1 Subsection (c), each entity described by Subsections (a)(2) and (3)  
2 shall provide the department with information regarding any  
3 significant change in public health services provided by that  
4 entity.

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

9 (f) The department shall biennially present the inventory  
10 and matrix created or updated under this section at a meeting of the  
11 Public Health Funding and Policy Committee and at a meeting of the  
12 State Health Services Council.

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

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

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

22 (2) develop an overarching vision for the department's  
23 central office, each public health region designated under Section  
24 121.007, and local health departments, districts, and authorities;

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



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

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

7                   SUBCHAPTER D. ACCESS TO RECORDS

8       Sec. 191.071. CRIMINAL BACKGROUND CHECK REQUIRED. (a) A  
9 person may not access vital records maintained by the department  
10 under this chapter and may not access the department's vital  
11 records electronic registration system unless the department, or  
12 another person acting on behalf of the department, has conducted a  
13 fingerprint-based criminal background check, using state and  
14 federal databases, on the person in accordance with department  
15 policy and the person's record is satisfactory as determined under  
16 department policy.

17       (b) The department may adopt a policy waiving the  
18 requirement of a fingerprint-based background check for a person  
19 who previously submitted to a fingerprint-based background check as  
20 a condition of licensure by a state agency.

21       SECTION 5.004. Section [411.110\(a\)](#), Government Code, as  
22 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
23 2015, is amended to read as follows:

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

- 27               (1) a person who is:

1 (A) an applicant for a license or certificate  
2 under the Emergency Health Care Act (Chapter 773, Health and Safety  
3 Code);

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

6 (C) the holder of a license or certificate under  
7 that Act;

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

10 (3) an applicant for a license, the owner or manager of  
11 an applicant for a massage establishment license, or a license  
12 holder under Chapter 455, Occupations Code;

13 (4) an applicant for employment at or current employee  
14 of:

15 (A) a public health hospital as defined by  
16 Section 13.033, Health and Safety Code; or

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

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

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

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

27 (6) a person authorized to access vital records or the

1 vital records electronic registration system under Chapter 191,  
2 Health and Safety Code, including an employee of or contractor for  
3 the Department of State Health Services, a local registrar, a  
4 medical professional, or a funeral director.

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

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

14 ARTICLE 6. TEXAS HEALTH CARE INFORMATION COLLECTION PROGRAM

15 SECTION 6.001. Section 108.009, Health and Safety Code, as  
16 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
17 2015, is amended by amending Subsection (a) and adding Subsection  
18 (d-1) to read as follows:

19 (a) The department may collect, and, except as provided by  
20 Subsections [~~Subsection~~] (d) and (d-1), providers shall submit to  
21 the department or another entity as determined by the department,  
22 all data required by this section. The data shall be collected  
23 according to uniform submission formats, coding systems, and other  
24 technical specifications necessary to make the incoming data  
25 substantially valid, consistent, compatible, and manageable using  
26 electronic data processing, if available.

27 (d-1) A facility that has been granted a waiver by the

1 department under this subsection is not required to submit data as  
2 required by this section. The executive commissioner shall adopt  
3 rules to establish a process by which the department may grant a  
4 waiver to exempt a facility from the requirements of this section if  
5 the facility conducts not more than 600 procedures a year and does  
6 not have information systems capable of automated reporting of  
7 claims under this section. A waiver may be valid for not more than a  
8 year and may be reissued upon a showing of evidence that the  
9 facility continues to qualify for the waiver under this subsection.

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

12 Sec. 108.0145. PROVIDER NOT LIABLE FOR RELEASE OF  
13 INFORMATION. A provider that submits data under Section 108.009 is  
14 not civilly or criminally liable for the use of the data under this  
15 chapter or for a subsequent release of the data by the department or  
16 another person.

17 SECTION 6.003. Section 108.016, Health and Safety Code, is  
18 repealed.

19 ARTICLE 7. ABOLITION OF CERTAIN ADVISORY COMMITTEES, PANELS, AND  
20 BOARDS

21 SECTION 7.001. (a) The Worksite Wellness Advisory Board is  
22 abolished.

23 (b) Section 664.052, Government Code, is amended to read as  
24 follows:

25 Sec. 664.052. RULES. The executive commissioner shall  
26 adopt rules for the administration of this subchapter [~~including~~  
27 ~~rules prescribing the frequency and location of board meetings~~].

1 (c) Section 664.058, Government Code, is amended to read as  
2 follows:

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

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

9 (a) A state agency may:

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

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

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

16 (A) receives a physical examination; and

17 (B) completes either an online health risk  
18 assessment tool provided by the department [~~board~~] or a similar  
19 health risk assessment conducted in person by a worksite wellness  
20 coordinator;

21 (4) provide financial incentives, notwithstanding  
22 Section 2113.201, for participation in a wellness program developed  
23 under Section 664.053(e) after the agency establishes a written  
24 policy with objective criteria for providing the incentives;

25 (5) offer on-site clinic or pharmacy services in  
26 accordance with Subtitles B and J, Title 3, Occupations Code,  
27 including the requirements regarding delegation of certain medical

1 acts under Chapter 157, Occupations Code; and

2 (6) adopt additional wellness policies, as determined  
3 by the agency.

4 (e) Sections 664.051(1), 664.054, 664.055, 664.056,  
5 664.057, 664.059, and 664.060(c) and (f), Government Code, are  
6 repealed.

7 SECTION 7.002. (a) The Sickle Cell Advisory Committee is  
8 abolished.

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

11 Sec. 33.052. DUTIES OF DEPARTMENT. The department shall[+  
12 [~~(1)~~] identify efforts related to the expansion and  
13 coordination of education, treatment, and continuity of care  
14 programs for individuals with sickle cell trait and sickle cell  
15 disease[+]

16 [~~(2) assist the advisory committee created under~~  
17 ~~Section 33.053, and~~

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

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

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

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

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

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

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

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

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

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

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

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

21 (6) at least one member who is a consumer  
22 representative[, ~~and~~

23 [~~(7) at least one member who is a member of the~~  
24 ~~Advisory Panel on Health Care-Associated Infections and~~  
25 ~~Preventable Adverse Events who meets the qualifications prescribed~~  
26 ~~by Section 98.052(a)(4), Health and Safety Code].~~

27 (c) The heading to Subchapter C, Chapter 98, Health and

1 Safety Code, is amended to read as follows:

2 SUBCHAPTER C. DUTIES OF DEPARTMENT [~~AND ADVISORY PANEL~~]; REPORTING  
3 SYSTEM

4 (d) Section 98.1045(b), Health and Safety Code, is amended  
5 to read as follows:

6 (b) The executive commissioner may exclude an adverse event  
7 described by Subsection (a)(2) from the reporting requirement of  
8 Subsection (a) if the executive commissioner [~~, in consultation~~  
9 ~~with the advisory panel,~~] determines that the adverse event is not  
10 an appropriate indicator of a preventable adverse event.

11 (e) Section 98.105, Health and Safety Code, is amended to  
12 read as follows:

13 Sec. 98.105. REPORTING SYSTEM MODIFICATIONS. The [~~Based on~~  
14 ~~the recommendations of the advisory panel, the~~] executive  
15 commissioner by rule may modify in accordance with this chapter the  
16 list of procedures that are reportable under Section 98.103. The  
17 modifications must be based on changes in reporting guidelines and  
18 in definitions established by the federal Centers for Disease  
19 Control and Prevention.

20 (f) Section 98.106(c), Health and Safety Code, is amended to  
21 read as follows:

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

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

27 (a) The [~~In consultation with the advisory panel, the~~]

1 executive commissioner by rule shall establish the frequency of  
2 reporting by health care facilities required under Sections 98.103  
3 and 98.1045.

4 (h) The following provisions are repealed:

5 (1) Sections 98.001(1) and 98.002, Health and Safety  
6 Code; and

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

8 SECTION 7.005. (a) The Youth Camp Training Advisory  
9 Committee is abolished.

10 (b) Section 141.0095(d), Health and Safety Code, as amended  
11 by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is  
12 amended to read as follows:

13 (d) In accordance with this section [~~and the criteria and~~  
14 ~~guidelines developed by the training advisory committee~~  
15 ~~established under Section 141.0096~~], the executive commissioner by  
16 rule shall establish criteria and guidelines for training and  
17 examination programs on sexual abuse and child molestation. The  
18 department may approve training and examination programs offered by  
19 trainers under contract with youth camps or by online training  
20 organizations or may approve programs offered in another format  
21 authorized by the department.

22 (c) Section 141.0096, Health and Safety Code, as amended by  
23 S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is  
24 repealed.

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

27 (b) Section 1001.155, Health and Safety Code, as added by

1 Chapter 1238 (S.B. 2080), Acts of the 81st Legislature, Regular  
2 Session, 2009, is reenacted and amended to read as follows:

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

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

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

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

18 PART 1. TRANSFERS DURING BIENNIUM ENDING AUGUST 31, 2017

19 SECTION 8.001. Section 203.002, Occupations Code, is  
20 amended by adding Subdivision (1) and amending Subdivisions (3),  
21 (4), (4-a), (6), and (9) to read as follows:

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

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

27 (4) "Department" means the Texas Department of

1 Licensing and Regulation [~~State Health Services~~].

2 (4-a) "Executive director" [~~commissioner~~] means the  
3 executive director of the department [~~commissioner of the Health~~  
4 ~~and Human Services Commission~~].

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

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

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

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

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

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

23 SECTION 8.004. Section 203.052, Occupations Code, is  
24 amended to read as follows:

25 Sec. 203.052. ADVISORY [~~APPOINTMENT OF MIDWIFERY~~] BOARD  
26 MEMBERSHIP. (a) The advisory [~~midwifery~~] board consists of nine  
27 members appointed by the presiding officer of the commission with

1 the approval of the commission as follows:

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

4 (2) one physician member who is certified by a  
5 national professional organization of physicians that certifies  
6 obstetricians and gynecologists;

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

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

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

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

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

22 SECTION 8.006. Section 203.055, Occupations Code, is  
23 amended to read as follows:

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



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

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

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

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

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

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

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

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

20           (2) [~~(3)~~] adopt rules prescribing:

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

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

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

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

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

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

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

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

17 (a-2) The department shall:

18 (1) implement rules governing:

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

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

24 (2) prepare and distribute basic midwifery  
25 information and instructor manuals;

26 (3) enter into agreements necessary to carry out this  
27 chapter; and

1           (4) establish a program for licensure as a midwife as  
2 prescribed by commission rules.

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

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

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

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

14           (c) A basic information manual must include information  
15 about:

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

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

26           Sec. 203.154. REPORTS ON MIDWIFERY. (a) [~~(c)~~] The  
27 department [~~midwifery board~~] shall prepare and publish reports on

1 the practice of midwifery in this state.

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

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

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

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

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

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

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

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

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

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

26 (a) A person qualifies to become a licensed midwife under  
27 this chapter if the person provides the department ~~[program~~

1 ~~coordinator~~] with documentary evidence that the person has:

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

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

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

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

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

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

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

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

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

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

26 (1) adopt a comprehensive midwifery examination for  
27 persons regulated under this chapter that must be passed before the

1 initial license may be issued; and

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

4 SECTION 8.021. Section 203.2555, Occupations Code, is  
5 amended to read as follows:

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

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

18 SECTION 8.022. Section 203.256, Occupations Code, is  
19 amended to read as follows:

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

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

27 (2) holds:

1 (A) a current certificate issued by the American  
2 Heart Association in basic life support cardiopulmonary  
3 resuscitation; or

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

7 SECTION 8.023. Section 203.304, Occupations Code, is  
8 amended to read as follows:

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

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

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

22 SECTION 8.024. Section 203.305, Occupations Code, is  
23 amended to read as follows:

24 Sec. 203.305. REQUIRED ATTENDANCE AT SPECIFIC MIDWIFERY  
25 EDUCATION COURSES. The department [~~midwifery board~~] may assess the  
26 continuing education needs of licensed midwives and may require  
27 licensed midwives to attend continuing midwifery education courses

1 specified by the department [~~midwifery board~~].

2 SECTION 8.025. Section 203.306, Occupations Code, is  
3 amended to read as follows:

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

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

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

14 (1) statistics of the midwife's experience as a  
15 midwife;

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

17 (3) the date the midwife's cardiopulmonary  
18 resuscitation certification expires;

19 (4) the midwife's compliance with continuing education  
20 requirements;

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

22 (6) the legal responsibilities of a midwife, including  
23 statements concerning newborn blood screening, ophthalmia  
24 neonatorum prevention, and prohibited acts under Sections  
25 203.401-203.403.

26 SECTION 8.027. Section 203.352, Occupations Code, is  
27 amended to read as follows:

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

2   A midwife shall encourage a client to seek:

3           (1)   prenatal care; and

4           (2)   medical care through consultation or referral, as  
5   specified by commission [~~midwifery board~~] rules, if the midwife  
6   determines that the pregnancy, labor, delivery, postpartum period,  
7   or newborn period of a woman or newborn may not be classified as  
8   normal for purposes of this chapter.

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

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

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

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

27           SECTION 8.030.   Section 203.356(a), Occupations Code, is

1 amended to read as follows:

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

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

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

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

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

23 SECTION 8.032. Section 203.401, Occupations Code, is  
24 amended to read as follows:

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

- 26 (1) provide midwifery care in violation of commission  
27 [~~midwifery board~~] rule, except in an emergency that poses an

1 immediate threat to the life of a woman or newborn;

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

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

6 (B) prophylaxis approved by the Department of  
7 State Health Services [~~department~~] to prevent ophthalmia  
8 neonatorum; or

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

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

14 (4) remove placenta by invasive techniques;

15 (5) use a mechanical device or medicine to advance or  
16 retard labor or delivery; or

17 (6) make on a birth certificate a false statement or  
18 false record in violation of Section 195.003, Health and Safety  
19 Code.

20 SECTION 8.033. Section 203.404, Occupations Code, is  
21 amended to read as follows:

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

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

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

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

5 (4) uses alcohol or drugs intemperately;

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

8 (6) is unable to practice midwifery with reasonable  
9 skill and safety because of illness, disability, or psychological  
10 impairment;

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

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

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

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

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

26 SECTION 8.034. Section [203.406](#), Occupations Code, is  
27 amended to read as follows:

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

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

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

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

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

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

23           SECTION 8.036. Section 203.502(b), Occupations Code, as  
24 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
25 2015, is amended to read as follows:

26           (b) If the executive director [~~department~~] or a health  
27 authority determines that a person has violated this chapter, the

1 executive director may institute an action described by Section  
2 51.352 [~~and that the violation creates an immediate threat to the~~  
3 ~~health and safety of the public, the department, or the health~~  
4 ~~authority with the concurrence of the department, may request the~~  
5 ~~attorney general or a district, county, or city attorney to bring an~~  
6 ~~action in a district court for a restraining order to restrain the~~  
7 ~~violation]~~.

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

10 (a) Venue for a civil action arising out of the imposition  
11 of an administrative penalty [~~brought under Section 203.451 or~~  
12 ~~203.452~~] is in the county in which the defendant resides or in the  
13 county in which the violation occurred.

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

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

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

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

24 (1-a) "Audiologist" means a person who meets the  
25 qualifications of this chapter to practice audiology.

26 (3) "Commission" [~~"Board"~~] means the Texas Commission  
27 of Licensing and Regulation [~~State Board of Examiners for~~

1 ~~Speech-Language Pathology and Audiology~~].

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

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

6 (4-b) "Hearing instrument" has the meaning assigned by  
7 Section 402.001.

8 SECTION 8.040. Section 401.052, Occupations Code, is  
9 amended to read as follows:

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

14 (1) licensed in this state; and

15 (2) practicing in accordance with the standards of  
16 professional conduct and ethics established by rules adopted by the  
17 Texas Board of Nursing.

18 SECTION 8.041. Section 401.053, Occupations Code, is  
19 amended to read as follows:

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

27 (b) A person who has received training by the Department of

1 State Health Services [~~department~~] in a program under Subsection

2 (a) may not:

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

4 or

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

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

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

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

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

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

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

26 (1) consist of graduate-level course work and  
27 practicum from a program accredited by the American

1 Speech-Language-Hearing Association; and

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

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

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

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

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

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

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

- 20 (1) have been a resident of this state for the two  
21 years preceding the date of appointment;
- 22 (2) be from the various geographic regions of the  
23 state; and
- 24 (3) be from varying employment settings.

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

- 27 (1) have been engaged in teaching, research, or

1 providing services in speech-language pathology or audiology for at  
2 least five years; and

3 (2) be licensed under this chapter.

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

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

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

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

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

17 Sec. 401.105. TERMS; VACANCIES.

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

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

26 SECTION 8.048. Section 401.107, Occupations Code, is  
27 amended to read as follows:

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

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

9           SECTION 8.049. Section 401.108, Occupations Code, is  
10 amended to read as follows:

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

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

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

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

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

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

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

26           (1) [~~administer, coordinate, and enforce this~~  
27 ~~chapter,~~

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

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

5           (3) ~~[(4)]~~ in connection with a hearing under this  
6 chapter [~~Section 401.454~~], issue subpoenas, examine witnesses, and  
7 administer oaths under the laws of this state; and

8           (4) ~~[(5) conduct hearings and keep records and~~  
9 ~~minutes necessary to the orderly administration of this chapter;~~  
10 ~~and~~

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

13           SECTION 8.052. Section 401.202, Occupations Code, is  
14 amended to read as follows:

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

19           SECTION 8.053. Section 401.2021, Occupations Code, is  
20 amended to read as follows:

21           Sec. 401.2021. [~~JOINT~~]           RULES           FOR           HEARING  
22 INSTRUMENTS. With the assistance of the advisory [~~department,~~  
23 ~~the~~] board and the Hearing Instrument Fitters and Dispensers  
24 Advisory Board, the commission [~~State Committee of Examiners in the~~  
25 ~~Fitting and Dispensing of Hearing Instruments~~] shall [~~jointly~~]  
26 adopt rules to establish requirements for each sale of a hearing  
27 instrument for purposes of this chapter and Chapter 402. The rules

1 must:

2 (1) address:

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

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

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

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

14 SECTION 8.054. Section 401.2022, Occupations Code, is  
15 amended to read as follows:

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

21 (b) With the assistance of the advisory [department, the]  
22 board and the Hearing Instrument Fitters and Dispensers Advisory  
23 Board, the commission [State Committee of Examiners in the Fitting  
24 and Dispensing of Hearing Instruments] shall [jointly] adopt rules  
25 to establish requirements for the fitting and dispensing of hearing  
26 instruments by the use of telepractice for purposes of this chapter  
27 and Chapter 402, including rules that establish the qualifications

1 and duties of license holders who use telepractice.

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

4 Sec. 401.203. ASSISTANCE FILING COMPLAINT [~~BOARD DUTIES~~  
5 ~~REGARDING COMPLAINTS~~].

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

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

12 SECTION 8.057. Section 401.251, Occupations Code, is  
13 amended to read as follows:

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

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

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

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

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

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

1           ~~[(2) ensure that a complaint is not dismissed without~~  
2 ~~appropriate consideration;~~

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

7           ~~[(4) ensure that the person who filed the complaint~~  
8 ~~has an opportunity to explain the allegations made in the~~  
9 ~~complaint; and~~

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

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

16           Sec. 401.2535. CONFIDENTIALITY OF COMPLAINT AND  
17 DISCIPLINARY INFORMATION ~~[INVESTIGATION, SUBPOENA]~~.

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

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

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

3 (2) professional speech-language pathologist and  
4 audiologist licensing or disciplinary boards in other  
5 jurisdictions;

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

8 (4) law enforcement agencies; and

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

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

18 SECTION 8.062. Section 401.302, Occupations Code, is  
19 amended to read as follows:

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

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

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

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

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

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

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

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

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

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

23 (B) audiology, possess at least a doctoral degree  
24 in audiology or a related hearing science from a program accredited  
25 by a national accrediting organization that is approved by the  
26 commission or department [~~board~~] and recognized by the United  
27 States secretary of education under the Higher Education Act of

1 1965 (20 U.S.C. Section 1001 et seq.) in an accredited or approved  
2 college or university;

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

6 (A) normal development and use of speech,  
7 language, and hearing;

8 (B) evaluation, habilitation, and rehabilitation  
9 of speech, language, and hearing disorders; and

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

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

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

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

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

27 (1) be under the supervision of a qualified person

1 acceptable to the department [~~board~~] under guidelines approved by  
2 the commission [~~board~~]; and

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

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

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

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

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

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

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

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

26 (1) enter into an agreement with the Department of  
27 Public Safety to administer a criminal history check required under

1 this section; and

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

5 SECTION 8.066. Section 401.305, Occupations Code, is  
6 amended to read as follows:

7 Sec. 401.305. EXAMINATION. (a) To obtain a license, an  
8 applicant must:

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

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

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

14 [~~(1)~~] administer an examination at least twice each  
15 year.

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

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

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

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

22 (1) establish procedures for the administration of the  
23 examination; and

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

25 (d) The commission by rule [~~board~~] may require the  
26 examination of [~~examine~~] an applicant in any theoretical or applied  
27 field of speech-language pathology or audiology it considers

1 appropriate. The commission by rule [~~board~~] may require the  
2 examination of [~~examine~~] an applicant on professional skills and  
3 judgment in the use of speech-language pathology or audiology  
4 techniques or methods.

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

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

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

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

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

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

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

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

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

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

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

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

10 (1) who passes the examination required by Section  
11 [401.305](#);

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

15 (3) who satisfies any other license requirements under  
16 this chapter.

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

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

24 SECTION 8.069. Section [401.310](#)(a), Occupations Code, is  
25 amended to read as follows:

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

- 1           (1) satisfies the requirements of Section 401.304;
- 2           (2) has not previously applied to take the
- 3 examination; and
- 4           (3) pays the nonrefundable application fee.

5           SECTION 8.070. Section 401.311(c), Occupations Code, is

6 amended to read as follows:

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

- 8           (1) prescribe the terms governing a person's practice
- 9 as an intern under this section; and
- 10          (2) establish general guidelines and renewal
- 11 procedures for the holder of an intern license.

12          SECTION 8.071. Sections 401.312(a) and (b), Occupations

13 Code, are amended to read as follows:

14          (a) The commission by rule [~~board~~] may establish minimum

15 qualifications for licensed assistants in speech-language

16 pathology and in audiology.

17          (b) A licensed assistant in speech-language pathology or in

18 audiology must meet the minimum qualifications established by the

19 commission [~~board~~].

20          SECTION 8.072. Section 401.351, Occupations Code, as

21 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,

22 2015, is amended to read as follows:

23          Sec. 401.351. LICENSE TERM [~~EXPIRATION~~]. [~~(a)~~] A license

24 issued under this chapter is valid for two years. [~~The board by~~

25 ~~rule may adopt a system under which licenses expire on various dates~~

26 ~~during the year.~~

27          [~~(b) For the year in which the license expiration date is~~

1 ~~changed, license fees payable on the original expiration date shall~~  
2 ~~be prorated on a monthly basis so that each license holder pays only~~  
3 ~~the portion of the license fee that is allocable to the number of~~  
4 ~~months during which the license is valid. On renewal of the license~~  
5 ~~on the new expiration date, the total license renewal fee is~~  
6 ~~payable.]~~

7 SECTION 8.073. Section 401.352(a), Occupations Code, as  
8 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
9 2015, is amended to read as follows:

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

15 SECTION 8.074. Section 401.355, Occupations Code, is  
16 amended to read as follows:

17 Sec. 401.355. CONTINUING EDUCATION. (a) The commission by  
18 rule ~~[board]~~ shall establish uniform mandatory continuing  
19 education requirements. A license holder may not renew the  
20 person's license unless the person meets the continuing education  
21 requirements.

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

25 SECTION 8.075. Section 401.401(c), Occupations Code, is  
26 amended to read as follows:

27 (c) The commission ~~[board]~~ shall adopt rules necessary to

1 enforce this section.

2 SECTION 8.076. Section 401.403(b), Occupations Code, is  
3 amended to read as follows:

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

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

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

10 (3) comply with the federal Food and Drug  
11 Administration guidelines for fitting and dispensing hearing  
12 instruments;

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

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

19 SECTION 8.077. Section 401.451(a), Occupations Code, is  
20 amended to read as follows:

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

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

27 (2) obtains a license by means of fraud,

1 misrepresentation, or concealment of a material fact;

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

4 (4) engages in unprofessional conduct that:

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

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

10 SECTION 8.078. Section 401.453(a), Occupations Code, is  
11 amended to read as follows:

12 (a) The commission or department ~~[board]~~ may deny a license  
13 or may suspend or revoke a license if the applicant or license  
14 holder has been convicted of a misdemeanor involving moral  
15 turpitude or a felony. The commission or department ~~[board]~~ may  
16 take action authorized by this section when:

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

19 (2) the judgment or conviction has been affirmed on  
20 appeal; or

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

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

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

26 (C) dismisses an information or indictment.

27 SECTION 8.079. Section 401.5021, Occupations Code, is

1 amended to read as follows:

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

6       SECTION 8.080. Section 401.552(a), Occupations Code, is  
7 amended to read as follows:

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

13       SECTION 8.081. Section 402.001, Occupations Code, is  
14 amended by amending Subdivisions (2), (3), and (6), amending  
15 Subdivision (3-a), as added by S.B. 219, Acts of the 84th  
16 Legislature, Regular Session, 2015, and adding Subdivision (1) to  
17 read as follows:

18               (1) "Advisory board" means the Hearing Instrument  
19 Fitters and Dispensers Advisory Board.

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

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

25               (3-a) "Executive director [~~commissioner~~]" means the  
26 executive director [~~commissioner~~] of the department [~~Health and~~  
27 ~~Human Services Commission~~].

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

4           SECTION 8.082. The heading to Subchapter B, Chapter 402,  
5 Occupations Code, is amended to read as follows:

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

9           SECTION 8.083. Section 402.051, Occupations Code, as  
10 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
11 2015, is amended to read as follows:

12           Sec. 402.051. ADVISORY BOARD ~~[COMMITTEE]~~ MEMBERSHIP. (a)  
13 The advisory board ~~[State Committee of Examiners in the Fitting and~~  
14 ~~Dispensing of Hearing Instruments is part of the department and]~~  
15 consists of nine members appointed by the presiding officer of the  
16 commission ~~[governor]~~ with the approval ~~[advice and consent]~~ of the  
17 commission ~~[senate]~~ as follows:

18           (1) six members licensed under this chapter who have  
19 been residents of this state actually engaged in fitting and  
20 dispensing hearing instruments for at least five years preceding  
21 appointment, not more than one of whom may be licensed under Chapter  
22 401;

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

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

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

1 (C) specializes in the practice of  
2 otolaryngology; and

3 (3) two members of the public.

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

7 SECTION 8.084. Subchapter B, Chapter 402, Occupations Code,  
8 is amended by adding Section 402.0511 to read as follows:

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

12 SECTION 8.085. Section 402.055, Occupations Code, is  
13 amended to read as follows:

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

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

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

1 SECTION 8.086. Section 402.057, Occupations Code, is  
2 amended to read as follows:

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

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

11 SECTION 8.087. Section 402.058, Occupations Code, is  
12 amended to read as follows:

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

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

19 SECTION 8.088. The heading to Subchapter C, Chapter 402,  
20 Occupations Code, is amended to read as follows:

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

22 SECTION 8.089. Section 402.101, Occupations Code, is  
23 amended to read as follows:

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

27 [~~(1)~~] administer [~~, coordinate,~~] and enforce this

1 chapter.

2 (b) The department shall:

3 (1) [+

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

5 (2) [~~(3)~~] examine applicants; and

6 (3) [~~(4)~~] in connection with a hearing under this  
7 chapter [~~Section 402.502~~], issue subpoenas, examine witnesses, and  
8 administer oaths under the laws of this state[; ~~and~~

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

11 SECTION 8.090. Section 402.1021, Occupations Code, is  
12 amended to read as follows:

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

20 The rules must:

21 (1) address:

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

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

27 (C) guidelines for the 30-day trial period during

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

6 SECTION 8.091. Section 402.1023, Occupations Code, is  
7 amended to read as follows:

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

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

22 SECTION 8.092. The heading to Section 402.103, Occupations  
23 Code, is amended to read as follows:

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

26 SECTION 8.093. Section 402.103(c), Occupations Code, is  
27 amended to read as follows:

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

3 (1) contains a misrepresentation of fact;

4 (2) contains a false statement as to the license  
5 holder's professional achievements, education, skills, or  
6 qualifications in the hearing instrument dispensing profession;

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

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

11 (i) the specific product being offered at  
12 the discounted price; or

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

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

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

21 (5) states that the license holder manufactures  
22 hearing instruments at the license holder's office location unless  
23 the next statement discloses that the instruments are manufactured  
24 by a specified manufacturer and remanufactured by the license  
25 holder; or

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

1 SECTION 8.094. Sections 402.104(a) and (e), Occupations  
2 Code, are amended to read as follows:

3 (a) The department [~~committee~~] shall develop and maintain  
4 an examination that may include written, oral, or practical  
5 tests. The department shall administer or arrange for the  
6 administration of the examination.

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

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

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

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

15 SECTION 8.095. Section 402.152, Occupations Code, is  
16 amended to read as follows:

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

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

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

25 (b) Each written contract for services in this state of a  
26 license holder [~~licensed hearing instrument dispenser~~] must  
27 contain the department's [~~committee's~~] name, mailing address,

1 e-mail address, and telephone number.

2 SECTION 8.096. The heading to Section 402.154, Occupations  
3 Code, is amended to read as follows:

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

6 SECTION 8.097. Section 402.154, Occupations Code, is  
7 amended by amending Subsection (h), as amended by S.B. 219, Acts of  
8 the 84th Legislature, Regular Session, 2015, and Subsection (i) to  
9 read as follows:

10 (h) All information and materials subpoenaed or compiled by  
11 the department [~~committee~~] 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 department [~~committee~~] or its  
16 agents or employees who are involved in discipline of the holder of  
17 a license, except that this information may be disclosed to:

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

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

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

26 (4) law enforcement agencies; and

27 (5) persons engaged in bona fide research, if all

1 individual-identifying information has been deleted.

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

10 SECTION 8.098. Section 402.202(a), Occupations Code, is  
11 amended to read as follows:

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

15 SECTION 8.099. Sections 402.203(a) and (c), Occupations  
16 Code, are amended to read as follows:

17 (a) An applicant for examination must:

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

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

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

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

1           (3) pay any required fees for application and  
2 examination.

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

6           SECTION 8.100. Section 402.205(b), Occupations Code, is  
7 amended to read as follows:

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

11          SECTION 8.101. Section 402.207, Occupations Code, is  
12 amended to read as follows:

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

17           (1) passed all parts of the examination with a score of  
18 70 percent or greater;

19           (2) paid the required fees; and

20           (3) met all requirements of this chapter.

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

24          (c) An apprentice permit holder shall work under the  
25 supervision of a license holder [~~licensed hearing instrument~~  
26 ~~dispenser~~] for at least one year. During the apprentice year, the  
27 apprentice permit holder shall complete 20 hours of classroom

1 continuing education as required by Section 402.303 for a license  
2 holder.

3 SECTION 8.102. Section 402.208, Occupations Code, is  
4 amended to read as follows:

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

10 SECTION 8.103. Sections 402.209(a), (c), (e), (f), and (i),  
11 Occupations Code, are amended to read as follows:

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

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

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

22 (2) written verification that:

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

27 (B) the applicant holds a certification from a

1 professional organization approved by the commission [~~committee~~]  
2 by rule;

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

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

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

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

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

26 SECTION 8.104. Section 402.210, Occupations Code, is  
27 amended to read as follows:

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

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

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

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

14                   (2) made available to the department [~~committee~~] by  
15 the Department of Public Safety, the Federal Bureau of  
16 Investigation, and any other criminal justice agency under Chapter  
17 411, Government Code.

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

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

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

25           SECTION 8.105. Section [402.251](#), Occupations Code, is  
26 amended to read as follows:

27           Sec. 402.251. TEMPORARY TRAINING PERMIT QUALIFICATIONS.

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

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

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

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

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

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

16 SECTION 8.106. Section 402.252, Occupations Code, is  
17 amended to read as follows:

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

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

25 (1) the person will supervise the applicant [~~, if~~  
26 ~~granted a temporary training permit, will be supervised by the~~  
27 ~~affiant~~] in all work done by the applicant under the temporary

1 training permit;

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

5 (3) if the person [~~affiant~~] is licensed under Chapter  
6 401, the person [~~affiant~~] will comply with all provisions of this  
7 chapter and rules adopted under this chapter that relate to the  
8 supervision and training of a temporary training permit holder.

9 SECTION 8.107. Sections 402.253(b) and (c), Occupations  
10 Code, are amended to read as follows:

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

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

17 SECTION 8.108. Section 402.254(a), Occupations Code, is  
18 amended to read as follows:

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

22 SECTION 8.109. Section 402.255(d), Occupations Code, is  
23 amended to read as follows:

24 (d) The supervisor shall maintain a log of the contact hours  
25 by practicum category on a form prescribed [~~provided~~] by the  
26 department [~~committee~~]. After the temporary training permit holder  
27 has completed 150 contact hours, the supervisor and the permit

1 holder shall sign the form, and the form shall be notarized and  
2 mailed to the department [~~committee~~].

3 SECTION 8.110. Section 402.256, Occupations Code, is  
4 amended to read as follows:

5 Sec. 402.256. AUTHORITY OF TEMPORARY TRAINING PERMIT  
6 HOLDER. (a) A temporary training permit holder may provide routine  
7 fitting and dispensing of hearing instruments that have [~~has~~] been  
8 ordered by the supervisor. The supervisor is the sole judge of  
9 whether the permit holder has the qualifications necessary to  
10 perform routine fitting and dispensing. A supervisor is  
11 accountable to the department [~~committee~~] for the actions and  
12 misdeeds of a temporary training permit holder acting at the  
13 supervisor's discretion.

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

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

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

20 SECTION 8.111. Sections 402.257(a), (c), and (d),  
21 Occupations Code, are amended to read as follows:

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

26 (c) The department [~~committee~~] may approve a second  
27 transfer request before completion of the training only under

1 exceptional circumstances. The department [~~committee~~] may not  
2 approve more than two transfers.

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

5 SECTION 8.112. Sections 402.301(a) and (f), Occupations  
6 Code, are amended to read as follows:

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

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

16 SECTION 8.113. Sections 402.303(a), (b), (c), (d), and  
17 (e-1), Occupations Code, are amended to read as follows:

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

26 (b) A license holder shall provide written proof of  
27 attendance or completion of an approved course on a form prescribed

1 by the department [~~committee~~].

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

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

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

23 SECTION 8.114. Section 402.304(b), Occupations Code, is  
24 amended to read as follows:

25 (b) A license holder may be credited with continuing  
26 education credit hours for a published book or article written by  
27 the license holder that contributes to the license holder's

1 professional competence. The department [~~continuing education~~  
2 ~~committee~~] may grant credit hours based on the degree to which the  
3 published book or article advances knowledge regarding the fitting  
4 and dispensing of hearing instruments. A license holder may claim  
5 in a reporting period not more than five credit hours for  
6 preparation of a publication.

7 SECTION 8.115. Section 402.305, Occupations Code, is  
8 amended to read as follows:

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

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

15 (2) has served in the regular armed forces of the  
16 United States during part of the 24 months before the reporting  
17 date; or

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

22 SECTION 8.116. Section 402.306, Occupations Code, is  
23 amended to read as follows:

24 Sec. 402.306. DUPLICATE LICENSE. The department  
25 [~~committee~~] shall issue a duplicate license to a license holder  
26 whose license has been lost or destroyed. The department  
27 [~~committee~~] may prescribe the procedure and requirements for

1 issuance of a duplicate license.

2 SECTION 8.117. Section 402.351, Occupations Code, is  
3 amended to read as follows:

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

9 SECTION 8.118. Section 402.353(c), Occupations Code, is  
10 amended to read as follows:

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

13 SECTION 8.119. Section 402.401, Occupations Code, is  
14 amended to read as follows:

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

19 SECTION 8.120. Section 402.403, Occupations Code, is  
20 amended to read as follows:

21 Sec. 402.403. WRITTEN CONTRACT. The owner of a hearing  
22 instrument fitting and dispensing practice shall ensure that each  
23 client receives a written contract at the time of purchase of a  
24 hearing instrument that contains:

25 (1) the signature of the license holder who dispensed  
26 the hearing instrument;

27 (2) the printed name of the license holder who

1 dispensed the hearing instrument;

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

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

6 (5) a description of the make and model of the hearing  
7 instrument;

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

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

11 (8) notice of the 30-day trial period under Section  
12 [402.401](#); and

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

15 SECTION 8.121. Section [402.404](#), Occupations Code, is  
16 amended to read as follows:

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

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

25 (2) judgments that the entity may be required to pay  
26 for:

27 (A) negligently or improperly dispensing hearing

1 instruments; or

2 (B) breaching a contract relating to the  
3 dispensing of hearing instruments.

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

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

10 SECTION 8.122. Section 402.451(a), Occupations Code, is  
11 amended to read as follows:

12 (a) A person may not:

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

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

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

19 (4) falsely impersonate a license holder;

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

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

26 (7) sell a hearing instrument by mail.

27 SECTION 8.123. Section 402.501, Occupations Code, as

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

3           Sec. 402.501. GROUND FOR LICENSE DENIAL AND DISCIPLINARY  
4 ACTION. The commission or executive director [~~committee~~] may  
5 refuse to issue or renew a license, revoke or suspend a license or  
6 permit, place on probation a person whose license or permit has been  
7 suspended, or reprimand a license or permit holder who:

8           (1) makes a material misstatement in furnishing  
9 information to the department [~~committee~~] or to another state or  
10 federal agency;

11           (2) violates this chapter or a rule adopted under this  
12 chapter;

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

17           (4) makes a misrepresentation for the purpose of  
18 obtaining or renewing a license, including falsifying the  
19 educational requirements under this chapter;

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

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

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

27           (8) directly or indirectly knowingly employs, hires,

1 procures, or induces a person not licensed under this chapter to fit  
2 and dispense hearing instruments unless the person is exempt under  
3 this chapter;

4 (9) aids a person not licensed under this chapter in  
5 the fitting or dispensing of hearing instruments unless the person  
6 is exempt under this chapter;

7 (10) is habitually intoxicated or addicted to a  
8 controlled substance;

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

12 (12) violates a term of probation;

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

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

18 (15) solicits a service by advertising that is false  
19 or misleading;

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

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

24 (18) falsely represents that the service of a licensed  
25 physician or other health professional will be used or made  
26 available in the fitting, adjustment, maintenance, or repair of a  
27 hearing instrument;

1           (19) falsely uses the term "doctor," "audiologist,"  
2 "clinic," "clinical audiologist," "state licensed," "state  
3 certified," "licensed hearing instrument dispenser," "board  
4 certified hearing instrument specialist," "hearing instrument  
5 specialist," or "certified hearing aid audiologist," or uses any  
6 other term, abbreviation, or symbol that falsely gives the  
7 impression that:

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

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

12           (20) advertises a manufacturer's product or uses a  
13 manufacturer's name or trademark in a way that implies a  
14 relationship between a license or permit holder and a manufacturer  
15 that does not exist;

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

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

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

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

27           (23) does not adequately provide for the service or

1 repair of a hearing instrument fitted and sold by the license  
2 holder; or

3 (24) violates a regulation of the federal Food and  
4 Drug Administration or the Federal Trade Commission relating to  
5 hearing instruments.

6 SECTION 8.124. The heading to Section 402.551, Occupations  
7 Code, is amended to read as follows:

8 Sec. 402.551. AMOUNT OF ADMINISTRATIVE PENALTY.

9 SECTION 8.125. Section 402.551(b), Occupations Code, is  
10 amended to read as follows:

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

15 SECTION 8.126. Section 402.5521, Occupations Code, is  
16 amended to read as follows:

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

22 SECTION 8.127. Section 402.553(a), Occupations Code, is  
23 amended to read as follows:

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

27 SECTION 8.128. Section 451.001, Occupations Code, is

1 amended by amending Subdivision (2), amending Subdivisions (5) and  
2 (6), as amended by S.B. 219, Acts of the 84th Legislature, Regular  
3 Session, 2015, and adding Subdivision (7) to read as follows:

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

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

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

14 (7) "Executive director" means the executive director  
15 of the department.

16 SECTION 8.129. Section 451.003, Occupations Code, as  
17 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
18 2015, is amended to read as follows:

19 Sec. 451.003. APPLICABILITY. This chapter does not apply  
20 to:

- 21 (1) a physician licensed by the Texas Medical Board;
- 22 (2) a dentist, licensed under the laws of this state,  
23 engaged in the practice of dentistry;
- 24 (3) a licensed optometrist or therapeutic optometrist  
25 engaged in the practice of optometry or therapeutic optometry as  
26 defined by statute;
- 27 (4) an occupational therapist engaged in the practice

1 of occupational therapy;

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

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

5 (7) a physical therapist engaged in the practice of  
6 physical therapy;

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

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

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

17 SECTION 8.130. Section 451.051(b), Occupations Code, is  
18 amended to read as follows:

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

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

23 (2) two members who represent the public.

24 SECTION 8.131. Subchapter B, Chapter 451, Occupations Code,  
25 is amended by adding Section 451.0521 to read as follows:

26 Sec. 451.0521. DUTIES OF BOARD. The board shall provide  
27 advice and recommendations to the department on technical matters

1 relevant to the administration of this chapter.

2 SECTION 8.132. Section 451.053(b), Occupations Code, is  
3 amended to read as follows:

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

9 SECTION 8.133. Section 451.055, Occupations Code, is  
10 amended to read as follows:

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

20 SECTION 8.134. Section 451.056, Occupations Code, is  
21 amended to read as follows:

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

26 SECTION 8.135. The heading to Subchapter C, Chapter 451,  
27 Occupations Code, is amended to read as follows:

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

SECTION 8.136. 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 8.137. 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 8.138. Sections 451.110(h) and (i), Occupations

1 Code, are amended to read as follows:

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

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

12 (2) athletic trainer licensing or disciplinary boards  
13 in other jurisdictions;

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

16 (4) law enforcement agencies; and

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

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

26 SECTION 8.139. Section [451.152](#), Occupations Code, is  
27 amended to read as follows:

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

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

5           (2) the required examination fee.

6           SECTION 8.140. Section 451.153, Occupations Code, is  
7 amended to read as follows:

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

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

13           (2) hold a degree or certificate in physical therapy  
14 and have completed:

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

17           (B) an apprenticeship described by Subsection  
18 (b); or

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

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

1 SECTION 8.141. Section 451.156, Occupations Code, is  
2 amended to read as follows:

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

6 (1) satisfies the requirements of Section 451.153 or  
7 451.154;

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

10 (3) pays the required license fee; and

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

13 SECTION 8.142. Section 451.157, Occupations Code, is  
14 amended to read as follows:

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

18 (1) the requirements of Section 451.153 or 451.154;  
19 and

20 (2) any other requirement established by the  
21 commission [~~board~~].

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

24 SECTION 8.143. The heading to Section 451.201, Occupations  
25 Code, is amended to read as follows:

26 Sec. 451.201. LICENSE EXPIRATION; RENEWAL.

27 SECTION 8.144. Section 451.201(a), Occupations Code, as

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

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

6 SECTION 8.145. Section 451.251(a), Occupations Code, is  
7 amended to read as follows:

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

12 (1) has been convicted of a misdemeanor involving  
13 moral turpitude or a felony;

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

15 (3) violated or conspired to violate this chapter or a  
16 rule adopted under this chapter; or

17 (4) provided services outside the scope of practice of  
18 athletic training.

