

## BILL ANALYSIS

Senate Research Center

S.B. 202  
By: Nelson et al.  
Health & Human Services  
6/16/2015  
Enrolled

### AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

This legislation improves functions currently housed within the Department of State Health Services (DSHS), based on recommendations from the Sunset Advisory Commission's review of the agency. S.B. 202 strengthens the agency's core public health functions by requiring clear goals and a related action plan for the state's public health system and an inventory of the current public health responsibilities of the state and each local health department, district, and authority. The bill strengthens the security of vital records by improving audits of local registrars and requiring identity verification to access records. S.B. 202 also requires a locally driven process for allocating beds among regions of the state and also requires development of training and a resource guide for the judiciary to help divert appropriate patients from inpatient hospitalization at state mental health hospitals.

S.B. 202 discontinues 10 regulatory programs: bottled and vended water, certified food handler certification providers, contact lens dispensers, dyslexia therapists and practitioners, opticians, personal emergency response systems, bedding, indoor air quality in state buildings, rendering, and tanning bed facilities. Another 12 occupational licensing programs (athletic trainers, dietitians, fitters and dispensers of hearing instruments, midwives, orthotists and prosthetists, speech-language pathologists and audiologists, code enforcement officers, laser hair removal, massage therapists, mold assessors and remediators, offender education providers and sanitarians) are transferred to the Texas Department of Licensing and Regulation (TDLR). Four occupational licensing programs (respiratory care practitioners, medical radiologic technologists, medical physicists, and perfusionists) are transferred to the Texas Medical Board.

As filed, the bill also continues the Texas Health Care Information Collection and provides additional tools to combat fraud in the emergency medical services industry.

The bill does not continue the Department of State Health Services in its current format.

S.B. 202 only includes provisions related to regulatory programs. S.B. 202 deregulates eight regulatory programs (bottled and vended water, contact lens dispensers, opticians, personal emergency response systems, bedding, indoor air quality in state buildings, rendering, and tanning bed facilities) to eliminate unneeded state regulation, and repeals associated licenses, certification and registration processes. In addition, S.B. 202 transfers 17 occupational licensing programs from DSHS to more appropriate oversight agencies to improve regulation and allow DSHS to focus on its core public health mission. Thirteen occupational licensing programs (athletic trainers, dietitians, fitters and dispensers of hearing instruments, midwives, orthotists and prosthetists, dyslexia therapists and practitioners, speech-language pathologists and audiologists, code enforcement officers, laser hair removal, massage therapists, mold assessors and remediators, offender education providers and sanitarians) are transferred to TDLR. Four occupational licensing programs (respiratory care practitioners, medical radiologic technologists, medical physicists, and perfusionists) are transferred to the Texas Medical Board.

S.B. 202 ensures the six health-related boards transferring from DSHS to TDLR retain a role to propose rules relating to standards of care and scope of practice for their professions. TDLR is required to either accept the advisory board's rules on these topics, or return them for revision, but retains final rulemaking authority with the Texas Commission of Licensing and Regulation. TDLR is also required to develop rules for advisory board input into investigative, enforcement, and disciplinary procedures.

S.B. 202 also updates required language for signs that must be posted at tanning facilities to direct consumers to contact local law enforcement or health authorities if a violation is suspected.

S.B. 202 ensures the Texas Board of Nursing and the Texas Physician Assistant Board can set training and education standards for nurses and physician assistants who perform radiologic procedures, and specifies that TMB will assume the executive commissioner's current authority to identify dangerous or hazardous radiologic procedures.

Finally, S.B. 202 adds language left out of the introduced bill and requested by TMB to ensure TMB can successfully absorb the new programs and adds transitional language requested by TDLR to clarify transfer of staff from DSHS to TDLR and TMB.

S.B. 202 also requires TDLR to submit detailed status reports on how the occupational license transfers are progressing and ensures affected professions have input into their respective reports. These reports will also ensure that Sunset and the legislature become aware of any issues with these transfers in advance of TDLR's 2019 Sunset date.