19 SECTION 8.146. The heading to Section 451.351, Occupations  
20 Code, is amended to read as follows:

21 Sec. 451.351. AMOUNT [~~IMPOSITION~~] OF ADMINISTRATIVE  
22 PENALTY.

23 SECTION 8.147. Section 451.351(c), Occupations Code, is  
24 amended to read as follows:

25 (c) The amount of an administrative [~~the~~] penalty imposed  
26 for a violation of this chapter or a rule adopted or order issued  
27 under this chapter may not exceed \$500 for each violation, and each

1 day a violation continues or occurs is a separate violation for  
2 purposes of imposing a penalty. The total amount of the penalty  
3 assessed for a violation continuing or occurring on separate days  
4 under this subsection may not exceed \$2,500.

5 SECTION 8.148. Section 605.002, Occupations Code, is  
6 amended by amending Subdivision (1), amending Subdivision (5), as  
7 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
8 2015, and adding Subdivisions (2) and (5-a) to read as follows:

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

12 (2) "Commission" means the Texas Commission of  
13 Licensing and Regulation.

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

16 (5-a) "Executive director" means the executive  
17 director of the department.

18 SECTION 8.149. The heading to Subchapter B, Chapter 605,  
19 Occupations Code, is amended to read as follows:

20 SUBCHAPTER B. ORTHOTISTS AND PROSTHETISTS ADVISORY [~~TEXAS~~] BOARD  
21 [~~OF ORTHOTICS AND PROSTHETICS~~]

22 SECTION 8.150. Section 605.052, Occupations Code, is  
23 amended to read as follows:

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

1 as follows:

2 (1) one licensed orthotist member who has practiced  
3 orthotics for the five years preceding the date of appointment;

4 (2) one licensed prosthetist member who has practiced  
5 prosthetics for the five years preceding the date of appointment;

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

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

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

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

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

18 SECTION 8.151. Subchapter B, Chapter 605, Occupations Code,  
19 is amended by adding Section 605.0521 to read as follows:

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

23 SECTION 8.152. Section 605.055, Occupations Code, is  
24 amended to read as follows:

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

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

6 SECTION 8.153. Section 605.056, Occupations Code, is  
7 amended to read as follows:

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

15 SECTION 8.154. Section 605.059(b), Occupations Code, is  
16 amended to read as follows:

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

21 SECTION 8.155. Section 605.151, Occupations Code, is  
22 amended to read as follows:

23 Sec. 605.151. GENERAL POWERS AND DUTIES [OF BOARD]. The  
24 executive director shall administer and enforce this chapter [board  
25 may:

26 [~~(1) investigate complaints,~~

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



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

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

7 (2) professional orthotist or prosthetist  
8 disciplinary boards in other 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 8.160. Section 605.251, Occupations Code, is  
22 amended to read as follows:

23 Sec. 605.251. LICENSE REQUIRED. A person may not practice,  
24 attempt to practice, or offer to practice orthotics or prosthetics,  
25 act as an assistant to a person who practices orthotics or  
26 prosthetics, or in any way hold the person out as being able to  
27 practice orthotics or prosthetics unless the person holds a license

1 ~~[issued by the board]~~ under this chapter.

2 SECTION 8.161. Section 605.252, Occupations Code, is  
3 amended to read as follows:

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

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

10 (2) pay the nonrefundable application fee;

11 (3) be a resident of this state;

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

16 (5) have completed a clinical residency in the  
17 professional area for which a license is sought that complies with  
18 the standards, guidelines, or procedures established by the  
19 department ~~[board]~~ for a clinical residency that is offered in this  
20 state or another state; and

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

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

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

1 (A) an education program recognized and  
2 accredited by the Commission on Accreditation of Allied Health  
3 Education Programs that is offered at an institution of higher  
4 education; or

5 (B) a practitioner education program that has  
6 education standards that are equivalent to or exceed the standards  
7 adopted by the Commission on Accreditation of Allied Health  
8 Education Programs; or

9 (2) a bachelor's degree in another subject and an  
10 orthotic or prosthetic certificate issued by a practitioner  
11 education program:

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

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

17 (c) To meet the clinical residency requirements for a  
18 license, the applicant must complete a professional clinical  
19 residency that meets the requirements established by commission  
20 [~~board~~] rule and is conducted under the direct supervision of a  
21 licensed orthotist, licensed prosthetist, or a licensed  
22 prosthetist orthotist in the discipline for which licensure is  
23 sought. The clinical residency requirements adopted by the  
24 commission [~~board~~] must be equivalent to or exceed the standards  
25 set by the National Commission on Orthotic and Prosthetic  
26 Education.

27 (d) The department [~~board~~] may accept as a substitute for

1 the examination requirement proof that the license applicant holds  
2 a license in a state that has licensing requirements that are equal  
3 to or exceed the requirements of this chapter.

4 SECTION 8.162. Sections 605.254(a) and (c), Occupations  
5 Code, are amended to read as follows:

6 (a) A person is entitled to an exemption from the license  
7 requirements established [~~by the board~~] under Section 605.252 if  
8 the person is a resident of this state who [~~+~~

9 [~~(1) applies for the exemption not later than the~~  
10 ~~181st day after the date on which the board's initial rules are~~  
11 ~~finally adopted and:~~

12 [~~(A) has provided comprehensive orthotic or~~  
13 ~~prosthetic care for at least three years before the date of the~~  
14 ~~application, including practicing orthotics or prosthetics in this~~  
15 ~~state for the year preceding that date, or~~

16 [~~(B) has provided comprehensive orthotic and~~  
17 ~~prosthetic care for at least six years, including practicing~~  
18 ~~orthotics and prosthetics in this state for the year preceding the~~  
19 ~~application date, or~~

20 [~~(2)~~] presents evidence satisfactory to the  
21 department [~~board~~] that the person possesses unique qualifications  
22 to practice orthotics, prosthetics, or orthotics and prosthetics.

23 (c) The department [~~board~~] shall issue a license to a person  
24 who is determined to be eligible for a license under Subsection (a)  
25 [~~or (b)~~]. A person to whom a license is issued under this  
26 subsection is entitled to the same license privileges as if the  
27 person met the educational and vocational requirements of Section

1 605.252. The license holder is subject to the license renewal  
2 requirements established by the commission [~~board~~], other than the  
3 academic, clinical training, and examination requirements, which  
4 the commission [~~board~~] may not impose as a condition of the person's  
5 license.

6 SECTION 8.163. Sections 605.255(a) and (b), Occupations  
7 Code, are amended to read as follows:

8 (a) An applicant for a license as an orthotist assistant or  
9 prosthetist assistant must:

10 (1) submit an application in the manner and [~~file a~~  
11 ~~written application with the board~~] on a form prescribed [~~provided~~]  
12 by the executive director [~~board~~];

13 (2) pay the nonrefundable application fee established  
14 [~~prescribed~~] by the commission by rule [~~board~~]; and

15 (3) present evidence satisfactory to the department  
16 [~~board~~] that the applicant has completed an education program,  
17 including courses in the anatomical, biological, and physical  
18 sciences, and a clinical residency as prescribed and adopted by the  
19 commission by rule [~~board~~].

20 (b) An assistant licensed under this section may provide  
21 only ancillary patient care services, as defined by the commission  
22 by rule [~~board~~], in the discipline in which the assistant's  
23 supervisor is licensed under this chapter.

24 SECTION 8.164. Sections 605.256(a) and (b), Occupations  
25 Code, are amended to read as follows:

26 (a) The department [~~board~~] may issue a license or  
27 registration certificate under this chapter only to an individual.

1 (b) The department [~~board~~] shall issue a license in  
2 orthotics or prosthetics to an applicant who meets the requirements  
3 provided under this chapter. A license may be granted in either  
4 orthotics or prosthetics, or in both, if the person meets the  
5 requirements established by the department [~~board~~].

6 SECTION 8.165. Section 605.257, Occupations Code, is  
7 amended to read as follows:

8 Sec. 605.257. TEMPORARY LICENSE. (a) The department  
9 [~~board~~] may issue a temporary license to an individual who:

- 10 (1) has recently become a resident of this state;  
11 (2) has applied for a license as an orthotist,  
12 prosthetist, or both; and  
13 (3) has:  
14 (A) practiced orthotics regularly since January  
15 1, 1996; or  
16 (B) been licensed by the state in which the  
17 person formerly resided if that state has license requirements that  
18 are equal to or exceed the requirements of this chapter.

19 (b) A temporary license is valid for one year from the date  
20 issued. A temporary license may be renewed for not more than one  
21 additional year if the applicant presents evidence sufficient to  
22 the department [~~board~~] of good cause for renewal.

23 SECTION 8.166. Section 605.258(a), Occupations Code, is  
24 amended to read as follows:

25 (a) The department [~~board~~] may issue a student registration  
26 certificate to an individual who is working toward fulfilling the  
27 requirements for a license as an orthotist, prosthetist, or

1 prosthetist orthotist and:

2 (1) holds either:

3 (A) a bachelor's or graduate degree in orthotics  
4 and prosthetics from:

5 (i) an education program recognized and  
6 accredited by the Commission on Accreditation of Allied Health  
7 Education Programs that is offered at an institution of higher  
8 education; or

9 (ii) a practitioner education program that  
10 has education standards that are equivalent to or exceed the  
11 standards adopted by the Commission on Accreditation of Allied  
12 Health Education Programs; or

13 (B) a bachelor's degree in another subject and an  
14 orthotic or prosthetic certificate issued by a practitioner  
15 education program:

16 (i) recognized and accredited by the  
17 Commission on Accreditation of Allied Health Education Programs; or

18 (ii) that has education standards that are  
19 equivalent to or exceed the standards adopted by the Commission on  
20 Accreditation of Allied Health Education Programs; or

21 (2) is a student who:

22 (A) is currently enrolled in a graduate program  
23 in this state in orthotics and prosthetics that:

24 (i) is recognized and accredited by the  
25 Commission on Accreditation of Allied Health Education Programs;  
26 and

27 (ii) incorporates a professional clinical

1 residency that meets the requirements of rules adopted under  
2 Section 605.252(c); and

3 (B) submits to the department [~~board~~] a written  
4 certification from the graduate program in which the student is  
5 enrolled that the student has successfully completed the academic  
6 prerequisites to enter a professional clinical residency.

7 SECTION 8.167. Section 605.259(a), Occupations Code, is  
8 amended to read as follows:

9 (a) The department [~~board~~] may issue a registered orthotic  
10 technician or registered prosthetic technician certificate to an  
11 applicant who:

12 (1) submits an [~~files a written~~] application in the  
13 manner and [~~with the board~~] on a form prescribed [~~provided~~] by the  
14 executive director [~~board~~];

15 (2) pays the nonrefundable application fee; and

16 (3) presents evidence satisfactory to the department  
17 [~~board~~] that the applicant has completed an education program and  
18 laboratory experience as prescribed by the commission by rule  
19 [~~board~~].

20 SECTION 8.168. Sections 605.260(a), (b), and (c),  
21 Occupations Code, are amended to read as follows:

22 (a) The commission [~~board~~] by rule shall establish  
23 requirements for the accreditation and the renewal of an  
24 accreditation of an orthotic or prosthetic facility in which  
25 orthotics or prosthetics are conducted. The department [~~board~~] may  
26 issue an accreditation only to an orthotic or prosthetic facility.

27 (b) If a person owns more than one facility, the department

1 [~~board~~] may require only one application for the accreditation of  
2 each of the person's facilities. Each orthotic or prosthetic  
3 facility must meet the requirements established by commission rule  
4 [~~the board~~].

5 (c) An orthotic or prosthetic facility must be under the  
6 on-site direction of an orthotist or prosthetist licensed by the  
7 department [~~board~~] in the discipline for which accreditation is  
8 sought.

9 SECTION 8.169. Section 605.261, Occupations Code, is  
10 amended to read as follows:

11 Sec. 605.261. CONTINUING EDUCATION. (a) The commission  
12 [~~board~~] shall:

13 (1) adopt rules that require a license holder to  
14 participate in an approved continuing education program to renew a  
15 license issued under this chapter; and

16 (2) prepare or approve continuing education programs  
17 for license holders.

18 (b) To renew a license under this chapter, an applicant must  
19 submit to the department [~~board~~] evidence of satisfactory  
20 completion of the continuing education requirements required by the  
21 commission [~~board~~].

22 (c) The department [~~board~~] shall notify a license holder who  
23 has failed to comply with the [~~board's~~] continuing education  
24 requirements of the license holder's failure to comply and that  
25 failure to obtain the required continuing education before the  
26 expiration of three months after the date the notice is given  
27 constitutes grounds for the commission or executive director

1 ~~[board]~~ to suspend or revoke the license holder's license.

2 SECTION 8.170. Section 605.353, Occupations Code, is  
3 amended to read as follows:

4 Sec. 605.353. DISCIPLINARY ACTIONS. (a) After notice and  
5 opportunity for a hearing, the commission or executive director  
6 ~~[board]~~ may revoke, suspend, or refuse to renew a license issued  
7 under this chapter on a finding that:

8 (1) the license was obtained by fraud,  
9 misrepresentation, or concealment of a material fact;

10 (2) the person engaged in fraud or deceit in  
11 connection with services provided by the person;

12 (3) the person engaged in unprofessional or unethical  
13 conduct;

14 (4) the person engaged in gross negligence or  
15 malpractice; or

16 (5) the person violated this chapter or a rule adopted  
17 under this chapter.

18 (b) The commission or executive director ~~[board]~~ may  
19 reinstate a license revoked under Subsection (a) after the first  
20 anniversary of the date of the revocation on terms the commission or  
21 executive director ~~[board]~~ determines to be necessary.

22 SECTION 8.171. Section 605.354(c), Occupations Code, is  
23 amended to read as follows:

24 (c) The attorney general shall bring an action in the name  
25 of the state at the department's ~~[board's]~~ request to collect a  
26 civil penalty under this section.

27 SECTION 8.172. Section 605.402(a), Occupations Code, is

1 amended to read as follows:

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

7 SECTION 8.173. Section 701.002, Occupations Code, is  
8 amended by amending Subdivisions (1), (2), and (4) and adding  
9 Subdivision (1-a) to read as follows:

10 (1) "Advisory board" means the Dietitians Advisory  
11 Board.

12 (1-a) "Commission" ["Commissioner"] means the Texas  
13 Commission of Licensing and Regulation ~~[commissioner of state~~  
14 ~~health services]~~.

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

17 (4) "Executive director" ["Dietitians board"] means  
18 the executive director of the department ~~[Texas State Board of~~  
19 ~~Examiners of Dietitians]~~.

20 SECTION 8.174. The heading to Subchapter B, Chapter 701,  
21 Occupations Code, is amended to read as follows:

22 SUBCHAPTER B. ~~[TEXAS STATE BOARD OF EXAMINERS OF]~~ DIETITIANS

23 ADVISORY BOARD

24 SECTION 8.175. Section 701.051, Occupations Code, is  
25 amended to read as follows:

26 Sec. 701.051. DIETITIANS ADVISORY BOARD MEMBERSHIP. (a)

27 The advisory board ~~[Texas State Board of Examiners of Dietitians]~~

1 consists of nine members appointed by the presiding officer of the  
2 commission [~~governor~~] with the approval [~~advice and consent~~] of the  
3 commission [~~senate~~] as follows:

4 (1) six licensed dietitian members, each of whom has  
5 been licensed under this chapter for not less than three years  
6 before the member's date of appointment; and

7 (2) three members who represent the public.

8 (b) In appointing dietitian members to the advisory  
9 [~~dietitians~~] board, the presiding officer of the commission  
10 [~~governor~~] shall attempt to maintain balanced representation among  
11 the following primary areas of expertise included in the  
12 professional discipline of dietetics:

- 13 (1) clinical;  
14 (2) educational;  
15 (3) management;  
16 (4) consultation; and  
17 (5) community.

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

21 SECTION 8.176. Subchapter B, Chapter 701, Occupations Code,  
22 is amended by adding Section 701.0511 to read as follows:

23 Sec. 701.0511. 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 8.177. Section 701.054, Occupations Code, is  
27 amended to read as follows:

1           Sec. 701.054. TERMS; VACANCIES.     (a) Members of the  
2 advisory [~~dietitians~~] board serve staggered six-year terms. The  
3 terms of three [~~two~~] members begin on September 1 of each  
4 odd-numbered 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 8.178. Section 701.057, Occupations Code, is  
10 amended to read as follows:

11           Sec. 701.057. PRESIDING OFFICER [~~OFFICERS~~].   [~~(a)~~] The  
12 presiding officer of the commission [~~governor~~] shall designate a  
13 member of the advisory [~~dietitians~~] board as the presiding officer  
14 of the advisory board to serve for a term of one year [~~in that~~  
15 ~~capacity at the pleasure of the governor~~]. The presiding officer of  
16 the advisory board may vote on any matter before the advisory board.

17           [~~(b) Not later than the 30th day after the date the governor~~  
18 ~~appoints new board members, the dietitians board shall meet to~~  
19 ~~elect an assistant presiding officer, who holds office according to~~  
20 ~~board rules.~~]

21           SECTION 8.179. Section 701.058, Occupations Code, is  
22 amended to read as follows:

23           Sec. 701.058. MEETINGS. The advisory [~~dietitians~~] board  
24 shall meet at the call of the presiding officer of the commission or  
25 the executive director [~~hold at least two regular meetings each~~  
26 ~~year as provided by board rules~~].

27           SECTION 8.180. Section 701.151, Occupations Code, is

1 amended to read as follows:

2           Sec. 701.151. GENERAL POWERS AND DUTIES [~~OF DIETITIANS~~  
3 ~~BOARD~~]. (a) The executive director shall administer and enforce  
4 this chapter.

5           (b) The department [~~dietitians board~~] shall:

6                   (1) adopt an official seal;

7                   (2) adopt and publish a code of ethics;

8                   (3) establish the qualifications and fitness of  
9 applicants for licenses, including renewed and reciprocal  
10 licenses;

11                   (4) revoke, suspend, or deny a license, probate a  
12 license suspension, or reprimand a license holder for a violation  
13 of this chapter, a [~~board~~] rule adopted under this chapter, or the  
14 code of ethics; and

15                   (5) request and receive any necessary assistance from  
16 state educational institutions or other state agencies [~~spend money~~  
17 ~~necessary to properly administer the board's duties, and~~

18                   [~~(6) establish reasonable and necessary fees to~~  
19 ~~administer this chapter~~].

20           SECTION 8.181. Subchapter D, Chapter 701, Occupations Code,  
21 is amended by adding Section 701.1511 to read as follows:

22           Sec. 701.1511. REGISTRY. The department shall prepare a  
23 registry of licensed dietitians and provisional licensed  
24 dietitians and make the registry available to the public, license  
25 holders, and appropriate state agencies.

26           SECTION 8.182. Section 701.154, Occupations Code, as  
27 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,

1 2015, is amended to read as follows:

2           Sec. 701.154. AMOUNT OF FEES. The commission [~~(a) After~~  
3 ~~consulting the department, the dietitians board by rule shall set~~  
4 ~~fees in amounts reasonable and necessary to cover the cost of~~  
5 ~~administering this chapter. The fees for issuing or renewing a~~  
6 ~~license must be in amounts designed to allow the department and the~~  
7 ~~dietitians board to recover from the license holders all of the~~  
8 ~~direct and indirect costs to the department and to the dietitians~~  
9 ~~board in administering and enforcing this chapter.~~

10           [~~(b) The dietitians board~~] may not set a fee that existed on  
11 September 1, 1993, in an amount that is less than the amount of that  
12 fee on that date.

13           SECTION 8.183. Section 701.155, Occupations Code, is  
14 amended to read as follows:

15           Sec. 701.155. SEAL. (a) The commission [~~dietitians board~~]  
16 by rule may require a license holder to:

17           (1) obtain a seal authorized by the department [~~board~~]  
18 bearing the license holder's name and the legend "Licensed  
19 Dietitian"; and

20           (2) affix the seal to formal documentation of  
21 nutrition services provided by the license holder, as determined  
22 necessary and appropriate by the department [~~board~~].

23           (b) If the commission [~~dietitians board~~] adopts rules under  
24 Subsection (a), the rules must authorize a license holder to comply  
25 with Subsection (a)(2) by maintaining a facsimile of the license  
26 holder's seal on file at the location where services are provided  
27 if:

- 1 (1) the services are provided:
- 2 (A) in a facility licensed under the Health and  
3 Safety Code;
- 4 (B) on behalf of a local, state, or federal  
5 government agency; or
- 6 (C) under other circumstances determined  
7 reasonable and necessary by the department [~~board~~]; and
- 8 (2) the facsimile is maintained on file at all times  
9 during which the services are provided.

10 SECTION 8.184. The heading to Subchapter E, Chapter 701,  
11 Occupations Code, is amended to read as follows:

12 SUBCHAPTER E. [~~PUBLIC INTEREST INFORMATION AND~~] COMPLAINT  
13 PROCEDURES

14 SECTION 8.185. The heading to Section 701.2041, Occupations  
15 Code, is amended to read as follows:

16 Sec. 701.2041. CONFIDENTIALITY OF COMPLAINT AND  
17 DISCIPLINARY INFORMATION [~~SUBPOENAS~~].

18 SECTION 8.186. Sections 701.2041(h) and (i), Occupations  
19 Code, are amended to read as follows:

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

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

3 (2) professional dietitian licensing or disciplinary  
4 boards in other jurisdictions;

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

7 (4) law enforcement agencies; and

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

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

18 SECTION 8.187. Section [701.252](#), Occupations Code, is  
19 amended to read as follows:

20 Sec. 701.252. LICENSE APPLICATION. (a) Each applicant for  
21 a dietitian license must submit an [~~a sworn~~] application in the  
22 manner and on a form prescribed by the executive director  
23 accompanied by the application fee.

24 (b) The commission [~~dietitians board shall prescribe the~~  
25 ~~application form and may~~] by rule shall determine the information  
26 and documentation required to be submitted as part of an  
27 application [~~establish dates by which applications and fees must be~~

1 ~~received~~].

2 SECTION 8.188. Sections 701.253(c), (e), and (f),  
3 Occupations Code, are amended to read as follows:

4 (c) The department [~~dietitians board~~] shall prepare or  
5 approve an examination. An examination prescribed by the  
6 department [~~board~~] may be or may include an examination given by the  
7 Commission on Dietetic Registration or by a national or state  
8 testing service instead of an examination prepared by the  
9 department or the department's designee [~~board~~].

10 (e) The department [~~dietitians board~~] shall administer an  
11 examination to qualified applicants at least twice each calendar  
12 year.

13 (f) The department [~~dietitians board~~] shall waive the  
14 examination requirement for an applicant who, at the time of  
15 application, is a dietitian registered by the Commission on  
16 Dietetic Registration.

17 SECTION 8.189. Section 701.254, Occupations Code, is  
18 amended to read as follows:

19 Sec. 701.254. QUALIFICATIONS FOR EXAMINATION. To qualify  
20 for the licensing examination under this chapter, an applicant  
21 must:

22 (1) possess a baccalaureate or postbaccalaureate  
23 degree, conferred by a college or university regionally accredited  
24 at the time of conferral, with:

25 (A) a major course of study in human nutrition,  
26 food and nutrition, nutrition education, dietetics, or food systems  
27 management; or

1 (B) an equivalent major course of study approved  
2 by the department [~~dietitians board~~]; and

3 (2) have completed an internship or preplanned,  
4 documented, professional experience program in dietetics practice  
5 of not less than 900 hours under the supervision of a licensed  
6 dietitian or a registered dietitian approved by the department  
7 [~~board~~].

8 SECTION 8.190. Section 701.255(a), Occupations Code, is  
9 amended to read as follows:

10 (a) Not later than the 45th day after the date a properly  
11 submitted and timely application is received and not later than the  
12 30th day before the next examination date, the department shall  
13 notify an applicant in writing of the receipt and investigation of  
14 the applicant's application and any other relevant evidence  
15 relating to applicant qualifications established by commission  
16 [~~dietitians board~~] rule.

17 SECTION 8.191. Sections 701.2575(a) and (c), Occupations  
18 Code, are amended to read as follows:

19 (a) The department [~~dietitians board~~] shall develop and  
20 administer at least twice each calendar year a jurisprudence  
21 examination to determine an applicant's knowledge of this chapter,  
22 commission [~~board~~] rules under this chapter, and any other  
23 applicable laws of this state affecting the applicant's dietetics  
24 practice.

25 (c) The commission [~~dietitians board~~] shall adopt rules to  
26 implement this section, including rules related to the development  
27 and administration of the examination, examination fees,

1 guidelines for reexamination, grading the examination, and  
2 providing notice of examination results.

3 SECTION 8.192. Section 701.258, Occupations Code, is  
4 amended to read as follows:

5 Sec. 701.258. QUALIFIED PERSON ENTITLED TO LICENSE. The  
6 department [~~dietitians board~~] shall issue a license [~~certificate~~]  
7 as a licensed dietitian to a person qualified for a license under  
8 this chapter.

9 SECTION 8.193. Sections 701.259(a), (b), (c), and (d),  
10 Occupations Code, are amended to read as follows:

11 (a) The department [~~dietitians board~~] may issue a license to  
12 use the title "provisional licensed dietitian" to an applicant who  
13 files an application, pays an application fee, and submits evidence  
14 of successful completion of the education requirement under Section  
15 701.254.

16 (b) A provisional licensed dietitian must practice under  
17 the supervision and direction of a licensed dietitian. The  
18 supervising licensed dietitian must be designated in [~~sign~~] the  
19 applicant's initial application for a provisional license.

20 (c) The department [~~dietitians board~~] shall issue a license  
21 [~~certificate~~] as a provisional licensed dietitian to a person  
22 qualified for a provisional license under this chapter.

23 (d) A provisional license expires on the first anniversary  
24 of the date of issuance and [~~, if the supervising licensed dietitian~~  
25 ~~signs the renewal application,~~] may be renewed annually not more  
26 than twice [~~by complying with the renewal procedures under Section~~  
27 701.301].

1 SECTION 8.194. Section 701.260, Occupations Code, is  
2 amended to read as follows:

3 Sec. 701.260. TEMPORARY LICENSE. (a) On receipt of an  
4 application and payment of an application fee, the department  
5 [~~dietitians board~~] may grant a temporary license to an applicant  
6 who:

7 (1) is licensed in good standing as a dietitian in  
8 another state that has licensing requirements that are  
9 substantially equivalent to the requirements of this chapter;

10 (2) has passed a national or other examination that is  
11 recognized by the department [~~board~~] and relates to dietetics; and

12 (3) is sponsored by a person licensed by the  
13 department [~~board~~] under this chapter with whom the temporary  
14 license holder may practice.

15 (b) The department [~~dietitians board~~] may waive the  
16 requirement of Subsection (a)(3) if the department [~~board~~]  
17 determines that compliance with that provision is a hardship to an  
18 applicant.

19 (c) A temporary license is valid until the date the  
20 department [~~dietitians board~~] approves or denies the temporary  
21 license holder's application for a license. The department [~~board~~]  
22 shall issue a license under this chapter to the holder of a  
23 temporary license if:

24 (1) the temporary license holder passes the competency  
25 examination required by Section 701.253;

26 (2) the department [~~board~~] verifies that the temporary  
27 license holder meets the academic and experience requirements for a

1 license under this chapter; and

2 (3) the temporary license holder satisfies any other  
3 license requirements under this chapter.

4 (d) The department [~~dietitians board~~] must complete the  
5 processing of a temporary license holder's application for a  
6 license not later than the 180th day after the date the department  
7 [~~board~~] issues the temporary license. The department [~~board~~] may  
8 extend this deadline to receive pending examination results.

9 SECTION 8.195. Section 701.303, Occupations Code, is  
10 amended to read as follows:

11 Sec. 701.303. CONTINUING EDUCATION. (a) The commission  
12 [~~dietitians board~~] by rule shall establish a minimum number of  
13 hours of continuing education required for license renewal under  
14 this chapter.

15 (b) The commission or department [~~dietitians board~~] may  
16 assess the continuing education needs of license holders and may  
17 require license holders to attend continuing education courses  
18 specified by the commission or department [~~board~~]. The department  
19 [~~board~~] shall develop a process to evaluate and approve continuing  
20 education courses.

21 (c) The commission or department [~~dietitians board~~] shall  
22 identify key factors for a license holder's competent performance  
23 of professional duties. The department [~~board~~] shall adopt a  
24 procedure to assess the license holder's participation in  
25 continuing education programs.

26 SECTION 8.196. Section 701.304, Occupations Code, is  
27 amended to read as follows:

1           Sec. 701.304. GROUNDS FOR REFUSING RENEWAL. The commission  
2 or department [~~dietitians board~~] may refuse to renew the license of  
3 a person who fails to pay an administrative penalty imposed under  
4 Subchapter K, unless enforcement of the penalty is stayed or a court  
5 has ordered that the administrative penalty is not owed.

6           SECTION 8.197. Section 701.351, Occupations Code, is  
7 amended to read as follows:

8           Sec. 701.351. DISPLAY OF LICENSE [~~CERTIFICATE~~]. (a) A  
9 license holder shall display the person's license [~~certificate~~] in  
10 an appropriate and public manner as prescribed by commission rule.

11           (b) A license [~~certificate~~] issued by the department  
12 [~~dietitians board~~] is the property of the department [~~board~~] and  
13 shall be surrendered on demand.

14           SECTION 8.198. Section 701.352, Occupations Code, is  
15 amended to read as follows:

16           Sec. 701.352. LICENSE HOLDER INFORMATION. A license holder  
17 shall keep the department informed of the license holder's current  
18 address as provided by commission rule.

19           SECTION 8.199. Section 701.353(a), Occupations Code, is  
20 amended to read as follows:

21           (a) A person may not use a seal authorized by the department  
22 [~~dietitians board~~] unless the person holds a license issued under  
23 this chapter.

24           SECTION 8.200. Section 701.401, Occupations Code, is  
25 amended to read as follows:

26           Sec. 701.401. GROUNDS FOR DISCIPLINARY ACTION. The  
27 commission or executive director [~~dietitians board~~] shall refuse to

1 renew a license, revoke or suspend a license, place on probation a  
2 person whose license has been suspended, or reprimand a license  
3 holder for a violation of this chapter, ~~[or]~~ a rule or code of  
4 ethics adopted under this chapter, or an order of ~~[by]~~ the  
5 commission or executive director ~~[board]~~.

6 SECTION 8.201. Section 701.403, Occupations Code, is  
7 amended to read as follows:

8 Sec. 701.403. SANCTIONS. The State Office of  
9 Administrative Hearings shall use the schedule of sanctions adopted  
10 by the commission ~~by [dietitians board]~~ rule for a sanction imposed  
11 as the result of a hearing conducted by the office.

12 SECTION 8.202. Section 701.502(a), Occupations Code, is  
13 amended to read as follows:

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

19 SECTION 8.203. Section 701.512, Occupations Code, is  
20 amended to read as follows:

21 Sec. 701.512. REFUND. (a) Subject to Subsection (b), the  
22 commission or executive director ~~[dietitians board]~~ may order a  
23 license holder to pay a refund to a consumer as provided in an  
24 agreement resulting from an informal settlement conference instead  
25 of or in addition to imposing an administrative penalty under this  
26 chapter.

27 (b) The amount of a refund ordered as provided in an

1 agreement resulting from an informal settlement conference may not  
2 exceed the amount the consumer paid to the license holder for a  
3 service regulated by this chapter. The commission or executive  
4 director [~~board~~] may not require payment of other damages or  
5 estimate harm in a refund order.

6 SECTION 8.204. The following provisions of the Occupations  
7 Code, including provisions amended by S.B. 219, Acts of the 84th  
8 Legislature, Regular Session, 2015, are repealed:

- 9 (1) Section 203.006;
- 10 (2) Section 203.051;
- 11 (3) Section 203.053;
- 12 (4) Section 203.054;
- 13 (5) Section 203.057;
- 14 (6) Section 203.058;
- 15 (7) Section 203.060;
- 16 (8) Subchapter C, Chapter 203;
- 17 (9) Section 203.151(b);
- 18 (10) Section 203.1515;
- 19 (11) Section 203.152(a);
- 20 (12) Sections 203.155(a) and (c);
- 21 (13) Section 203.156;
- 22 (14) Section 203.158;
- 23 (15) Section 203.159;
- 24 (16) Section 203.160;
- 25 (17) Section 203.161;
- 26 (18) Subchapter E, Chapter 203;
- 27 (19) Section 203.255(b);

- 1 (20) Section 203.2556;
- 2 (21) Section 203.302;
- 3 (22) Section 203.303;
- 4 (23) Section 203.405;
- 5 (24) Subchapter J, Chapter 203;
- 6 (25) Section 203.502(c);
- 7 (26) Section 203.505(a);
- 8 (27) Section 401.002;
- 9 (28) Section 401.101;
- 10 (29) Section 401.103;
- 11 (30) Section 401.104;
- 12 (31) Section 401.106;
- 13 (32) Section 401.109;
- 14 (33) Section 401.110;
- 15 (34) Subchapter D, Chapter 401;
- 16 (35) Section 401.201(b);
- 17 (36) Sections 401.203(a) and (b);
- 18 (37) Section 401.204;
- 19 (38) Section 401.205;
- 20 (39) Section 401.206;
- 21 (40) Section 401.207;
- 22 (41) Section 401.252;
- 23 (42) Sections 401.253(b), (c), (d), and (e);
- 24 (43) Sections 401.2535(a), (b), (c), (d), (e), (f),
- 25 and (g);
- 26 (44) Section 401.254;
- 27 (45) Section 401.306;

- 1 (46) Section 401.307(c);
- 2 (47) Section 401.313;
- 3 (48) Section 401.315;
- 4 (49) Sections 401.352(b) and (c);
- 5 (50) Section 401.353;
- 6 (51) Section 401.354;
- 7 (52) Section 401.405;
- 8 (53) Section 401.451(b);
- 9 (54) Section 401.452;
- 10 (55) Section 401.4531;
- 11 (56) Section 401.454;
- 12 (57) Section 401.455;
- 13 (58) Section 401.456;
- 14 (59) Section 401.457;
- 15 (60) Section 401.458;
- 16 (61) Section 401.459;
- 17 (62) Section 401.460;
- 18 (63) Section 401.502;
- 19 (64) Section 401.5022;
- 20 (65) Section 401.551;
- 21 (66) Section 401.553;
- 22 (67) Section 401.554;
- 23 (68) Section 401.555;
- 24 (69) Section 401.556;
- 25 (70) Section 401.557;
- 26 (71) Section 401.558;
- 27 (72) Section 401.559;

- 1 (73) Section 401.560;
- 2 (74) Section 401.561;
- 3 (75) Section 402.002;
- 4 (76) Section 402.052;
- 5 (77) Section 402.053;
- 6 (78) Section 402.054;
- 7 (79) Section 402.056;
- 8 (80) Section 402.0581;
- 9 (81) Section 402.059;
- 10 (82) Section 402.060;
- 11 (83) Section 402.061;
- 12 (84) Section 402.102;
- 13 (85) Section 402.1022;
- 14 (86) Sections 402.103(a) and (b);
- 15 (87) Section 402.105;
- 16 (88) Section 402.106;
- 17 (89) Section 402.151;
- 18 (90) Section 402.1511;
- 19 (91) Section 402.153;
- 20 (92) Sections 402.154(a), (b), (c), (d), (e), (f), and
- 21 (g);
- 22 (93) Section 402.205(d);
- 23 (94) Section 402.206;
- 24 (95) Sections 402.209(b) and (g);
- 25 (96) Section 402.257(b);
- 26 (97) Sections 402.301(b), (c), (d), and (e);
- 27 (98) Section 402.303(f);

- 1 (99) Section 402.354;
- 2 (100) Section 402.452;
- 3 (101) Section 402.502;
- 4 (102) Section 402.503;
- 5 (103) Section 402.504;
- 6 (104) Section 402.505;
- 7 (105) Section 402.506;
- 8 (106) Sections 402.551(a) and (c);
- 9 (107) Section 402.552;
- 10 (108) Section 402.5522;
- 11 (109) Section 402.553(b);
- 12 (110) Section 451.051(a);
- 13 (111) Section 451.0511;
- 14 (112) Section 451.0512;
- 15 (113) Section 451.0513;
- 16 (114) Section 451.052;
- 17 (115) Section 451.054;
- 18 (116) Section 451.057;
- 19 (117) Sections 451.101(b) and (c);
- 20 (118) Section 451.1015;
- 21 (119) Section 451.1016;
- 22 (120) Section 451.102;
- 23 (121) Section 451.103;
- 24 (122) Section 451.1035;
- 25 (123) Section 451.104;
- 26 (124) Section 451.105;
- 27 (125) Section 451.106;

- 1 (126) Section 451.108;  
2 (127) Section 451.109;  
3 (128) Sections 451.110(a), (b), (c), (d), (e), (f),  
4 and (g);  
5 (129) Section 451.155;  
6 (130) Section 451.201(b);  
7 (131) Section 451.202;  
8 (132) Section 451.203;  
9 (133) Section 451.204;  
10 (134) Section 451.2512;  
11 (135) Section 451.252;  
12 (136) Section 451.253;  
13 (137) Section 451.254;  
14 (138) Section 451.255;  
15 (139) Sections 451.351(a), (b), (e), (f), (g), (h),  
16 (i), (j), (k), and (l);  
17 (140) Section 451.352;  
18 (141) Section 605.003;  
19 (142) Section 605.051;  
20 (143) Section 605.053;  
21 (144) Section 605.054;  
22 (145) Section 605.057;  
23 (146) Section 605.058;  
24 (147) Section 605.059(a);  
25 (148) Section 605.060;  
26 (149) Section 605.061;  
27 (150) Subchapter C, Chapter 605;

- 1 (151) Section 605.152;
- 2 (152) Section 605.153;
- 3 (153) Section 605.154;
- 4 (154) Section 605.201;
- 5 (155) Section 605.202;
- 6 (156) Sections 605.2021(a), (b), (c), (d), (e), (f),  
7 and (g);
- 8 (157) Section 605.203;
- 9 (158) Section 605.253;
- 10 (159) Section 605.254(b);
- 11 (160) Section 605.255(c);
- 12 (161) Section 605.259(b);
- 13 (162) Section 605.3535;
- 14 (163) Section 605.355;
- 15 (164) Section 605.401;
- 16 (165) Section 605.403;
- 17 (166) Section 605.404;
- 18 (167) Section 605.405;
- 19 (168) Section 605.406;
- 20 (169) Section 605.407;
- 21 (170) Section 605.408;
- 22 (171) Section 605.409;
- 23 (172) Section 605.410;
- 24 (173) Section 605.411;
- 25 (174) Section 701.003;
- 26 (175) Section 701.052;
- 27 (176) Section 701.053;

- 1 (177) Section 701.055;
- 2 (178) Section 701.056;
- 3 (179) Section 701.059;
- 4 (180) Subchapter C, Chapter 701;
- 5 (181) Section 701.152;
- 6 (182) Section 701.153;
- 7 (183) Section 701.1535;
- 8 (184) Section 701.156;
- 9 (185) Section 701.157;
- 10 (186) Section 701.159;
- 11 (187) Section 701.160;
- 12 (188) Section 701.161;
- 13 (189) Section 701.201;
- 14 (190) Section 701.202;
- 15 (191) Section 701.203;
- 16 (192) Section 701.204;
- 17 (193) Sections 701.2041(a), (b), (c), (d), (e), (f),
- 18 and (g);
- 19 (194) Section 701.205;
- 20 (195) Section 701.206;
- 21 (196) Section 701.256;
- 22 (197) Section 701.261;
- 23 (198) Sections 701.301(b), (c), (d), (e), and (f);
- 24 (199) Section 701.302;
- 25 (200) Section 701.402;
- 26 (201) Section 701.404;
- 27 (202) Section 701.405;

- 1 (203) Section 701.406;
- 2 (204) Section 701.407;
- 3 (205) Section 701.408;
- 4 (206) Section 701.452;
- 5 (207) Section 701.453;
- 6 (208) Section 701.501;
- 7 (209) Section 701.502(c);
- 8 (210) Section 701.503;
- 9 (211) Section 701.504;
- 10 (212) Section 701.505;
- 11 (213) Section 701.506;
- 12 (214) Section 701.507;
- 13 (215) Section 701.508;
- 14 (216) Section 701.509;
- 15 (217) Section 701.510; and
- 16 (218) Section 701.511.

17 PART 2. TRANSFERS DURING BIENNIUM ENDING AUGUST 31, 2019

18 SECTION 8.205. Sections 106.115(a), (b-1), and (b-3),  
19 Alcoholic Beverage Code, are amended to read as follows:

20 (a) On the placement of a minor on deferred disposition for  
21 an offense under Section 49.02, Penal Code, or under Section  
22 106.02, 106.025, 106.04, 106.041, 106.05, or 106.07, the court  
23 shall require the defendant to attend an alcohol awareness program  
24 approved by the Texas Department of Licensing and Regulation [~~State~~  
25 ~~Health Services~~] under this section or a drug and alcohol driving  
26 awareness program approved by the Texas Education Agency. On  
27 conviction of a minor of an offense under one or more of those

1 sections, the court, in addition to assessing a fine as provided by  
2 those sections, shall require a defendant who has not been  
3 previously convicted of an offense under one of those sections to  
4 attend an alcohol awareness program or a drug and alcohol driving  
5 awareness program described by this subsection. If the defendant  
6 has been previously convicted once or more of an offense under one  
7 or more of those sections, the court may require the defendant to  
8 attend an alcohol awareness program or a drug and alcohol driving  
9 awareness program described by this subsection. If the defendant  
10 is younger than 18 years of age, the court may require the parent or  
11 guardian of the defendant to attend the program with the  
12 defendant. The Texas Department of Licensing and Regulation or  
13 Texas Commission of Licensing and Regulation, as appropriate [~~State~~  
14 ~~Health Services~~]:

15 (1) is responsible for the administration of the  
16 certification of approved alcohol awareness programs;

17 (2) may charge a nonrefundable application fee for:

18 (A) initial certification of the approval; or

19 (B) renewal of the certification;

20 (3) shall adopt rules regarding alcohol awareness  
21 programs approved under this section; and

22 (4) shall monitor, coordinate, and provide training to  
23 a person who provides an alcohol awareness program.

24 (b-1) If the defendant resides in a county with a population  
25 of 75,000 or less and access to an alcohol awareness program is not  
26 readily available in the county, the court may allow the defendant  
27 to take an online alcohol awareness program if the Texas Department

1 of Licensing and Regulation [~~State Health Services~~] approves online  
2 courses or require the defendant to perform not less than eight  
3 hours of community service related to alcohol abuse prevention or  
4 treatment and approved by the Texas Department of Licensing and  
5 Regulation [~~State Health Services~~] under Subsection (b-3) instead  
6 of attending the alcohol awareness program. Community service  
7 ordered under this subsection is in addition to community service  
8 ordered under Section 106.071(d).

9 (b-3) The Texas Department of Licensing and Regulation  
10 [~~State Health Services~~] shall create a list of community services  
11 related to alcohol abuse prevention or treatment in each county in  
12 the state to which a judge may sentence a defendant under Subsection  
13 (b-1).

14 SECTION 8.206. Sections 13(h) and (j), Article 42.12, Code  
15 of Criminal Procedure, are amended to read as follows:

16 (h) If a person convicted of an offense under Sections  
17 49.04-49.08, Penal Code, is placed on community supervision, the  
18 judge shall require, as a condition of the community supervision,  
19 that the defendant attend and successfully complete before the  
20 181st day after the day community supervision is granted an  
21 educational program jointly approved by the Texas Department of  
22 Licensing and Regulation [~~Commission on Alcohol and Drug Abuse~~],  
23 the Department of Public Safety, the Traffic Safety Section of the  
24 Texas Department of Transportation, and the community justice  
25 assistance division of the Texas Department of Criminal Justice  
26 designed to rehabilitate persons who have driven while intoxicated.  
27 The Texas Department of Licensing and Regulation [~~Commission on~~

1 ~~Alcohol and Drug Abuse~~] shall publish the jointly approved rules  
2 and shall monitor, coordinate, and provide training to persons  
3 providing the educational programs. The Texas Department of  
4 Licensing and Regulation [~~Commission on Alcohol and Drug Abuse~~] is  
5 responsible for the administration of the certification of approved  
6 educational programs and may charge a nonrefundable application fee  
7 for the initial certification of approval and for renewal of a  
8 certificate. The judge may waive the educational program  
9 requirement or may grant an extension of time to successfully  
10 complete the program that expires not later than one year after the  
11 beginning date of the person's community supervision, however, if  
12 the defendant by a motion in writing shows good cause. In  
13 determining good cause, the judge may consider but is not limited  
14 to: the defendant's school and work schedule, the defendant's  
15 health, the distance that the defendant must travel to attend an  
16 educational program, and the fact that the defendant resides out of  
17 state, has no valid driver's license, or does not have access to  
18 transportation. The judge shall set out the finding of good cause  
19 for waiver in the judgment. If a defendant is required, as a  
20 condition of community supervision, to attend an educational  
21 program or if the court waives the educational program requirement,  
22 the court clerk shall immediately report that fact to the  
23 Department of Public Safety, on a form prescribed by the  
24 department, for inclusion in the person's driving record. If the  
25 court grants an extension of time in which the person may complete  
26 the program, the court clerk shall immediately report that fact to  
27 the Department of Public Safety on a form prescribed by the

1 department. The report must include the beginning date of the  
2 person's community supervision. Upon the person's successful  
3 completion of the educational program, the person's instructor  
4 shall give notice to the Department of Public Safety for inclusion  
5 in the person's driving record and to the community supervision and  
6 corrections department. The community supervision and corrections  
7 department shall then forward the notice to the court clerk for  
8 filing. If the Department of Public Safety does not receive notice  
9 that a defendant required to complete an educational program has  
10 successfully completed the program within the period required by  
11 this section, as shown on department records, the department shall  
12 revoke the defendant's driver's license, permit, or privilege or  
13 prohibit the person from obtaining a license or permit, as provided  
14 by Sections [521.344](#)(e) and (f), Transportation Code. The  
15 Department of Public Safety may not reinstate a license suspended  
16 under this subsection unless the person whose license was suspended  
17 makes application to the department for reinstatement of the  
18 person's license and pays to the department a reinstatement fee of  
19 \$100. The Department of Public Safety shall remit all fees  
20 collected under this subsection to the comptroller for deposit in  
21 the general revenue fund. This subsection does not apply to a  
22 defendant if a jury recommends community supervision for the  
23 defendant and also recommends that the defendant's driver's license  
24 not be suspended.

25 (j) The judge shall require a defendant who is punished  
26 under Section [49.09](#), Penal Code, as a condition of community  
27 supervision, to attend and successfully complete an educational

1 program for repeat offenders approved by the Texas Department of  
2 Licensing and Regulation [~~Commission on Alcohol and Drug Abuse~~].  
3 The Texas Commission of Licensing and Regulation [~~on Alcohol and~~  
4 ~~Drug Abuse~~] shall adopt rules and shall monitor, coordinate, and  
5 provide training to persons providing the educational programs.  
6 The Texas Department of Licensing and Regulation [~~Commission on~~  
7 ~~Alcohol and Drug Abuse~~] is responsible for the administration of  
8 the certification of approved educational programs and may charge a  
9 nonrefundable application fee for initial certification of  
10 approval or for renewal of the certification. The judge may waive  
11 the educational program requirement only if the defendant by a  
12 motion in writing shows good cause. In determining good cause, the  
13 judge may consider the defendant's school and work schedule, the  
14 defendant's health, the distance that the defendant must travel to  
15 attend an educational program, and whether the defendant resides  
16 out of state or does not have access to transportation. The judge  
17 shall set out the finding of good cause in the judgment. If a  
18 defendant is required, as a condition of community supervision, to  
19 attend an educational program, the court clerk shall immediately  
20 report that fact to the Department of Public Safety, on a form  
21 prescribed by the department, for inclusion in the defendant's  
22 driving record. The report must include the beginning date of the  
23 defendant's community supervision. On the defendant's successful  
24 completion of the educational program for repeat offenders, the  
25 defendant's instructor shall give notice to the Department of  
26 Public Safety for inclusion in the defendant's driving record and  
27 to the community supervision and corrections department. The

1 community supervision and corrections department shall then  
2 forward the notice to the court clerk for filing. If the Department  
3 of Public Safety does not receive notice that a defendant required  
4 to complete an educational program has successfully completed the  
5 program for repeat offenders within the period required by the  
6 judge, as shown on department records, the department shall revoke  
7 the defendant's driver's license, permit, or privilege or prohibit  
8 the defendant from obtaining a license or permit, as provided by  
9 Sections [521.344](#)(e) and (f), Transportation Code.

10 SECTION 8.207. Section [401.501](#), Health and Safety Code, as  
11 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
12 2015, is amended by amending Subdivision (1) and adding  
13 Subdivisions (1-a) and (2) to read as follows:

14 (1) "Commission" means the Texas Commission of  
15 Licensing and Regulation.

16 (1-a) "Department" means the Texas Department of  
17 Licensing and Regulation [~~State Health Services~~].

18 (2) "Executive director" means the executive director  
19 of the department.

20 SECTION 8.208. Subchapter M, Chapter 401, Health and Safety  
21 Code, is amended by adding Section 401.5011 to read as follows:

22 Sec. 401.5011. GENERAL POWERS AND DUTIES. The executive  
23 director shall administer and enforce this chapter.

24 SECTION 8.209. Section [401.502](#), Health and Safety Code, is  
25 amended to read as follows:

26 Sec. 401.502. EXAMINATION. The commission [~~executive~~  
27 ~~commissioner~~] may adopt rules to govern the development and

1 administration of an examination for an applicant under this  
2 subchapter.

3 SECTION 8.210. Section 401.503, Health and Safety Code, is  
4 amended to read as follows:

5 Sec. 401.503. APPLICATION PROCESS. (a) An application for  
6 a certificate or license under this subchapter must be submitted in  
7 the manner and [~~made~~] on a form prescribed [~~and provided~~] by the  
8 executive director [~~department~~].

9 (b) The application must require an applicant to provide  
10 sworn statements relating to the applicant's education and to  
11 provide other information required by the commission [~~department~~].

12 SECTION 8.211. Section 401.505(a), Health and Safety Code,  
13 is amended to read as follows:

14 (a) An applicant for a laser hair removal professional  
15 certificate must:

16 (1) be certified by a recognized certifying agency,  
17 including the Society for Clinical and Medical Hair Removal or  
18 another certification entity approved by the department;

19 (2) meet the requirements for a senior laser hair  
20 removal technician certificate under Section 401.506; and

21 (3) pass an examination required [~~administered~~] by the  
22 department.

23 SECTION 8.212. The heading to Section 401.512, Health and  
24 Safety Code, is amended to read as follows:

25 Sec. 401.512. TERM [~~RENEWAL~~] OF CERTIFICATE OR LICENSE.

26 SECTION 8.213. Section 401.512(a), Health and Safety Code,  
27 is amended to read as follows:

1 (a) A certificate or license expires on the second  
2 anniversary of the date of issuance and may be renewed.

3 SECTION 8.214. Section 401.515(b), Health and Safety Code,  
4 is amended to read as follows:

5 (b) The commission [~~executive commissioner~~] shall adopt  
6 rules relating to the customer notice.

7 SECTION 8.215. Sections 401.516(a) and (b), Health and  
8 Safety Code, are amended to read as follows:

9 (a) A laser hair removal facility shall post a warning sign  
10 as prescribed by the commission [~~department~~] in a conspicuous  
11 location readily visible to a person entering the facility. The  
12 sign must provide a toll-free telephone number and e-mail address  
13 for the department and inform the customer that the customer may  
14 contact [~~call~~] the department.

15 (b) The commission [~~executive commissioner~~] shall adopt  
16 rules specifying the size, content, and design of the sign, with  
17 wording listing the potential dangers involved.

18 SECTION 8.216. Section 401.518(a), Health and Safety Code,  
19 is amended to read as follows:

20 (a) A laser hair removal facility operator is responsible  
21 for maintaining the laser hair removal facility's compliance with  
22 the requirements of this subchapter and commission [~~department~~]  
23 rules relating to laser and pulsed light devices.

24 SECTION 8.217. Section 401.519(b), Health and Safety Code,  
25 is amended to read as follows:

26 (b) Under the rules of the commission [~~department~~], a laser  
27 hair removal facility must document with the department the

1 facility's contractual relationship with the consulting physician.

2 SECTION 8.218. Section 401.521(b), Health and Safety Code,  
3 is amended to read as follows:

4 (b) A person who violates Subsection (a) is practicing  
5 medicine in violation of Subtitle B, Title 3, Occupations Code, and  
6 is subject to the penalties under that subtitle and Subchapter F,  
7 Chapter 51, Occupations Code [~~under Section 401.522~~].

8 SECTION 8.219. The heading to Section 401.522, Health and  
9 Safety Code, is amended to read as follows:

10 Sec. 401.522. AMOUNT OF ADMINISTRATIVE PENALTY  
11 [~~ENFORCEMENT; PENALTIES~~].

12 SECTION 8.220. Section 401.522(a), Health and Safety Code,  
13 is amended to read as follows:

14 (a) The amount of [~~department may impose~~] an administrative  
15 penalty imposed for a violation of this subchapter or a rule adopted  
16 or order issued [~~on a person who violates this subchapter or a rule~~  
17 ~~adopted~~] under this subchapter [~~. The amount of the penalty~~] may  
18 not exceed \$5,000 for each violation.

19 SECTION 8.221. Section 455.001, Occupations Code, is  
20 amended by amending Subdivisions (1) and (2) and adding Subdivision  
21 (1-a) to read as follows:

22 (1) "Commission" means the Texas Commission of  
23 Licensing and Regulation.

24 (1-a) "Department" means the Texas Department of  
25 Licensing and Regulation [~~State Health Services~~].

26 (2) "Executive director" [~~commissioner~~] means the  
27 executive director [~~commissioner~~] of the department [~~Health and~~

1 ~~Human Services Commission]~~.

2 SECTION 8.222. The heading to Subchapter B, Chapter 455,  
3 Occupations Code, is amended to read as follows:

4 SUBCHAPTER B. POWERS AND DUTIES [~~OF EXECUTIVE COMMISSIONER]~~

5 SECTION 8.223. Section 455.053, Occupations Code, is  
6 amended to read as follows:

7 Sec. 455.053. RULES REGARDING MASSAGE SCHOOLS. Rules  
8 adopted under this chapter relating to a massage school must  
9 contain minimum standards for:

10 (1) the issuance, denial, renewal, suspension,  
11 revocation, or probation of a license under this chapter;

12 (2) the qualifications of professional personnel;

13 (3) the supervision of professional personnel;

14 (4) the equipment essential to the education, health,  
15 and safety of students, massage school personnel, and the public;

16 (5) the sanitary and hygienic conditions of a massage  
17 school;

18 (6) the provision of massage therapy or other massage  
19 services by a massage school or student;

20 (7) the maximum number of hours a student may  
21 accumulate in a massage school's internship program before the  
22 student is required to be licensed under this chapter;

23 (8) the educational and clinical records kept by a  
24 massage school;

25 (9) the organizational structure of a massage school,  
26 including the lines of authority and the delegation of  
27 responsibility;

- 1 (10) fire prevention and safety in a massage school;  
2 (11) the massage school's curriculum and educational  
3 material;  
4 (12) massage school inspections; and  
5 (13) any other aspect of the operation of a massage  
6 school that the commission [~~executive commissioner~~] considers  
7 necessary to protect students, massage school personnel, or the  
8 public.

9 SECTION 8.224. The heading to Subchapter C, Chapter 455,  
10 Occupations Code, is amended to read as follows:

11 SUBCHAPTER C. POWERS AND DUTIES [~~OF DEPARTMENT~~]

12 SECTION 8.225. Section 455.101, Occupations Code, is  
13 amended to read as follows:

14 Sec. 455.101. GENERAL POWERS AND DUTIES [~~OF DEPARTMENT~~].

15 (a) The executive director [~~department~~] shall [~~+~~

16 [~~(1)~~] administer and enforce this chapter.

17 (b) The department shall:

18 (1) [~~+~~

19 [~~(2)~~] investigate a person who may be engaging in a  
20 practice that violates this chapter;

21 (2) [~~(3)~~] regulate the number and content of school  
22 hours provided by a massage school or a massage therapy instructor;

23 and

24 (3) [~~(4)~~] prepare and administer a state examination  
25 under this chapter.

26 SECTION 8.226. Section 455.103, Occupations Code, as  
27 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,

1 2015, is amended to read as follows:

2           Sec. 455.103. MEMORANDUM OF UNDERSTANDING REGARDING  
3 MASSAGE SCHOOLS. (a) The commission [~~department~~] may enter into a  
4 memorandum of understanding with the Texas Education Agency to  
5 regulate massage schools.

6           (b) A memorandum must:

7                 (1) be adopted by the commission [~~executive~~  
8 ~~commissioner~~] by rule; and

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

14           SECTION 8.227. Section [455.151\(d\)](#), Occupations Code, as  
15 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
16 2015, is amended to read as follows:

17           (d) The department may issue one or more types of licenses  
18 not otherwise provided for by this chapter that authorize the  
19 license holder to perform a service described by Subsection  
20 (c). The commission [~~executive commissioner~~] may adopt rules  
21 governing a license issued under this subsection.

22           SECTION 8.228. Section [455.153](#), Occupations Code, as  
23 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
24 2015, is amended to read as follows:

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

27                 (1) submit an application in the manner and on a form

1 prescribed [~~provided~~] by the executive director [~~department~~]; and

2 (2) include with the application the application fee  
3 set by the commission [~~executive commissioner~~] by rule.

4 SECTION 8.229. Sections [455.1572](#)(c) and (e), Occupations  
5 Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular  
6 Session, 2015, are amended to read as follows:

7 (c) A provisional license is valid until the date the  
8 department approves or denies the provisional license holder's  
9 application for licensing. The department shall issue a license  
10 under this chapter to the provisionally licensed person if the  
11 person:

12 (1) is eligible for a license under Section [51.404](#)  
13 [~~455.1571~~]; or

14 (2) passes the part of the examination under Section  
15 [455.101](#) that relates to the applicant's knowledge and understanding  
16 of the laws and rules relating to the practice of massage therapy in  
17 this state and:

18 (A) the department verifies that the person meets  
19 the academic and experience requirements for licensing under this  
20 chapter; and

21 (B) the person satisfies any other licensing  
22 requirements under this chapter.

23 (e) The commission [~~executive commissioner~~] by rule may  
24 establish a fee for a provisional license.

25 SECTION 8.230. The heading to Section [455.160](#), Occupations  
26 Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular  
27 Session, 2015, is amended to read as follows:

1           Sec. 455.160.   LICENSE TERM AND RENEWAL.

2           SECTION 8.231.   Section 455.160(a), Occupations Code, as  
3 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
4 2015, is amended to read as follows:

5           (a) A license issued under this chapter is valid for two  
6 years. A license holder must renew the license biennially. [~~The  
7 license expires unless the license holder submits an application  
8 for renewal accompanied by the renewal fee prescribed by the  
9 executive commissioner by rule or by the late fee prescribed by this  
10 section.~~]

11          SECTION 8.232.   Sections 455.203(a) and (b), Occupations  
12 Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular  
13 Session, 2015, are amended to read as follows:

14          (a) A massage school must meet the minimum standards of  
15 operation established by commission [~~department~~] rule.

16          (b) An instructor must meet the minimum requirements  
17 established by commission [~~department~~] rule.

18          SECTION 8.233.   Section 455.251, Occupations Code, as  
19 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
20 2015, is amended to read as follows:

21          Sec. 455.251.   GROUNDS FOR LICENSE DENIAL OR DISCIPLINARY  
22 ACTION. (a) The commission or executive director [~~department~~] may  
23 refuse to issue a license to a person and shall suspend, revoke, or  
24 refuse to renew the license of a person or shall reprimand a person  
25 licensed under this chapter if the person:

26                 (1) obtains a license by fraud, misrepresentation, or  
27 concealment of material facts;

1           (2) sells, barter, or offers to sell or barter a  
2 license;

3           (3) violates a rule adopted by the commission  
4 [~~executive commissioner~~] under this chapter;

5           (4) engages in unprofessional conduct as defined by  
6 commission [~~department~~] rule that endangers or is likely to  
7 endanger the health, welfare, or safety of the public;

8           (5) violates an order or ordinance adopted by a  
9 political subdivision under Chapter 243, Local Government Code; or

10          (6) violates this chapter.

11          (b) The commission or executive director [~~department~~] shall  
12 revoke the license of a person licensed as a massage therapist or  
13 massage therapy instructor if:

14           (1) the person is convicted of, enters a plea of nolo  
15 contendere or guilty to, or receives deferred adjudication for an  
16 offense involving prostitution or another sexual offense; or

17           (2) the commission or executive director [~~department~~]  
18 determines the person has practiced or administered massage therapy  
19 at or for a sexually oriented business.

20          (c) The commission or executive director [~~department~~] shall  
21 revoke the license of a person licensed as a massage school or  
22 massage establishment if the commission or executive director  
23 [~~department~~] determines that:

24           (1) the school or establishment is a sexually oriented  
25 business; or

26           (2) an offense involving prostitution or another  
27 sexual offense that resulted in a conviction for the offense, a plea

1 of nolo contendere or guilty to the offense, or a grant of deferred  
2 adjudication for the offense occurred on the premises of the school  
3 or establishment.

4 SECTION 8.234. The heading to Section 455.302, Occupations  
5 Code, is amended to read as follows:

6 Sec. 455.302. AMOUNT OF ADMINISTRATIVE PENALTY.

7 SECTION 8.235. Section 455.302(a), Occupations Code, is  
8 amended to read as follows:

9 (a) The amount of an administrative penalty imposed for a  
10 violation of this chapter or a rule adopted or order issued under  
11 this chapter may not exceed \$1,000 for each violation. Each day a  
12 violation continues or occurs is a separate violation for purposes  
13 of imposing a penalty.

14 SECTION 8.236. Section 1952.001, Occupations Code, as  
15 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
16 2015, is amended by adding Subdivision (2-a) and amending  
17 Subdivisions (3) and (4) to read as follows:

18 (2-a) "Commission" means the Texas Commission of  
19 Licensing and Regulation.

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

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

25 SECTION 8.237. The heading to Subchapter B, Chapter 1952,  
26 Occupations Code, as amended by S.B. 219, Acts of the 84th  
27 Legislature, Regular Session, 2015, is amended to read as follows:

1 SUBCHAPTER B. POWERS AND DUTIES [~~OF EXECUTIVE COMMISSIONER AND~~  
2 DEPARTMENT]

3 SECTION 8.238. Section 1952.051, Occupations Code, as  
4 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
5 2015, is amended to read as follows:

6 Sec. 1952.051. GENERAL POWERS AND DUTIES [~~RULES~~]. (a) The  
7 executive director shall administer and enforce this chapter.

8 (b) The commission [~~executive commissioner~~] by rule shall  
9 [~~+~~

10 [~~(1)~~] adopt standards and education requirements  
11 consistent with those established under Chapter 654, Government  
12 Code, for the registration of:

- 13 (1) [~~(A)~~] code enforcement officers; and  
14 (2) [~~(B)~~] code enforcement officers in training [~~, and~~  
15 [~~(2) prescribe application forms for original and~~  
16 ~~renewal certificates of registration~~].

17 SECTION 8.239. Section 1952.053(b), Occupations Code, as  
18 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
19 2015, is amended to read as follows:

20 (b) The register must include:

- 21 (1) the name, residence, date of birth, and social  
22 security number of the applicant;  
23 (2) the name and address of the employer or business of  
24 the applicant;  
25 (3) the date of the application;  
26 (4) the education and experience qualifications of the  
27 applicant;

1 (5) the action taken by the department regarding the  
2 application and the date of the action;

3 (6) the serial number of any certificate of  
4 registration issued to the applicant; and

5 (7) any other information required by commission  
6 [~~department~~] rule.

7 SECTION 8.240. Subchapter B, Chapter 1952, Occupations  
8 Code, is amended by adding Section 1952.055 to read as follows:

9 Sec. 1952.055. ADVISORY COMMITTEE. The department may  
10 establish an advisory committee to provide advice and  
11 recommendations to the department on technical matters relevant to  
12 the administration of this chapter.

13 SECTION 8.241. Section 1952.102, Occupations Code, as  
14 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
15 2015, is amended to read as follows:

16 Sec. 1952.102. ELIGIBILITY TO REGISTER AS CODE ENFORCEMENT  
17 OFFICER. To be eligible to receive a certificate of registration as  
18 a code enforcement officer, a person must:

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

21 (2) have at least one year of full-time experience in  
22 the field of code enforcement;

23 (3) [~~2~~] pass the examination required [~~conducted~~]  
24 by the department [~~or the department's designee~~];

25 (4) [~~3~~] pay the application, examination, and  
26 registration fees; and

27 (5) [~~4~~] meet any other requirements prescribed by

1 this chapter or by commission [~~department~~] rule.

2 SECTION 8.242. Section 1952.103(a), Occupations Code, is  
3 amended to read as follows:

4 (a) An applicant for a certificate of registration under  
5 this chapter who has less than one year of full-time experience in  
6 code enforcement is entitled to receive a certificate of  
7 registration as a code enforcement officer in training on:

8 (1) passing the examination described by Section  
9 1952.102(3) [~~1952.102(2)~~]; [~~and~~]

10 (2) paying the required fees; and

11 (3) meeting any other requirement prescribed by this  
12 chapter or by commission rule.

13 SECTION 8.243. The heading to Section 1952.105, Occupations  
14 Code, is amended to read as follows:

15 Sec. 1952.105. TERM [~~RENEWAL OR REINSTATEMENT~~] OF  
16 CERTIFICATE; RENEWAL.

17 SECTION 8.244. Section 1952.105(a), Occupations Code, as  
18 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
19 2015, is amended to read as follows:

20 (a) A certificate of registration issued under this chapter  
21 expires on the second anniversary of the date of issuance and may be  
22 renewed biennially on payment of the required renewal fee and on  
23 completion of the continuing education requirements prescribed by  
24 commission [~~department~~] rule.

25 SECTION 8.245. Section 1952.1051, Occupations Code, as  
26 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
27 2015, is amended to read as follows:

1           Sec. 1952.1051. CONTINUING EDUCATION.       The commission  
2 [~~executive commissioner~~] by rule shall prescribe continuing  
3 education requirements for code enforcement officers and code  
4 enforcement officers in training that:

5           (1) establish the number of hours of continuing  
6 education required for renewal of a certificate of registration;

7           (2) establish an approved curriculum that includes  
8 material regarding changes in applicable law; and

9           (3) provide that the approved curriculum may be taught  
10 by suitable public agencies and by private entities approved by the  
11 department.

12           SECTION 8.246. Section 1952.151, Occupations Code, is  
13 amended to read as follows:

14           Sec. 1952.151. DENIAL OF CERTIFICATE; DISCIPLINARY ACTION.

15 (a) The commission or executive director [~~department~~] may deny a  
16 person's application for a certificate of registration if the  
17 person's certificate or license to engage in code enforcement or a  
18 related profession has been revoked by another licensing entity in  
19 this state or another state for:

20           (1) unprofessional conduct;

21           (2) fraud, deceit, or negligence; or

22           (3) misconduct in the practice of code enforcement or  
23 a related profession.

24           (b) The commission or executive director [~~department~~] shall  
25 suspend or revoke a certificate of registration issued under this  
26 chapter if the commission or executive director [~~department~~]  
27 determines that the certificate holder:

1 (1) engaged in fraud or deceit in obtaining a  
2 certificate; or

3 (2) is grossly negligent, incompetent, or guilty of  
4 misconduct in the practice of code enforcement.

5 SECTION 8.247. Section 1952.252(a), Occupations Code, is  
6 amended to read as follows:

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

12 SECTION 8.248. Section 1953.001, Occupations Code, as  
13 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
14 2015, is amended by amending Subdivisions (1) and (2) and adding  
15 Subdivision (1-a) to read as follows:

16 (1) "Commission" means the Texas Commission of  
17 Licensing and Regulation.

18 (1-a) "Department" means the Texas Department of  
19 Licensing and Regulation [~~State Health Services~~].

20 (2) "Executive director [~~commissioner~~]" means the  
21 executive director [~~commissioner~~] of the department [~~Health and~~  
22 ~~Human Services Commission~~].

23 SECTION 8.249. The heading to Subchapter B, Chapter 1953,  
24 Occupations Code, as amended by S.B. 219, Acts of the 84th  
25 Legislature, Regular Session, 2015, is amended to read as follows:

26 SUBCHAPTER B. POWERS AND DUTIES [~~OF EXECUTIVE COMMISSIONER AND~~  
27 ~~DEPARTMENT~~]

1 SECTION 8.250. Section 1953.051, Occupations Code, as  
2 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
3 2015, is amended to read as follows:

4 Sec. 1953.051. GENERAL POWERS AND DUTIES [~~OF DEPARTMENT~~].

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

7 (b) The department shall:

8 (1) administer continuing education requirements; and

9 (2) prescribe necessary forms.

10 SECTION 8.251. Subchapter B, Chapter 1953, Occupations  
11 Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular  
12 Session, 2015, is amended by adding Section 1953.0512 to read as  
13 follows:

14 Sec. 1953.0512. ADVISORY COMMITTEE. The department may  
15 establish an advisory committee to provide advice and  
16 recommendations to the department on technical matters relevant to  
17 the administration of this chapter.

18 SECTION 8.252. Section 1953.102, Occupations Code, as  
19 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
20 2015, is amended to read as follows:

21 Sec. 1953.102. ELIGIBILITY REQUIREMENTS. (a) To be  
22 eligible to receive a certificate of registration as a professional  
23 sanitarian, a person must:

24 (1) hold at least a bachelor's degree from an  
25 accredited college or university that includes at least 30 semester  
26 hours in basic or applied science;

27 (2) complete any additional training in the basic

1 sciences or public health the department [~~executive commissioner~~]  
2 determines necessary to effectively serve as a professional  
3 sanitarian; and

4 (3) have at least two years of full-time experience in  
5 sanitation.

6 (b) The commission [~~executive commissioner~~] by rule may  
7 establish other qualifications for registration.

8 SECTION 8.253. Section 1953.104(a), Occupations Code, as  
9 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
10 2015, is amended to read as follows:

11 (a) The department shall issue a certificate of  
12 registration as a professional sanitarian to a person who:

13 (1) applies in the manner and on the form prescribed by  
14 the executive director [~~department~~];

15 (2) pays the registration fee set by the commission  
16 [~~executive commissioner~~] by rule;

17 (3) meets the eligibility requirements prescribed by  
18 Section 1953.102; and

19 (4) passes an examination under Subchapter D.

20 SECTION 8.254. Section 1953.105(a), Occupations Code, as  
21 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
22 2015, is amended to read as follows:

23 (a) The department shall issue a certificate of  
24 registration as a sanitarian in training to a person who:

25 (1) is employed in sanitation;

26 (2) meets the eligibility requirements prescribed by  
27 Section 1953.102, other than the requirements relating to

1 experience;

2 (3) pays a registration fee prescribed by the  
3 commission [~~executive commissioner~~] by rule for a sanitarian in  
4 training; and

5 (4) passes an examination under Subchapter D.

6 SECTION 8.255. The heading to Section 1953.106, Occupations  
7 Code, is amended to read as follows:

8 Sec. 1953.106. RENEWAL [~~OR REINSTATEMENT~~] OF CERTIFICATE.

9 SECTION 8.256. Section 1953.106(a), Occupations Code, as  
10 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
11 2015, is amended to read as follows:

12 (a) To renew a certificate of registration under this  
13 chapter, a professional sanitarian must:

14 (1) pay to the department a renewal fee prescribed by  
15 the commission [~~executive commissioner~~] by rule; and

16 (2) provide proof of completion of continuing  
17 education requirements [~~contact hours as~~] prescribed by the  
18 commission by rule [~~executive commissioner~~].

19 SECTION 8.257. Section 1953.151(b), Occupations Code, as  
20 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
21 2015, is amended to read as follows:

22 (b) An applicant for a certificate of registration may not  
23 take the examination unless the applicant pays the examination fee  
24 prescribed by the commission [~~executive commissioner~~] by rule.

25 SECTION 8.258. Section 1953.201, Occupations Code, as  
26 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
27 2015, is amended to read as follows:

1           Sec. 1953.201. DENIAL OF CERTIFICATE; DISCIPLINARY ACTION.

2   (a) The commission or executive director [~~department~~] may deny a  
3 person's application for a certificate of registration if:

4           (1) the person's certificate or license to engage in a  
5 profession in this state or elsewhere has been revoked for  
6 unprofessional conduct, fraud, deceit, negligence, or misconduct  
7 in the practice of the profession; or

8           (2) satisfactory proof is presented to the commission  
9 or executive director [~~department~~] establishing that the person has  
10 been found guilty of unprofessional conduct, fraud, deceit,  
11 negligence, or misconduct in the practice of a profession.

12   (b) The commission or executive director [~~department~~] may  
13 suspend or revoke a certificate of registration if the certificate  
14 holder:

15           (1) practiced fraud or deceit in obtaining the  
16 certificate; or

17           (2) acted in a manner constituting gross negligence,  
18 incompetency, or misconduct in the practice of sanitation.

19           SECTION 8.259. Section 1953.302(a), Occupations Code, is  
20 amended to read as follows:

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

26           SECTION 8.260. Section 1958.001, Occupations Code, as  
27 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,

1 2015, is amended by amending Subdivisions (1) and (2) and adding  
2 Subdivision (1-a) to read as follows:

3 (1) "Commission" means the Texas Commission of  
4 Licensing and Regulation.

5 (1-a) "Department" means the Texas Department of  
6 Licensing and Regulation [~~State Health Services~~].

7 (2) "Executive director [~~commissioner~~]" means the  
8 executive director [~~commissioner~~] of the department [~~Health and~~  
9 ~~Human Services Commission~~].

10 SECTION 8.261. Section 1958.051, Occupations Code, is  
11 amended to read as follows:

12 Sec. 1958.051. GENERAL POWERS AND DUTIES [~~OF DEPARTMENT,~~  
13 ~~SCOPE OF AUTHORITY~~]. The executive director [~~department~~] shall  
14 administer and enforce this chapter to protect the public from the  
15 adverse health effects of mold.

16 SECTION 8.262. Section 1958.054, Occupations Code, as  
17 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
18 2015, is amended to read as follows:

19 Sec. 1958.054. RULES REGARDING PERFORMANCE STANDARDS AND  
20 WORK PRACTICES. The commission [~~executive commissioner~~] by rule  
21 shall establish minimum performance standards and work practices  
22 for conducting a mold assessment or mold remediation in this state.

23 SECTION 8.263. Section 1958.056(b), Occupations Code, as  
24 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
25 2015, is amended to read as follows:

26 (b) The commission [~~executive commissioner~~] shall adopt  
27 rules regarding compliance investigations.

1 SECTION 8.264. Section 1958.058, Occupations Code, as  
2 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
3 2015, is amended to read as follows:

4 Sec. 1958.058. SAFETY STANDARDS. The commission [~~executive~~  
5 ~~commissioner~~] by rule may develop and establish mold safety  
6 standards for license holders if appropriate scientific  
7 information exists regarding the effect of mold.

8 SECTION 8.265. Section 1958.059, Occupations Code, as  
9 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
10 2015, is amended to read as follows:

11 Sec. 1958.059. CODE OF ETHICS. The commission [~~executive~~  
12 ~~commissioner~~] by rule shall adopt a code of ethics for license  
13 holders that promotes the education of mold assessors and mold  
14 remediators concerning the ethical, legal, and business principles  
15 that should govern their conduct.

16 SECTION 8.266. Section 1958.101(b), Occupations Code, as  
17 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
18 2015, is amended to read as follows:

19 (b) The commission [~~executive commissioner~~] shall adopt  
20 rules regarding:

21 (1) the scope of mold-related work for which a license  
22 is required, including the supervision of employees or other  
23 persons by license holders; and

24 (2) renewal requirements for a license issued under  
25 this chapter.

26 SECTION 8.267. Section 1958.103, Occupations Code, as  
27 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,

1 2015, is amended to read as follows:

2       Sec. 1958.103. REGISTRATION REQUIREMENTS FOR EMPLOYEES.  
3 The commission [~~executive commissioner~~] may adopt rules to require  
4 the registration of employees supervised by license holders.

5       SECTION 8.268. Section 1958.104, Occupations Code, as  
6 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
7 2015, is amended to read as follows:

8       Sec. 1958.104. RULES REGARDING LICENSE APPLICATION. The  
9 commission [~~executive commissioner~~] shall adopt rules regarding a  
10 license application. The commission [~~executive commissioner~~] shall  
11 adopt rules that establish minimum requirements for a license,  
12 including:

- 13               (1) the type of license;
- 14               (2) the qualifications for the license, including any  
15 previous training required under Section 1958.106;
- 16               (3) renewal requirements for the license, including  
17 ongoing continuing education required under Section 1958.106; and
- 18               (4) liability insurance requirements for the license.

19       SECTION 8.269. Section 1958.106(a), Occupations Code, as  
20 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
21 2015, is amended to read as follows:

22       (a) The commission [~~executive commissioner~~] shall adopt  
23 rules regarding training required under this chapter and continuing  
24 education required for a license holder under this chapter.

25       SECTION 8.270. Section 1958.153(c), Occupations Code, as  
26 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
27 2015, is amended to read as follows:

1 (c) The commission [~~executive commissioner~~] shall adopt  
2 rules to implement this section, including rules:

3 (1) describing the information that must be provided  
4 in the notice; and

5 (2) authorizing verbal notification to the department  
6 in an emergency.

7 SECTION 8.271. Section 1958.154(c), Occupations Code, as  
8 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
9 2015, is amended to read as follows:

10 (c) The commission [~~executive commissioner~~] shall adopt  
11 rules to implement this section, other than rules described by  
12 Subsection (d).

13 SECTION 8.272. Section 1958.155(c), Occupations Code, as  
14 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
15 2015, is amended to read as follows:

16 (c) A license holder who is not an individual shall disclose  
17 to the department the name, address, and occupation of each person  
18 that has an ownership interest in the license holder. The license  
19 holder shall report any changes in ownership to the department. The  
20 commission [~~executive commissioner~~] shall adopt rules to implement  
21 this section, including rules regarding the form of the disclosure  
22 and the time required to make disclosures or to report a change in  
23 ownership.

24 SECTION 8.273. Section 1958.201, Occupations Code, is  
25 amended to read as follows:

26 Sec. 1958.201. DISCIPLINARY ACTION. If a license holder  
27 violates this chapter or an order or rule adopted under this

1 chapter, the commission or executive director [~~department~~], after  
2 providing the person with notice and an opportunity for a hearing,  
3 shall take one or more of the following actions:

- 4 (1) revoke, suspend, or refuse to renew the license;
- 5 (2) impose an administrative penalty;
- 6 (3) bring an action to collect a civil penalty; or
- 7 (4) reprimand the person.

8 SECTION 8.274. Section [1958.252](#), Occupations Code, as  
9 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
10 2015, is amended to read as follows:

11 Sec. 1958.252. AMOUNT OF PENALTY. (a) The amount of an  
12 administrative penalty imposed for a violation of this chapter or a  
13 rule adopted or order issued under this chapter may not exceed  
14 \$5,000 for each violation. Each day a violation continues under  
15 Section [1958.101](#) or [1958.155](#) may be considered a separate violation  
16 for purposes of imposing a penalty.

17 (b) The amount shall be based on [~~In determining the amount~~  
18 ~~of the penalty, the department shall consider~~]:

- 19 (1) whether the violation was committed knowingly,  
20 intentionally, or fraudulently;
- 21 (2) the seriousness of the violation;
- 22 (3) any hazard created to the health and safety of the  
23 public;
- 24 (4) the person's history of previous violations; and
- 25 (5) any other matter that justice may require.

26 SECTION 8.275. Section [1958.253](#)(a), Occupations Code, as  
27 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,

1 2015, is amended to read as follows:

2 (a) The commission or executive director [~~department~~] may  
3 choose not to impose an administrative penalty under this  
4 subchapter if, not later than the 10th day after the date of written  
5 notice of the violation [~~under Section 1958.254~~], the person  
6 provides conclusive evidence that the circumstances giving rise to  
7 the violation have been corrected and all actual damages are paid.

8 SECTION 8.276. Section 521.374(a), Transportation Code, is  
9 amended to read as follows:

10 (a) A person whose license is suspended under Section  
11 521.372 may attend an educational program, approved by the Texas  
12 Department of Licensing and Regulation [~~Commission on Alcohol and~~  
13 ~~Drug Abuse~~] under rules adopted by the Texas Commission of  
14 Licensing and Regulation [~~commission~~] and the department, that is  
15 designed to educate persons on the dangers of drug abuse.

16 SECTION 8.277. Section 521.375, Transportation Code, is  
17 amended to read as follows:

18 Sec. 521.375. JOINT ADOPTION OF RULES. (a) The Texas  
19 Commission of Licensing and Regulation [~~on Alcohol and Drug Abuse~~]  
20 and the department shall jointly adopt rules for the qualification  
21 and approval of providers of educational programs under Section  
22 521.374.

23 (b) The Texas Department of Licensing and Regulation  
24 [~~Commission on Alcohol and Drug Abuse~~] shall publish the jointly  
25 adopted rules.

26 SECTION 8.278. Section 521.376, Transportation Code, is  
27 amended to read as follows:

1           Sec. 521.376. DUTIES OF TEXAS DEPARTMENT OF LICENSING AND  
2 REGULATION [~~COMMISSION ON ALCOHOL AND DRUG ABUSE~~]; APPLICATION AND  
3 RENEWAL FEES. The Texas Department of Licensing and Regulation  
4 [~~Commission on Alcohol and Drug Abuse~~]:

5           (1) shall monitor, coordinate, and provide training to  
6 persons who provide educational programs under Section 521.374;

7           (2) shall administer the approval of those educational  
8 programs; and

9           (3) may charge a nonrefundable application fee for:

10                   (A) initial certification of approval; and

11                   (B) renewal of the certification.

12           SECTION 8.279. The following provisions of the Health and  
13 Safety Code are repealed:

14           (1) Section 401.509;

15           (2) Section 401.511;

16           (3) Sections 401.512(b) and (c); and

17           (4) Sections 401.522(b) and (c).

18           SECTION 8.280. The following provisions of the Occupations  
19 Code, including provisions amended by S.B. 219, Acts of the 84th  
20 Legislature, Regular Session, 2015, are repealed:

21           (1) Section 455.051;

22           (2) Section 455.056;

23           (3) Section 455.057;

24           (4) Section 455.058;

25           (5) Section 455.1565;

26           (6) Section 455.1571;

27           (7) Sections 455.160(b), (c), (d), (e), (f), and (g);

- 1 (8) Section 455.161;
- 2 (9) Section 455.252;
- 3 (10) Section 455.253;
- 4 (11) Section 455.254;
- 5 (12) Section 455.301;
- 6 (13) Section 455.303;
- 7 (14) Section 455.304;
- 8 (15) Section 455.305;
- 9 (16) Section 455.306;
- 10 (17) Section 455.307;
- 11 (18) Section 455.308;
- 12 (19) Section 455.309;
- 13 (20) Section 455.310;
- 14 (21) Section 455.311;
- 15 (22) Section 1952.052;
- 16 (23) Section 1952.054;
- 17 (24) Section 1952.105(b);
- 18 (25) Section 1952.152;
- 19 (26) Section 1952.251;
- 20 (27) Section 1952.253;
- 21 (28) Section 1952.254;
- 22 (29) Section 1952.255;
- 23 (30) Section 1952.256;
- 24 (31) Section 1952.257;
- 25 (32) Section 1952.258;
- 26 (33) Section 1952.259;
- 27 (34) Section 1952.260;

- 1 (35) Section 1952.261;
- 2 (36) Section 1953.0511;
- 3 (37) Section 1953.052;
- 4 (38) Section 1953.054;
- 5 (39) Section 1953.055;
- 6 (40) Section 1953.103;
- 7 (41) Section 1953.106(b);
- 8 (42) Section 1953.152;
- 9 (43) Section 1953.202;
- 10 (44) Section 1953.301;
- 11 (45) Section 1953.303;
- 12 (46) Section 1953.304;
- 13 (47) Section 1953.305;
- 14 (48) Section 1953.306;
- 15 (49) Section 1953.307;
- 16 (50) Section 1953.308;
- 17 (51) Section 1953.309;
- 18 (52) Section 1953.310;
- 19 (53) Section 1953.311;
- 20 (54) Section 1958.053;
- 21 (55) Section 1958.055(a);
- 22 (56) Section 1958.057;
- 23 (57) Section 1958.107;
- 24 (58) Section 1958.251;
- 25 (59) Section 1958.254;
- 26 (60) Section 1958.255;
- 27 (61) Section 1958.256;

- 1           (62) Section 1958.257;
- 2           (63) Section 1958.258; and
- 3           (64) Section 1958.302.

4                           PART 3. TRANSITION PROVISIONS

5           SECTION 8.281. (a) A rule or fee of the Department of State  
6 Health Services that relates to a program transferred under this  
7 article and that is in effect on the effective date of the transfer  
8 remains in effect until changed by the Texas Commission of  
9 Licensing and Regulation.

10           (b) A license, permit, certificate of registration, or  
11 other authorization issued by the Department of State Health  
12 Services for a program transferred under this article is continued  
13 in effect as a license, permit, certificate, or other authorization  
14 of the Texas Department of Licensing and Regulation after the  
15 effective date of the transfer.

16           (c) A complaint, investigation, contested case, or other  
17 proceeding before the Department of State Health Services relating  
18 to a program transferred under this article that is pending on the  
19 effective date of the transfer is transferred without change in  
20 status to the Texas Commission of Licensing and Regulation or Texas  
21 Department of Licensing and Regulation, as appropriate.

22           SECTION 8.282. (a) As soon as practicable after the  
23 effective date of a transfer under this article, the Department of  
24 State Health Services and the Texas Department of Licensing and  
25 Regulation shall adopt a transition plan to provide for the orderly  
26 transfer of powers, duties, functions, programs, and activities  
27 under this article. The transition plan must provide for the

1 transfer to be completed:

2 (1) not later than August 31, 2017, for a program  
3 transferred under Part 1 of this article; or

4 (2) not later than August 31, 2019, for a program  
5 transferred under Part 2 of this article.

6 (b) The Department of State Health Services shall provide  
7 the Texas Department of Licensing and Regulation with access to any  
8 systems or information necessary for the Texas Department of  
9 Licensing and Regulation to accept a program transferred under this  
10 article.

11 (c) On the date specified in the transition plan required  
12 under Subsection (a) of this section for the transfer of a  
13 particular program to the Texas Department of Licensing and  
14 Regulation, if applicable, the existing board associated with the  
15 program is abolished and the Texas Department of Licensing and  
16 Regulation shall, as soon as practicable after that date, appoint  
17 the advisory board for the program.

18 (d) Not later than August 31, 2017, the Texas Department of  
19 Licensing and Regulation shall create a health professions division  
20 to oversee programs transferred under this article and to ensure  
21 the department develops the necessary health-related expertise.

22 ARTICLE 9. REGULATORY PROGRAMS TRANSFERRED TO THE TEXAS MEDICAL  
23 BOARD

24 SECTION 9.001. Section [151.004](#), Occupations Code, is  
25 amended to read as follows:

26 Sec. 151.004. APPLICATION OF SUNSET ACT. The Texas Medical  
27 Board is subject to Chapter 325, Government Code (Texas Sunset

1 Act). Unless continued in existence as provided by that chapter,  
2 the board is abolished and this subtitle and Chapters 204, 205,  
3 ~~and~~ 206, 601, 602, 603, and 604 expire September 1, 2017.

4 SECTION 9.002. Section 601.002, Occupations Code, as  
5 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
6 2015, is amended by amending Subdivisions (1), (3), and (4) and  
7 adding Subdivisions (1-a), (4-a), and (4-b) to read as follows:

8 (1) "Advisory board" means the Texas Board of Medical  
9 Radiologic Technology.

10 (1-a) "Authorized person" means a person who meets or  
11 exceeds the minimum educational standards of the advisory board  
12 ~~[department]~~ under Section 601.201.

13 (3) "Direct supervision" means supervision and  
14 control by a medical radiologic technologist or a practitioner who:

15 (A) assumes legal liability for a student  
16 employed to perform a radiologic procedure and enrolled in a  
17 program that meets the requirements adopted under Section 601.052  
18 ~~[601.053]~~; and

19 (B) is physically present during the performance  
20 of the radiologic procedure to provide consultation or direct the  
21 action of the student.

22 (4) "Education program" means clinical training or any  
23 other program offered by an organization approved by the advisory  
24 board ~~[department]~~ that:

25 (A) has a specified objective;

26 (B) includes planned activities for  
27 participants; and

1 (C) uses an approved method for measuring the  
2 progress of participants.

3 (4-a) "Hospital" has the meaning assigned by Section  
4 157.051.

5 (4-b) "Medical board" means the Texas Medical Board.

6 SECTION 9.003. Chapter 601, Occupations Code, is amended by  
7 adding Subchapter A-1 to read as follows:

8 SUBCHAPTER A-1. TEXAS BOARD OF MEDICAL RADIOLOGIC TECHNOLOGY

9 Sec. 601.021. TEXAS BOARD OF MEDICAL RADIOLOGIC TECHNOLOGY.

10 The Texas Board of Medical Radiologic Technology is an advisory  
11 board to the Texas Medical Board.

12 Sec. 601.022. APPOINTMENT OF ADVISORY BOARD. (a) The  
13 advisory board consists of nine members appointed by the governor  
14 with the advice and consent of the senate as follows:

15 (1) four medical radiologic technologists who each  
16 have at least five years of experience as a medical radiologic  
17 technologist;

18 (2) two physicians licensed in this state who  
19 supervise medical radiologic technologists; and

20 (3) three members who represent the public.

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

24 Sec. 601.023. MEMBERSHIP ELIGIBILITY AND RESTRICTIONS. (a)  
25 In this section, "Texas trade association" means a cooperative and  
26 voluntarily joined statewide association of business or  
27 professional competitors in this state designed to assist its

1 members and its industry or profession in dealing with mutual  
2 business or professional problems and in promoting their common  
3 interest.

4 (b) A person may not be a public member of the advisory board  
5 if the person or the person's spouse:

6 (1) is registered, certified, or licensed by a  
7 regulatory agency in a health care profession;

8 (2) is employed by or participates in the management  
9 of a business entity or other organization regulated by or  
10 receiving money from the medical board or advisory board;

11 (3) owns or controls, directly or indirectly, more  
12 than a 10 percent interest in a business entity or other  
13 organization regulated by or receiving money from the medical board  
14 or advisory board; or

15 (4) uses or receives a substantial amount of tangible  
16 goods, services, or money from the medical board or advisory board  
17 other than compensation or reimbursement authorized by law for  
18 advisory board membership, attendance, or expenses.

19 (c) A person may not be a member of the advisory board if:

20 (1) the person is an officer, employee, or paid  
21 consultant of a Texas trade association in the field of health care;  
22 or

23 (2) the person's spouse is an officer, manager, or paid  
24 consultant of a Texas trade association in the field of health care.

25 (d) A person may not be a member of the advisory board or act  
26 as the general counsel to the advisory board if the person is  
27 required to register as a lobbyist under Chapter 305, Government

1 Code, because of the person's activities for compensation on behalf  
2 of a profession related to the operation of the medical board or  
3 advisory board.

4 Sec. 601.024. TERMS; VACANCIES. (a) Members of the  
5 advisory board are appointed for staggered six-year terms. The  
6 terms of three members expire on February 1 of each odd-numbered  
7 year.

8 (b) A member may not serve more than:

9 (1) two consecutive full terms; or

10 (2) a total of three full terms.

11 (c) If a vacancy occurs during a member's term, the governor  
12 shall appoint a new member to fill the unexpired term.

13 Sec. 601.025. OFFICERS. The governor shall designate a  
14 member of the advisory board as the presiding officer of the  
15 advisory board to serve in that capacity at the will of the  
16 governor. The advisory board shall select from its membership an  
17 assistant presiding officer and other officers as the advisory  
18 board considers necessary to carry out the advisory board's duties.

19 Sec. 601.026. GROUNDS FOR REMOVAL. (a) It is a ground for  
20 removal from the advisory board that a member:

21 (1) does not have at the time of taking office the  
22 qualifications required by Sections 601.022 and 601.023;

23 (2) does not maintain during service on the advisory  
24 board the qualifications required by Sections 601.022 and 601.023;

25 (3) is ineligible for membership under Section  
26 601.023;

27 (4) cannot, because of illness or disability,

1 discharge the member's duties for a substantial part of the member's  
2 term; or

3 (5) is absent from more than half of the regularly  
4 scheduled advisory board meetings that the member is eligible to  
5 attend during a calendar year without an excuse approved by a  
6 majority vote of the advisory board.

7 (b) The validity of an action of the advisory board is not  
8 affected by the fact that it is taken when a ground for removal of an  
9 advisory board member exists.

10 (c) If the executive director of the medical board has  
11 knowledge that a potential ground for removal exists, the executive  
12 director shall notify the presiding officer of the advisory board  
13 of the potential ground. The presiding officer shall then notify  
14 the governor and the attorney general that a potential ground for  
15 removal exists. If the potential ground for removal involves the  
16 presiding officer, the executive director shall notify the next  
17 highest ranking officer of the advisory board, who shall then  
18 notify the governor and the attorney general that a potential  
19 ground for removal exists.

20 Sec. 601.027. PER DIEM. A member of the advisory board is  
21 entitled to receive a per diem as set by legislative appropriation  
22 for each day that the member engages in the business of the advisory  
23 board.

24 Sec. 601.028. APPLICATION OF OPEN MEETINGS, OPEN RECORDS,  
25 AND ADMINISTRATIVE PROCEDURE LAWS. Except as otherwise provided  
26 by this chapter, the advisory board is subject to Chapters 551, 552,  
27 and 2001, Government Code.

1       Sec. 601.029. MEETINGS; QUORUM REQUIREMENTS. (a) The  
2 advisory board shall conduct regular meetings at least three times  
3 a year at the times and places the advisory board considers most  
4 convenient for applicants and advisory board members.

5       (b) The advisory board may hold special meetings in  
6 accordance with rules adopted by the advisory board and approved by  
7 the medical board.

8       (c) A majority of the advisory board members constitutes a  
9 quorum for all purposes except for an advisory board activity  
10 related to examining the credentials of applicants, acting as a  
11 panel for disciplinary action under Section 601.306, or conducting  
12 an informal meeting under Section 601.311.

13       Sec. 601.030. TRAINING. (a) A person who is appointed to  
14 and qualifies for office as a member of the advisory board may not  
15 vote, deliberate, or be counted as a member in attendance at a  
16 meeting of the advisory board until the person completes a training  
17 program that complies with this section.

18       (b) The training program must provide the person with  
19 information regarding:

20               (1) this chapter and the advisory board's programs,  
21 functions, rules, and budget;

22               (2) the results of the most recent formal audit of the  
23 advisory board;

24               (3) the requirements of laws relating to open  
25 meetings, public information, administrative procedure, and  
26 conflicts of interest; and

27               (4) any applicable ethics policies adopted by the

1 advisory board or the Texas Ethics Commission.

2 (c) A person appointed to the advisory board is entitled to  
3 reimbursement, as provided by the General Appropriations Act, for  
4 the travel expenses incurred in attending the training program  
5 regardless of whether the attendance at the program occurs before  
6 or after the person qualifies for office.

7 SECTION 9.004. The heading to Subchapter B, Chapter 601,  
8 Occupations Code, as amended by S.B. 219, Acts of the 84th  
9 Legislature, Regular Session, 2015, is amended to read as follows:

10 SUBCHAPTER B. POWERS AND DUTIES OF ADVISORY BOARD [~~EXECUTIVE~~  
11 ~~COMMISSIONER~~] AND MEDICAL BOARD [~~DEPARTMENT~~]

12 SECTION 9.005. Section 601.052, Occupations Code, as  
13 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
14 2015, is amended to read as follows:

15 Sec. 601.052. GENERAL POWERS AND DUTIES OF ADVISORY  
16 BOARD [~~RULES~~]. The advisory board shall:

17 (1) [~~executive commissioner may~~] adopt rules that are  
18 reasonable and necessary for the performance of the advisory  
19 board's duties under [~~to implement~~] this chapter, as provided by  
20 Chapter 2001, Government Code, including rules to establish:

21 (A) the certification program required by  
22 Subchapter C, including minimum standards for issuing, renewing,  
23 suspending, or revoking a certificate;

24 (B) certification renewal dates;

25 (C) the registry required by Subchapter E;

26 (D) procedures for disciplinary actions;

27 (E) minimum standards for approving and

1 rescinding approval of curricula and education programs to train  
2 individuals, registered nurses, and physician assistants to  
3 perform radiologic procedures; and

4 (F) minimum standards for approving and  
5 rescinding approval of instructors to teach approved curricula or  
6 education programs to train individuals to perform radiologic  
7 procedures;

8 (2) review and approve or reject each application for  
9 the issuance or renewal of a certificate;

10 (3) issue each certificate;

11 (4) deny, suspend, or revoke a certificate or  
12 otherwise discipline a certificate holder; and

13 (5) take any action necessary to carry out the  
14 functions and duties of the advisory board under this chapter.

15 SECTION 9.006. Subchapter B, Chapter 601, Occupations Code,  
16 as amended by S.B. 219, Acts of the 84th Legislature, Regular  
17 Session, 2015, is amended by adding Sections 601.0521 and 601.0522  
18 to read as follows:

19 Sec. 601.0521. GUIDELINES FOR EARLY INVOLVEMENT IN  
20 RULEMAKING PROCESS. (a) The advisory board shall adopt guidelines  
21 to establish procedures for receiving input during the rulemaking  
22 process from individuals and groups that have an interest in  
23 matters under the advisory board's jurisdiction. The guidelines  
24 must provide an opportunity for those individuals and groups to  
25 provide input before the advisory board submits the rule to the  
26 medical board for approval.

27 (b) A rule adopted under this chapter may not be challenged

1 on the grounds that the advisory board did not comply with this  
2 section. If the advisory board was unable to solicit a significant  
3 amount of input from the public or affected persons early in the  
4 rulemaking process, the advisory board shall state in writing the  
5 reasons why it was unable to do so.

6 Sec. 601.0522. POWERS AND DUTIES OF MEDICAL BOARD RELATING  
7 TO RADIOLOGIC PROCEDURES. (a) The medical board shall adopt rules  
8 consistent with this chapter to regulate individuals who:

9 (1) perform radiologic procedures; and

10 (2) are licensed by the medical board and supervise an  
11 individual who performs radiologic procedures.

12 (b) The medical board, by a majority vote, shall approve or  
13 reject each rule adopted by the advisory board. If approved, the  
14 rule may take effect. If the rule is rejected, the medical board  
15 shall return the rule to the advisory board for revision.

16 SECTION 9.007. Section 601.054, Occupations Code, as  
17 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
18 2015, is amended to read as follows:

19 Sec. 601.054. APPROVAL AND REVIEW OF CURRICULA AND TRAINING  
20 PROGRAMS. (a) An applicant for approval of a curriculum or  
21 training program must apply to the advisory board [~~department~~]  
22 form [~~prescribed by the department~~] and under rules adopted by the  
23 advisory board [~~executive commissioner~~].

24 (b) The advisory board [~~department~~] shall approve a  
25 curriculum or training program that meets the minimum standards  
26 adopted under Section 601.052 [~~601.053~~]. The advisory board  
27 [~~department~~] may review the approval annually.

1 (c) The advisory board [~~executive commissioner~~] may set a  
2 fee for approval of a curriculum or training program not to exceed  
3 the estimated amount that the advisory board [~~department~~] projects  
4 to be required for the evaluation of the curriculum or training  
5 program.

6 SECTION 9.008. Section [601.055](#), Occupations Code, as  
7 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
8 2015, is amended to read as follows:

9 Sec. 601.055. APPROVAL AND REVIEW OF INSTRUCTOR APPROVAL.

10 (a) An applicant for approval of an instructor must apply to the  
11 advisory board [~~department~~] on a form [~~prescribed by the~~  
12 ~~department~~] and under rules adopted by the advisory board  
13 [~~executive commissioner~~].

14 (b) The advisory board [~~department~~] shall approve an  
15 instructor who meets the minimum standards adopted under Section  
16 [601.052](#) [~~601.053~~]. The advisory board [~~department~~] may review the  
17 approval annually.

18 SECTION 9.009. Sections [601.056](#)(a) and (b), Occupations  
19 Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular  
20 Session, 2015, are amended to read as follows:

21 (a) The advisory board [~~executive commissioner~~] with the  
22 assistance of appropriate state agencies shall identify by rule  
23 radiologic procedures, other than radiologic procedures described  
24 by Subsection (c), that are dangerous or hazardous and that may be  
25 performed only by a practitioner or a medical radiologic  
26 technologist certified under this chapter.

27 (b) In adopting rules under Subsection (a), the advisory

1 board [~~executive commissioner~~] may consider whether the radiologic  
2 procedure will be performed by a registered nurse or a licensed  
3 physician assistant.

4 SECTION 9.010. Section 601.057, Occupations Code, as  
5 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
6 2015, is amended to read as follows:

7 Sec. 601.057. FEES. The advisory board by rule [~~executive~~  
8 ~~commissioner~~] may set fees for examination, certificate issuance,  
9 registration of a person under Section 601.202, and application  
10 processing under Section 601.203 in amounts that are reasonable to  
11 cover the costs of administering this chapter without the use of  
12 additional general revenue. [~~The fees for issuing or renewing a~~  
13 ~~certificate must be in amounts designed to allow the department to~~  
14 ~~recover from the certificate holders all of the department's direct~~  
15 ~~and indirect costs in administering and enforcing this chapter.]~~

16 SECTION 9.011. Subchapter B, Chapter 601, Occupations Code,  
17 as amended by S.B. 219, Acts of the 84th Legislature, Regular  
18 Session, 2015, is amended by adding Sections 601.0571 and 601.0572  
19 to read as follows:

20 Sec. 601.0571. FEE REFUND ON CANCELLATION. The advisory  
21 board may adopt rules relating to the refund of a fee for the  
22 issuance or renewal of a certificate after the cancellation of a  
23 certificate.

24 Sec. 601.0572. RULES ON CONSEQUENCES OF CRIMINAL  
25 CONVICTION. The advisory board shall adopt rules and guidelines as  
26 necessary to comply with Chapter 53, except to the extent the  
27 requirements of this chapter are stricter than the requirements of

1 Chapter 53.

2 SECTION 9.012. Section 601.058, Occupations Code, as  
3 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
4 2015, is amended to read as follows:

5 Sec. 601.058. RULES RESTRICTING ADVERTISING OR COMPETITIVE  
6 BIDDING. (a) The advisory board [~~executive commissioner~~] may not  
7 adopt rules restricting advertising or competitive bidding by a  
8 medical radiologic technologist except to prohibit false,  
9 misleading, or deceptive practices.

10 (b) In adopting rules to prohibit false, misleading, or  
11 deceptive practices, the advisory board [~~executive commissioner~~]  
12 may not include a rule that:

- 13 (1) restricts the use of any medium for advertising;  
14 (2) restricts the use of a medical radiologic  
15 technologist's personal appearance or voice in an advertisement;  
16 (3) relates to the size or duration of an  
17 advertisement by the medical radiologic technologist; or  
18 (4) restricts the medical radiologic technologist's  
19 advertisement under a trade name.

20 SECTION 9.013. Subchapter B, Chapter 601, Occupations Code,  
21 as amended by S.B. 219, Acts of the 84th Legislature, Regular  
22 Session, 2015, is amended by adding Sections 601.059 and 601.060 to  
23 read as follows:

24 Sec. 601.059. ASSISTANCE BY MEDICAL BOARD; DIVISION OF  
25 RESPONSIBILITIES. (a) The medical board shall provide  
26 administrative and clerical employees as necessary to enable the  
27 advisory board to administer this chapter.

1        (b) Subject to the advice and approval of the medical board,  
2 the advisory board shall develop and implement policies that  
3 clearly separate the policy-making responsibilities of the  
4 advisory board and the management responsibilities of the executive  
5 director and staff of the medical board.

6        Sec. 601.060. PUBLIC PARTICIPATION. Subject to the advice  
7 and approval of the medical board, the advisory board shall develop  
8 and implement policies that provide the public with a reasonable  
9 opportunity to appear before the advisory board and to speak on any  
10 issue under the jurisdiction of the advisory board.

11        SECTION 9.014. Section [601.102](#), Occupations Code, as  
12 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
13 2015, is amended to read as follows:

14        Sec. 601.102. CLASSES OF CERTIFICATES. (a) The advisory  
15 board [~~executive commissioner~~] shall establish classes of  
16 certificates to include all radiologic procedures used in the  
17 course and scope of the practice of practitioners licensed in this  
18 state.

19        (b) The advisory board [~~department~~] may issue to a person:

20            (1) a general certificate to perform radiologic  
21 procedures; or

22            (2) a limited certificate that authorizes the person  
23 to perform radiologic procedures only on specific parts of the  
24 human body.

25        (c) The advisory board [~~department~~] may issue to a person a  
26 temporary general certificate or a temporary limited certificate  
27 that authorizes the person to perform radiologic procedures for a

1 period not to exceed one year.

2 SECTION 9.015. Subchapter C, Chapter 601, Occupations Code,  
3 is amended by adding Section 601.1031 to read as follows:

4 Sec. 601.1031. CRIMINAL HISTORY RECORD INFORMATION  
5 REQUIREMENT FOR REGISTRATION. (a) The advisory board shall  
6 require that an applicant for a certificate submit a complete and  
7 legible set of fingerprints, on a form prescribed by the advisory  
8 board, to the advisory board or to the Department of Public Safety  
9 for the purpose of obtaining criminal history record information  
10 from the Department of Public Safety and the Federal Bureau of  
11 Investigation.

12 (b) The advisory board may not issue a certificate to a  
13 person who does not comply with the requirement of Subsection (a).

14 (c) The advisory board shall conduct a criminal history  
15 check of each applicant for a certificate using information:

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

17 (2) made available to the advisory board by the  
18 Department of Public Safety, the Federal Bureau of Investigation,  
19 and any other criminal justice agency under Chapter 411, Government  
20 Code.

21 (d) The advisory board may:

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

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

1 SECTION 9.016. Section 601.104, Occupations Code, as  
2 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
3 2015, is amended to read as follows:

4 Sec. 601.104. EXAMINATION. (a) The advisory board  
5 [~~executive commissioner~~] may adopt rules providing for the  
6 preparation and administration of an examination for applicants for  
7 a certificate.

8 (b) An applicant for a certificate must pass a jurisprudence  
9 examination approved by the advisory board.

10 SECTION 9.017. Section 601.1041, Occupations Code, is  
11 amended to read as follows:

12 Sec. 601.1041. NOTIFICATION OF EXAMINATION RESULTS. (a)  
13 Not later than the 30th day after the date a person takes an  
14 examination for a certificate under this chapter, the advisory  
15 board [~~department~~] shall notify the person of the results of the  
16 examination.

17 (b) If the examination is graded or reviewed by a testing  
18 service, the advisory board [~~department~~] shall notify the person of  
19 the results of the examination not later than the 14th day after the  
20 date the advisory board [~~department~~] receives the results from the  
21 testing service. If notice of the examination results will be  
22 delayed for longer than 90 days after the examination date, the  
23 advisory board [~~department~~] shall notify the person of the reason  
24 for the delay before the 90th day.

25 (c) The advisory board [~~department~~] may require a testing  
26 service to notify a person of the results of the person's  
27 examination.

1 (d) If requested in writing by a person who fails an  
2 examination for a certificate administered under this chapter, the  
3 advisory board [~~department~~] shall furnish the person with an  
4 analysis of the person's performance on the examination.

5 SECTION 9.018. Section 601.105, Occupations Code, is  
6 amended by amending Subsection (a) and adding Subsection (c) to  
7 read as follows:

8 (a) The advisory board [~~department~~] shall issue a  
9 certificate to an applicant who:

10 (1) meets the minimum standards for certification  
11 established under Section 601.052;

12 (2) passes the required examinations;

13 (3) complies with the criminal history record  
14 information requirement of Section 601.1031;

15 (4) submits an application on a form prescribed by the  
16 advisory board;

17 (5) pays the required application fee;

18 (6) certifies that the applicant is mentally and  
19 physically able to perform radiologic procedures; and

20 (7) submits to the advisory board any other  
21 information the advisory board considers necessary to evaluate the  
22 applicant's qualifications [~~601.053~~].

23 (c) The advisory board may delegate authority to medical  
24 board employees to issue certificates under this chapter to  
25 applicants who clearly meet all certification requirements. If the  
26 medical board employees determine that the applicant does not  
27 clearly meet all certification requirements, the application must

1 be returned to the advisory board. A certificate issued under this  
2 subsection does not require formal advisory board approval.

3 SECTION 9.019. Section 601.107, Occupations Code, as  
4 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
5 2015, is amended to read as follows:

6 Sec. 601.107. CERTIFICATION BY ENDORSEMENT. In adopting  
7 minimum standards for certifying medical radiologic technologists,  
8 the advisory board [~~executive commissioner~~] may establish criteria  
9 for issuing a certificate to a person licensed or otherwise  
10 registered as a medical radiologic technologist by the American  
11 Registry of Radiologic Technologists, the American Registry of  
12 Clinical Radiography Technologists, or another state whose  
13 requirements for licensure or registration were on the date of  
14 licensing or registration substantially equal to the requirements  
15 of this chapter.

16 SECTION 9.020. Section 601.108, Occupations Code, as  
17 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
18 2015, is amended to read as follows:

19 Sec. 601.108. CONTINUING EDUCATION AND OTHER GUIDELINES.  
20 (a) The advisory board [~~executive commissioner~~] may establish  
21 guidelines.

22 (b) The advisory board [~~executive commissioner~~] shall  
23 provide for the preparation, recognition, or administration of  
24 continuing education programs for medical radiologic technologists  
25 in which participation is required, to the extent required by the  
26 advisory board [~~department~~], to keep the person's certificate.

27 SECTION 9.021. Section 601.109, Occupations Code, as

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

3       Sec. 601.109. PROVISIONAL CERTIFICATE. (a) The advisory  
4 board [~~department~~] may issue a provisional certificate to an  
5 applicant currently licensed or certified in another jurisdiction  
6 who seeks certification in this state and who:

7           (1) has been licensed or certified in good standing as  
8 a medical radiologic technologist for at least two years in another  
9 jurisdiction, including a foreign country, that has licensing or  
10 certification requirements substantially equivalent to the  
11 requirements of this chapter;

12           (2) has passed a national or other examination  
13 recognized by the advisory board [~~department~~] relating to the  
14 practice of radiologic technology; and

15           (3) is sponsored by a medical radiologic technologist  
16 certified by the advisory board [~~department~~] under this chapter  
17 with whom the provisional certificate holder will practice during  
18 the time the person holds a provisional certificate.

19       (b) The advisory board [~~department~~] may waive the  
20 requirement of Subsection (a)(3) for an applicant if the advisory  
21 board [~~department~~] determines that compliance with that subsection  
22 would be a hardship to the applicant.

23       (c) A provisional certificate is valid until the date the  
24 advisory board [~~department~~] approves or denies the provisional  
25 certificate holder's application for a certificate. The advisory  
26 board [~~department~~] shall issue a certificate under this chapter to  
27 the provisional certificate holder if:

1 (1) the provisional certificate holder is eligible to  
2 be certified under Section 601.107; or

3 (2) the provisional certificate holder passes the part  
4 of the examination under Section 601.104 that relates to the  
5 applicant's knowledge and understanding of the laws and rules  
6 relating to the practice of radiologic technology in this state  
7 and:

8 (A) the advisory board [~~department~~] verifies  
9 that the provisional certificate holder meets the academic and  
10 experience requirements for a certificate under this chapter; and

11 (B) the provisional certificate holder satisfies  
12 any other licensing requirements under this chapter.

13 (d) The advisory board [~~department~~] must approve or deny a  
14 provisional certificate holder's application for a certificate not  
15 later than the 180th day after the date the provisional certificate  
16 is issued. The advisory board [~~department~~] may extend the 180-day  
17 period if the results of an examination have not been received by  
18 the advisory board [~~department~~] before the end of that period.

19 (e) The advisory board [~~executive commissioner~~] by rule may  
20 establish a fee for a provisional certificate in an amount  
21 reasonable and necessary to cover the cost of issuing the  
22 certificate [~~designed to allow the department to recover from the~~  
23 ~~certificate holders all of the department's direct and indirect~~  
24 ~~costs in administering and enforcing this chapter~~].

25 SECTION 9.022. Section 601.110, Occupations Code, as  
26 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
27 2015, is amended to read as follows:

1           Sec. 601.110. CERTIFICATE EXPIRATION. (a) Not later than  
2 the 30th day before the date a person's certificate is scheduled to  
3 expire, the advisory board [~~department~~] shall send written notice  
4 of the impending expiration to the person at the person's last known  
5 address according to the records of the advisory board  
6 [~~department~~].

7           (b) The advisory board [~~executive commissioner~~] by rule may  
8 adopt a system under which certificates expire on various dates  
9 during the year. For the year in which the certificate expiration  
10 date is changed, the advisory board [~~department~~] shall prorate  
11 certificate fees on a monthly basis so that each certificate holder  
12 pays only that portion of the certificate fee that is allocable to  
13 the number of months during which the certificate is valid. On  
14 renewal of the certificate on the new expiration date, the total  
15 certificate renewal fee is payable.

16           SECTION 9.023. Section 601.111, Occupations Code, is  
17 amended to read as follows:

18           Sec. 601.111. CERTIFICATE RENEWAL [~~PROCEDURE~~]. (a) On  
19 notification from the advisory board, a [A] person who is otherwise  
20 eligible to renew a certificate may renew an unexpired certificate  
21 by:

22                   (1) paying the required renewal fee to the advisory  
23 board [~~department~~] before the expiration date of the certificate;

24                   (2) submitting the appropriate form; and

25                   (3) meeting any other requirement established by  
26 advisory board rule.

27           (a-1) A person whose certificate has expired may not engage

1 in activities that require a certificate until the certificate has  
2 been renewed.

3 (b) A person whose certificate has been expired for 90 days  
4 or less may renew the certificate by paying to the advisory board  
5 [~~department~~] a renewal fee that is equal to 1-1/2 times the normally  
6 required renewal fee.

7 (c) A person whose certificate has been expired for more  
8 than 90 days but less than one year may renew the certificate by  
9 paying to the advisory board [~~department~~] a renewal fee that is  
10 equal to two times the normally required renewal fee.

11 (d) A person whose certificate has been expired for one year  
12 or more may not renew the certificate. The person may obtain a new  
13 certificate by complying with the requirements and procedures,  
14 including the examination requirements, for an original  
15 certificate.

16 SECTION 9.024. Subchapter C, Chapter 601, Occupations Code,  
17 is amended by adding Section 601.1111 to read as follows:

18 Sec. 601.1111. CRIMINAL HISTORY RECORD INFORMATION  
19 REQUIREMENT FOR RENEWAL. (a) An applicant for renewal of a  
20 certificate shall submit a complete and legible set of fingerprints  
21 for purposes of performing a criminal history check of the  
22 applicant as provided by Section 601.1031.

23 (b) The advisory board may not renew the certificate of a  
24 person who does not comply with the requirement of Subsection (a).

25 (c) A certificate holder is not required to submit  
26 fingerprints under this section for the renewal of the certificate  
27 if the holder has previously submitted fingerprints under:

1           (1) Section 601.1031 for the initial issuance of the  
2 certificate of registration; or

3           (2) this section as part of a prior renewal of a  
4 certificate of registration.

5           SECTION 9.025. The heading to Section 601.112, Occupations  
6 Code, is amended to read as follows:

7           Sec. 601.112. RENEWAL OF CERTIFICATE BY OUT-OF-STATE PERSON  
8 [~~PRACTITIONER~~].

9           SECTION 9.026. Section 601.112(b), Occupations Code, is  
10 amended to read as follows:

11           (b) The person must pay to the advisory board [~~department~~] a  
12 fee that is equal to two times the normally required renewal fee for  
13 the certificate.

14           SECTION 9.027. Section 601.154, Occupations Code, as  
15 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
16 2015, is amended to read as follows:

17           Sec. 601.154. HOSPITAL PROCEDURES. A person is not  
18 required to hold a certificate issued under this chapter to perform  
19 a radiologic procedure in a hospital if:

20           (1) the hospital participates in the federal Medicare  
21 program or is accredited by the Joint Commission on Accreditation  
22 of Hospitals; and

23           (2) the person has completed a training program  
24 approved by the advisory board [~~department~~] under Section 601.201.

25           SECTION 9.028. Section 601.156, Occupations Code, as  
26 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
27 2015, is amended to read as follows:

1           Sec. 601.156. PROCEDURE PERFORMED AS PART OF CONTINUING  
2 EDUCATION PROGRAM. A person is not required to hold a certificate  
3 issued under this chapter or to comply with the registration  
4 requirements adopted under Section 601.252 if the person is:

5           (1) licensed or otherwise registered as a medical  
6 radiologic technologist by another state, the American Registry of  
7 Radiologic Technologists, the American Registry of Clinical  
8 Radiography Technologists, or a professional organization or  
9 association recognized by the advisory board [~~department~~];

10           (2) enrolled in a continuing education program that  
11 meets the requirements adopted under Section 601.108; and

12           (3) performing a radiologic procedure as part of the  
13 continuing education program for not more than 10 days.

14           SECTION 9.029. Subchapter E, Chapter 601, Occupations Code,  
15 as amended by S.B. 219, Acts of the 84th Legislature, Regular  
16 Session, 2015, is amended to read as follows:

17           SUBCHAPTER E. MANDATORY TRAINING FOR CERTAIN AUTHORIZED PERSONS

18           Sec. 601.201. MANDATORY TRAINING. (a) The minimum  
19 standards of the advisory board [~~department~~] for approval of a  
20 curriculum or an education program under Section 601.052 [~~601.053~~]  
21 must include mandatory training guidelines for a person, other than  
22 a practitioner or a medical radiologic technologist, who  
23 intentionally uses radiologic technology, including a person who  
24 does not hold a certificate issued under this chapter and who is  
25 performing a radiologic procedure at a hospital or under the  
26 direction of a practitioner, other than a dentist.

27           (b) The training program approved by the advisory board

1 [~~department~~] must contain an appropriate number of hours of  
2 education that must be completed before the person may perform a  
3 radiologic procedure.

4 Sec. 601.202. REGISTRY. The advisory board [~~executive~~  
5 ~~commissioner~~] by rule shall establish a registry of persons  
6 required to comply with this subchapter.

7 Sec. 601.203. HARDSHIP EXEMPTION. (a) On application to  
8 the advisory board [~~department~~] by a hospital, a federally  
9 qualified health center as defined by 42 U.S.C. Section 1396d, or a  
10 practitioner, the advisory board [~~department~~] shall exempt the  
11 applicant from the requirements of Section 601.201 in employing a  
12 person certified under this chapter or trained as required by  
13 Section 601.201 if the applicant shows a hardship in employing a  
14 person certified under this chapter or trained as required by  
15 Section 601.201.

16 (b) The following conditions are considered to be a hardship  
17 for the purposes of Subsection (a):

18 (1) that the applicant reports an inability to attract  
19 and retain medical radiologic technologists;

20 (2) that the applicant is located at a great distance  
21 from a school of medical radiologic technology;

22 (3) that there is a list of qualified persons who have  
23 applied to a school of medical radiologic technology whose  
24 admissions are pending because of a lack of faculty or space;

25 (4) that the school of medical radiologic technology  
26 produces an insufficient number of graduates in medical radiologic  
27 technology to meet the needs of the applicant; or

1 (5) any other criteria determined by advisory board  
2 [~~department~~] rule.

3 SECTION 9.030. Chapter 601, Occupations Code, is amended by  
4 adding Subchapter F-1 to read as follows:

5 SUBCHAPTER F-1. COMPLAINTS AND INVESTIGATIVE INFORMATION

6 Sec. 601.271. COMPLAINT INFORMATION AND STATUS. (a) The  
7 advisory board shall maintain a system to promptly and efficiently  
8 act on complaints filed with the advisory board. The advisory  
9 board shall maintain:

10 (1) information about the parties to the complaint and  
11 the subject matter of the complaint;

12 (2) a summary of the results of the review or  
13 investigation of the complaint; and

14 (3) information about the disposition of the  
15 complaint.

16 (b) The advisory board shall make information available  
17 describing its procedures for complaint investigation and  
18 resolution.

19 (c) If a written complaint is filed with the advisory board  
20 relating to a certificate holder or a person approved under Section  
21 601.054 or 601.055, the advisory board, as often as quarterly and  
22 until final determination of the action to be taken on the  
23 complaint, shall notify the parties to the complaint of the status  
24 of the complaint unless the notice would jeopardize an active  
25 investigation.

26 Sec. 601.272. CONDUCT OF INVESTIGATION. The advisory board  
27 shall complete a preliminary investigation of a complaint filed

1 with the advisory board not later than the 45th day after the date  
2 of receiving the complaint. The advisory board shall first  
3 determine whether the person constitutes a continuing threat to the  
4 public welfare. On completion of the preliminary investigation,  
5 the advisory board shall determine whether to officially proceed on  
6 the complaint. If the advisory board fails to complete the  
7 preliminary investigation in the time required by this section, the  
8 advisory board's official investigation of the complaint is  
9 considered to commence on that date.

10 Sec. 601.273. ACCESS TO COMPLAINT INFORMATION. (a) Except  
11 as provided by Subsection (b), the advisory board shall provide a  
12 person who is the subject of a formal complaint filed under this  
13 chapter with access to all information in its possession that the  
14 advisory board intends to offer into evidence in presenting its  
15 case in chief at the contested hearing on the complaint, subject to  
16 any other privilege or restriction established by rule, statute, or  
17 legal precedent. The advisory board shall provide the information  
18 not later than the 30th day after receipt of a written request from  
19 the person or the person's counsel, unless good cause is shown for  
20 delay.

21 (b) The advisory board is not required to provide:

22 (1) advisory board investigative reports;

23 (2) investigative memoranda;

24 (3) the identity of a nontestifying complainant;

25 (4) attorney-client communications;

26 (5) attorney work product; or

27 (6) other material covered by a privilege recognized

1 by the Texas Rules of Civil Procedure or the Texas Rules of  
2 Evidence.

3 (c) Providing information under this section does not  
4 constitute a waiver of privilege or confidentiality under this  
5 chapter or other law.

6 Sec. 601.274. HEALTH CARE ENTITY REQUEST FOR INFORMATION.  
7 On the written request of a health care entity, the advisory board  
8 shall provide to the entity:

9 (1) information about a complaint filed against a  
10 person that was resolved after investigation by:

11 (A) a disciplinary order of the advisory board;  
12 or

13 (B) an agreed settlement; and

14 (2) the basis of and current status of any complaint  
15 that has been referred by the executive director of the medical  
16 board for enforcement action.

17 Sec. 601.275. CONFIDENTIALITY OF INVESTIGATIVE  
18 INFORMATION. A complaint, adverse report, investigation file,  
19 other report, or other investigative information in the possession  
20 of or received or gathered by the advisory board, the medical board,  
21 or an employee or agent of the medical board relating to a  
22 certificate holder, a person approved under Section [601.054](#) or  
23 [601.055](#), an application for certification or approval, or a  
24 criminal investigation or proceeding is privileged and  
25 confidential and is not subject to discovery, subpoena, or other  
26 means of legal compulsion for release to any person other than the  
27 advisory board, the medical board, or an employee or agent of the

1 advisory board or medical board involved in discipline under this  
2 chapter. For purposes of this section, "investigative information"  
3 includes information related to the identity of a person performing  
4 or supervising compliance monitoring for the advisory board or  
5 medical board and a report prepared by the person related to  
6 compliance monitoring.

7 Sec. 601.276. PERMITTED DISCLOSURE OF INVESTIGATIVE  
8 INFORMATION. (a) Investigative information in the possession of  
9 the advisory board, the medical board, or an employee or agent of  
10 the medical board that relates to the discipline of a certificate  
11 holder or a person approved under Section 601.054 or 601.055, may be  
12 disclosed to:

13 (1) a licensing authority in another state or country  
14 in which the certificate holder or person is licensed, certified,  
15 or permitted or has applied for a license, certification, or  
16 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 holder or a person approved under Section 601.054 or  
2 601.055 by providing information relevant to the investigation.  
3 Confidential information disclosed to a law enforcement agency  
4 under this subsection remains confidential and may not be disclosed  
5 by the law enforcement agency except as necessary to further the  
6 investigation.

7 SECTION 9.031. Subchapter G, Chapter 601, Occupations Code,  
8 as amended by S.B. 219, Acts of the 84th Legislature, Regular  
9 Session, 2015, is amended to read as follows:

10 SUBCHAPTER G. CERTIFICATE DENIAL AND DISCIPLINARY ACTION

11 Sec. 601.301. CERTIFICATE DENIAL AND DISCIPLINARY ACTION.  
12 The advisory board [~~department~~] may, for a violation of this  
13 chapter or a rule adopted under this chapter:

- 14 (1) suspend, revoke, or refuse to renew a certificate;  
15 (2) rescind approval of a curriculum, training  
16 program, or instructor;  
17 (3) deny an application for certification or approval;  
18 (4) issue a reprimand; or  
19 (5) place the offender's certificate on probation and  
20 require compliance with a requirement of the advisory board  
21 [~~department~~], including requiring the offender to:

- 22 (A) submit to medical or psychological  
23 treatment;  
24 (B) meet additional education requirements;  
25 (C) pass an examination; or  
26 (D) work under the supervision of a medical  
27 radiologic technologist or other practitioner.

1           Sec. 601.302. GROUNDS FOR CERTIFICATE DENIAL OR  
2 DISCIPLINARY ACTION. The advisory board [~~department~~] may take  
3 action under Section 601.301 against a person subject to this  
4 chapter for:

5           (1) obtaining or attempting to obtain a certificate  
6 issued under this chapter by bribery or fraud;

7           (2) making or filing a false report or record made in  
8 the person's capacity as a medical radiologic technologist;

9           (3) intentionally or negligently failing to file a  
10 report or record required by law;

11           (4) intentionally obstructing or inducing another to  
12 intentionally obstruct the filing of a report or record required by  
13 law;

14           (5) engaging in unprofessional conduct, including the  
15 violation of the standards of practice of radiologic technology  
16 established by the advisory board [~~department~~];

17           (6) developing an incapacity that prevents the  
18 practice of radiologic technology with reasonable skill,  
19 competence, and safety to the public as the result of:

20                   (A) an illness;

21                   (B) drug or alcohol dependency; or

22                   (C) another physical or mental condition or  
23 illness;

24           (7) failing to report to the advisory board  
25 [~~department~~] the violation of this chapter by another person;

26           (8) employing, for the purpose of applying ionizing  
27 radiation to a person, a person who is not certified under or in

1 compliance with this chapter;

2 (9) violating this chapter, a rule adopted under this  
3 chapter, an order of the advisory board [~~department~~] previously  
4 entered in a disciplinary proceeding, or an order to comply with a  
5 subpoena issued by the advisory board [~~department~~];

6 (10) having a certificate revoked, suspended, or  
7 otherwise subjected to adverse action or being denied a certificate  
8 by another certification authority in another state, territory, or  
9 country; or

10 (11) being convicted of or pleading nolo contendere to  
11 a crime directly related to the practice of radiologic technology.

12 Sec. 601.303. STUDENT PRACTICING WITHOUT DIRECT  
13 SUPERVISION. The advisory board [~~department~~] may take disciplinary  
14 action against a student for intentionally practicing radiologic  
15 technology without direct supervision.

16 Sec. 601.304. ADMINISTRATIVE PROCEDURE. The procedure by  
17 which the advisory board [~~department~~] takes a disciplinary action  
18 and the procedure by which a disciplinary action is appealed are  
19 governed by:

20 (1) advisory board [~~department~~] rules for a contested  
21 case hearing; and

22 (2) Chapter 2001, Government Code.

23 Sec. 601.305. SURRENDER OF CERTIFICATE [~~REINSTATEMENT~~].

24 (a) The advisory board may accept the voluntary surrender of a  
25 certificate. A person who has surrendered a certificate may not  
26 engage in activities that require a certificate, and the advisory  
27 board may not return the certificate to the person, until the person

1 demonstrates to the satisfaction of the advisory board [~~subject to~~  
2 ~~disciplinary action under Section 601.302(6) shall, at reasonable~~  
3 ~~intervals, be given an opportunity to demonstrate]~~ that the person  
4 is able to resume the practice of radiologic technology.

5 (b) The advisory board shall by rule establish guidelines  
6 for determining when a person is competent to resume [~~department~~  
7 ~~may not reinstate a certificate to a holder or issue a certificate~~  
8 ~~to an applicant previously denied a certificate unless the~~  
9 ~~department is satisfied that the holder or applicant has complied~~  
10 ~~with requirements set by the department and is capable of engaging~~  
11 ~~in]~~ the practice of radiologic technology.

12 Sec. 601.306. EMERGENCY SUSPENSION. (a) The presiding  
13 officer of the advisory board shall appoint a three-member  
14 disciplinary panel consisting of advisory board members to  
15 determine whether a certificate should be temporarily suspended.

16 (a-1) The disciplinary panel [~~department~~] shall temporarily  
17 suspend the certificate of a certificate holder if the panel  
18 [~~department~~] determines from the evidence or information presented  
19 to it that continued practice by the certificate holder would  
20 constitute a continuing [~~and imminent~~] threat to the public  
21 welfare.

22 (b) A certificate may be suspended under this section  
23 without notice or hearing on the complaint if:

24 (1) action is taken to initiate proceedings for a  
25 hearing before the advisory board [~~State Office of Administrative~~  
26 ~~Hearings]~~ simultaneously with the temporary suspension; and

27 (2) a hearing is held as soon as practicable under this

1 chapter and Chapter 2001, Government Code.

2 (c) Notwithstanding Chapter 551, Government Code, the  
3 disciplinary panel may hold a meeting by telephone conference call  
4 if immediate action is required and convening of the panel at one  
5 location is inconvenient for any member of the panel [~~The State~~  
6 ~~Office of Administrative Hearings shall hold a preliminary hearing~~  
7 ~~not later than the 14th day after the date of the temporary~~  
8 ~~suspension to determine if there is probable cause to believe that a~~  
9 ~~continuing and imminent threat to the public welfare still exists.~~  
10 ~~A final hearing on the matter shall be held not later than the 61st~~  
11 ~~day after the date of the temporary suspension)].~~

12 Sec. 601.307. DELEGATION OF CERTAIN COMPLAINT  
13 DISPOSITIONS. (a) The advisory board may delegate to a committee  
14 of medical board employees the authority to dismiss or enter into an  
15 agreed settlement of a complaint that does not relate directly to  
16 patient care or that involves only administrative violations. The  
17 disposition determined by the committee must be approved by the  
18 advisory board at a public meeting.

19 (b) A complaint delegated under this section shall be  
20 referred for an informal proceeding under Section 601.311 if:

21 (1) the committee of employees determines that the  
22 complaint should not be dismissed or settled;

23 (2) the committee is unable to reach an agreed  
24 settlement; or

25 (3) the affected person requests that the complaint be  
26 referred for an informal proceeding.

27 Sec. 601.308. SUBPOENA. (a) The executive director of the

1 medical board, the director's designee, or the secretary-treasurer  
2 of the medical board may issue a subpoena or subpoena duces tecum  
3 for the advisory board:

4 (1) to conduct an investigation or a contested  
5 proceeding related to:

6 (A) alleged misconduct by a certificate holder or  
7 a person approved under Section 601.054 or 601.055;

8 (B) an alleged violation of this chapter or other  
9 law related to radiologic technology; or

10 (C) the provision of health care under this  
11 chapter; or

12 (2) for purposes of determining whether to issue,  
13 suspend, restrict, or revoke a certificate or approval under this  
14 chapter.

15 (b) Failure to timely comply with a subpoena issued under  
16 this section is a ground for:

17 (1) disciplinary action by the advisory board or  
18 another licensing or regulatory agency with jurisdiction over the  
19 person subject to the subpoena; and

20 (2) denial of an application for certification or  
21 approval.

22 Sec. 601.309. PROTECTION OF PATIENT IDENTITY. In a  
23 disciplinary investigation or proceeding conducted under this  
24 chapter, the advisory board shall protect the identity of each  
25 patient whose medical records are examined and used in a public  
26 proceeding unless the patient:

27 (1) testifies in the public proceeding; or

1           (2) submits a written release in regard to the  
2 patient's records or identity.

3           Sec. 601.310. REQUIRED SUSPENSION OF LICENSE OF  
4 INCARCERATED CERTIFICATE HOLDER. Regardless of the offense, the  
5 advisory board shall suspend the certificate or approval of a  
6 person serving a prison term in a state or federal penitentiary  
7 during the term of the incarceration.

8           Sec. 601.311. INFORMAL PROCEEDINGS. (a) The advisory  
9 board by rule shall adopt procedures governing:

10           (1) informal disposition of a contested case under  
11 Section 2001.056, Government Code; and

12           (2) informal proceedings held in compliance with  
13 Section 2001.054, Government Code.

14           (b) Rules adopted under this section must require that:

15           (1) an informal meeting in compliance with Section  
16 2001.054, Government Code, be scheduled and the advisory board give  
17 notice to the person who is the subject of a complaint of the time  
18 and place of the meeting not later than the 45th day before the date  
19 the meeting is held;

20           (2) the complainant and the person who is the subject  
21 of the complaint be provided an opportunity to be heard;

22           (3) at least one of the advisory board members  
23 participating in the informal meeting as a panelist be a member who  
24 represents the public;

25           (4) a member of the medical board's staff be at the  
26 meeting to present to the advisory board's representative the facts  
27 the staff reasonably believes it could prove by competent evidence

1 or qualified witnesses at a hearing; and

2 (5) the advisory board's legal counsel or a  
3 representative of the attorney general be present to advise the  
4 advisory board or the medical board's staff.

5 (c) The person who is the subject of the complaint is  
6 entitled to:

7 (1) reply to the staff's presentation; and

8 (2) present the facts the person reasonably believes  
9 the person could prove by competent evidence or qualified witnesses  
10 at a hearing.

11 (d) After ample time is given for the presentations, the  
12 advisory board representative shall recommend that the  
13 investigation be closed or shall attempt to mediate the disputed  
14 matters and make a recommendation regarding the disposition of the  
15 case in the absence of a hearing under applicable law concerning  
16 contested cases.

17 (e) If the person who is the subject of the complaint has  
18 previously been the subject of disciplinary action by the advisory  
19 board, the advisory board shall schedule the informal meeting as  
20 soon as practicable.

21 Sec. 601.312. ADVISORY BOARD REPRESENTATION IN INFORMAL  
22 PROCEEDINGS. (a) In an informal meeting under Section 601.311, at  
23 least two panelists shall be appointed to determine whether an  
24 informal disposition is appropriate.

25 (b) Notwithstanding Subsection (a) and Section  
26 601.311(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  
7 601.311, 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 601.311 to show compliance with an order of the  
14 advisory board.

15 Sec. 601.313. 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 601.311 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

1 present during the deliberations.

2 (f) The panel shall recommend the dismissal of the complaint  
3 or allegations or, if the panel determines that the person has  
4 violated a statute or advisory board rule, the panel may recommend  
5 advisory board action and terms for an informal settlement of the  
6 case.

7 (g) The panel's recommendations under Subsection (f) must  
8 be made in a written order and presented to the affected person and  
9 the person's authorized representative. The person may accept the  
10 proposed settlement within the time established by the panel at the  
11 informal meeting. If the person rejects the proposed settlement or  
12 does not act within the required time, the advisory board may  
13 proceed with the filing of a formal complaint with the State Office  
14 of Administrative Hearings.

15 Sec. 601.314. LIMIT ON ACCESS TO INVESTIGATION FILES. The  
16 advisory board shall prohibit or limit access to an investigation  
17 file relating to a person subject to an informal proceeding in the  
18 manner provided by Sections [164.007\(c\)](#) and 601.275.

19 Sec. 601.315. REFUND. (a) Subject to Subsection (b), the  
20 advisory board may order a certificate holder to pay a refund to a  
21 consumer as provided in an agreement resulting from an informal  
22 settlement conference instead of or in addition to imposing an  
23 administrative penalty under Subchapter H.

24 (b) The amount of a refund ordered as provided in an  
25 agreement resulting from an informal settlement conference may not  
26 exceed the amount the consumer paid to the certificate holder for a  
27 service regulated by this chapter. The advisory board may not

1 require payment of other damages or estimate harm in a refund order.

2 Sec. 601.316. EXPERT IMMUNITY. An expert who assists the  
3 advisory board is immune from suit and judgment and may not be  
4 subjected to a suit for damages for any investigation, report,  
5 recommendation, statement, evaluation, finding, or other action  
6 taken in the course of assisting the advisory board in a  
7 disciplinary proceeding. The attorney general shall represent the  
8 expert in any suit resulting from a service provided by the person  
9 in good faith to the advisory board.

10 SECTION 9.032. Section 601.351, Occupations Code, is  
11 amended to read as follows:

12 Sec. 601.351. IMPOSITION OF PENALTY. The advisory board  
13 [~~department~~] may impose an administrative penalty against a person  
14 who violates this chapter or a rule adopted under this chapter.

15 SECTION 9.033. Section 601.353(a), Occupations Code, is  
16 amended to read as follows:

17 (a) If, after investigating a possible violation and the  
18 facts surrounding that possible violation, the advisory board  
19 [~~department~~] determines that a violation occurred, the advisory  
20 board [~~department~~] shall give written notice of the violation to  
21 the person alleged to have committed the violation.

22 SECTION 9.034. Section 601.354, Occupations Code, as  
23 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
24 2015, is amended to read as follows:

25 Sec. 601.354. PENALTY TO BE PAID OR HEARING REQUESTED. (a)  
26 Not later than the 20th day after the date the person receives the  
27 notice, the person may:

1 (1) accept the [~~department's~~] determination,  
2 including the proposed administrative penalty; or

3 (2) make a written request for a hearing on that  
4 determination.

5 (b) If the person accepts the [~~department's~~] determination,  
6 the advisory board [~~department~~] by order shall approve the  
7 determination and impose the proposed penalty.

8 SECTION 9.035. Section 601.355, Occupations Code, as  
9 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
10 2015, is amended to read as follows:

11 Sec. 601.355. HEARING. (a) If the person timely requests a  
12 hearing, the advisory board [~~department~~] shall:

13 (1) set a hearing;

14 (2) give written notice of the hearing to the person;

15 and

16 (3) designate a hearings examiner to conduct the  
17 hearing.

18 (b) The hearings examiner shall make findings of fact and  
19 conclusions of law and promptly issue to the advisory board  
20 [~~department~~] a proposal for decision as to the occurrence of the  
21 violation and the amount of any proposed administrative penalty.

22 SECTION 9.036. Section 601.356, Occupations Code, as  
23 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
24 2015, is amended to read as follows:

25 Sec. 601.356. DECISION BY ADVISORY BOARD [~~DEPARTMENT~~]. (a)  
26 Based on the findings of fact and conclusions of law and the  
27 recommendations of the hearings examiner, the advisory board

1 [~~department~~] by order may determine that:

2 (1) a violation has occurred and may impose an  
3 administrative penalty; or

4 (2) a violation did not occur.

5 (b) The advisory board [~~department~~] shall give notice of the  
6 order to the person. The notice must include:

7 (1) separate statements of the findings of fact and  
8 conclusions of law;

9 (2) the amount of any penalty imposed; and

10 (3) a statement of the right of the person to judicial  
11 review of the order.

12 SECTION 9.037. Sections [601.357\(b\)](#) and (c), Occupations  
13 Code, are amended to read as follows:

14 (b) Within the 30-day period, a person who acts under  
15 Subsection (a)(3) may:

16 (1) stay enforcement of the penalty by:

17 (A) paying the penalty to the court for placement  
18 in an escrow account; or

19 (B) giving to the court a supersedeas bond that  
20 is approved by the court for the amount of the penalty and that is  
21 effective until all judicial review of the order is final; or

22 (2) request the court to stay enforcement of the  
23 penalty by:

24 (A) filing with the court a sworn affidavit of  
25 the person stating that the person is financially unable to pay the  
26 penalty and is financially unable to give the supersedeas bond; and

27 (B) giving a copy of the affidavit to the

1 advisory board [~~department~~] by certified mail.

2 (c) If the advisory board [~~department~~] receives a copy of an  
3 affidavit as provided by Subsection (b)(2), the advisory board  
4 [~~department~~] may file with the court a contest to the affidavit not  
5 later than the fifth day after the date the copy is received.

6 SECTION 9.038. Section 601.358, Occupations Code, is  
7 amended to read as follows:

8 Sec. 601.358. COLLECTION OF PENALTY. If the person does not  
9 pay the administrative penalty and the enforcement of the penalty  
10 is not stayed, the advisory board [~~department~~] may refer the matter  
11 to the attorney general for collection.

12 SECTION 9.039. Section 601.360(a), Occupations Code, is  
13 amended to read as follows:

14 (a) If, after judicial review, the administrative penalty  
15 is reduced or not imposed by the court, the court shall, after the  
16 judgment becomes final:

17 (1) order the appropriate amount, plus accrued  
18 interest, be remitted to the person by the advisory board  
19 [~~department~~] if the person paid the penalty under Section  
20 601.357(a)(2); or

21 (2) if the person paid the penalty under Section  
22 601.357(b)(1)(A) or posted a supersedeas bond, order the advisory  
23 board [~~department~~] to:

24 (A) execute a complete release of the escrow  
25 account or bond, as appropriate, if the penalty is not imposed; or

26 (B) release the escrow account or bond, as  
27 appropriate, after the reduced penalty has been paid from the

1 account or by the person.

2 SECTION 9.040. Section 601.361, Occupations Code, as  
3 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
4 2015, is amended to read as follows:

5 Sec. 601.361. EXPENSES AND COSTS. (a) In this section,  
6 "reasonable expenses and costs" includes expenses incurred by the  
7 advisory board [~~department~~] and the attorney general in the  
8 investigation, initiation, or prosecution of an action, including  
9 reasonable investigative costs, court costs, attorney's fees,  
10 witness fees, and deposition expenses.

11 (b) The advisory board [~~department~~] may assess reasonable  
12 expenses and costs against a person in an administrative hearing  
13 if, as a result of the hearing, an administrative penalty is  
14 assessed against the person. The person shall pay expenses and  
15 costs assessed under this subsection not later than the 30th day  
16 after the date the order of the advisory board [~~department~~]  
17 requiring the payment of expenses and costs is final. The advisory  
18 board [~~department~~] may refer the matter to the attorney general for  
19 collection of the expenses and costs.

20 (c) If the attorney general brings an action against a  
21 person to enforce an administrative penalty assessed under this  
22 chapter and the person is found liable for an administrative  
23 penalty, the attorney general may recover, on behalf of the  
24 attorney general and the advisory board [~~department~~], reasonable  
25 expenses and costs.

26 SECTION 9.041. Sections 601.401(a) and (c), Occupations  
27 Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular

1 Session, 2015, are amended to read as follows:

2 (a) If it appears that a person has violated, is violating,  
3 or is threatening to violate this chapter or a rule adopted under  
4 this chapter, the advisory board [~~department~~] may bring an action  
5 to enjoin the continued or threatened violation.

6 (c) At the request of the advisory board [~~department~~], the  
7 attorney general shall bring an action in the name of the state for  
8 the injunctive relief, to recover the civil penalty, or both.

9 SECTION 9.042. Section 601.402(a), Occupations Code, is  
10 amended to read as follows:

11 (a) A person who is required to be certified under this  
12 chapter commits an offense if the person:

13 (1) knowingly administers a radiologic procedure to  
14 another person without holding a valid certificate issued by the  
15 advisory board [~~department~~];

16 (2) practices radiologic technology without holding a  
17 certificate under this chapter;

18 (3) uses or attempts to use a suspended or revoked  
19 certificate;

20 (4) knowingly allows a student enrolled in an  
21 education program to perform a radiologic procedure without direct  
22 supervision;

23 (5) obtains or attempts to obtain a certificate  
24 through bribery or fraudulent misrepresentation;

25 (6) uses the title or name "certified medical  
26 radiologic technologist" or any other name or title that implies  
27 the person is certified to practice radiologic technology, unless

1 the person is certified under this chapter;

2 (7) knowingly conceals information relating to  
3 enforcement of this chapter or a rule adopted under this chapter; or

4 (8) employs a person not certified by or in compliance  
5 with this chapter for the purpose of applying ionizing radiation to  
6 a person.

7 SECTION 9.043. Section 602.002, Occupations Code, is  
8 amended by amending Subdivision (1), as amended by S.B. 219, Acts of  
9 the 84th Legislature, Regular Session, 2015, amending Subdivision  
10 (4), and adding Subdivision (5-a) to read as follows:

11 (1) "Advisory committee" [~~"Board"~~] means the Medical  
12 Physicist [~~Texas Board of~~] Licensure Advisory Committee [~~for~~  
13 ~~Professional Medical Physicists~~].

14 (4) "License" means a certificate issued by the  
15 medical board that authorizes the holder to engage in the practice  
16 of medical physics.

17 (5-a) "Medical board" means the Texas Medical Board.

18 SECTION 9.044. The heading to Subchapter B, Chapter 602,  
19 Occupations Code, is amended to read as follows:

20 SUBCHAPTER B. MEDICAL PHYSICIST [~~TEXAS BOARD OF~~] LICENSURE ADVISORY  
21 COMMITTEE [~~FOR PROFESSIONAL MEDICAL PHYSICISTS~~]

22 SECTION 9.045. Section 602.051, Occupations Code, is  
23 amended to read as follows:

24 Sec. 602.051. ADVISORY COMMITTEE [~~BOARD~~]. (a) The advisory  
25 committee [~~Texas Board of Licensure for Professional Medical~~  
26 ~~Physicists~~] is an informal advisory committee to the medical board  
27 and is not subject to Chapter 2110, Government Code [~~the division of~~

1 ~~the department responsible for regulating the practice of medical~~  
2 ~~physics].~~

3 (b) The advisory committee has no independent rulemaking  
4 authority.

5 SECTION 9.046. The heading to Section 602.052, Occupations  
6 Code, is amended to read as follows:

7 Sec. 602.052. APPOINTMENT OF ADVISORY COMMITTEE [~~BOARD~~  
8 ~~MEMBERS~~].

9 SECTION 9.047. Sections 602.052(a) and (d), Occupations  
10 Code, are amended to read as follows:

11 (a) The advisory committee [~~board~~] consists of seven [~~nine~~]  
12 members appointed by the president of the medical board [~~governor~~  
13 ~~with the advice and consent of the senate~~] as follows:

14 (1) four [~~five licensed~~] medical physicists licensed  
15 in this state who each have at least five years of experience as a  
16 medical physicist [~~, with at least one board certified~~  
17 ~~representative of each of the following specialties:~~

- 18 [~~(A) diagnostic radiological physics,~~  
19 [~~(B) medical health physics,~~  
20 [~~(C) medical nuclear physics, and~~  
21 [~~(D) therapeutic radiological physics~~];

22 (2) two [~~three~~] physicians licensed in this state who  
23 each have at least five years of clinical experience related to  
24 medical physics [~~, with a board certified representative of each of~~  
25 ~~the following specialties:~~

- 26 [~~(A) diagnostic radiology,~~  
27 [~~(B) nuclear medicine, and~~

1                   [~~(C) radiation therapy~~]; and

2                   (3) one member who represents the public.

3                   (d) Appointments to the advisory committee [~~board~~] shall be  
4 made without regard to the race, color, disability, creed, sex,  
5 religion, age, or national origin of the appointee.

6                   SECTION 9.048. The heading to Section 602.053, Occupations  
7 Code, is amended to read as follows:

8                   Sec. 602.053. PUBLIC MEMBER [~~BOARD MEMBERSHIP,~~]  
9 ELIGIBILITY.

10                   SECTION 9.049. Section 602.053(d), Occupations Code, is  
11 amended to read as follows:

12                   (d) An advisory committee [~~A public board~~] member  
13 representing the public must be a resident of this [~~the~~] state for a  
14 period of not less than four years preceding appointment. A person  
15 may not be a [~~public~~] member of the advisory committee representing  
16 the public [~~board~~] if the person or the person's spouse:

17                   (1) is registered, certified, or licensed by a  
18 regulatory agency in a health care profession [~~the field of medical~~  
19 ~~physics~~];

20                   (2) is employed by or participates in the management  
21 of a business entity or other organization regulated by or  
22 receiving money from the medical board;

23                   (3) owns or controls, directly or indirectly, more  
24 than a 10 percent interest in a business entity or other  
25 organization regulated by or receiving money from the medical  
26 board; or

27                   (4) uses or receives a substantial amount of tangible

1 goods, services, or money from the medical board other than  
2 compensation or reimbursement authorized by law for medical board  
3 membership, attendance, or expenses.

4 SECTION 9.050. Sections 602.054(b) and (c), Occupations  
5 Code, are amended to read as follows:

6 (b) A person may not be a member of the advisory committee  
7 ~~[board]~~ if:

8 (1) the person is an officer, employee, or paid  
9 consultant of a Texas trade association in the field of medicine; or

10 (2) the person's spouse is an officer, manager, or paid  
11 consultant of a Texas trade association in the field of medicine.

12 (c) A person may not serve as a member of the advisory  
13 committee ~~[board]~~ if the person is required to register as a  
14 lobbyist under Chapter 305, Government Code, because of the  
15 person's activities for compensation on behalf of a profession  
16 related to the operation of the advisory committee or medical  
17 board.

18 SECTION 9.051. Section 602.055, Occupations Code, is  
19 amended to read as follows:

20 Sec. 602.055. TERMS; VACANCY. (a) Members of the advisory  
21 committee ~~[board]~~ serve two-year ~~[staggered six-year]~~ terms. The  
22 terms of the ~~[three]~~ members expire on February 1 of each  
23 odd-numbered year.

24 (b) A person is not eligible to serve more than two ~~[one]~~  
25 consecutive full terms ~~[six-year term]~~. ~~[A person may serve~~  
26 ~~consecutively one six-year term and a shorter term that arises~~  
27 ~~because of filling an unexpired vacancy.]~~

1 (c) If a vacancy occurs during a member's term [~~on the~~  
2 ~~board~~], the president of the medical board [~~governor~~] shall appoint  
3 a person to serve for the unexpired term.

4 SECTION 9.052. Sections 602.056(a) and (b), Occupations  
5 Code, are amended to read as follows:

6 (a) It is a ground for removal from the advisory committee  
7 [~~board~~] that a member:

8 (1) does not have at the time of appointment the  
9 qualifications required by Section 602.052 [~~602.053~~] for  
10 appointment to the board;

11 (2) does not maintain during service on the board the  
12 qualifications required by Section 602.052 [~~602.053~~] for  
13 appointment to the board;

14 (3) is ineligible for membership under Section  
15 602.053(d) or Section 602.054; or

16 (4) cannot, because of illness or disability,  
17 discharge the member's duties for a substantial part of the member's  
18 term[~~, or~~

19 [~~(5) does not attend at least half of the regularly~~  
20 ~~scheduled board meetings held in a calendar year, excluding~~  
21 ~~meetings held while the person was not a board member, without an~~  
22 ~~excuse approved by the board]].~~

23 (b) The validity of an [A board] action of the advisory  
24 committee is not affected by the fact that it is taken while a  
25 ground for removal of a member of the advisory committee [~~board~~]  
26 exists [~~is not invalid for that reason~~].

27 SECTION 9.053. Section 602.057, Occupations Code, is

1 amended to read as follows:

2           Sec. 602.057. COMPENSATION. A member of the advisory  
3 committee [~~board~~] is entitled to a per diem in an amount set by the  
4 legislature for each day that the member engages in the business of  
5 the advisory committee [~~board~~].

6           SECTION 9.054. Section 602.058, Occupations Code, is  
7 amended to read as follows:

8           Sec. 602.058. ADVISORY COMMITTEE [~~BOARD~~] OFFICERS;  
9 MEETINGS. (a) The president of the medical board [~~governor~~] shall  
10 biennially designate a member of the advisory committee [~~board~~] as  
11 the presiding officer of the advisory committee [~~board~~] to serve in  
12 that capacity at the will of the president [~~governor~~]. The advisory  
13 committee may [~~At the first regularly scheduled meeting of each~~  
14 ~~calendar year, the board shall~~] elect from its members additional  
15 officers as necessary [~~an assistant presiding officer~~].

16           (b) The advisory committee [~~board~~] shall meet as requested  
17 by the medical board. A meeting may be held by telephone conference  
18 call [~~hold a meeting at least once a year and at other times in~~  
19 ~~accordance with board rule~~].

20           SECTION 9.055. The heading to Subchapter D, Chapter 602,  
21 Occupations Code, is amended to read as follows:

22                   SUBCHAPTER D. MEDICAL BOARD POWERS AND DUTIES

23           SECTION 9.056. Section 602.151, Occupations Code, as  
24 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
25 2015, is amended to read as follows:

26           Sec. 602.151. GENERAL POWERS AND DUTIES. The medical board  
27 shall:

1           (1) ~~adopt [and revise, with the approval of the~~  
2 ~~executive commissioner of the Health and Human Services~~  
3 ~~Commission,]~~ rules reasonably necessary to properly perform its  
4 duties under this chapter;

5           (2) establish ~~[adopt an official seal,~~  
6 ~~(3) determine the]~~ qualifications for a medical  
7 physicist to practice in this state ~~[and fitness of each applicant~~  
8 ~~for a license or license renewal];~~

9           (3) establish minimum education and training  
10 requirements necessary for a license under this chapter;

11           (4) establish requirements for ~~[charge a fee for~~  
12 ~~processing and issuing or renewing a license,~~

13           ~~(5) conduct]~~ examinations for licensure;

14           (5) prescribe the application form for a license under  
15 this chapter; and

16           (6) ~~[issue, deny, renew, revoke, and suspend licenses,~~

17           ~~(7)]~~ adopt and publish a code of ethics ~~[, and~~

18           ~~(8) conduct hearings on complaints concerning~~  
19 ~~violations of this chapter or rules adopted under this chapter].~~

20           SECTION 9.057. Section 602.152, Occupations Code, is  
21 amended to read as follows:

22           Sec. 602.152. CONSUMER INTEREST INFORMATION; COMPLAINTS.

23           (a) The medical board shall prepare information of consumer  
24 interest describing the regulatory functions of the medical board  
25 and the procedures by which complaints are filed with and resolved  
26 by the medical board.

27           (b) The medical board shall maintain a file on each written

1 complaint filed with the medical board. The file must include:

2 (1) the name of the person who filed the complaint;

3 (2) the date the complaint is received by the medical  
4 board;

5 (3) the subject matter of the complaint;

6 (4) the name of each person contacted in relation to  
7 the complaint;

8 (5) a summary of the results of the review or  
9 investigation of the complaint; and

10 (6) an explanation of the reason the file was closed,  
11 if the medical board closed the file without taking action other  
12 than to investigate the complaint.

13 (c) The medical board shall provide to the person filing the  
14 complaint and to each person who is a subject of the complaint a  
15 copy of the medical board's policies and procedures relating to  
16 complaint investigation and resolution.

17 (d) The medical board, at least quarterly until final  
18 disposition of the complaint, shall notify the person filing the  
19 complaint and each person who is a subject of the complaint of the  
20 status of the complaint unless the notice would jeopardize an  
21 undercover investigation.

22 SECTION 9.058. Section [602.1521](#), Occupations Code, is  
23 amended to read as follows:

24 Sec. 602.1521. PUBLIC PARTICIPATION. The medical board  
25 shall develop and implement policies that provide the public with a  
26 reasonable opportunity to appear before the medical board and to  
27 speak on any issue relating to medical physicists [~~under the~~

1 ~~jurisdiction of the board]~~.

2 SECTION 9.059. The heading to Section 602.1525, Occupations  
3 Code, is amended to read as follows:

4 Sec. 602.1525. SUBPOENAS; CONFIDENTIALITY OF INFORMATION.

5 SECTION 9.060. Section 602.1525, Occupations Code, is  
6 amended by amending Subsection (a), as amended by S.B. 219, Acts of  
7 the 84th Legislature, Regular Session, 2015, amending Subsections  
8 (h) and (i), and adding Subsection (a-1) to read as follows:

9 (a) The executive director of the medical board, the  
10 director's designee, or the secretary-treasurer of the medical  
11 board may issue [~~In an investigation of a complaint filed with the~~  
12 ~~board, the board may request that the commissioner or the~~  
13 ~~commissioner's designee approve the issuance of]~~ a subpoena or  
14 subpoena duces tecum:

15 (1) to conduct an investigation or a contested case  
16 proceeding related to:

17 (A) alleged misconduct by a medical physicist;

18 (B) an alleged violation of this chapter or  
19 another law related to the practice of medical physics; or

20 (C) the provision of health care under this  
21 chapter; or

22 (2) for purposes of determining whether to issue,  
23 suspend, restrict, or revoke a license under this chapter [~~. If the~~  
24 ~~request is approved, the board may issue a subpoena to compel the~~  
25 ~~attendance of a relevant witness or the production, for inspection~~  
26 ~~or copying, of relevant evidence that is in this state]~~.

27 (a-1) Failure to timely comply with a subpoena issued under

1 this section is a ground for:

2 (1) disciplinary action by the medical board or  
3 another licensing or regulatory agency with jurisdiction over the  
4 person subject to the subpoena; and

5 (2) denial of a license application.

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

14 (1) persons involved with the medical board in a  
15 disciplinary action against the holder of a license;

16 (2) professional medical physics licensing or  
17 disciplinary boards in other jurisdictions;

18 (3) peer assistance programs approved by the medical  
19 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 medical board  
24 against a holder of a license, the nature of those charges,  
25 disciplinary proceedings of the medical board, and final  
26 disciplinary actions, including warnings and reprimands, by the  
27 medical board are not confidential and are subject to disclosure in

1 accordance with Chapter 552, Government Code.

2 SECTION 9.061. Section 602.153, Occupations Code, is  
3 amended to read as follows:

4 Sec. 602.153. CONTINUING EDUCATION. The medical board  
5 shall recognize, prepare, or administer continuing education  
6 programs for persons licensed under this chapter [~~by the board~~]. A  
7 license holder must participate in the programs to the extent  
8 required by the medical board to keep the person's license.

9 SECTION 9.062. Section 602.154, Occupations Code, is  
10 amended to read as follows:

11 Sec. 602.154. RULES RELATING TO ADVERTISING OR COMPETITIVE  
12 BIDDING. (a) The medical board may not adopt rules restricting  
13 advertising or competitive bidding by a license holder except to  
14 prohibit false, misleading, or deceptive practices.

15 (b) In its rules to prohibit false, misleading, or deceptive  
16 practices, the medical board may not include a rule that:

17 (1) restricts the use of any medium for advertising;

18 (2) restricts the use of a license holder's personal  
19 appearance or voice in an advertisement;

20 (3) relates to the size or duration of an  
21 advertisement by the license holder; or

22 (4) restricts the license holder's advertisement under  
23 a trade name.

24 SECTION 9.063. Subchapter D, Chapter 602, Occupations Code,  
25 is amended by adding Section 602.156 to read as follows:

26 Sec. 602.156. RULES ON CONSEQUENCES OF CRIMINAL CONVICTION.

27 The medical board shall adopt rules and guidelines as necessary to

1 comply with Chapter 53, except to the extent the requirements of  
2 this chapter are stricter than the requirements of Chapter 53.

3 SECTION 9.064. Section 602.203, Occupations Code, is  
4 amended to read as follows:

5 Sec. 602.203. LICENSE APPLICATION. (a) A person may apply  
6 for a license by filing an application with the medical board.

7 (b) An application must be on a form prescribed by the  
8 medical board and must include:

9 (1) evidence of relevant work experience, including a  
10 description of the duties performed;

11 (2) an official transcript from the college or  
12 university granting the applicant's degree;

13 (3) a statement of the medical physics specialty for  
14 which the application is submitted;

15 (4) three professional references; and

16 (5) any additional information required by medical  
17 board rule.

18 (c) The applicant must submit with the application the fee  
19 prescribed by the medical board.

20 (d) The medical board [~~or the executive secretary~~] may  
21 require an applicant to appear before the medical board [~~or~~  
22 ~~secretary~~] to present additional information in support of the  
23 application.

24 SECTION 9.065. Section 602.205, Occupations Code, as  
25 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
26 2015, is amended to read as follows:

27 Sec. 602.205. TEMPORARY LICENSE. The medical board may

1 issue a temporary license to an applicant who has satisfied the  
2 educational requirements for a license but who has not yet  
3 completed the experience and examination requirements of Section  
4 602.207. A temporary license is valid for one year from the date of  
5 issuance.

6 SECTION 9.066. Section 602.206(a), Occupations Code, is  
7 amended to read as follows:

8 (a) The medical board shall administer a written  
9 examination for a license to qualified applicants at least two  
10 times each year.

11 SECTION 9.067. Section 602.207(a), Occupations Code, is  
12 amended to read as follows:

13 (a) To be eligible to take an examination for a license, an  
14 applicant must:

15 (1) have a master's or doctoral degree from an  
16 accredited college or university that signifies the completion of  
17 courses approved by the medical board in physics, medical physics,  
18 biophysics, radiological physics, medical health physics, or  
19 equivalent courses;

20 (2) have demonstrated, to the medical board's  
21 satisfaction, completion of at least two years of full-time work  
22 experience in the five years preceding the date of application in  
23 the medical physics specialty for which application is made; and

24 (3) submit a completed application as required by  
25 Section 602.203.

26 SECTION 9.068. Section 602.208, Occupations Code, is  
27 amended to read as follows:

1           Sec. 602.208. EXAMINATION RESULTS; REEXAMINATION. (a) The  
2 medical board shall notify each examinee of the results of the  
3 examination not later than the 30th day after the date the  
4 examination is administered. If an examination is graded or  
5 reviewed by a national or state testing service, the medical board  
6 shall notify each examinee of the results of the examination not  
7 later than the 14th day after the date the medical board receives  
8 the results from the testing service.

9           (b) If the medical board learns that the notice of the  
10 examination results will be delayed for more than 90 days after the  
11 examination date, the medical board shall notify each examinee of  
12 the reason for the delay not later than the 90th day.

13           (c) If requested by a person who fails the examination, the  
14 medical board shall provide to the person an analysis of the  
15 person's performance on the examination.

16           (d) The medical board by rule shall establish procedures and  
17 requirements for reexamination of an applicant who fails the  
18 examination.

19           SECTION 9.069. Subchapter E, Chapter 602, Occupations Code,  
20 is amended by adding Section 602.2081 to read as follows:

21           Sec. 602.2081. CRIMINAL HISTORY RECORD INFORMATION  
22 REQUIREMENT FOR LICENSE. (a) The medical board shall require that  
23 an applicant for a license submit a complete and legible set of  
24 fingerprints, on a form prescribed by the medical board, to the  
25 medical board or to the Department of Public Safety for the purpose  
26 of obtaining criminal history record information from the  
27 Department of Public Safety and the Federal Bureau of

1 Investigation.

2 (b) The medical board may not issue a license to a person who  
3 does not comply with the requirement of Subsection (a).

4 (c) The medical board shall conduct a criminal history check  
5 of each applicant for a license using information:

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

7 (2) made available to the medical board by the  
8 Department of Public Safety, the Federal Bureau of Investigation,  
9 and any other criminal justice agency under Chapter 411, Government  
10 Code.

11 (d) The medical board may:

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

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

18 SECTION 9.070. Sections [602.209](#)(a), (b), (c), and (e),  
19 Occupations Code, are amended to read as follows:

20 (a) The medical board may issue a license to an eligible  
21 applicant who:

22 (1) passes the examination under Section [602.206](#); and

23 (2) meets all other license requirements.

24 (b) Not later than the 30th day after the date the medical  
25 board makes a decision on an application submitted under Section  
26 [602.203](#), the medical board shall notify the applicant of the  
27 decision.

1 (c) If the medical board approves the application, the  
2 medical board shall issue a license to the applicant. If the  
3 medical board denies the application, the medical board shall  
4 include in the notice of decision a description of the areas of  
5 deficiency.

6 (e) A license certificate is the medical board's property  
7 and must be surrendered on demand.

8 SECTION 9.071. Section 602.210, Occupations Code, is  
9 amended by amending Subsections (b), (c), (d), (e), and (f) and  
10 adding Subsection (g) to read as follows:

11 (b) The medical board by rule may adopt a system under which  
12 licenses expire on various dates during the year.

13 (c) A person may renew an unexpired license by paying the  
14 required renewal fee to the medical board before the expiration  
15 date of the license.

16 (d) If a person's license has been expired for 90 days or  
17 less, the person may renew the license by paying to the medical  
18 board the required renewal fee and a penalty fee in an amount equal  
19 to one-half of the amount of the renewal fee.

20 (e) If a person's license has been expired for longer than  
21 90 days but less than one year [~~two years~~], the person may renew the  
22 license by paying to the medical board the renewal fee that was due  
23 at expiration and a penalty fee in an amount equal to the amount of  
24 the renewal fee.

25 (f) If a person's license has been expired for one year [~~two~~  
26 ~~years~~] or longer, the person may not renew the license. To obtain a  
27 new license, a person must comply with the requirements and

1 procedures for obtaining an original license, including the  
2 examination requirement [~~application requirements of this chapter~~  
3 ~~and must submit to the board.~~

4 [~~(1) a supplemental experience record as required by~~  
5 ~~the board,~~

6 [~~(2) a description of professional activities~~  
7 ~~undertaken during the expiration period,~~

8 [~~(3) a list of current professional references; and~~

9 [~~(4) a transcript for any degree or college credit~~  
10 ~~earned since the person's previous license application].~~

11 (g) Not later than the 30th day before the date a person's  
12 license expires, the medical board shall send written notice of the  
13 impending license expiration to the person at the license holder's  
14 last known address according to the records of the medical board.

15 SECTION 9.072. Subchapter E, Chapter 602, Occupations Code,  
16 is amended by adding Section 602.2101 to read as follows:

17 Sec. 602.2101. CRIMINAL HISTORY RECORD INFORMATION  
18 REQUIREMENT FOR RENEWAL. (a) An applicant renewing a license shall  
19 submit a complete and legible set of fingerprints for purposes of  
20 performing a criminal history check of the applicant as provided by  
21 Section 602.2081.

22 (b) The medical board may not renew the license of a person  
23 who does not comply with the requirement of Subsection (a).

24 (c) A license holder is not required to submit fingerprints  
25 under this section for the renewal of the license if the license  
26 holder has previously submitted fingerprints under:

27 (1) Section 602.2081 for the initial issuance of the

1 license; or

2 (2) this section as part of a prior renewal of the  
3 license.

4 SECTION 9.073. Section 602.211, Occupations Code, is  
5 amended to read as follows:

6 Sec. 602.211. LICENSE BY ENDORSEMENT OR RECIPROCITY. (a)  
7 On receipt of an application and fee under Section 602.203, the  
8 medical board may waive any prerequisite for obtaining a license to  
9 a person who holds a license to practice medical or radiological  
10 physics in another state, territory, or jurisdiction acceptable to  
11 the medical board that has requirements for the licensing of  
12 medical or radiological physicists that are substantially the same  
13 as the requirements of this chapter.

14 (b) The medical board may waive any prerequisite for  
15 obtaining a license to practice medical physics in this state for an  
16 applicant who holds a license issued by another jurisdiction with  
17 which this state has a reciprocity agreement. The medical board may  
18 make an agreement, subject to the approval of the governor, with  
19 another state to allow for licensing by reciprocity.

20 SECTION 9.074. Section 602.212, Occupations Code, is  
21 amended to read as follows:

22 Sec. 602.212. LICENSE HOLDER DUTIES. A license holder  
23 shall:

24 (1) publicly display the license holder's license in  
25 an appropriate manner; and

26 (2) report immediately to the medical board any change  
27 in the license holder's address.

1 SECTION 9.075. Section 602.213, Occupations Code, as  
2 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
3 2015, is amended to read as follows:

4 Sec. 602.213. PROVISIONAL LICENSE. (a) The medical board  
5 may issue a provisional license to an applicant currently licensed  
6 or certified in another jurisdiction who seeks a license in this  
7 state and who:

8 (1) has been licensed or certified in good standing as  
9 a practitioner of medical or radiologic physics for at least two  
10 years in another jurisdiction, including a foreign country, that  
11 has licensing or certification requirements substantially  
12 equivalent to the requirements of this chapter;

13 (2) has passed a national or other examination  
14 recognized by the medical board relating to the practice of medical  
15 or radiologic physics; and

16 (3) is sponsored by a person licensed by the medical  
17 board under this chapter with whom the provisional license holder  
18 will practice during the time the person holds a provisional  
19 license.

20 (b) The medical board may waive the requirement of  
21 Subsection (a)(3) for an applicant if the medical board determines  
22 that compliance with that subsection would be a hardship to the  
23 applicant.

24 (c) A provisional license is valid until the date the  
25 medical board approves or denies the provisional license holder's  
26 application for a license. The medical board shall issue a license  
27 under this chapter to the provisional license holder if:

1 (1) the provisional license holder is eligible to be  
2 certified under Section 602.211; or

3 (2) the provisional license holder passes the part of  
4 the examination under Section 602.206 that relates to the  
5 applicant's knowledge and understanding of the laws and rules  
6 relating to the practice of medical physics in this state and:

7 (A) the medical board verifies that the  
8 provisional license holder meets the academic and experience  
9 requirements for a license under this chapter; and

10 (B) the provisional license holder satisfies any  
11 other licensing requirements under this chapter.

12 (d) The medical board must approve or deny a provisional  
13 license holder's application for a license not later than the 180th  
14 day after the date the provisional license is issued. The medical  
15 board may extend the 180-day period if the results of an examination  
16 have not been received by the medical board before the end of that  
17 period.

18 (e) The medical board may establish a fee for provisional  
19 licenses.

20 SECTION 9.076. Section 602.251, Occupations Code, is  
21 amended to read as follows:

22 Sec. 602.251. GROUNDS FOR LICENSE DENIAL OR DISCIPLINARY  
23 ACTION. The medical board shall refuse to issue or renew a license,  
24 suspend or revoke a license, or reprimand a license holder for:

25 (1) obtaining or renewing a license by means of fraud,  
26 misrepresentation, or concealment of a material fact;

27 (2) having previously applied for or held a license

1 issued by the licensing authority of another state, territory, or  
2 jurisdiction that was denied, suspended, or revoked by that  
3 licensing authority;

4 (3) engaging in unprofessional conduct that  
5 endangered or is likely to endanger the health, safety, or welfare  
6 of the public as defined by medical board rule;

7 (4) violating this chapter, a lawful order or rule of  
8 the medical board, or the medical board's code of ethics; or

9 (5) being convicted of:

10 (A) a felony; or

11 (B) a misdemeanor involving moral turpitude or  
12 that directly relates to the person's duties as a licensed medical  
13 physicist.

14 SECTION 9.077. Section [602.252](#), Occupations Code, is  
15 amended to read as follows:

16 Sec. 602.252. ADMINISTRATIVE PROCEDURE. Chapters 2001 and  
17 2002, Government Code, and medical board rules for a contested  
18 hearing apply to a proceeding by the medical board under this  
19 subchapter.

20 SECTION 9.078. Subchapter F, Chapter 602, Occupations Code,  
21 is amended by adding Section 602.2521 to read as follows:

22 Sec. 602.2521. INFORMAL PROCEDURES. (a) The medical board  
23 by rule shall adopt procedures governing:

24 (1) informal disposition of a contested case under  
25 Section [2001.056](#), Government Code; and

26 (2) informal proceedings held in compliance with  
27 Section [2001.054](#), Government Code.

1        (b) Rules adopted under Subsection (a) must:

2                (1) provide the complainant, if applicable and  
3 permitted by law, an opportunity to be heard;

4                (2) provide the license holder an opportunity to be  
5 heard; and

6                (3) require the medical board's legal counsel or a  
7 representative of the attorney general to be present to advise the  
8 medical board or the medical board's employees.

9        SECTION 9.079. Section 602.253, Occupations Code, is  
10 amended to read as follows:

11        Sec. 602.253. PROBATION. The medical board may place on  
12 probation a person whose license is suspended. If a license  
13 suspension is probated, the medical board may require the person  
14 to:

15                (1) report regularly to the medical board [~~department~~]  
16 on matters that are the basis of the probation;

17                (2) limit practice to the areas prescribed by the  
18 medical board; or

19                (3) continue or review professional education until  
20 the person attains a degree of skill satisfactory to the medical  
21 board in those areas that are the basis of the probation.

22        SECTION 9.080. Section 602.254(a), Occupations Code, is  
23 amended to read as follows:

24        (a) The medical board or a three-member panel [~~committee~~]  
25 medical board members designated by the president of the medical  
26 board shall temporarily suspend the license of a license holder if  
27 the medical board or panel [~~committee~~] determines from the evidence

1 or information presented to it that continued practice by the  
2 license holder would constitute a continuing and imminent threat to  
3 the public welfare.

4 SECTION 9.081. Section 602.301, Occupations Code, is  
5 amended to read as follows:

6 Sec. 602.301. INJUNCTION. The medical board shall  
7 prosecute or file suit to enjoin a violation of this chapter or a  
8 rule adopted under this chapter.

9 SECTION 9.082. Section 602.3015, Occupations Code, is  
10 amended to read as follows:

11 Sec. 602.3015. CIVIL PENALTY. (a) A person who violates  
12 this chapter or a rule adopted or order issued [~~adopted by the~~  
13 ~~board~~] under this chapter is liable for a civil penalty not to  
14 exceed \$5,000 a day.

15 (b) At the request of the medical board, the attorney  
16 general shall bring an action to recover a civil penalty authorized  
17 under this section.

18 SECTION 9.083. Sections 602.351(a), (e), (g), (h), (i),  
19 (j), (k), and (l), Occupations Code, are amended to read as follows:

20 (a) The medical board may impose an administrative penalty  
21 on a person licensed under this chapter who violates this chapter or  
22 a rule adopted or order issued [~~adopted~~] under this chapter. A  
23 penalty collected under this subchapter shall be deposited in the  
24 state treasury in the general revenue fund.

25 (e) If the medical board [~~executive secretary~~] determines  
26 that a violation occurred, the medical board [~~executive secretary~~]  
27 shall give written notice [~~of the report~~] by certified mail to the

1 person.

2 (g) Within 20 days after the date the person receives the  
3 notice under Subsection (e), the person in writing may:

4 (1) accept the determination and recommended penalty  
5 [~~of the executive secretary~~]; or

6 (2) make a request for a hearing on the occurrence of  
7 the violation, the amount of the penalty, or both.

8 (h) If the person accepts the determination and recommended  
9 penalty or if the person fails to respond to the notice, the medical  
10 board by order shall approve the determination and impose the  
11 recommended penalty.

12 (i) If the person requests a hearing, the medical board  
13 shall refer the matter to the State Office of Administrative  
14 Hearings, which shall promptly set a hearing date and give written  
15 notice of the time and place of the hearing to the person. An  
16 administrative law judge of the State Office of Administrative  
17 Hearings shall conduct the hearing.

18 (j) The administrative law judge shall make findings of fact  
19 and conclusions of law and promptly issue to the medical board a  
20 proposal for a decision about the occurrence of the violation and  
21 the amount of a proposed penalty.

22 (k) Based on the findings of fact, conclusions of law, and  
23 proposal for a decision, the medical board by order may determine  
24 that:

25 (1) a violation occurred and impose a penalty; or

26 (2) a violation did not occur.

27 (1) The notice of the medical board's order under Subsection

1 (k) that is sent to the person in accordance with Chapter 2001,  
2 Government Code, must include a statement of the right of the person  
3 to judicial review of the order.

4 SECTION 9.084. Sections 602.352(a), (b), and (c),  
5 Occupations Code, are amended to read as follows:

6 (a) Within 30 days after the date an order of the medical  
7 board under Section 602.351(k) that imposes an administrative  
8 penalty becomes final, the person shall:

9 (1) pay the penalty; or

10 (2) file a petition for judicial review of the medical  
11 board's order contesting the occurrence of the violation, the  
12 amount of the penalty, or both.

13 (b) Within the 30-day period prescribed by Subsection (a), a  
14 person who files a petition for judicial review may:

15 (1) stay enforcement of the penalty by:

16 (A) paying the penalty to the court for placement  
17 in an escrow account; or

18 (B) giving the court a supersedeas bond approved  
19 by the court that is:

20 (i) for the amount of the penalty; and

21 (ii) effective until all judicial review of  
22 the medical board's order is final; or

23 (2) request the court to stay enforcement of the  
24 penalty by:

25 (A) filing with the court a sworn affidavit of  
26 the person stating that the person is financially unable to pay the  
27 penalty and is financially unable to give the supersedeas bond; and

1 (B) sending a copy of the affidavit to the  
2 medical board by certified mail.

3 (c) If the medical board receives a copy of an affidavit  
4 under Subsection (b)(2), the medical board may file with the court,  
5 within five days after the date the copy is received, a contest to  
6 the affidavit. The court shall hold a hearing on the facts alleged  
7 in the affidavit as soon as practicable and shall stay the  
8 enforcement of the penalty on finding that the alleged facts are  
9 true. The person who files an affidavit has the burden of proving  
10 that the person is financially unable to pay the penalty or to give  
11 a supersedeas bond.

12 SECTION 9.085. Sections 603.002(2) and (3), Occupations  
13 Code, are amended to read as follows:

14 (2) "Advisory committee" [~~"Committee"~~] means the  
15 [~~Texas State~~] Perfusionist Licensure Advisory Committee.

16 (3) "Medical board" [~~"Department"~~] means the Texas  
17 Medical Board [~~Department of State Health Services~~].

18 SECTION 9.086. Section 603.006, Occupations Code, is  
19 amended to read as follows:

20 Sec. 603.006. APPLICABILITY OF OTHER LAW. Chapter 2110,  
21 Government Code, does not apply to the advisory committee.

22 SECTION 9.087. The heading to Subchapter B, Chapter 603,  
23 Occupations Code, is amended to read as follows:

24 SUBCHAPTER B. [~~TEXAS STATE~~] PERFUSIONIST LICENSURE ADVISORY  
25 COMMITTEE

26 SECTION 9.088. Section 603.051, Occupations Code, as  
27 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,

1 2015, is amended to read as follows:

2           Sec. 603.051. ADVISORY COMMITTEE MEMBERSHIP. (a) The  
3 advisory committee is an informal advisory committee to the medical  
4 board. The advisory committee has no independent rulemaking  
5 authority.

6           (a-1) The advisory committee [~~Texas State Perfusionist~~  
7 ~~Advisory Committee~~] consists of seven [~~five~~] members appointed by  
8 the president of the medical board [~~commissioner~~] as follows:

9           (1) four perfusionists licensed in this state [~~two~~  
10 ~~licensed perfusionist members~~] who each have [~~been licensed under~~  
11 ~~this chapter for~~] at least five [~~three~~] years of experience as a  
12 perfusionist [~~before the date of appointment~~];

13           (2) two physicians [~~one physician member~~] licensed in  
14 this state [~~by the Texas Medical Board~~] who supervise perfusionists  
15 [~~is certified by that board in cardiovascular surgery~~]; and

16           (3) one member [~~two members~~] who represents  
17 [~~represent~~] the public.

18           (b) Appointments to the advisory committee shall reflect  
19 the historical and cultural diversity of the inhabitants of this  
20 state.

21           (c) Appointments to the advisory committee shall be made  
22 without regard to the race, color, disability, sex, religion, age,  
23 or national origin of the appointee.

24           SECTION 9.089. Section 603.0511, Occupations Code, is  
25 amended to read as follows:

26           Sec. 603.0511. PUBLIC MEMBER ELIGIBILITY [~~OF PUBLIC~~  
27 ~~MEMBERS~~]. A person may not be a public member of the advisory

1 committee if the person or the person's spouse:

2 (1) is registered, certified, or licensed by a  
3 regulatory agency in a ~~[the field of]~~ health care profession;

4 (2) is employed by or participates in the management  
5 of a business entity or other organization regulated by or  
6 receiving money from the medical board ~~[department]~~;

7 (3) owns or controls, directly or indirectly, more  
8 than a 10 percent interest in a business entity or other  
9 organization regulated by or receiving money from the medical board  
10 ~~[department]~~; or

11 (4) uses or receives a substantial amount of tangible  
12 goods, services, or money from the medical board ~~[department]~~ other  
13 than compensation or reimbursement authorized by law for advisory  
14 committee membership, attendance, or expenses.

15 SECTION 9.090. Sections 603.052(b) and (c), Occupations  
16 Code, are amended to read as follows:

17 (b) A person may not be an advisory ~~[a]~~ committee member  
18 ~~[and may not be a department employee employed in a "bona fide~~  
19 ~~executive, administrative, or professional capacity," as that~~  
20 ~~phrase is used for purposes of establishing an exemption to the~~  
21 ~~overtime provisions of the federal Fair Labor Standards Act of 1938~~  
22 ~~(29 U.S.C. Section 201 et seq.)]~~ if:

23 (1) the person is an officer, employee, or paid  
24 consultant of a Texas trade association in the field of health care;  
25 or

26 (2) the person's spouse is an officer, manager, or paid  
27 consultant of a Texas trade association in the field of health care.

1 (c) A person may not be a member of the advisory committee or  
2 act as the general counsel to the advisory committee [~~or the~~  
3 ~~department~~] if the person is required to register as a lobbyist  
4 under Chapter 305, Government Code, because of the person's  
5 activities for compensation on behalf of a profession related to  
6 the operation of the advisory committee or medical board  
7 [~~department~~].

8 SECTION 9.091. Section 603.053, Occupations Code, is  
9 amended to read as follows:

10 Sec. 603.053. TERMS; VACANCY. (a) Members of the advisory  
11 committee serve two-year [~~staggered six-year~~] terms. The terms of  
12 the [~~one or two~~] members [~~, as appropriate,~~] expire on February 1 of  
13 each odd-numbered year.

14 (b) If a vacancy occurs during a member's term, the  
15 president of the medical board shall appoint a person to serve for  
16 the unexpired term.

17 SECTION 9.092. Sections 603.054(a) and (b), Occupations  
18 Code, are amended to read as follows:

19 (a) It is a ground for removal from the advisory committee  
20 that a member:

21 (1) does not have at the time of taking office the  
22 qualifications required by Section 603.051;

23 (2) does not maintain during service on the advisory  
24 committee the qualifications required by Section 603.051;

25 (3) is ineligible for membership under Section  
26 603.0511 or 603.052; or

27 (4) cannot, because of illness or disability,

1 discharge the member's duties for a substantial part of the member's  
2 term [~~or~~

3  ~~(5) is absent from more than half of the regularly~~  
4  ~~scheduled committee meetings that the member is eligible to attend~~  
5  ~~during a calendar year without an excuse approved by a majority vote~~  
6  ~~of the committee].~~

7 (b) The validity of an action of the advisory committee is  
8 not affected by the fact that it is taken when a ground for removal  
9 of a member of the advisory committee exists.

10 SECTION 9.093. Section 603.056, Occupations Code, is  
11 amended to read as follows:

12 Sec. 603.056. OFFICERS. (a) The president of the medical  
13 board [~~Not later than the 30th day after the date the commissioner~~  
14  ~~appoints new committee members, the commissioner]~~ shall designate  
15 biennially an advisory committee member as the [a] presiding  
16 officer of the advisory committee to serve in that capacity at the  
17 will of the president. [~~The presiding officer serves at the~~  
18  ~~pleasure of the commissioner.~~]

19 (b) The advisory committee may appoint additional officers  
20 as necessary.

21 SECTION 9.094. Section 603.057, Occupations Code, is  
22 amended to read as follows:

23 Sec. 603.057. MEETINGS. The advisory committee shall meet  
24 as requested by the medical board [~~subject to the call of the~~  
25  ~~commissioner].~~ A meeting may be held by telephone conference call.

26 SECTION 9.095. The heading to Subchapter D, Chapter 603,  
27 Occupations Code, is amended to read as follows:

1 SUBCHAPTER D. MEDICAL BOARD POWERS AND DUTIES

2 SECTION 9.096. Section 603.151, Occupations Code, as  
3 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
4 2015, is amended to read as follows:

5 Sec. 603.151. GENERAL POWERS AND DUTIES [~~OF DEPARTMENT~~].

6 The medical board [~~department~~] shall:

7 (1) establish the qualifications for a perfusionist to  
8 practice in this state [~~and fitness of applicants for licenses,~~  
9 ~~including renewed and reciprocal licenses~~];

10 (2) establish requirements for an examination for a  
11 license under this chapter [~~revoke, suspend, or deny a license,~~  
12 ~~probate a license suspension, or reprimand a license holder for a~~  
13 ~~violation of this chapter, a rule adopted by the executive~~  
14 ~~commissioner under this chapter, or the code of ethics adopted by~~  
15 ~~the executive commissioner~~];

16 (3) establish minimum education and training  
17 requirements necessary for a license under this chapter [~~spend~~  
18 ~~money necessary to administer the department's duties~~];

19 (4) prescribe the application form for a license under  
20 this chapter; and [~~request and receive necessary assistance from~~  
21 ~~another state agency, including a state educational institution,~~]

22 (5) adopt [~~an official seal,~~] and  
23 [(6)] publish a [~~the~~] code of ethics [~~adopted by the~~  
24 ~~executive commissioner~~].

25 SECTION 9.097. Section 603.152, Occupations Code, is  
26 amended to read as follows:

27 Sec. 603.152. GENERAL RULEMAKING AUTHORITY. The medical

1 board [~~executive commissioner~~] may adopt rules necessary to:

- 2 (1) regulate the practice of perfusion;
- 3 (2) enforce this chapter; and
- 4 (3) perform medical board [~~department~~] duties under
- 5 this chapter.

6 SECTION 9.098. Section [603.153](#), Occupations Code, as  
7 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
8 2015, is amended to read as follows:

9 Sec. 603.153. RULES RESTRICTING ADVERTISING OR COMPETITIVE  
10 BIDDING. (a) The medical board [~~executive commissioner~~] may not  
11 adopt a rule restricting advertising or competitive bidding by a  
12 person regulated by the medical board [~~department~~] under this  
13 chapter except to prohibit a false, misleading, or deceptive  
14 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~~]  
18 under this chapter a 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, as

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

3       Sec. 603.1535. RULES ON CONSEQUENCES OF CRIMINAL  
4 CONVICTION. (a) The medical board [~~executive commissioner~~] shall  
5 adopt rules necessary to comply with Chapter 53, except to the  
6 extent the requirements of this chapter are stricter than the  
7 requirements of Chapter 53.

8       (b) In rules under this section, the medical board  
9 [~~executive commissioner~~] shall list the specific offenses for which  
10 a conviction would constitute grounds for the medical board  
11 [~~department~~] to take action under Section 53.021.

12       SECTION 9.100. Section 603.154, Occupations Code, as  
13 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
14 2015, is amended by amending Subsection (a) to read as follows:

15       (a) The medical board [~~After consulting the commissioner or~~  
16 ~~the department, the executive commissioner~~] shall set fees in  
17 amounts reasonable and necessary to cover the costs of  
18 administering this chapter.

19       SECTION 9.101. Section 603.155, Occupations Code, is  
20 amended to read as follows:

21       Sec. 603.155. [~~EXECUTIVE COMMISSIONER AND DEPARTMENT~~]  
22 DUTIES REGARDING COMPLAINTS. (a) The medical board [~~executive~~  
23 ~~commissioner~~] by rule shall:

24           (1) adopt a form to standardize information concerning  
25 complaints made to the medical board [~~department~~]; and

26           (2) prescribe information to be provided to a person  
27 when the person files a complaint with the medical board

1 ~~[department]~~.

2 (b) The medical board ~~[department]~~ shall provide reasonable  
3 assistance to a person who wishes to file a complaint with the  
4 medical board ~~[department]~~.

5 SECTION 9.102. Section 603.156, Occupations Code, is  
6 amended to read as follows:

7 Sec. 603.156. REGISTRY. The medical board ~~[department]~~  
8 shall prepare a registry of licensed perfusionists and  
9 provisionally licensed perfusionists that is available to the  
10 public, license holders, and appropriate state agencies.

11 SECTION 9.103. Section 603.201, Occupations Code, is  
12 amended to read as follows:

13 Sec. 603.201. PUBLIC INTEREST INFORMATION. (a) The  
14 medical board ~~[department]~~ shall prepare information of consumer  
15 interest describing the profession of perfusion, the regulatory  
16 functions of the medical board ~~[department]~~, and the procedures by  
17 which consumer complaints are filed with and resolved by the  
18 medical board ~~[department]~~.

19 (b) The medical board ~~[department]~~ shall make the  
20 information available to the public and appropriate state agencies.

21 SECTION 9.104. Section 603.202, Occupations Code, as  
22 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
23 2015, is amended to read as follows:

24 Sec. 603.202. COMPLAINTS. (a) The medical board  
25 ~~[executive commissioner]~~ by rule shall establish methods by which  
26 consumers and service recipients are notified of the name, mailing  
27 address, and telephone number of the medical board ~~[department]~~ for

1 the purpose of directing complaints under this chapter to the  
2 medical board [~~department~~]. The medical board [~~department~~] may  
3 provide for that notice:

4 (1) on each license form, application, or written  
5 contract for services of a person licensed under this chapter;

6 (2) on a sign prominently displayed in the place of  
7 business of each person licensed under this chapter; or

8 (3) in a bill for services provided by a person  
9 licensed under this chapter.

10 (b) The medical board [~~department~~] shall list with its  
11 regular telephone number any toll-free telephone number  
12 established under other state law that may be called to present a  
13 complaint about a health professional.

14 SECTION 9.105. Section 603.203, Occupations Code, as  
15 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
16 2015, is amended to read as follows:

17 Sec. 603.203. RECORDS OF COMPLAINTS. (a) The medical board  
18 [~~department~~] shall maintain a system to promptly and efficiently  
19 act on complaints filed [~~with the department~~] under this  
20 chapter. The medical board [~~department~~] shall maintain:

21 (1) information about the parties to the complaint and  
22 the subject matter of the complaint;

23 (2) a summary of the results of the review or  
24 investigation of the complaint; and

25 (3) information about the disposition of the  
26 complaint.

27 (b) The medical board [~~department~~] shall make information

1 available describing its procedures for complaint investigation  
2 and resolution.

3 (c) The medical board [~~department~~] shall periodically  
4 notify the parties of the status of the complaint until final  
5 disposition of the complaint.

6 SECTION 9.106. Section 603.204, Occupations Code, is  
7 amended by amending Subsections (a) and (d), as amended by S.B. 219,  
8 Acts of the 84th Legislature, Regular Session, 2015, and amending  
9 Subsection (b) to read as follows:

10 (a) The medical board [~~executive commissioner~~] shall adopt  
11 rules concerning the investigation of a complaint filed [~~with the~~  
12 ~~department~~] under this chapter. The rules shall:

13 (1) distinguish among categories of complaints;  
14 (2) ensure that a complaint is not dismissed without  
15 appropriate consideration;

16 (3) require that if [~~the department be advised of~~] a  
17 complaint [~~that~~] is dismissed, [~~and that~~] a letter shall be sent to  
18 the person who filed the complaint explaining the action taken on  
19 the dismissed complaint;

20 (4) ensure that the person who filed the complaint has  
21 an opportunity to explain the allegations made in the complaint;  
22 and

23 (5) prescribe guidelines concerning the categories of  
24 complaints that require the use of a private investigator and the  
25 procedures for the medical board [~~department~~] to obtain the  
26 services of a private investigator.

27 (b) The medical board [~~department~~] shall:

1 (1) dispose of each complaint in a timely manner; and  
2 (2) establish, not later than the 30th day after the  
3 date the medical board [~~department~~] receives a complaint, a  
4 schedule for conducting each phase of the complaint resolution  
5 process that is under the control of the medical board  
6 [~~department~~].

7 (d) The executive director of the medical board [~~secretary~~]  
8 shall notify the president of the medical board [~~department~~] of a  
9 complaint that is not resolved within the time prescribed by the  
10 medical board [~~department~~] for resolving the complaint so that the  
11 president [~~department~~] may take necessary action on the complaint.

12 SECTION 9.107. The heading to Section 603.2041, Occupations  
13 Code, is amended to read as follows:

14 Sec. 603.2041. SUBPOENAS; CONFIDENTIALITY OF INFORMATION.

15 SECTION 9.108. Section 603.2041, Occupations Code, is  
16 amended by amending Subsections (a), (h), and (i), as amended by  
17 S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, and  
18 adding Subsection (a-1) to read as follows:

19 (a) The executive director of the medical board, the  
20 director's designee, or the secretary-treasurer of the medical  
21 board [~~In an investigation of a complaint filed with the~~  
22 ~~department, the department~~] may issue a subpoena or subpoena duces  
23 tecum:

24 (1) to conduct an investigation or a contested case  
25 proceeding related to:

26 (A) alleged misconduct by a perfusionist;

27 (B) an alleged violation of this chapter or

1 another law related to the practice of perfusion; or

2 (C) the provision of health care under this  
3 chapter; or

4 (2) for purposes of determining whether to issue,  
5 suspend, restrict, or revoke a license under this chapter [~~to~~  
6 ~~compel the attendance of a relevant witness or the production, for~~  
7 ~~inspection or copying, of relevant evidence that is in this state].~~

8 (a-1) Failure to timely comply with a subpoena issued under  
9 this section is a ground for:

10 (1) disciplinary action by the medical board or  
11 another licensing or regulatory agency with jurisdiction over the  
12 person subject to the subpoena; and

13 (2) denial of a license application.

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

23 (1) persons involved with the medical board  
24 [~~department~~] in a disciplinary action against the holder of a  
25 license under this chapter;

26 (2) professional perfusionist licensing or  
27 disciplinary boards in other jurisdictions;

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

3 (4) law enforcement agencies; and

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

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

13 SECTION 9.109. Section 603.205, Occupations Code, as  
14 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
15 2015, is amended to read as follows:

16 Sec. 603.205. PUBLIC PARTICIPATION. (a) The medical board  
17 [~~department~~] shall develop and implement policies that provide the  
18 public with a reasonable opportunity to appear before the medical  
19 board [~~department~~] and to speak on any issue related to the practice  
20 of perfusion.

21 (b) The medical board [~~department~~] shall prepare and  
22 maintain a written plan that describes how a person who does not  
23 speak English or who has a physical, mental, or developmental  
24 disability may be provided reasonable access to the medical board's  
25 [~~department's~~] programs under this chapter.

26 SECTION 9.110. Section 603.252(b), Occupations Code, as  
27 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,

1 2015, is amended to read as follows:

2 (b) The medical board [~~department~~] shall prescribe the  
3 application form and [~~the executive commissioner~~] by rule may  
4 establish dates by which applications and fees must be received.

5 SECTION 9.111. Sections 603.253(b), (c), (d), and (e),  
6 Occupations Code, are amended to read as follows:

7 (b) The medical board [~~department~~] shall prepare or approve  
8 an examination. The medical board [~~department~~] may prescribe an  
9 examination that consists of or includes a written examination  
10 given by the American Board of Cardiovascular Perfusion or by a  
11 national or state testing service.

12 (c) The medical board [~~department~~] shall have any written  
13 portion of the examination validated by an independent testing  
14 professional.

15 (d) The medical board [~~department~~] shall administer an  
16 examination to qualified applicants at least once each calendar  
17 year.

18 (e) On receipt of an application and application fee, the  
19 medical board [~~department~~] shall waive the examination requirement  
20 for an applicant who, at the time of application:

21 (1) is licensed or certified by another state that has  
22 licensing or certification requirements the medical board  
23 [~~department~~] determines to be substantially equivalent to the  
24 requirements of this chapter; or

25 (2) holds a certificate as a certified clinical  
26 perfusionist issued by the American Board of Cardiovascular  
27 Perfusion before January 1, 1994, authorizing the holder to

1 practice perfusion in a state that does not license or certify  
2 perfusionists.

3 SECTION 9.112. Sections 603.2535(b) and (c), Occupations  
4 Code, are amended to read as follows:

5 (b) The medical board [~~department~~] 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 rules adopted under this chapter [~~by the executive commissioner~~],  
9 and any other applicable laws of this state affecting the  
10 applicant's practice of perfusion.

11 (c) The medical board [~~executive commissioner~~] shall adopt  
12 rules to implement this section, including rules related to the  
13 development and administration of the examination, examination  
14 fees, guidelines for reexamination, grading the examination, and  
15 providing notice of examination results.

16 SECTION 9.113. Section 603.254, Occupations Code, is  
17 amended to read as follows:

18 Sec. 603.254. QUALIFICATION FOR EXAMINATION. (a) To  
19 qualify for the licensing examinations under this chapter, an  
20 applicant must have successfully completed a perfusion education  
21 program approved by the medical board [~~department~~].

22 (b) The medical board [~~department~~] may approve a perfusion  
23 education program only if the program has educational standards  
24 that are:

25 (1) at least as stringent as those established by the  
26 Accreditation Committee for Perfusion Education of the American  
27 Medical Association or its successor; and

1           (2) approved by the Commission on Accreditation of the  
2 Allied Health Education Program of the American Medical Association  
3 or its successor.

4           SECTION 9.114. Section 603.255(a), Occupations Code, as  
5 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
6 2015, is amended to read as follows:

7           (a) The medical board [~~department~~] shall notify an  
8 applicant in writing of the receipt and investigation of the  
9 applicant's application and any other relevant evidence relating to  
10 qualifications established by [~~department~~] rule not later than:

11           (1) the 45th day after the date a properly submitted  
12 and timely application is received; and

13           (2) the 30th day before the next examination date.

14           SECTION 9.115. Section 603.256, Occupations Code, is  
15 amended to read as follows:

16           Sec. 603.256. EXAMINATION RESULTS. (a) The medical board  
17 [~~department~~] shall notify each examinee of the examination results  
18 not later than the 30th day after the date the examination is  
19 administered. If an examination is graded or reviewed by a national  
20 or state testing service, the medical board [~~department~~] shall  
21 notify each examinee of the examination results not later than the  
22 14th day after the date the medical board [~~department~~] receives the  
23 results from the testing service.

24           (b) If the notice of the results of an examination graded or  
25 reviewed by a national or state testing service will be delayed for  
26 longer than 90 days after the examination date, the medical board  
27 [~~department~~] shall notify each examinee of the reason for the delay

1 before the 90th day.

2 (c) If requested in writing by a person who fails the  
3 examination, the medical board [~~department~~] shall provide to the  
4 person an analysis of the person's performance on the examination.

5 SECTION 9.116. Section 603.257, Occupations Code, is  
6 amended to read as follows:

7 Sec. 603.257. REEXAMINATION AND ALTERNATIVES TO  
8 EXAMINATION. The medical board [~~executive commissioner~~] by rule  
9 shall establish:

10 (1) a limit on the number of times an applicant who  
11 fails an examination may retake the examination;

12 (2) requirements for retaking an examination; and

13 (3) alternative methods of examining competency.

14 SECTION 9.117. Subchapter F, Chapter 603, Occupations Code,  
15 is amended by adding Section 603.2571 to read as follows:

16 Sec. 603.2571. CRIMINAL HISTORY RECORD INFORMATION  
17 REQUIREMENT FOR LICENSE. (a) The medical board shall require that  
18 an applicant for a license submit a complete and legible set of  
19 fingerprints, on a form prescribed by the medical board, to the  
20 medical board or to the Department of Public Safety for the purpose  
21 of obtaining criminal history record information from the  
22 Department of Public Safety and the Federal Bureau of  
23 Investigation.

24 (b) The medical board may not issue a license to a person who  
25 does not comply with the requirement of Subsection (a).

26 (c) The medical board shall conduct a criminal history check  
27 of each applicant for a license using information:

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

6           (d) The medical board may:

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

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

13           SECTION 9.118. Section 603.259, Occupations Code, is  
14 amended by amending Subsections (a) and (d) and Subsection (c), as  
15 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
16 2015, to read as follows:

17           (a) The medical board [~~department~~] may issue a provisional  
18 license to an applicant who files an application, pays an  
19 application fee, and submits evidence satisfactory to the medical  
20 board [~~department~~] of successful completion of the education  
21 requirement under Section 603.254.

22           (c) A provisionally licensed perfusionist must practice  
23 under the supervision and direction of a licensed perfusionist  
24 while performing perfusion. If the medical board [~~department~~]  
25 finds that a licensed perfusionist is not reasonably available to  
26 provide supervision and direction and if the medical board  
27 [~~department~~] approves an application submitted [~~to the department~~]

1 by the provisionally licensed perfusionist, supervision and  
2 direction may be provided by a physician who is licensed by the  
3 medical board [~~Texas Medical Board~~] and certified by the American  
4 Board of Thoracic Surgery or certified in cardiovascular surgery by  
5 the American Osteopathic Board of Surgery.

6 (d) The medical board [~~executive commissioner~~] may not  
7 adopt a rule governing supervision and direction that requires the  
8 immediate physical presence of the supervising person.

9 SECTION 9.119. Sections 603.301(b), (c), (d), and (f),  
10 Occupations Code, are amended to read as follows:

11 (b) The medical board [~~executive commissioner~~] by rule may  
12 adopt a system under which licenses expire on various dates during  
13 the year.

14 (c) A person may renew an unexpired license by paying the  
15 required renewal fee to the medical board [~~department~~] before the  
16 license expiration date.

17 (d) A person whose license has been expired for 90 days or  
18 less may renew the license by paying to the medical board  
19 [~~department~~] a fee that is equal to 1-1/4 times the amount of the  
20 renewal fee. If a license has been expired for more than 90 days  
21 but less than one year, the person may renew the license by paying  
22 to the medical board [~~department~~] a fee that is equal to 1-1/2 times  
23 the amount of the renewal fee.

24 (f) Before the 30th day before a person's license expiration  
25 date, the medical board [~~department~~] shall send written notice of  
26 the impending license expiration to the person at the person's last  
27 known address according to medical board [~~department~~] records.

1 SECTION 9.120. Section 603.303, Occupations Code, is  
2 amended to read as follows:

3 Sec. 603.303. RENEWAL OF EXPIRED LICENSE BY OUT-OF-STATE  
4 PRACTITIONER. (a) The medical board [~~department~~] may renew  
5 without reexamination an expired license of a person who was  
6 licensed as a perfusionist in this state, moved to another state,  
7 and is licensed or certified and has been in practice in the other  
8 state for the two years preceding the date the person applies for  
9 renewal.

10 (b) The person must pay to the medical board [~~department~~] a  
11 fee that is equal to the amount of the renewal fee for the license.

12 SECTION 9.121. Subchapter G, Chapter 603, Occupations Code,  
13 is amended by adding Section 603.3031 to read as follows:

14 Sec. 603.3031. CRIMINAL HISTORY RECORD INFORMATION  
15 REQUIREMENT FOR RENEWAL. (a) An applicant renewing a license shall  
16 submit a complete and legible set of fingerprints for purposes of  
17 performing a criminal history check of the applicant as provided by  
18 Section 603.2571.

19 (b) The medical board may not renew the license of a person  
20 who does not comply with the requirement of Subsection (a).

21 (c) A license holder is not required to submit fingerprints  
22 under this section for the renewal of the license if the license  
23 holder has previously submitted fingerprints under:

24 (1) Section 603.2571 for the initial issuance of the  
25 license; or

26 (2) this section as part of a prior renewal of the  
27 license.

1 SECTION 9.122. Section 603.304, Occupations Code, as  
2 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
3 2015, is amended to read as follows:

4 Sec. 603.304. CONTINUING EDUCATION. (a) To renew a license  
5 under this chapter, a person must submit proof satisfactory to the  
6 medical board [~~department~~] that the person has complied with the  
7 continuing education requirements prescribed by the medical board  
8 [~~executive commissioner~~].

9 (b) The medical board [~~executive commissioner~~] shall  
10 establish continuing education programs for licensed perfusionists  
11 and provisionally licensed perfusionists under this chapter. The  
12 standards of the programs must be at least as stringent as the  
13 standards of the American Board of Cardiovascular Perfusion or its  
14 successor.

15 (c) The medical board [~~executive commissioner~~] shall:

16 (1) establish a minimum number of hours of continuing  
17 education required for license renewal under this chapter; and

18 (2) develop a process to evaluate and approve  
19 continuing education courses.

20 (d) The medical board [~~executive commissioner~~] shall  
21 identify key factors for a license holder's competent performance  
22 of professional duties. The medical board [~~executive~~  
23 ~~commissioner~~] shall adopt a procedure to assess a license holder's  
24 participation in continuing education programs.

25 SECTION 9.123. Section 603.305, Occupations Code, is  
26 amended to read as follows:

27 Sec. 603.305. GROUNDS FOR REFUSING RENEWAL. The medical

1 board [~~department~~] may refuse to renew the license of a person who  
2 fails to pay an administrative penalty imposed under Subchapter K  
3 unless enforcement of the penalty is stayed or a court has ordered  
4 that the administrative penalty is not owed.

5 SECTION 9.124. Section 603.352, Occupations Code, is  
6 amended to read as follows:

7 Sec. 603.352. LICENSE HOLDER INFORMATION. A person  
8 licensed under this chapter shall keep the medical board  
9 [~~department~~] informed of any change in the license holder's  
10 address.

11 SECTION 9.125. Section 603.353, Occupations Code, is  
12 amended to read as follows:

13 Sec. 603.353. SURRENDER OF LICENSE. A license certificate  
14 issued by the medical board [~~department~~] is the property of the  
15 medical board [~~department~~] and shall be surrendered on demand.

16 SECTION 9.126. Section 603.401, Occupations Code, is  
17 amended to read as follows:

18 Sec. 603.401. GROUNDS FOR DISCIPLINARY ACTION. If a  
19 license holder violates this chapter or a rule or code of ethics  
20 adopted under this chapter [~~by the executive commissioner~~], the  
21 medical board [~~department~~] shall:

- 22 (1) revoke or suspend the license;
- 23 (2) place on probation the person if the person's  
24 license has been suspended;
- 25 (3) reprimand the license holder; or
- 26 (4) refuse to renew the license.

27 SECTION 9.127. Section 603.402, Occupations Code, as

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

3       Sec. 603.402. HEARING.       (a)       If the medical board  
4 [~~department~~] proposes to revoke, suspend, or refuse to renew a  
5 person's license, the person is entitled to a hearing before a  
6 hearings officer appointed by the State Office of Administrative  
7 Hearings.

8       (b) The medical board [~~executive commissioner~~] shall  
9 prescribe procedures for appealing [~~to the department~~] a decision  
10 to revoke, suspend, or refuse to renew a license.

11       SECTION 9.128. Section 603.404(a), Occupations Code, is  
12 amended to read as follows:

13       (a) The medical board [~~executive commissioner~~] by rule  
14 shall adopt a broad schedule of sanctions for a violation of this  
15 chapter.

16       SECTION 9.129. Section 603.405, Occupations Code, is  
17 amended to read as follows:

18       Sec. 603.405. PROBATION. The medical board [~~department~~]  
19 may require a person whose license suspension is probated to:

20               (1) report regularly to the medical board [~~department~~]  
21 on matters that are the basis of the probation;

22               (2) limit practice to areas prescribed by the medical  
23 board [~~department~~]; or

24               (3) continue the person's professional education until  
25 the license holder attains a degree of skill satisfactory to the  
26 medical board [~~department~~] in those areas that are the basis of the  
27 probation.

1 SECTION 9.130. Section 603.406, Occupations Code, is  
2 amended to read as follows:

3 Sec. 603.406. MONITORING OF LICENSE HOLDER. (a) The  
4 medical board [~~executive commissioner~~] by rule shall develop a  
5 system for monitoring a license holder's compliance with the  
6 requirements of this chapter.

7 (b) Rules adopted under this section must include  
8 procedures to:

9 (1) monitor for compliance a license holder who is  
10 ordered by the medical board [~~department~~] to perform certain acts;  
11 and

12 (2) identify and monitor license holders who represent  
13 a risk to the public.

14 SECTION 9.131. Section 603.407, Occupations Code, is  
15 amended to read as follows:

16 Sec. 603.407. INFORMAL PROCEDURES. (a) The medical board  
17 [~~executive commissioner~~] by rule shall adopt procedures governing:

18 (1) informal disposition of a contested case under  
19 Section 2001.056, Government Code; and

20 (2) an informal proceeding held in compliance with  
21 Section 2001.054, Government Code.

22 (b) Rules adopted under Subsection (a) must:

23 (1) provide the complainant, if applicable and  
24 permitted by law, an opportunity to be heard;

25 (2) provide [~~and~~] the license holder an opportunity to  
26 be heard; and

27 (3) [~~(2)~~] require the presence of a representative of

1 the attorney general or the medical board's [~~department's~~] legal  
2 counsel to advise the medical board [~~department~~] or the medical  
3 board's [~~department's~~] employees.

4 SECTION 9.132. Section 603.408(a), Occupations Code, is  
5 amended to read as follows:

6 (a) The medical board or a three-member panel of medical  
7 board members designated by the president of the medical board  
8 [~~department~~] shall temporarily suspend the license of a license  
9 holder if the medical board or panel [~~department~~] determines from  
10 the evidence or information presented to it that continued practice  
11 by the license holder would constitute a continuing and imminent  
12 threat to the public welfare.

13 SECTION 9.133. Section 603.409, Occupations Code, is  
14 amended to read as follows:

15 Sec. 603.409. REFUND. (a) Subject to Subsection (b), the  
16 medical board [~~department~~] may order a license holder to pay a  
17 refund to a consumer as provided in an agreement resulting from an  
18 informal settlement conference instead of or in addition to  
19 imposing an administrative penalty under this chapter.

20 (b) The amount of a refund ordered as provided in an  
21 agreement resulting from an informal settlement conference may not  
22 exceed the amount the consumer paid to the license holder for a  
23 service regulated by this chapter. The medical board [~~department~~]  
24 may not require payment of other damages or estimate harm in a  
25 refund order.

26 SECTION 9.134. Section 603.451(a), Occupations Code, is  
27 amended to read as follows:

1 (a) The medical board [~~department~~] may request the attorney  
2 general or the appropriate county or district attorney to commence  
3 an action to enjoin a violation of this chapter.

4 SECTION 9.135. Section 603.4515, Occupations Code, as  
5 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
6 2015, is amended to read as follows:

7 Sec. 603.4515. CIVIL PENALTY. (a) A person who violates  
8 this chapter or [~~or~~] a rule adopted [~~by the executive commissioner~~  
9 ~~under this chapter,~~] or an order issued [~~adopted by the department~~]  
10 under this chapter is liable for a civil penalty not to exceed  
11 \$5,000 a day.

12 (b) At the request of the medical board [~~department~~], the  
13 attorney general shall bring an action to recover a civil penalty  
14 authorized under this section.

15 SECTION 9.136. Section 603.453(a), Occupations Code, as  
16 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
17 2015, is amended to read as follows:

18 (a) If it appears to the medical board [~~department~~] that a  
19 person who is not licensed under this chapter is violating this  
20 chapter, a rule adopted under this chapter, or another state  
21 statute or rule relating to the practice of perfusion, the medical  
22 board [~~department~~] after notice and an opportunity for a hearing  
23 may issue a cease and desist order prohibiting the person from  
24 engaging in the activity.

25 SECTION 9.137. Section 603.501, Occupations Code, is  
26 amended to read as follows:

27 Sec. 603.501. IMPOSITION OF ADMINISTRATIVE PENALTY. The

1 medical board [~~department~~] may impose an administrative penalty on  
2 a person licensed under this chapter who violates this chapter or a  
3 rule or order adopted under this chapter.

4 SECTION 9.138. Section 603.502(c), Occupations Code, as  
5 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
6 2015, is amended to read as follows:

7 (c) The medical board [~~executive commissioner~~] by rule  
8 shall adopt an administrative penalty schedule based on the  
9 criteria listed in Subsection (b) for violations of this chapter or  
10 applicable rules to ensure that the amounts of penalties imposed  
11 are appropriate to the violation. The medical board [~~department~~]  
12 shall provide the administrative penalty schedule to the public on  
13 request.

14 SECTION 9.139. Section 603.503, Occupations Code, as  
15 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
16 2015, is amended to read as follows:

17 Sec. 603.503. NOTICE OF VIOLATION AND PENALTY. If the  
18 medical board [~~department~~] determines that a violation occurred,  
19 the medical board [~~department~~] shall give written notice of the  
20 violation to the person. The notice must:

- 21 (1) include a brief summary of the alleged violation;
- 22 (2) state the amount of the recommended administrative  
23 penalty [~~recommended by the department~~]; and
- 24 (3) inform the person of the person's right to a  
25 hearing on the occurrence of the violation, the amount of the  
26 penalty, or both.

27 SECTION 9.140. Section 603.504, Occupations Code, as

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

3       Sec. 603.504. PENALTY TO BE PAID OR HEARING REQUESTED. (a)  
4 Within 10 days after the date the person receives the notice, the  
5 person in writing may:

6           (1) accept the determination and recommended  
7 administrative penalty of the medical board [~~department~~]; or

8           (2) make a request for a hearing on the occurrence of  
9 the violation, the amount of the penalty, or both.

10       (b) If the person accepts the determination and recommended  
11 penalty of the medical board [~~department~~], the medical board  
12 [~~department~~] by order shall approve the determination and impose  
13 the recommended penalty.

14       SECTION 9.141. Sections 603.505(a) and (c), Occupations  
15 Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular  
16 Session, 2015, are amended to read as follows:

17       (a) If the person requests a hearing or fails to respond in a  
18 timely manner to the notice, the medical board [~~department~~] shall  
19 set a hearing and give written notice of the hearing to the person.

20       (c) The administrative law judge shall make findings of fact  
21 and conclusions of law and promptly issue to the medical board  
22 [~~department~~] a proposal for a decision about the occurrence of the  
23 violation and the amount of a proposed administrative penalty.

24       SECTION 9.142. Section 603.506, Occupations Code, as  
25 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
26 2015, is amended to read as follows:

27       Sec. 603.506. DECISION BY MEDICAL BOARD [~~DEPARTMENT~~]. (a)

1 Based on the findings of fact, conclusions of law, and proposal for  
2 decision, the medical board [~~department~~] by order may determine  
3 that:

4 (1) a violation occurred and impose an administrative  
5 penalty; or

6 (2) a violation did not occur.

7 (b) The notice of the medical board's [~~department's~~] order  
8 given to the person must include a statement of the right of the  
9 person to judicial review of the order.

10 SECTION 9.143. Sections 603.507(a), (b), and (c),  
11 Occupations Code, as amended by S.B. 219, Acts of the 84th  
12 Legislature, Regular Session, 2015, are amended to read as follows:

13 (a) Within 30 days after the date the medical board's  
14 [~~department's~~] order becomes final, the person shall:

15 (1) pay the administrative penalty; or

16 (2) file a petition for judicial review contesting the  
17 occurrence of the violation, the amount of the penalty, or both.

18 (b) Within the 30-day period prescribed by Subsection (a), a  
19 person who files a petition for judicial review may:

20 (1) stay enforcement of the penalty by:

21 (A) paying the penalty to the court for placement  
22 in an escrow account; or

23 (B) giving the court a supersedeas bond approved  
24 by the court that:

25 (i) is for the amount of the penalty; and

26 (ii) is effective until all judicial review  
27 of the medical board's [~~department's~~] order is final; or

1           (2) request the court to stay enforcement of the  
2 penalty by:

3           (A) filing with the court a sworn affidavit of  
4 the person stating that the person is financially unable to pay the  
5 penalty and is financially unable to give the supersedeas bond; and

6           (B) giving a copy of the affidavit to the medical  
7 board [~~department~~] by certified mail.

8           (c) If the medical board [~~department~~] receives a copy of an  
9 affidavit under Subsection (b)(2), the medical board [~~department~~]  
10 may file with the court, within five days after the date the copy is  
11 received, a contest to the affidavit.

12           SECTION 9.144. Sections 604.001(1) and (2), Occupations  
13 Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular  
14 Session, 2015, are amended to read as follows:

15           (1) "Advisory board" means the Texas Board of  
16 Respiratory Care [~~"Department" means the Department of State Health~~  
17 ~~Services~~].

18           (2) "Medical board" means the Texas Medical Board  
19 [~~"Executive commissioner" means the executive commissioner of the~~  
20 ~~Health and Human Services Commission~~].

21           SECTION 9.145. Section 604.003, Occupations Code, is  
22 amended to read as follows:

23           Sec. 604.003. EFFECT OF CHAPTER. This chapter does not  
24 prohibit:

25           (1) the practice of respiratory care as an integral  
26 part of the program of study by a student enrolled in a respiratory  
27 care education program approved by the advisory board [~~department~~];

1           (2) the employment by a health care facility of a  
2 person to deliver limited respiratory care support services under  
3 the supervision of another person who holds a certificate issued  
4 under this chapter, if the person delivering the services does not  
5 perform an invasive procedure related to critical respiratory care,  
6 including a therapeutic, diagnostic, or palliative procedure, as  
7 part of the person's employment and if that person:

8                   (A) is enrolled for credit in the clinical  
9 portion of an approved respiratory care education program; or

10                   (B) has completed all of the clinical portion of  
11 an approved respiratory care education program within the preceding  
12 12 months and is actively pursuing a course of study leading to  
13 graduation from the program;

14           (3) the care of an ill person provided without charge  
15 by a friend or family member;

16           (4) care provided in an emergency by a person who does  
17 not claim to be a respiratory care practitioner;

18           (5) the performance by a respiratory care practitioner  
19 of an advance in the art and techniques of respiratory care learned  
20 through formal or specialized training;

21           (6) the practice of respiratory care by health care  
22 personnel who have been formally trained in the care used and who  
23 are:

24                   (A) licensed under the law regulating their  
25 professions; or

26                   (B) acting under the delegated authority of a  
27 licensed physician;

1 (7) the practice of a legally qualified respiratory  
2 care practitioner who is discharging the practitioner's official  
3 duties as an employee of the United States government; or

4 (8) the practice by a person of a profession or  
5 occupation for which the person is licensed, registered, or  
6 certified under another law of this state.

7 SECTION 9.146. Chapter 604, Occupations Code, is amended by  
8 adding Subchapter A-1 to read as follows:

9 SUBCHAPTER A-1. TEXAS BOARD OF RESPIRATORY CARE

10 Sec. 604.021. TEXAS BOARD OF RESPIRATORY CARE. The Texas  
11 Board of Respiratory Care is an advisory board to the Texas Medical  
12 Board.

13 Sec. 604.022. APPOINTMENT OF ADVISORY BOARD. (a) The  
14 advisory board consists of nine members appointed by the governor  
15 with the advice and consent of the senate as follows:

16 (1) four respiratory care practitioners who each have  
17 at least five years of experience as a respiratory care  
18 practitioner;

19 (2) two physicians licensed in this state who  
20 supervise respiratory care practitioners; and

21 (3) three members who represent the public.

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

25 Sec. 604.023. MEMBERSHIP ELIGIBILITY AND RESTRICTIONS. (a)  
26 In this section, "Texas trade association" means a cooperative and  
27 voluntarily joined statewide association of business or

1 professional competitors in this state designed to assist its  
2 members and its industry or profession in dealing with mutual  
3 business or professional problems and in promoting their common  
4 interest.

5 (b) A person may not be a public member of the advisory board  
6 if the person or the person's spouse:

7 (1) is registered, certified, or licensed by a  
8 regulatory agency in a health care profession;

9 (2) is employed by or participates in the management  
10 of a business entity or other organization regulated by or  
11 receiving money from the medical board or advisory board;

12 (3) owns or controls, directly or indirectly, more  
13 than a 10 percent interest in a business entity or other  
14 organization regulated by or receiving money from the medical board  
15 or advisory board; or

16 (4) uses or receives a substantial amount of tangible  
17 goods, services, or money from the medical board or advisory board  
18 other than compensation or reimbursement authorized by law for  
19 advisory board membership, attendance, or expenses.

20 (c) A person may not be a member of the advisory board if:

21 (1) the person is an officer, employee, or paid  
22 consultant of a Texas trade association in the field of health care;  
23 or

24 (2) the person's spouse is an officer, manager, or paid  
25 consultant of a Texas trade association in the field of health care.

26 (d) A person may not be a member of the advisory board or act  
27 as the general counsel to the advisory board if the person is

1 required to register as a lobbyist under Chapter 305, Government  
2 Code, because of the person's activities for compensation on behalf  
3 of a profession related to the operation of the medical board or  
4 advisory board.

5 Sec. 604.024. TERMS; VACANCIES. (a) Members of the  
6 advisory board are appointed for staggered six-year terms. The  
7 terms of three members expire on February 1 of each odd-numbered  
8 year.

9 (b) A member may not serve more than:

10 (1) two consecutive full terms; or

11 (2) a total of three full terms.

12 (c) If a vacancy occurs during a member's term, the governor  
13 shall appoint a new member to fill the unexpired term.

14 Sec. 604.025. OFFICERS. The governor shall designate a  
15 member of the advisory board as the presiding officer of the  
16 advisory board to serve in that capacity at the will of the  
17 governor. The advisory board shall select from its membership an  
18 assistant presiding officer and other officers as the advisory  
19 board considers necessary to carry out the advisory board's duties.

20 Sec. 604.026. GROUNDS FOR REMOVAL. (a) It is a ground for  
21 removal from the advisory board that a member:

22 (1) does not have at the time of taking office the  
23 qualifications required by Sections 604.022 and 604.023;

24 (2) does not maintain during service on the advisory  
25 board the qualifications required by Sections 604.022 and 604.023;

26 (3) is ineligible for membership under Section  
27 604.023;

1           (4) cannot, because of illness or disability,  
2 discharge the member's duties for a substantial part of the member's  
3 term; or

4           (5) is absent from more than half of the regularly  
5 scheduled advisory board meetings that the member is eligible to  
6 attend during a calendar year without an excuse approved by a  
7 majority vote of the advisory board.

8           (b) The validity of an action of the advisory board is not  
9 affected by the fact that it is taken when a ground for removal of an  
10 advisory board member exists.

11           (c) If the executive director of the medical board has  
12 knowledge that a potential ground for removal exists, the executive  
13 director shall notify the presiding officer of the advisory board  
14 of the potential ground. The presiding officer shall then notify  
15 the governor and the attorney general that a potential ground for  
16 removal exists. If the potential ground for removal involves the  
17 presiding officer, the executive director shall notify the next  
18 highest ranking officer of the advisory board, who shall then  
19 notify the governor and the attorney general that a potential  
20 ground for removal exists.

21           Sec. 604.027. PER DIEM. A member of the advisory board is  
22 entitled to receive a per diem as set by legislative appropriation  
23 for each day that the member engages in the business of the advisory  
24 board.

25           Sec. 604.028. APPLICATION OF OPEN MEETINGS, OPEN RECORDS,  
26 AND ADMINISTRATIVE PROCEDURE LAWS. Except as otherwise provided  
27 by this chapter, the advisory board is subject to Chapters 551, 552,

1 and 2001, Government Code.

2 Sec. 604.029. MEETINGS; QUORUM REQUIREMENTS. (a) The  
3 advisory board shall conduct regular meetings at least three times  
4 a year at the times and places the advisory board considers most  
5 convenient for applicants and advisory board members.

6 (b) The advisory board may hold special meetings in  
7 accordance with rules adopted by the advisory board and approved by  
8 the medical board.

9 (c) A majority of the advisory board members constitutes a  
10 quorum for all purposes except for an advisory board activity  
11 related to examining the credentials of applicants, acting as a  
12 panel for disciplinary action under Section 604.202, or conducting  
13 an informal meeting under Section 604.209.

14 Sec. 604.030. TRAINING. (a) A person who is appointed to  
15 and qualifies for office as a member of the advisory board may not  
16 vote, deliberate, or be counted as a member in attendance at a  
17 meeting of the advisory board until the person completes a training  
18 program that complies with this section.

19 (b) The training program must provide the person with  
20 information regarding:

21 (1) this chapter and the advisory board's programs,  
22 functions, rules, and budget;

23 (2) the results of the most recent formal audit of the  
24 advisory board;

25 (3) the requirements of laws relating to open  
26 meetings, public information, administrative procedure, and  
27 conflicts of interest; and

1           (4) any applicable ethics policies adopted by the  
2 advisory board or the Texas Ethics Commission.

3           (c) A person appointed to the advisory board is entitled to  
4 reimbursement, as provided by the General Appropriations Act, for  
5 the travel expenses incurred in attending the training program  
6 regardless of whether the attendance at the program occurs before  
7 or after the person qualifies for office.

8           SECTION 9.147. The heading to Subchapter B, Chapter 604,  
9 Occupations Code, as amended by S.B. 219, Acts of the 84th  
10 Legislature, Regular Session, 2015, is amended to read as follows:

11           SUBCHAPTER B. POWERS AND DUTIES OF ADVISORY BOARD [~~EXECUTIVE~~  
12 ~~COMMISSIONER~~] AND MEDICAL BOARD [~~DEPARTMENT~~]

13           SECTION 9.148. The heading to Section 604.052, Occupations  
14 Code, is amended to read as follows:

15           Sec. 604.052. GENERAL POWERS AND DUTIES OF ADVISORY BOARD  
16 [~~RULES~~].

17           SECTION 9.149. Section 604.052(a), Occupations Code, as  
18 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
19 2015, is amended to read as follows:

20           (a) The advisory board [~~executive commissioner by rule~~]  
21 shall:

22                 (1) adopt rules that are reasonable and necessary for  
23 the performance of the advisory board's duties under this chapter,  
24 as provided by Chapter 2001, Government Code, including rules to  
25 establish:

26                         (A) the certification and permitting program;  
27 and

1           (B) minimum qualifications for respiratory care  
2 practitioners;

3           (2) review and approve or reject each application for  
4 the issuance or renewal of a certificate or temporary permit;

5           (3) issue each certificate or permit;

6           (4) deny, suspend, or revoke [~~standards for issuing,~~  
7 ~~denying, renewing, suspending, suspending on an emergency basis, or~~  
8 ~~revoking]~~ a certificate or temporary permit or otherwise discipline  
9 a certificate or permit holder; and

10           (5) take any action necessary to carry out the  
11 functions and duties of the advisory board under this chapter.

12           SECTION 9.150. Subchapter B, Chapter 604, Occupations Code,  
13 is amended by adding Sections 604.0521 and 604.0522 to read as  
14 follows:

15           Sec. 604.0521. GUIDELINES FOR EARLY INVOLVEMENT IN  
16 RULEMAKING PROCESS. (a) The advisory board shall adopt guidelines  
17 to establish procedures for receiving input during the rulemaking  
18 process from individuals and groups that have an interest in  
19 matters under the advisory board's jurisdiction. The guidelines  
20 must provide an opportunity for those individuals and groups to  
21 provide input before the advisory board submits the rule to the  
22 medical board for approval.

23           (b) A rule adopted under this chapter may not be challenged  
24 on the grounds that the advisory board did not comply with this  
25 section. If the advisory board was unable to solicit a significant  
26 amount of input from the public or affected persons early in the  
27 rulemaking process, the advisory board shall state in writing the

1 reasons why it was unable to do so.

2 Sec. 604.0522. POWERS AND DUTIES OF MEDICAL BOARD RELATING  
3 TO RESPIRATORY CARE PRACTITIONERS. (a) The medical board shall  
4 adopt rules consistent with this chapter to regulate:

5 (1) respiratory care practitioners; and

6 (2) physicians who supervise respiratory care  
7 practitioners.

8 (b) The medical board, by a majority vote, shall approve or  
9 reject each rule adopted by the advisory board. If approved, the  
10 rule may take effect. If the rule is rejected, the medical board  
11 shall return the rule to the advisory board for revision.

12 SECTION 9.151. Section 604.053, Occupations Code, as  
13 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
14 2015, is amended to read as follows:

15 Sec. 604.053. FEES. (a) The advisory board [~~executive~~  
16 ~~commissioner~~] by rule shall set fees for an application,  
17 examination, certificate, temporary permit, permit and certificate  
18 renewal, and certificate reinstatement.

19 (b) The advisory board [~~executive commissioner~~] by rule  
20 shall set fees in reasonable amounts that are sufficient to cover  
21 the costs of administering this chapter. [~~The executive~~  
22 ~~commissioner shall set fees for issuing or renewing a certificate~~  
23 ~~or permit in amounts designed to allow the department to recover~~  
24 ~~from the certificate and permit holders all of the department's~~  
25 ~~direct and indirect costs in administering and enforcing this~~  
26 ~~chapter.~~]

27 SECTION 9.152. Section 604.054, Occupations Code, is

1 amended to read as follows:

2           Sec. 604.054. APPROVAL OF EDUCATION PROGRAMS. In  
3 determining whether to approve a respiratory care education  
4 program, the advisory board [~~department~~] shall consider relevant  
5 information about the quality of the program, including  
6 accreditation of the program by a professional medical association,  
7 such as the Commission on Accreditation of Allied Health Education  
8 Programs.

9           SECTION 9.153. Section 604.055, Occupations Code, as  
10 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
11 2015, is amended to read as follows:

12           Sec. 604.055. PEER ASSISTANCE PROGRAM. The medical board  
13 [~~department~~] may establish, approve, and fund a peer assistance  
14 program in accordance with Section 467.003, Health and Safety Code,  
15 and medical board [~~department~~] rules.

16           SECTION 9.154. Section 604.057, Occupations Code, as  
17 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
18 2015, is amended to read as follows:

19           Sec. 604.057. RULES REGARDING ADVERTISING OR COMPETITIVE  
20 BIDDING. (a) The advisory board [~~executive commissioner~~] may not  
21 adopt rules restricting advertising or competitive bidding by a  
22 temporary permit or certificate holder except to prohibit false,  
23 misleading, or deceptive practices.

24           (b) In adopting rules to prohibit false, misleading, or  
25 deceptive practices, the advisory board [~~executive commissioner~~]  
26 may not include a rule that:

27                   (1) restricts the use of any medium for advertising;

1           (2) restricts the use of a temporary permit or  
2 certificate holder's personal appearance or voice in an  
3 advertisement;

4           (3) relates to the size or duration of an  
5 advertisement by the temporary permit or certificate holder; or

6           (4) restricts the temporary permit or certificate  
7 holder's advertisement under a trade name.

8           SECTION 9.155. Subchapter B, Chapter 604, Occupations Code,  
9 is amended by adding Sections 604.058, 604.059, and 604.060 to read  
10 as follows:

11           Sec. 604.058. RULES ON CONSEQUENCES OF CRIMINAL CONVICTION.  
12 The advisory board shall adopt rules and guidelines as necessary to  
13 comply with Chapter 53, except to the extent the requirements of  
14 this chapter are stricter than the requirements of Chapter 53.

15           Sec. 604.059. ASSISTANCE BY MEDICAL BOARD; DIVISION OF  
16 RESPONSIBILITIES. (a) The medical board shall provide  
17 administrative and clerical employees as necessary to enable the  
18 advisory board to administer this chapter.

19           (b) Subject to the advice and approval of the medical board,  
20 the advisory board shall develop and implement policies that  
21 clearly separate the policy-making responsibilities of the  
22 advisory board and the management responsibilities of the executive  
23 director and staff of the medical board.

24           Sec. 604.060. PUBLIC PARTICIPATION. Subject to the advice  
25 and approval of the medical board, the advisory board shall develop  
26 and implement policies that provide the public with a reasonable  
27 opportunity to appear before the advisory board and to speak on any

1 issue under the jurisdiction of the advisory board.

2 SECTION 9.156. Section 604.101(b), Occupations Code, as  
3 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
4 2015, is amended to read as follows:

5 (b) A person may not practice respiratory care other than  
6 under the direction of a qualified medical director or other  
7 physician licensed by the medical board [~~Texas Medical Board~~].

8 SECTION 9.157. Section 604.103, Occupations Code, as  
9 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
10 2015, is amended to read as follows:

11 Sec. 604.103. APPLICATION; APPLICATION FEE. An applicant  
12 for a certificate or temporary permit must:

13 (1) apply to the advisory board [~~department~~] on a form  
14 prescribed by [~~the department~~] and under rules adopted by the  
15 advisory board [~~executive commissioner~~]; and

16 (2) submit a nonrefundable application fee with the  
17 application.

18 SECTION 9.158. Subchapter C, Chapter 604, Occupations Code,  
19 is amended by adding Section 604.1031 to read as follows:

20 Sec. 604.1031. CRIMINAL HISTORY RECORD INFORMATION  
21 REQUIREMENT FOR CERTIFICATE OR TEMPORARY PERMIT. (a) The advisory  
22 board shall require that an applicant for a certificate or  
23 temporary permit submit a complete and legible set of fingerprints,  
24 on a form prescribed by the advisory board, to the advisory board or  
25 to the Department of Public Safety for the purpose of obtaining  
26 criminal history record information from the Department of Public  
27 Safety and the Federal Bureau of Investigation.

1       (b) The advisory board may not issue a certificate or  
2 temporary permit to a person who does not comply with the  
3 requirement of Subsection (a).

4       (c) The advisory board shall conduct a criminal history  
5 check of each applicant for a certificate or temporary permit using  
6 information:

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

8           (2) made available to the advisory board by the  
9 Department of Public Safety, the Federal Bureau of Investigation,  
10 and any other criminal justice agency under Chapter 411, Government  
11 Code.

12       (d) The advisory board may:

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

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

19       SECTION 9.159. Section 604.104, Occupations Code, is  
20 amended to read as follows:

21       Sec. 604.104. REQUIREMENT FOR CERTIFICATE. An applicant  
22 for a certificate must submit to the advisory board [~~department~~]  
23 written evidence, verified by oath, that the applicant has  
24 completed:

25           (1) an approved four-year high school course of study  
26 or the equivalent as determined by the appropriate educational  
27 agency; and

1           (2) a respiratory care education program approved by  
2 the advisory board [~~department~~].

3           SECTION 9.160. Section 604.1041, Occupations Code, as  
4 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
5 2015, is amended to read as follows:

6           Sec. 604.1041. EXAMINATION. (a) The advisory board  
7 [~~executive commissioner~~] by rule shall establish examination  
8 requirements for a certificate under this chapter. The advisory  
9 board [~~executive commissioner~~] may use the entry level examination  
10 prepared by the National Board for Respiratory Care or an  
11 equivalent examination.

12           (b) An applicant for a certificate or temporary permit must  
13 pass a jurisprudence examination approved by the advisory board.

14           SECTION 9.161. Section 604.1042, Occupations Code, is  
15 amended to read as follows:

16           Sec. 604.1042. NOTIFICATION OF EXAMINATION RESULTS. (a)  
17 Not later than the 30th day after the date a person takes a  
18 certification examination under this chapter, the advisory board  
19 [~~department~~] shall notify the person of the results of the  
20 examination.

21           (b) If the examination is graded or reviewed by a testing  
22 service, the advisory board [~~department~~] shall notify the person of  
23 the results of the examination not later than the 14th day after the  
24 date the advisory board [~~department~~] receives the results from the  
25 testing service. If notice of the examination results will be  
26 delayed for longer than 90 days after the examination date, the  
27 advisory board [~~department~~] shall notify the person of the reason

1 for the delay before the 90th day.

2 (c) The advisory board [~~department~~] may require a testing  
3 service to notify a person of the results of the person's  
4 examination.

5 (d) If requested in writing by a person who fails a  
6 certification examination administered under this chapter, the  
7 advisory board [~~department~~] shall furnish the person with an  
8 analysis of the person's performance on the examination.

9 SECTION 9.162. Section 604.105, Occupations Code, is  
10 amended to read as follows:

11 Sec. 604.105. ISSUANCE OF CERTIFICATE. The advisory board  
12 [~~department~~] shall issue a certificate to an applicant who:

13 (1) meets the minimum qualifications [~~standards~~]  
14 adopted under Section 604.052(a);

15 (2) passes the required examinations;

16 (3) complies with the criminal history record  
17 information requirement of Section 604.1031;

18 (4) submits an application on a form prescribed by the  
19 advisory board;

20 (5) certifies that the applicant is mentally and  
21 physically able to be a respiratory care practitioner;

22 (6) submits to the advisory board any other  
23 information the advisory board considers necessary to evaluate the  
24 applicant's qualifications; and

25 (7) pays the certificate fee.

26 SECTION 9.163. Section 604.106, Occupations Code, is  
27 amended to read as follows:

1           Sec. 604.106. ISSUANCE OF CERTIFICATE BY RECIPROCITY. The  
2 advisory board [~~department~~] may issue a certificate to a person who  
3 is licensed or certified to practice respiratory care by another  
4 state whose requirements for licensure or certification were on the  
5 date the license or certificate was issued substantially equal to  
6 the requirements of this chapter.

7           SECTION 9.164. Section 604.107, Occupations Code, is  
8 amended to read as follows:

9           Sec. 604.107. REQUIREMENTS FOR TEMPORARY PERMIT. An  
10 applicant for a temporary permit to practice respiratory care must  
11 submit to the advisory board:

12           (1) [~~department~~] written evidence, verified by oath,  
13 that the applicant is:

14           (A) [~~(1)~~] practicing or has within the 12-month  
15 period preceding the application date practiced respiratory care in  
16 another state or country and is licensed to practice respiratory  
17 care in that state or country;

18           (B) [~~(2)~~] a student in an approved respiratory  
19 care education program who expects to graduate from the program not  
20 later than the 30th day after the date the temporary permit is  
21 issued; or

22           (C) [~~(3)~~] a graduate of an approved respiratory  
23 care education program; and

24           (2) any additional information required by advisory  
25 board rules.

26           SECTION 9.165. Section 604.108, Occupations Code, is  
27 amended by amending Subsection (a) and Subsection (b), as amended

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

3 (a) The advisory board [~~department~~] shall issue a temporary  
4 permit to an applicant who:

5 (1) meets the requirements of Sections 604.103 and  
6 604.107;

7 (2) complies with the criminal history record  
8 information requirement of Section 604.1031; and

9 (3) pays the permit fee.

10 (b) A temporary permit is valid for the period set by  
11 advisory board [~~department~~] rule. The period may not be less than  
12 six months or more than 12 months.

13 SECTION 9.166. Subchapter C, Chapter 604, Occupations Code,  
14 is amended by adding Section 604.110 to read as follows:

15 Sec. 604.110. DELEGATION OF AUTHORITY TO ISSUE CERTIFICATE  
16 OR TEMPORARY PERMIT. The advisory board may delegate authority to  
17 medical board employees to issue certificates or temporary permits  
18 under this chapter to applicants who clearly meet all applicable  
19 requirements. If the medical board employees determine that the  
20 applicant does not clearly meet all applicable requirements, the  
21 application must be returned to the advisory board. A certificate  
22 or temporary permit issued under this section does not require  
23 formal advisory board approval.

24 SECTION 9.167. Section 604.151(b), Occupations Code, as  
25 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
26 2015, is amended to read as follows:

27 (b) The advisory board [~~executive commissioner~~] by rule may

1 adopt a system under which certificates expire on various dates  
2 during the year. For the year in which the certificate expiration  
3 date is changed, the advisory board [~~department~~] shall prorate  
4 certificate fees on a monthly basis so that each certificate holder  
5 pays only that portion of the certificate fee that is allocable to  
6 the number of months during which the certificate is valid. On  
7 renewal of the certificate on the new expiration date, the total  
8 certificate renewal fee is payable.

9 SECTION 9.168. Section 604.152, Occupations Code, is  
10 amended to read as follows:

11 Sec. 604.152. NOTICE OF CERTIFICATE RENEWAL. (a) Not later  
12 than the 30th day before the expiration date of a person's  
13 certificate, the advisory board [~~department~~] shall mail a renewal  
14 notice to the person at the person's last known address.

15 (b) To renew a certificate, the certificate holder must:

16 (1) complete the renewal notice and return the notice  
17 with the renewal fee to the advisory board [~~department~~] on or before  
18 the expiration date; and

19 (2) meet any other requirement established by advisory  
20 board rule.

21 SECTION 9.169. Sections 604.1521(a) and (b), Occupations  
22 Code, are amended to read as follows:

23 (a) A person whose certificate has been expired for 90 days  
24 or less may renew the certificate by paying to the advisory board  
25 [~~department~~] a renewal fee that is equal to 1-1/2 times the normally  
26 required renewal fee.

27 (b) A person whose certificate has been expired for more

1 than 90 days but less than one year may renew the certificate by  
2 paying to the advisory board [~~department~~] a renewal fee that is  
3 equal to two times the normally required renewal fee.

4 SECTION 9.170. Section 604.1522(b), Occupations Code, is  
5 amended to read as follows:

6 (b) The person must pay to the advisory board [~~department~~] a  
7 fee that is equal to two times the normally required renewal fee for  
8 the certificate.

9 SECTION 9.171. Subchapter D, Chapter 604, Occupations Code,  
10 is amended by adding Section 604.1523 to read as follows:

11 Sec. 604.1523. CRIMINAL HISTORY RECORD INFORMATION  
12 REQUIREMENT FOR RENEWAL. (a) An applicant for renewal of a  
13 certificate or temporary permit shall submit a complete and legible  
14 set of fingerprints for purposes of performing a criminal history  
15 check of the applicant as provided by Section 604.1031.

16 (b) The advisory board may not renew the certificate or  
17 temporary permit of a person who does not comply with the  
18 requirement of Subsection (a).

19 (c) A person is not required to submit fingerprints under  
20 this section for the renewal of a certificate or temporary permit if  
21 the person has previously submitted fingerprints under:

22 (1) Section 604.1031 for the initial issuance of the  
23 certificate or permit; or

24 (2) this section as part of a prior renewal of a  
25 certificate or permit.

26 SECTION 9.172. Section 604.153(a), Occupations Code, is  
27 amended to read as follows:

1 (a) The advisory board [~~department~~] shall issue to the  
2 certificate holder a certificate for the renewal period on receipt  
3 of the completed renewal notice and other information required by  
4 advisory board rule and payment of the renewal fee.

5 SECTION 9.173. Section 604.154, Occupations Code, as  
6 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
7 2015, is amended to read as follows:

8 Sec. 604.154. CONTINUING EDUCATION REQUIREMENTS. (a) The  
9 advisory board [~~executive commissioner~~] shall establish for the  
10 renewal of a certificate uniform continuing education requirements  
11 of not less than 12 or more than 24 continuing education hours for  
12 each renewal period.

13 (b) The advisory board [~~executive commissioner~~] may adopt  
14 rules relating to meeting the continuing education requirements in  
15 a hardship situation.

16 SECTION 9.174. Section 604.156, Occupations Code, as  
17 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
18 2015, is amended to read as follows:

19 Sec. 604.156. INACTIVE STATUS. (a) A respiratory care  
20 practitioner who does not practice respiratory care during a  
21 renewal period and who notifies the advisory board [~~department~~]  
22 that the practitioner is not practicing respiratory care is not  
23 required to pay the renewal fee until the practitioner resumes  
24 practice.

25 (b) To resume the practice of respiratory care, the  
26 practitioner must:

- 27 (1) notify the advisory board [~~department~~];

1 (2) satisfy requirements adopted by the advisory board  
2 [~~executive commissioner~~]; and

3 (3) pay the reinstatement fee and the renewal fee for  
4 the renewal period in which the practitioner will resume practice.

5 SECTION 9.175. Section 604.157(b), Occupations Code, as  
6 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
7 2015, is amended to read as follows:

8 (b) The advisory board [~~department~~] may renew a temporary  
9 permit for not more than one additional period, pending compliance  
10 with this chapter and advisory board [~~department~~] rules. The  
11 additional period may not be less than six months or more than 12  
12 months.

13 SECTION 9.176. Chapter 604, Occupations Code, is amended by  
14 adding Subchapter D-1 to read as follows:

15 SUBCHAPTER D-1. COMPLAINTS AND INVESTIGATIVE INFORMATION

16 Sec. 604.171. COMPLAINT INFORMATION AND STATUS. (a) The  
17 advisory board shall maintain a system to promptly and efficiently  
18 act on complaints filed with the advisory board. The advisory  
19 board shall maintain:

20 (1) information about the parties to the complaint and  
21 the subject matter of the complaint;

22 (2) a summary of the results of the review or  
23 investigation of the complaint; and

24 (3) information about the disposition of the  
25 complaint.

26 (b) The advisory board shall make information available  
27 describing its procedures for complaint investigation and

1 resolution.

2 (c) If a written complaint is filed with the advisory board  
3 relating to a certificate or temporary permit holder, the advisory  
4 board, as often as quarterly and until final determination of the  
5 action to be taken on the complaint, shall notify the parties to the  
6 complaint of the status of the complaint unless the notice would  
7 jeopardize an active investigation.

8 Sec. 604.172. CONDUCT OF INVESTIGATION. The advisory board  
9 shall complete a preliminary investigation of a complaint filed  
10 with the advisory board not later than the 45th day after the date  
11 of receiving the complaint. The advisory board shall first  
12 determine whether the person constitutes a continuing threat to the  
13 public welfare. On completion of the preliminary investigation,  
14 the advisory board shall determine whether to officially proceed on  
15 the complaint. If the advisory board fails to complete the  
16 preliminary investigation in the time required by this section, the  
17 advisory board's official investigation of the complaint is  
18 considered to commence on that date.

19 Sec. 604.173. ACCESS TO COMPLAINT INFORMATION. (a) Except  
20 as provided by Subsection (b), the advisory board shall provide a  
21 person who is the subject of a formal complaint filed under this  
22 chapter with access to all information in its possession that the  
23 advisory board intends to offer into evidence in presenting its  
24 case in chief at the contested hearing on the complaint, subject to  
25 any other privilege or restriction established by rule, statute, or  
26 legal precedent. The advisory board shall provide the information  
27 not later than the 30th day after receipt of a written request from

1 the person or the person's counsel, unless good cause is shown for  
2 delay.

3 (b) The advisory board is not required to provide:

4 (1) advisory board investigative reports;

5 (2) investigative memoranda;

6 (3) the identity of a nontestifying complainant;

7 (4) attorney-client communications;

8 (5) attorney work product; or

9 (6) other material covered by a privilege recognized

10 by the Texas Rules of Civil Procedure or the Texas Rules of  
11 Evidence.

12 (c) Providing information under this section does not  
13 constitute a waiver of privilege or confidentiality under this  
14 chapter or other law.

15 Sec. 604.174. HEALTH CARE ENTITY REQUEST FOR INFORMATION.

16 On the written request of a health care entity, the advisory board  
17 shall provide to the entity:

18 (1) information about a complaint filed against a  
19 person that was resolved after investigation by:

20 (A) a disciplinary order of the advisory board;

21 or

22 (B) an agreed settlement; and

23 (2) the basis of and current status of any complaint  
24 that has been referred by the executive director of the medical  
25 board for enforcement action.

26 Sec. 604.175. CONFIDENTIALITY OF INVESTIGATIVE

27 INFORMATION. A complaint, adverse report, investigation file,

1 other report, or other investigative information in the possession  
2 of or received or gathered by the advisory board, the medical board,  
3 or an employee or agent of the medical board relating to a  
4 certificate or temporary permit holder, an application for a  
5 certificate or temporary permit, or a criminal investigation or  
6 proceeding is privileged and confidential and is not subject to  
7 discovery, subpoena, or other means of legal compulsion for release  
8 to any person other than the advisory board, the medical board, or  
9 an employee or agent of the advisory board or medical board involved  
10 in discipline under this chapter. For purposes of this section,  
11 "investigative information" includes information related to the  
12 identity of a person performing or supervising compliance  
13 monitoring for the advisory board or medical board and a report  
14 prepared by the person related to compliance monitoring.

15 Sec. 604.176. PERMITTED DISCLOSURE OF INVESTIGATIVE  
16 INFORMATION. (a) Investigative information in the possession of  
17 the advisory board, the medical board, or an employee or agent of  
18 the medical board that relates to the discipline of a certificate or  
19 temporary permit holder may be disclosed to:

20 (1) a licensing authority in another state or country  
21 in which the certificate or temporary permit holder is licensed,  
22 certified, or permitted or has applied for a license,  
23 certification, or permit; or

24 (2) a medical peer review committee reviewing:

25 (A) an application for privileges; or

26 (B) the qualifications of the certificate holder  
27 or person with respect to retaining privileges.

1        (b) If investigative information in the possession of the  
2 advisory board, the medical board, or an employee or agent of the  
3 medical board indicates that a crime may have been committed, the  
4 advisory board or medical board, as appropriate, shall report the  
5 information to the proper law enforcement agency. The advisory  
6 board and medical board shall cooperate with and assist each law  
7 enforcement agency conducting a criminal investigation of a  
8 certificate or temporary permit holder by providing information  
9 relevant to the investigation. Confidential information disclosed  
10 to a law enforcement agency under this subsection remains  
11 confidential and may not be disclosed by the law enforcement agency  
12 except as necessary to further the investigation.

13        SECTION 9.177. Section [604.201](#), Occupations Code, is  
14 amended to read as follows:

15        Sec. 604.201. DISCIPLINARY ACTION. (a) For a violation of  
16 this chapter or a rule adopted under this chapter, the advisory  
17 board [~~department~~] may:

18                (1) deny, suspend, suspend on an emergency basis,  
19 revoke, or refuse to renew a certificate or temporary permit;

20                (2) place the certificate or permit holder on  
21 probation under conditions set by the advisory board [~~department~~];  
22 or

23                (3) reprimand the certificate or permit holder.

24        (b) The advisory board [~~department~~] shall take disciplinary  
25 action authorized under Subsection (a) if the advisory board  
26 [~~department~~] determines that a person who holds a certificate or  
27 temporary permit:

1           (1) is guilty of fraud or deceit in procuring,  
2 renewing, or attempting to procure a certificate or temporary  
3 permit;

4           (2) is unfit or incompetent because of negligence or  
5 another cause of incompetency;

6           (3) is addicted to or has improperly obtained,  
7 possessed, used, or distributed a habit-forming drug or narcotic or  
8 is habitually intemperate in the use of alcoholic beverages;

9           (4) is guilty of dishonest or unethical conduct as  
10 determined by the advisory board [~~department~~];

11           (5) has practiced respiratory care after the person's  
12 certificate or temporary permit has expired;

13           (6) has practiced respiratory care under a certificate  
14 or temporary permit illegally or fraudulently obtained or issued;

15           (7) has practiced respiratory care without the  
16 direction of a qualified medical director or other licensed  
17 physician; or

18           (8) has violated this chapter or aided or abetted  
19 another in violating this chapter.

20           SECTION 9.178. Subchapter E, Chapter 604, Occupations Code,  
21 is amended by adding Section 604.2011 to read as follows:

22           Sec. 604.2011. SURRENDER OF CERTIFICATE OR TEMPORARY  
23 PERMIT. (a) The advisory board may accept the voluntary surrender  
24 of a certificate or temporary permit. A person who has surrendered a  
25 certificate or temporary permit may not engage in activities that  
26 require a certificate or permit, and the advisory board may not  
27 return the certificate or permit to the person, until the person

1 demonstrates to the satisfaction of the advisory board that the  
2 person is able to resume practice as a respiratory care  
3 practitioner.

4 (b) The advisory board shall by rule establish guidelines  
5 for determining when a person is competent to resume practice as a  
6 respiratory care practitioner.

7 SECTION 9.179. Section 604.202, Occupations Code, is  
8 amended to read as follows:

9 Sec. 604.202. EMERGENCY SUSPENSION. (a) The presiding  
10 officer of the advisory board shall appoint a three-member  
11 disciplinary panel consisting of advisory board members to  
12 determine whether a certificate or permit should be temporarily  
13 suspended.

14 (a-1) The disciplinary panel shall temporarily [department  
15 may] suspend a certificate or temporary permit issued under this  
16 chapter on a determination that continued practice by a certificate  
17 or temporary permit holder would constitute a continuing threat to  
18 the public welfare [the health and safety of a person is threatened  
19 and may make the suspension effective immediately].

20 (b) A [person whose] certificate or temporary permit may be  
21 [is] suspended under this section without notice or hearing on the  
22 complaint if:

23 (1) action is taken to initiate proceedings for [is  
24 entitled to] a hearing before the advisory board simultaneously  
25 with the temporary suspension; and

26 (2) a hearing is held as soon as practicable under this  
27 chapter and Chapter 2001, Government Code [department not later

1 ~~than the 10th day after the effective date of the emergency~~  
2 ~~suspension].~~

3 (c) Notwithstanding Chapter 551, Government Code, the  
4 disciplinary panel may hold a meeting by telephone conference call  
5 if immediate action is required and convening of the panel at one  
6 location is inconvenient for any member of the panel.

7 SECTION 9.180. Section 604.203, Occupations Code, as  
8 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
9 2015, is amended to read as follows:

10 Sec. 604.203. DISCIPLINARY PROCEDURE. The procedure by  
11 which the advisory board [~~department~~] takes a disciplinary action  
12 and the procedure by which a disciplinary action is appealed are  
13 governed by:

14 (1) advisory board [~~department~~] rules for a contested  
15 case hearing; and

16 (2) Chapter 2001, Government Code.

17 SECTION 9.181. Subchapter E, Chapter 604, Occupations Code,  
18 is amended by adding Sections 604.205 through 604.214 to read as  
19 follows:

20 Sec. 604.205. DELEGATION OF CERTAIN COMPLAINT  
21 DISPOSITIONS. (a) The advisory board may delegate to a committee  
22 of medical board employees the authority to dismiss or enter into an  
23 agreed settlement of a complaint that does not relate directly to  
24 patient care or that involves only administrative violations. The  
25 disposition determined by the committee must be approved by the  
26 advisory board at a public meeting.

27 (b) A complaint delegated under this section shall be

1 referred for an informal proceeding under Section 604.209 if:

2 (1) the committee of employees determines that the  
3 complaint should not be dismissed or settled;

4 (2) the committee is unable to reach an agreed  
5 settlement; or

6 (3) the affected person requests that the complaint be  
7 referred for an informal proceeding.

8 Sec. 604.206. SUBPOENA. (a) The executive director of the  
9 medical board, the director's designee, or the secretary-treasurer  
10 of the medical board may issue a subpoena or subpoena duces tecum  
11 for the advisory board:

12 (1) to conduct an investigation or a contested  
13 proceeding related to:

14 (A) alleged misconduct by a certificate or  
15 temporary permit holder;

16 (B) an alleged violation of this chapter or other  
17 law related to respiratory care; or

18 (C) the provision of health care under this  
19 chapter; or

20 (2) for purposes of determining whether to issue,  
21 suspend, restrict, or revoke a certificate or temporary permit  
22 under this chapter.

23 (b) Failure to timely comply with a subpoena issued under  
24 this section is a ground for:

25 (1) disciplinary action by the advisory board or  
26 another licensing or regulatory agency with jurisdiction over the  
27 person subject to the subpoena; and

1           (2) denial of an application for a certificate or  
2 temporary permit.

3           Sec. 604.207. PROTECTION OF PATIENT IDENTITY. In a  
4 disciplinary investigation or proceeding conducted under this  
5 chapter, the advisory board shall protect the identity of each  
6 patient whose medical records are examined and used in a public  
7 proceeding unless the patient:

8                   (1) testifies in the public proceeding; or

9                   (2) submits a written release in regard to the  
10 patient's records or identity.

11           Sec. 604.208. REQUIRED SUSPENSION OF LICENSE OF  
12 INCARCERATED CERTIFICATE OR TEMPORARY PERMIT HOLDER. Regardless of  
13 the offense, the advisory board shall suspend the certificate or  
14 temporary permit of a person serving a prison term in a state or  
15 federal penitentiary during the term of the incarceration.

16           Sec. 604.209. INFORMAL PROCEEDINGS. (a) The advisory  
17 board by rule shall adopt procedures governing:

18                   (1) informal disposition of a contested case under  
19 Section 2001.056, Government Code; and

20                   (2) informal proceedings held in compliance with  
21 Section 2001.054, Government Code.

22           (b) Rules adopted under this section must require that:

23                   (1) an informal meeting in compliance with Section  
24 2001.054, Government Code, be scheduled and the advisory board give  
25 notice to the person who is the subject of a complaint of the time  
26 and place of the meeting not later than the 45th day before the date  
27 the meeting is held;

1           (2) the complainant and the person who is the subject  
2 of the complaint be provided an opportunity to be heard;

3           (3) at least one of the advisory board members  
4 participating in the informal meeting as a panelist be a member who  
5 represents the public;

6           (4) a member of the medical board's staff be at the  
7 meeting to present to the advisory board's representative the facts  
8 the staff reasonably believes it could prove by competent evidence  
9 or qualified witnesses at a hearing; and

10           (5) the advisory board's legal counsel or a  
11 representative of the attorney general be present to advise the  
12 advisory board or the medical board's staff.

13           (c) The person who is the subject of the complaint is  
14 entitled to:

15           (1) reply to the staff's presentation; and

16           (2) present the facts the person reasonably believes  
17 the person could prove by competent evidence or qualified witnesses  
18 at a hearing.

19           (d) After ample time is given for the presentations, the  
20 advisory board representative shall recommend that the  
21 investigation be closed or shall attempt to mediate the disputed  
22 matters and make a recommendation regarding the disposition of the  
23 case in the absence of a hearing under applicable law concerning  
24 contested cases.

25           (e) If the person who is the subject of the complaint has  
26 previously been the subject of disciplinary action by the advisory  
27 board, the advisory board shall schedule the informal meeting as

1 soon as practicable.

2 Sec. 604.210. ADVISORY BOARD REPRESENTATION IN INFORMAL  
3 PROCEEDINGS. (a) In an informal meeting under Section 604.209, at  
4 least two panelists shall be appointed to determine whether an  
5 informal disposition is appropriate.

6 (b) Notwithstanding Subsection (a) and Section  
7 604.209(b)(3), an informal proceeding may be conducted by one  
8 panelist if the person who is the subject of the complaint waives  
9 the requirement that at least two panelists conduct the informal  
10 proceeding. If the person waives that requirement, the panelist  
11 may be any member of the advisory board.

12 (c) Except as provided by Subsection (d), the panel  
13 requirements described by Subsections (a) and (b) apply to an  
14 informal proceeding conducted by the advisory board under Section  
15 604.209, including a proceeding to:

16 (1) consider a disciplinary case to determine if a  
17 violation has occurred; or

18 (2) request modification or termination of an order.

19 (d) The panel requirements described by Subsections (a) and  
20 (b) do not apply to an informal proceeding conducted by the advisory  
21 board under Section 604.209 to show compliance with an order of the  
22 advisory board.

23 Sec. 604.211. ROLES AND RESPONSIBILITIES OF PARTICIPANTS IN  
24 INFORMAL PROCEEDINGS. (a) An advisory board member who serves as a  
25 panelist at an informal meeting under Section 604.209 shall make  
26 recommendations for the disposition of a complaint or  
27 allegation. The member may request the assistance of a medical

1 board employee at any time.

2 (b) Medical board employees shall present a summary of the  
3 allegations against the person who is the subject of the complaint  
4 and of the facts pertaining to the allegation that the employees  
5 reasonably believe may be proven by competent evidence at a formal  
6 hearing.

7 (c) An attorney for the advisory board or medical board  
8 shall act as counsel to the panel and, notwithstanding Subsection  
9 (e), shall be present during the informal meeting and the panel's  
10 deliberations to advise the panel on legal issues that arise during  
11 the proceeding. The attorney may ask questions of a participant in  
12 the informal meeting to clarify any statement made by the  
13 participant. The attorney shall provide to the panel a historical  
14 perspective on comparable cases that have appeared before the  
15 advisory board or medical board, keep the proceedings focused on  
16 the case being discussed, and ensure that the medical board's  
17 employees and the person who is the subject of the complaint have an  
18 opportunity to present information related to the case. During the  
19 panel's deliberations, the attorney may be present only to advise  
20 the panel on legal issues and to provide information on comparable  
21 cases that have appeared before the advisory board or medical  
22 board.

23 (d) The panel and medical board employees shall provide an  
24 opportunity for the person who is the subject of the complaint and  
25 the person's authorized representative to reply to the medical  
26 board employees' presentation and to present oral and written  
27 statements and facts that the person and representative reasonably

1 believe could be proven by competent evidence at a formal hearing.

2 (e) An employee of the medical board who participated in the  
3 presentation of the allegation or information gathered in the  
4 investigation of the complaint, the person who is the subject of the  
5 complaint, the person's authorized representative, the  
6 complainant, the witnesses, and members of the public may not be  
7 present during the deliberations of the panel. Only the members of  
8 the panel and the attorney serving as counsel to the panel may be  
9 present during the deliberations.

10 (f) The panel shall recommend the dismissal of the complaint  
11 or allegations or, if the panel determines that the person has  
12 violated a statute or advisory board rule, the panel may recommend  
13 advisory board action and terms for an informal settlement of the  
14 case.

15 (g) The panel's recommendations under Subsection (f) must  
16 be made in a written order and presented to the affected person and  
17 the person's authorized representative. The person may accept the  
18 proposed settlement within the time established by the panel at the  
19 informal meeting. If the person rejects the proposed settlement or  
20 does not act within the required time, the advisory board may  
21 proceed with the filing of a formal complaint with the State Office  
22 of Administrative Hearings.

23 Sec. 604.212. LIMIT ON ACCESS TO INVESTIGATION FILES. The  
24 advisory board shall prohibit or limit access to an investigation  
25 file relating to a person subject to an informal proceeding in the  
26 manner provided by Sections [164.007\(c\)](#) and [604.175](#).

27 Sec. 604.213. REFUND. (a) Subject to Subsection (b), the

1 advisory board may order a certificate or temporary permit holder  
2 to pay a refund to a consumer as provided in an agreement resulting  
3 from an informal settlement conference instead of or in addition to  
4 imposing an administrative penalty under Subchapter F.

5 (b) The amount of a refund ordered as provided in an  
6 agreement resulting from an informal settlement conference may not  
7 exceed the amount the consumer paid to the certificate or temporary  
8 permit holder for a service regulated by this chapter. The  
9 advisory board may not require payment of other damages or estimate  
10 harm in a refund order.

11 Sec. 604.214. EXPERT IMMUNITY. An expert who assists the  
12 advisory board is immune from suit and judgment and may not be  
13 subjected to a suit for damages for any investigation, report,  
14 recommendation, statement, evaluation, finding, or other action  
15 taken in the course of assisting the advisory board in a  
16 disciplinary proceeding. The attorney general shall represent the  
17 expert in any suit resulting from a service provided by the person  
18 in good faith to the advisory board.

19 SECTION 9.182. Section 604.301, Occupations Code, is  
20 amended to read as follows:

21 Sec. 604.301. IMPOSITION OF PENALTY. The advisory board  
22 [~~department~~] may impose an administrative penalty on a person who  
23 violates this chapter or a rule adopted under this chapter.

24 SECTION 9.183. Section 604.303, Occupations Code, is  
25 amended to read as follows:

26 Sec. 604.303. NOTICE OF VIOLATION AND PENALTY. If, after  
27 investigation of a possible violation and the facts surrounding the

1 possible violation, the advisory board [~~department~~] determines  
2 that a violation occurred, the advisory board [~~department~~] shall  
3 give written notice of the violation to the person alleged to have  
4 committed the violation. The notice must:

- 5 (1) include a brief summary of the alleged violation;
- 6 (2) state the amount of the proposed administrative  
7 penalty based on the factors set forth in Section 604.302(b); and
- 8 (3) inform the person of the person's right to a  
9 hearing on the occurrence of the violation, the amount of the  
10 penalty, or both.

11 SECTION 9.184. Section 604.304, Occupations Code, as  
12 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
13 2015, is amended to read as follows:

14 Sec. 604.304. PENALTY TO BE PAID OR HEARING REQUESTED. (a)  
15 Not later than the 20th day after the date the person receives the  
16 notice under Section 604.303, the person may:

- 17 (1) accept the advisory board's [~~department's~~]  
18 determination and proposed administrative penalty; or
- 19 (2) make a written request for a hearing on that  
20 determination.

21 (b) If the person accepts the [~~department's~~] determination,  
22 the advisory board [~~department~~] by order shall approve the  
23 determination and assess the proposed penalty.

24 SECTION 9.185. Section 604.305, Occupations Code, as  
25 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
26 2015, is amended to read as follows:

27 Sec. 604.305. HEARING. (a) If the person requests a

1 hearing in a timely manner, the advisory board [~~department~~] shall:

2 (1) set a hearing; and

3 (2) give written notice of the hearing to the person.

4 (b) The hearings examiner shall:

5 (1) make findings of fact and conclusions of law; and

6 (2) promptly issue to the advisory board [~~department~~]

7 a proposal for decision as to the occurrence of the violation and  
8 the amount of any proposed administrative penalty.

9 SECTION 9.186. Section 604.306, Occupations Code, as  
10 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
11 2015, is amended to read as follows:

12 Sec. 604.306. DECISION BY ADVISORY BOARD [~~DEPARTMENT~~]. (a)  
13 Based on the findings of fact, conclusions of law, and proposal for  
14 decision, the advisory board [~~department~~] by order may determine  
15 that:

16 (1) a violation occurred and impose an administrative  
17 penalty; or

18 (2) a violation did not occur.

19 (b) The advisory board [~~department~~] shall give notice of the  
20 order to the person. The notice must include:

21 (1) separate statements of the findings of fact and  
22 conclusions of law;

23 (2) the amount of any penalty imposed; and

24 (3) a statement of the person's right to judicial  
25 review of the order.

26 SECTION 9.187. Sections 604.307(b) and (c), Occupations  
27 Code, are amended to read as follows:

1 (b) Within the 30-day period, a person who acts under  
2 Subsection (a)(3) may:

3 (1) stay enforcement of the penalty by:

4 (A) paying the penalty to the court for placement  
5 in an escrow account; or

6 (B) giving to the court a supersedeas bond  
7 approved by the court that:

8 (i) is for the amount of the penalty; and

9 (ii) is effective until judicial review of  
10 the order is final; or

11 (2) request the court to stay enforcement of the  
12 penalty by:

13 (A) filing with the court a sworn affidavit of  
14 the person stating that the person is financially unable to pay the  
15 penalty and is financially unable to give the supersedeas bond; and

16 (B) giving a copy of the affidavit to the  
17 advisory board [~~department~~] by certified mail.

18 (c) If the advisory board [~~department~~] receives a copy of an  
19 affidavit under Subsection (b)(2), the advisory board [~~department~~]  
20 may file with the court a contest to the affidavit not later than  
21 the fifth day after the date the copy is received.

22 SECTION 9.188. Section **604.308**, Occupations Code, is  
23 amended to read as follows:

24 Sec. 604.308. COLLECTION OF PENALTY. If the person does not  
25 pay the penalty and enforcement of the penalty is not stayed, the  
26 advisory board [~~department~~] may refer the matter to the attorney  
27 general for collection of the penalty.

1 SECTION 9.189. Section 604.311, Occupations Code, as  
2 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
3 2015, is amended to read as follows:

4 Sec. 604.311. ADMINISTRATIVE PENALTY EXPENSES AND COSTS.

5 (a) In this section, "reasonable expenses and costs" includes  
6 expenses incurred by the advisory board [~~department~~] or the  
7 attorney general in the investigation, initiation, or prosecution  
8 of an action, including reasonable investigative costs, court  
9 costs, attorney's fees, witness fees, and deposition expenses.

10 (b) The advisory board [~~department~~] may assess reasonable  
11 expenses and costs against a person in an administrative hearing  
12 if, as a result of the hearing, an administrative penalty is  
13 assessed against the person. The person shall pay expenses and  
14 costs assessed under this subsection not later than the 30th day  
15 after the date the order of the advisory board [~~department~~]  
16 requiring the payment of expenses and costs is final. The advisory  
17 board [~~department~~] may refer the matter to the attorney general for  
18 collection of the expenses and costs.

19 (c) If the attorney general brings an action against a  
20 person to enforce an administrative penalty assessed under this  
21 subchapter and the person is found liable for an administrative  
22 penalty, the attorney general may recover, on behalf of the  
23 attorney general and the advisory board [~~department~~], reasonable  
24 expenses and costs.

25 SECTION 9.190. The heading to Subchapter G, Chapter 604,  
26 Occupations Code, is amended to read as follows:

27 SUBCHAPTER G. CRIMINAL PENALTIES AND ENFORCEMENT PROVISIONS

1 SECTION 9.191. Section 604.352(a), Occupations Code, is  
2 amended to read as follows:

3 (a) A person commits an offense if the person knowingly:

4 (1) sells, fraudulently obtains, or furnishes a  
5 respiratory care diploma, certificate, temporary permit, or  
6 record;

7 (2) practices respiratory care under a respiratory  
8 care diploma, certificate, temporary permit, or record illegally or  
9 fraudulently obtained or issued;

10 (3) impersonates in any manner a respiratory care  
11 practitioner;

12 (4) practices respiratory care while the person's  
13 certificate or temporary permit is suspended, revoked, or expired;

14 (5) conducts a formal respiratory care education  
15 program to prepare respiratory care personnel other than a program  
16 approved by the advisory board [~~department~~];

17 (6) employs a person as a respiratory care  
18 practitioner who does not hold a certificate or temporary permit in  
19 the practice of respiratory care; or

20 (7) otherwise practices medicine in violation of  
21 Section 604.002.

22 SECTION 9.192. The following provisions of the Occupations  
23 Code are repealed:

24 (1) Sections 601.002(2) and (5);

25 (2) Section 601.051;

26 (3) Section 601.053;

27 (4) Section 601.103;

- 1 (5) Sections 602.002(1-a) and (2);
- 2 (6) Sections 602.052(b) and (c);
- 3 (7) Sections 602.053(a), (b), and (c);
- 4 (8) Section 602.056(c);
- 5 (9) Section 602.059;
- 6 (10) Subchapter C, Chapter 602;
- 7 (11) Sections 602.1525(b), (c), (d), (e), (f), and
- 8 (g);
- 9 (12) Section 602.155;
- 10 (13) Section 602.204;
- 11 (14) Sections 603.002(1) and (4);
- 12 (15) Section 603.005;
- 13 (16) Section 603.054(c);
- 14 (17) Section 603.058;
- 15 (18) Subchapter C, Chapter 603;
- 16 (19) Section 603.154(b);
- 17 (20) Section 603.158;
- 18 (21) Section 603.159;
- 19 (22) Sections 603.2041(b), (c), (d), (f), and (g);
- 20 (23) Section 604.051;
- 21 (24) Sections 604.052(b) and (c); and
- 22 (25) Section 604.056.

23 SECTION 9.193. Sections 601.1031, 601.1111, 602.2081,  
24 602.2101, 603.2571, 603.3031, 604.1031, and 604.1523, Occupations  
25 Code, as added by this article, apply only to an application for the  
26 issuance or renewal of a license, certificate, or permit filed  
27 under Chapter 601, 602, 603, or 604, Occupations Code, on or after

1 January 1, 2016. An application filed before that date is governed  
2 by the law in effect at the time the application was filed, and the  
3 former law is continued in effect for that purpose.

4 SECTION 9.194. (a) A rule or fee of the Department of State  
5 Health Services that relates to a program transferred under this  
6 article and that is in effect on the effective date of this Act  
7 remains in effect until changed by the Texas Medical Board, the  
8 Texas Board of Medical Radiologic Technology, or the Texas Board of  
9 Respiratory Care, as appropriate.

10 (b) A license, certificate, or permit issued by the  
11 Department of State Health Services for a program transferred under  
12 this article is continued in effect as a license, certificate, or  
13 permit of the Texas Medical Board, the Texas Board of Medical  
14 Radiologic Technology, or the Texas Board of Respiratory Care, as  
15 appropriate, after the effective date of this Act.

16 (c) A complaint, investigation, contested case, or other  
17 proceeding before the Department of State Health Services relating  
18 to a program transferred under this article that is pending on the  
19 effective date of this Act is transferred without change in status  
20 to the Texas Medical Board, the Texas Board of Medical Radiologic  
21 Technology, or the Texas Board of Respiratory Care, as appropriate.

22 SECTION 9.195. (a) As soon as practicable after the  
23 effective date of this Act, the Department of State Health Services  
24 and the Texas Medical Board shall adopt a transition plan to provide  
25 for the orderly transfer of powers, duties, functions, programs,  
26 and activities under this article. The transition plan must  
27 provide for the transfer to be completed as soon as practicable

1 after the effective date of this Act.

2 (b) The Department of State Health Services shall provide  
3 the Texas Medical Board with access to any systems or information  
4 necessary for the Texas Medical Board to accept a program  
5 transferred under this article.

6 (c) On the effective date of this Act, the Texas Board of  
7 Licensure for Professional Medical Physicists and the Texas State  
8 Perfusionist Advisory Committee are abolished and the governor and  
9 the president of the Texas Medical Board, as appropriate, shall, as  
10 soon as practicable after the effective date of this Act, appoint  
11 the members of the Texas Board of Medical Radiologic Technology,  
12 the Medical Physicist Licensure Advisory Committee, the  
13 Perfusionist Licensure Advisory Committee, and the Texas Board of  
14 Respiratory Care.

15 ARTICLE 10. DEREGULATION OF CERTAIN ACTIVITIES AND OCCUPATIONS

16 SECTION 10.001. Section 2165.303(b), Government Code, is  
17 amended to read as follows:

18 (b) The commission shall report the findings and test  
19 results obtained under a contract for air monitoring under this  
20 section to the office [~~and the department~~] in a form and manner  
21 prescribed by the office [~~and the department~~] for that purpose.

22 SECTION 10.002. Section 2165.305(c), Government Code, is  
23 amended to read as follows:

24 (c) In developing a seminar required by this section, the  
25 office shall receive assistance from:

- 26 (1) the commission; and  
27 (2) [~~the department, and~~]

1           ~~[(3)]~~ an entity that specializes in research and  
2 technical assistance related to indoor air quality but does not  
3 receive appropriations from the state.

4           SECTION 10.003. The heading to Subtitle G, Title 2, Health  
5 and Safety Code, is amended to read as follows:

6                   SUBTITLE G. LICENSES AND OTHER REGULATION

7           SECTION 10.004. The heading to Subchapter C, Chapter 144,  
8 Health and Safety Code, is amended to read as follows:

9                   SUBCHAPTER C. OPERATING PROCEDURES [~~FOR ALL LICENSE HOLDERS~~]

10           SECTION 10.005. Section 144.021, Health and Safety Code, as  
11 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
12 2015, is amended to read as follows:

13           Sec. 144.021. GENERAL REQUIREMENTS FOR RENDERING  
14 OPERATIONS [~~OPERATING LICENSES~~]. ~~[(a)]~~ Each rendering  
15 establishment, related station, transfer station, dead animal  
16 hauler, or renderable raw material hauler [~~applicant for or holder~~  
17 ~~of an operating license~~] shall adopt operating procedures that:

18                   (1) provide for the sanitary performance of rendering  
19 operations and processes;

20                   (2) prevent the spread of infectious or noxious  
21 materials; and

22                   (3) ensure that finished products are free from  
23 disease-producing organisms.

24           ~~[(b) As a condition of licensure, the department, in~~  
25 ~~accordance with department rules, may prescribe other reasonable~~  
26 ~~and appropriate construction, operational, maintenance, and~~  
27 ~~inspection requirements to ensure compliance with this chapter and~~

1 ~~other applicable rules.]~~

2 SECTION 10.006. Section 144.022, Health and Safety Code, as  
3 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
4 2015, is amended to read as follows:

5 Sec. 144.022. RECORDS. (a) Each ~~[licensed]~~ rendering  
6 establishment, related station, or dead animal hauler shall have a  
7 dead animal log that meets the requirements prescribed by  
8 department rule. The name of the ~~[licensed]~~ rendering  
9 establishment, related station, or dead animal hauler must be on  
10 the front of the log.

11 (b) A rendering establishment, related station, or dead  
12 animal hauler that ~~[When a license holder]~~ receives a dead animal [~~7~~  
13 ~~the license holder]~~ shall enter the following information in the  
14 log:

- 15 (1) the date and time of the pickup of the dead animal;  
16 (2) the name of the driver of the collection vehicle;  
17 (3) a description of the dead animal;  
18 (4) the location of the dead animal, including the  
19 county; and  
20 (5) the owner of the dead animal, if known.

21 (c) The rendering establishment, related station, or dead  
22 animal hauler ~~[license holder]~~ shall also keep a record in the log,  
23 or in an appendix to the log, of the general route followed in  
24 making the collection.

25 (d) The log is subject to inspection at all reasonable times  
26 by the department or a person with written authorization from the  
27 department. ~~[Repeated or wilful failure or refusal to produce the~~

1 ~~log for inspection or to permit inspection by persons properly~~  
2 ~~authorized to inspect the log constitutes grounds for license~~  
3 ~~revocation.]~~

4 (e) This section does not apply to a [~~licensed~~] renderable  
5 raw material hauler.

6 SECTION 10.007. The heading to Section 144.023, Health and  
7 Safety Code, is amended to read as follows:

8 Sec. 144.023. VEHICLES[~~, PERMIT REQUIRED~~].

9 SECTION 10.008. Section 144.023(c), Health and Safety Code,  
10 is amended to read as follows:

11 (c) A truck bed used to transport dead animals or renderable  
12 raw materials shall be thoroughly washed and sanitized before use  
13 for the transport of finished rendered products. A truck bed used to  
14 transport dead animals or renderable raw materials to a rendering  
15 establishment, or to transfer finished rendered products from an  
16 establishment, shall, before being used to transport any product  
17 intended for human consumption, be thoroughly sanitized with a  
18 bactericidal agent that is [~~determined by the department to be~~]  
19 safe for use in a rendering establishment. A truck bed may not be  
20 used to transport dead animals or renderable raw materials at the  
21 same time the truck bed or any part of the truck bed is used to  
22 transport any product intended for human consumption,  
23 notwithstanding the manner in which part of the truck bed is sealed  
24 or separated from the remainder of the bed.

25 SECTION 10.009. Section 144.027(c), Health and Safety Code,  
26 is amended to read as follows:

27 (c) A drinking water supply [~~approved by the department~~]

1 shall be provided at convenient locations in the establishment for  
2 the use of employees.

3 SECTION 10.010. Section 144.078(a), Health and Safety Code,  
4 is amended to read as follows:

5 (a) The [~~On request of the department, the~~] attorney general  
6 may bring an action in any district court of this state that has  
7 jurisdiction and venue for an injunction to compel compliance with  
8 this chapter or to restrain any actual or threatened violation of  
9 this chapter.

10 SECTION 10.011. Section 144.079(c), Health and Safety Code,  
11 is amended to read as follows:

12 (c) A renderer, hauler, or any other person may not [+  
13 [~~(1) take possession of recyclable cooking oil from an~~  
14 ~~unlicensed hauler or an employee or contractor of an unlicensed~~  
15 ~~hauler, or~~  
16 [~~(2)~~] knowingly take possession of stolen recyclable  
17 cooking oil.

18 SECTION 10.012. Sections 145.006(a) and (b), Health and  
19 Safety Code, as amended by S.B. 219, Acts of the 84th Legislature,  
20 Regular Session, 2015, are amended to read as follows:

21 (a) A tanning facility shall post a warning sign in a  
22 conspicuous location where it is readily visible by persons  
23 entering the establishment. [~~The executive commissioner by rule~~  
24 ~~shall specify the size, design, and graphic design of the sign.~~]  
25 The sign must have dimensions of at least 11 inches by 17 inches and  
26 must contain the following wording:

27 Repeated exposure to ultraviolet radiation may cause chronic

1 sun damage characterized by wrinkling, dryness, fragility,  
2 bruising of the skin, and skin cancer.

3 DANGER: ULTRAVIOLET RADIATION

4 Failure to use protective eyewear may result in severe burns  
5 or permanent injury to the eyes.

6 Medications or cosmetics may increase your sensitivity to  
7 ultraviolet radiation. Consult a physician before using a sunlamp  
8 if you are using medications, have a history of skin problems, or  
9 believe you are especially sensitive to sunlight. Pregnant women  
10 or women taking oral contraceptives who use this product may  
11 develop discolored skin.

12 ~~[A customer may call the Department of State Health Services~~  
13 ~~at (insert toll-free telephone number) to report an alleged injury~~  
14 ~~regarding this tanning facility.]~~

15 IF YOU DO NOT TAN IN THE SUN, YOU ARE UNLIKELY TO TAN FROM USE OF AN  
16 ULTRAVIOLET LAMP OR SUNLAMP.

17 (b) A tanning facility operator shall also post a warning  
18 sign at each tanning device in a conspicuous location that is  
19 readily visible to a person about to use the device. ~~[The executive~~  
20 ~~commissioner by rule shall specify the size, design, and graphic~~  
21 ~~design of the sign.]~~ The sign must have dimensions of at least 11  
22 inches by 17 inches and must contain the following wording:

23 DANGER: ULTRAVIOLET RADIATION

24 1. Follow the manufacturer's instructions for use of this  
25 device.

26 2. Avoid too frequent or lengthy exposure. As with natural  
27 sunlight, exposure can cause serious eye and skin injuries and

1 allergic reactions. Repeated exposure may cause skin cancer.

2 3. Wear protective eyewear. Failure to use protective  
3 eyewear may result in severe burns or permanent damage to the eyes.

4 4. Do not sunbathe before or after exposure to ultraviolet  
5 radiation from sunlamps.

6 5. Medications or cosmetics may increase your sensitivity  
7 to ultraviolet radiation. Consult a physician before using a  
8 sunlamp if you are using medication, have a history of skin  
9 problems, or believe you are especially sensitive to sunlight.  
10 Pregnant women or women using oral contraceptives who use this  
11 product may develop discolored skin.

12 ~~[A customer may call the Department of State Health Services~~  
13 ~~at (insert toll-free telephone number) to report an alleged injury~~  
14 ~~regarding this tanning device.]~~

15 IF YOU DO NOT TAN IN THE SUN, YOU ARE UNLIKELY TO TAN FROM USE OF  
16 THIS DEVICE.

17 SECTION 10.013. Sections [145.008](#)(i) and (j), Health and  
18 Safety Code, as amended by S.B. 219, Acts of the 84th Legislature,  
19 Regular Session, 2015, are amended to read as follows:

20 (i) A record of each customer using a tanning device shall  
21 be maintained at the tanning facility at least until the third  
22 anniversary of the date of the customer's last use of a tanning  
23 device. ~~[The executive commissioner by rule shall prescribe the~~  
24 ~~form and content of the records.]~~ The record shall include:

25 (1) the date and time of the customer's use of a  
26 tanning device;

27 (2) the length of time the tanning device was used;

1           (3) any injury or illness resulting from the use of a  
2 tanning device;

3           (4) any written informed consent statement required to  
4 be signed under Subsection (e);

5           (5) the customer's skin type, as determined by the  
6 customer by using the Fitzpatrick scale for classifying a skin  
7 type;

8           (6) whether the customer has a family history of skin  
9 cancer; and

10          (7) whether the customer has a past medical history of  
11 skin cancer.

12          (j) An operator shall keep an incident log at each tanning  
13 facility. The log shall be maintained at the tanning facility at  
14 least until the third anniversary of the date of an incident. [~~The  
15 executive commissioner by rule shall prescribe the form and content  
16 of the log.~~] The log shall include each:

17           (1) alleged injury;

18           (2) use of a tanning device by a customer not wearing  
19 protective eyewear;

20           (3) mechanical problem with a tanning device; and

21           (4) customer complaint.

22          SECTION 10.014. Section [145.0096](#), Health and Safety Code,  
23 is amended by amending Subsections (a) and (b) and adding  
24 Subsection (a-1) to read as follows:

25          (a) This section applies only to a business that:

26           (1) is operated under a license or permit as a sexually  
27 oriented business issued in accordance with Section [243.007](#), Local

1 Government Code; or

2 (2) offers, as its primary business, a service or the  
3 sale, rental, or exhibition of a device or other item that is  
4 intended to provide sexual stimulation or sexual gratification to a  
5 customer.

6 (a-1) A business to which this section applies [~~described by~~  
7 ~~Section 145.0095(a)(1) or (2)~~] may not use the word "tan" or  
8 "tanning" in a sign or any other form of advertising.

9 (b) A person commits an offense if the person violates  
10 Subsection (a-1) [~~(a)~~]. Except as provided by Subsection (c), an  
11 offense under this subsection is a Class C misdemeanor.

12 SECTION 10.015. The heading to Section 145.011, Health and  
13 Safety Code, is amended to read as follows:

14 Sec. 145.011. ACCESS TO RECORDS [~~RULES, INSPECTION~~].

15 SECTION 10.016. Section 145.011(c), Health and Safety Code,  
16 is amended to read as follows:

17 (c) A person who is required to maintain records under this  
18 chapter or a person in charge of the custody of those records shall,  
19 at the request of a health authority, [~~an authorized agent or~~]  
20 permit the [~~authorized agent or~~] health authority access to copy or  
21 verify the records at reasonable times.

22 SECTION 10.017. Sections 145.0121(a) and (f), Health and  
23 Safety Code, as amended by S.B. 219, Acts of the 84th Legislature,  
24 Regular Session, 2015, are amended to read as follows:

25 (a) If it appears that a person has violated or is violating  
26 this chapter [~~or an order issued or a rule adopted under this~~  
27 ~~chapter~~], [~~the department may request~~] the attorney general, or the

1 district, ~~or~~ county, ~~attorney~~ or ~~the~~ municipal attorney ~~of a~~  
2 ~~municipality~~ in the jurisdiction where the violation is alleged to  
3 have occurred or may occur, may ~~to~~ institute a civil suit for:

- 4 (1) an order enjoining the violation;  
5 (2) a permanent or temporary injunction, a temporary  
6 restraining order, or other appropriate remedy ~~[if the department~~  
7 ~~shows that the person has engaged in or is engaging in a violation]~~;  
8 (3) the assessment and recovery of a civil penalty; or  
9 (4) both injunctive relief and a civil penalty.

10 (f) The ~~department or the~~ attorney general may ~~each~~  
11 recover reasonable expenses incurred in obtaining injunctive  
12 relief or a civil penalty under this section, including  
13 investigation and court costs, reasonable attorney's fees, witness  
14 fees, and other expenses. ~~[The expenses recovered by the~~  
15 ~~department under this section shall be used for the administration~~  
16 ~~and enforcement of this chapter.]~~ The expenses recovered by the  
17 attorney general shall be used by the attorney general.

18 SECTION 10.018. Section [145.016](#)(b), Health and Safety Code,  
19 is amended to read as follows:

20 (b) An operator or other person may disclose a customer  
21 record:

22 (1) if the customer, or a person authorized to act on  
23 behalf of the customer, requests the record;

24 (2) if a ~~[the commissioner or an authorized agent or]~~  
25 health authority requests the record under Section [145.011](#);

26 (3) if the customer consents in writing to the  
27 disclosure to another person;

1 (4) in a criminal proceeding in which the customer is a  
2 victim, witness, or defendant;

3 (5) if the record is requested in a criminal or civil  
4 proceeding by court order or subpoena; or

5 (6) as otherwise required by law.

6 SECTION 10.019. Section 437.0057(a), Health and Safety  
7 Code, is amended to read as follows:

8 (a) A county, a public health district, or the department  
9 may require a food handler be certified through a food handler  
10 program that is accredited by the American National Standards  
11 Institute, if the [~~certification under Subchapter D, Chapter 438,~~  
12 ~~for each~~] food handler [~~who~~] is employed by a food service  
13 establishment in which food is prepared on-site for sale to the  
14 public and which holds a permit issued by the county, the public  
15 health district, or the department. This section applies without  
16 regard to whether the food service establishment is at a fixed  
17 location or is a mobile food unit.

18 SECTION 10.020. Section 437.0195(a), Health and Safety  
19 Code, is amended to read as follows:

20 (a) An individual who operates a cottage food production  
21 operation must have successfully completed a basic food safety  
22 education or training program for food handlers accredited by the  
23 American National Standards Institute and the Conference for Food  
24 Protection [~~under Subchapter D, Chapter 438~~].

25 SECTION 10.021. The heading to Section 438.041, Health and  
26 Safety Code, is amended to read as follows:

27 Sec. 438.041. DEFINITIONS [~~DEFINITION~~].

1 SECTION 10.022. Section 438.041, Health and Safety Code, is  
2 amended by adding Subdivision (3) to read as follows:

3 (3) "Food manager" means an individual who manages or  
4 operates a food establishment.

5 SECTION 10.023. Section 438.042, Health and Safety Code, as  
6 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
7 2015, is amended to read as follows:

8 Sec. 438.042. DUTIES OF EXECUTIVE COMMISSIONER. (a) The  
9 executive commissioner shall adopt standards and procedures for the  
10 accreditation of education and training programs for food managers  
11 [~~persons employed in the food service industry~~].

12 (b) The executive commissioner shall adopt standards and  
13 procedures for the accreditation of education and training programs  
14 for recertification of food managers [~~persons employed in the food~~  
15 ~~service industry~~] who have previously completed a program  
16 accredited in accordance with this subchapter or have been  
17 certified by a local health jurisdiction and have completed  
18 training and testing requirements substantially similar to those  
19 required by this subchapter for program accreditation. The  
20 requirements for accreditation in Section 438.043 need not be met  
21 by an education or training program for recertification.

22 SECTION 10.024. Sections 438.046(b) and (c), Health and  
23 Safety Code, are amended to read as follows:

24 (b) A local health jurisdiction that requires training for a  
25 food service worker shall accept as sufficient to meet the  
26 jurisdiction's training and testing requirements a food manager  
27 training course that is accredited by the department or a food

1 handler training course that is accredited by the American National  
2 Standards Institute [~~and listed with the registry~~]. A food service  
3 worker trained in a course for the employees of a single entity is  
4 considered to have met a local health jurisdiction's training and  
5 testing requirements only as to food service performed for that  
6 entity.

7 (c) Any fee charged by a local health jurisdiction for a  
8 certificate issued to a food service worker trained by an  
9 accredited course as provided by Subsection (b) [~~listed in the~~  
10 ~~registry~~] may not exceed the lesser of:

11 (1) the reasonable cost incurred by the jurisdiction  
12 in issuing the certificate; or

13 (2) the fee charged by the jurisdiction to issue a  
14 certificate to a food service worker certified by the jurisdiction  
15 as having met the training and testing requirements by any other  
16 means.

17 SECTION 10.025. Section [1001.071\(b\)](#), Health and Safety  
18 Code, as redesignated by S.B. 219, Acts of the 84th Legislature,  
19 Regular Session, 2015, is amended to read as follows:

20 (b) The department is responsible for administering human  
21 services programs regarding the public health, including:

22 (1) implementing the state's public health care  
23 delivery programs under the authority of the department;

24 (2) administering state health facilities, hospitals,  
25 and health care systems;

26 (3) developing and providing health care services, as  
27 directed by law;

- 1           (4) providing for the prevention and control of  
2 communicable diseases;
- 3           (5) providing public education on health-related  
4 matters, as directed by law;
- 5           (6) compiling and reporting health-related  
6 information, as directed by law;
- 7           (7) acting as the lead agency for implementation of  
8 state policies regarding the human immunodeficiency virus and  
9 acquired immunodeficiency syndrome and administering programs  
10 related to the human immunodeficiency virus and acquired  
11 immunodeficiency syndrome;
- 12           (8) investigating the causes of injuries and methods  
13 of prevention;
- 14           (9) administering a grant program to provide  
15 appropriated money to counties, municipalities, public health  
16 districts, and other political subdivisions for their use to  
17 provide or pay for essential public health services;
- 18           (10) administering the registration of vital  
19 statistics;
- 20           (11) licensing, inspecting, and enforcing regulations  
21 regarding health facilities, other than long-term care facilities  
22 regulated by the Department of Aging and Disability Services;
- 23           (12) implementing established standards and  
24 procedures for the management and control of sanitation and for  
25 health protection measures;
- 26           (13) enforcing regulations regarding radioactive  
27 materials;

1 (14) enforcing regulations regarding food, [~~bottled~~  
2 ~~and vended drinking water,~~] drugs, cosmetics, and health devices;

3 (15) enforcing regulations regarding food service  
4 establishments, retail food stores, mobile food units, and roadside  
5 food vendors;

6 (16) enforcing regulations controlling hazardous  
7 substances in households and workplaces; and

8 (17) implementing a mental health program for  
9 veterans.

10 SECTION 10.026. Section 32.074(a), Human Resources Code, is  
11 amended to read as follows:

12 (a) In this section, "personal emergency response system"  
13 has the meaning assigned by Section 1702.331, Occupations [~~781.001,~~  
14 ~~Health and Safety~~] Code.

15 SECTION 10.027. Section 843.002(24), Insurance Code, is  
16 amended to read as follows:

17 (24) "Provider" means:

18 (A) a person, other than a physician, who is  
19 licensed or otherwise authorized to provide a health care service  
20 in this state, including:

21 (i) a chiropractor, registered nurse,  
22 pharmacist, optometrist, [~~registered optician,~~]  
23 or

24 (ii) a pharmacy, hospital, or other  
25 institution or organization;

26 (B) a person who is wholly owned or controlled by  
27 a provider or by a group of providers who are licensed or otherwise

1 authorized to provide the same health care service; or

2 (C) a person who is wholly owned or controlled by  
3 one or more hospitals and physicians, including a  
4 physician-hospital organization.

5 SECTION 10.028. Sections 351.005(a) and (d), Occupations  
6 Code, are amended to read as follows:

7 (a) This chapter does not:

8 (1) apply to an officer or agent of the United States  
9 or this state in performing official duties;

10 (2) prevent or interfere with the right of a physician  
11 licensed by the Texas [~~State Board of~~] Medical Board [~~Examiners~~]  
12 to:

13 (A) treat or prescribe for a patient; or

14 (B) direct or instruct a person under the  
15 physician's control, supervision, or direction to aid or attend to  
16 the needs of a patient according to the physician's specific  
17 direction, instruction, or prescription;

18 (3) prevent a person from selling ready-to-wear  
19 eyeglasses as merchandise at retail;

20 (4) prevent an unlicensed person from making simple  
21 repairs to eyeglasses;

22 [~~prevent or interfere with the right of a~~  
23 ~~dispensing optician registered under Chapter 352 to engage in~~  
24 ~~spectacle or contact lens dispensing under that chapter,~~

25 [(6)] prevent an ophthalmic dispenser who does not  
26 practice optometry or therapeutic optometry from measuring  
27 interpupillary distances or making facial measurements to dispense

1 or adapt an ophthalmic prescription, lens, product, or accessory in  
2 accordance with the specific directions of a written prescription  
3 signed by an optometrist, therapeutic optometrist, or licensed  
4 physician;

5           (6) [~~(7)~~] prevent the administrator or executor of the  
6 estate of a deceased optometrist or therapeutic optometrist from  
7 employing an optometrist or therapeutic optometrist to continue the  
8 practice of the deceased during estate administration; or

9           (7) [~~(8)~~] prevent an optometrist or therapeutic  
10 optometrist from working for the administrator or executor of the  
11 estate of a deceased optometrist or therapeutic optometrist to  
12 continue the practice of the deceased during estate administration.

13           (d) Continuation of the practice of a deceased optometrist  
14 or therapeutic optometrist by an estate under Subsections (a)(6)  
15 and (7) [~~(a)(7) and (8)~~] must:

16                   (1) be authorized by the county judge; and

17                   (2) terminate before the first anniversary of the date  
18 of death of the optometrist or therapeutic optometrist.

19           SECTION 10.029. Section **353.004**, Occupations Code, as  
20 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
21 2015, is amended to read as follows:

22           Sec. 353.004. PUBLIC INFORMATION ON PRESCRIPTION RELEASE.  
23 [~~(a)~~] The [~~department and the~~] Texas Optometry Board shall prepare  
24 and provide to the public and appropriate state agencies  
25 information regarding the release and verification of contact lens  
26 prescriptions.

27           [~~(b) The executive commissioner may adopt rules necessary~~

1 ~~to implement this section.]~~

2 SECTION 10.030. Section 353.1015(b), Occupations Code, is  
3 amended to read as follows:

4 (b) A prescription is considered verified under this  
5 section if:

6 (1) the prescribing physician, optometrist, or  
7 therapeutic optometrist by a direct communication confirms that the  
8 prescription is accurate;

9 (2) the prescribing physician, optometrist, or  
10 therapeutic optometrist informs the person dispensing the contact  
11 lenses that the prescription is inaccurate and provides the correct  
12 prescription information; or

13 (3) the prescribing physician, optometrist, or  
14 therapeutic optometrist fails to communicate with the person  
15 dispensing the contact lenses not later than the eighth business  
16 hour after the prescribing physician, optometrist, or therapeutic  
17 optometrist receives from the person dispensing the contact lenses  
18 the request for verification [~~or within another similar period~~  
19 ~~specified by rule~~].

20 SECTION 10.031. Section 353.103(a), Occupations Code, is  
21 amended to read as follows:

22 (a) If a patient presents a contact lens prescription to be  
23 filled or asks a person who dispenses contact lenses [~~permit~~  
24 ~~holder~~] to verify a contact lens prescription under Section  
25 353.1015, but requests that fewer than the total number of lenses  
26 authorized by the prescription be dispensed, the person dispensing  
27 the lenses shall note on the prescription or verification:

- 1 (1) the number of lenses dispensed;
- 2 (2) the number of lenses that remain eligible to be  
3 dispensed under the prescription; and
- 4 (3) the name, address, and telephone number [~~and~~  
5 ~~license or permit number~~] of the person dispensing the lenses.

6 SECTION 10.032. Section [353.104](#)(a), Occupations Code, is  
7 amended to read as follows:

8 (a) If a patient needs an emergency refill of the patient's  
9 contact lens prescription, a physician, optometrist, or  
10 therapeutic optometrist may telephone or fax the prescription to a  
11 person who dispenses [~~authorized to dispense~~] contact lenses [~~under~~  
12 ~~Section [353.051](#)~~] or may verify a prescription under Section  
13 [353.1015](#).

14 SECTION 10.033. Section [353.151](#), Occupations Code, is  
15 amended to read as follows:

16 Sec. 353.151. DIRECTIONS FOR INDEPENDENT DISPENSER  
17 [~~OPTICIAN~~]; DELEGATION. (a) If a physician's directions,  
18 instructions, or orders are to be performed or a physician's  
19 prescription is to be filled by a person [~~an optician~~] who is  
20 independent of the physician's office, the directions,  
21 instructions, orders, or prescription must be:

- 22 (1) in writing or verified under Section [353.1015](#);
- 23 (2) of a scope and content and communicated to the  
24 person [~~optician~~] in a form and manner that, in the professional  
25 judgment of the physician, best serves the health, safety, and  
26 welfare of the physician's patient; and
- 27 (3) in a form and detail consistent with the person's

1 ~~[optician's]~~ skill and knowledge.

2 (b) A person who dispenses contact lenses ~~[holds a contact~~  
3 ~~lens dispensing permit issued under Subchapter B]~~ may measure the  
4 eye or cornea and may evaluate the physical fit of lenses for a  
5 particular patient of a physician if the physician has delegated in  
6 writing those responsibilities regarding that patient to the person  
7 in accordance with Subsection (a) and Section 351.005.

8 (c) If a physician notes on a spectacle prescription "fit  
9 for contacts" or similar language and has, as required by  
10 Subsections (a) and (b), specifically delegated to a specific  
11 person ~~[optician]~~ the authority to make the additional measurements  
12 and evaluations necessary for a fully written contact lens  
13 prescription, the person ~~[optician]~~ may dispense contact lenses to  
14 the patient even though the prescription is less than a fully  
15 written contact lens prescription.

16 SECTION 10.034. The heading to Subtitle G, Title 3,  
17 Occupations Code, is amended to read as follows:

18 SUBTITLE G. PROFESSIONS RELATED TO HEARING AND ~~[7]~~ SPEECH ~~[7 AND~~  
19 ~~DYSLEXIA]~~

20 SECTION 10.035. The following provisions of the Government  
21 Code are repealed:

- 22 (1) Section 2165.301(2);  
23 (2) Section 2165.302; and  
24 (3) Section 2165.304.

25 SECTION 10.036. The following provisions of the Health and  
26 Safety Code are repealed:

- 27 (1) Section 144.001;

- 1 (2) Subchapter B, Chapter 144;
- 2 (3) Sections 144.023(d) and (e);
- 3 (4) Section 144.031;
- 4 (5) Subchapter D, Chapter 144;
- 5 (6) Subchapter E, Chapter 144;
- 6 (7) Subchapter F, Chapter 144;
- 7 (8) Section 144.071;
- 8 (9) Section 144.072;
- 9 (10) Section 144.073;
- 10 (11) Section 144.074;
- 11 (12) Section 144.075;
- 12 (13) Section 144.076;
- 13 (14) Section 144.077;
- 14 (15) Section 144.078(c);
- 15 (16) Section 144.080;
- 16 (17) Section 144.081;
- 17 (18) Section 144.082;
- 18 (19) Section 144.083;
- 19 (20) Section 144.084;
- 20 (21) Section 144.085;
- 21 (22) Section 145.001;
- 22 (23) Section 145.002(1);
- 23 (24) Section 145.004(b);
- 24 (25) Section 145.006(c);
- 25 (26) Section 145.008(k);
- 26 (27) Section 145.009;
- 27 (28) Section 145.0095;

- 1 (29) Section 145.010;
- 2 (30) Sections 145.011(a) and (b);
- 3 (31) Section 145.012;
- 4 (32) Section 145.0122;
- 5 (33) Section 145.015;
- 6 (34) Chapter 345;
- 7 (35) Chapter 385;
- 8 (36) Section 437.0057(b);
- 9 (37) Section 438.0431;
- 10 (38) Chapter 441; and
- 11 (39) Chapter 781.

12 SECTION 10.037. The following provisions of the Occupations  
13 Code are repealed:

- 14 (1) Section 351.005(c);
- 15 (2) Chapter 352;
- 16 (3) Sections 353.002(2) and (4);
- 17 (4) Section 353.005;
- 18 (5) Subchapter B, Chapter 353;
- 19 (6) Section 353.202;
- 20 (7) Section 353.2025;
- 21 (8) Section 353.203;
- 22 (9) Section 353.204(b);
- 23 (10) Section 353.205; and
- 24 (11) Chapter 403.

25 SECTION 10.038. On the effective date of this Act, a  
26 license, permit, certification of registration, or other  
27 authorization issued under a law that is repealed by this article

1 expires.

2 SECTION 10.039. The changes in law made by this article do  
3 not affect the validity of a disciplinary action or other  
4 proceeding that was initiated before the effective date of this Act  
5 and that is pending before a court or other governmental entity on  
6 the effective date of this Act.

7 SECTION 10.040. (a) An offense under or other violation of  
8 a law that is repealed by this article is governed by the law in  
9 effect when the offense or violation was committed, and the former  
10 law is continued in effect for that purpose.

11 (b) For purposes of this section, an offense or violation  
12 was committed before the effective date of this Act if any element  
13 of the offense or violation occurred before that date.

14 SECTION 10.041. The repeal of a law by this article does not  
15 entitle a person to a refund of an application, licensing, or other  
16 fee paid by the person before the effective date of this Act.

17 ARTICLE 11. CONTINUATION OF DEPARTMENT OF STATE HEALTH SERVICES

18 SECTION 11.001. (a) Section 1001.003, Health and Safety  
19 Code, is amended to read as follows:

20 Sec. 1001.003. SUNSET PROVISION. The Department of State  
21 Health Services is subject to Chapter 325, Government Code (Texas  
22 Sunset Act). Unless continued in existence as provided by that  
23 chapter, the department is abolished and this chapter expires  
24 September 1, 2027 [~~2015~~].

25 (b) This section takes effect only if H.B. 2304, S.B. 200,  
26 or similar legislation of the 84th Legislature, Regular Session,  
27 2015, providing for the transfer of the functions of the Department

1 of State Health Services to the Health and Human Services  
2 Commission is not enacted or does not become law. If H.B. 2304,  
3 S.B. 200, or similar legislation of the 84th Legislature, Regular  
4 Session, 2015, is enacted, becomes law, and provides for the  
5 transfer of the department's functions to the commission, this  
6 section has no effect.

7           ARTICLE 12. GENERAL PROVISIONS AND EFFECTIVE DATE

8           SECTION 12.001. To the extent of any conflict, this Act  
9 prevails over another Act of the 84th Legislature, Regular Session,  
10 2015, relating to nonsubstantive additions to and corrections in  
11 enacted codes.

12           SECTION 12.002. (a) Except as provided by Subsection (b) of  
13 this section, this Act takes effect September 1, 2015.

14           (b) Part 2 of Article 8 of this Act takes effect September 1,  
15 2017.