S.B. 202 as amended also adds additional licensed Ortotists and Prosthetists to the Ortotists and Prosthetists Advisory Board transferring to TDLR, retains the advisory board's current authority to select the presiding officer, and allows the board to call up to two special meetings per year.

S.B. 202 amends current law relating to the transfer of certain occupational regulatory programs and the deregulation of certain activities and occupations.

[**Note:** While the statutory reference in this bill is to the Texas Department of Health (TDH), the following amendments affect the Texas Department of State Health Services, as the successor agency to TDH.]

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to, modified, transferred to, and rescinded from multiple state officers, boards, and agencies throughout S.B. 202, as indicated in the Section by Section Analysis.

### **SECTION BY SECTION ANALYSIS**

#### ARTICLE 1. REGULATORY PROGRAMS TRANSFERRED TO THE TEXAS DEPARTMENT OF LICENSING AND REGULATION

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

SECTION 1.001. Amends Subchapter D, Chapter 51, Occupations Code, by adding Section 51.2031, as follows:

Sec. 51.2031. RULES REGARDING HEALTH-RELATED PROGRAMS; PROVISION OF INFORMATION. (a) Provides that this section applies only to the regulation of the following professions by the Texas Department of Licensing and Regulation (TDLR):

- (1) athletic trainers;
- (2) dietitians;
- (3) hearing instrument fitters and dispensers;
- (4) midwives;
- (5) orthotists and prosthetists; and

(6) speech-language pathologists and audiologists.

(a-1) Prohibits the Texas Commission of Licensing and Regulation (TCLR) from adopting a new rule relating to the scope of practice of or a health-related standard of care for a profession to which this section applies unless the rule has been proposed by the advisory board established for that profession. Requires TCLR to adopt rules prescribing the procedure by which an advisory board may propose rules described by this subsection.

(a-2) Requires TCLR, for each rule proposed under Subsection (a-1), to either adopt the rule as proposed or return the rule to the advisory board for revision. Provides that TCLR retains authority for final adoption of all rules and is responsible for ensuring compliance with all laws regarding the rulemaking process. Provides that this subsection and Subsection (a-1) expire September 1, 2019.

(b) Requires TCLR to adopt rules clearly specifying the manner in which TDLR and TCLR will solicit input from, and on request provide information to, an advisory board established for a profession to which this section applies regarding the general investigative, enforcement, or disciplinary procedures of TDLR or TCLR.

SECTION 1.002. Amends Section 203.002, Occupations Code, by adding Subdivision (1) and amending Subdivisions (3), (4), (4-a), (6), and (9), as follows:

(1) Defines “advisory board” to mean the Midwives Advisory Board.

(3) Defines “commission” to mean the TCLR, rather than defines “commissioner” to mean the commissioner of state health services.

(4) Defines “department” to mean TDLR, rather than DSHS.

(4-a) Defines “executive director” to mean the executive director of DSHS, rather than defines “executive commissioner” to mean the executive commissioner of the Health and Human Services Commission (HHSC).

(6) Redefines “midwife.”

(9) Redefines “normal.”

SECTION 1.003. Amends Section 203.005, Occupations Code, as follows:

Sec. 203.005. EFFECT ON LOCAL ORDINANCES. Provides that this chapter does not prohibit a municipality from adopting a local ordinance or rule to regulate the practice of midwifery in the municipality if the ordinance or rule is compatible with and at least as strict as this chapter and TCLR rules, rather than midwifery board rules.

SECTION 1.004. Amends the heading to Subchapter B, Chapter 203, Occupations Code, to read as follows:

#### SUBCHAPTER B. MIDWIVES ADVISORY BOARD

SECTION 1.005. Amends Section 203.052, Occupations Code, as follows:

Sec. 203.052. New heading: ADVISORY BOARD MEMBERSHIP. (a) Provides that the Midwives Advisory Board (advisory board), rather than the midwifery board, consists of nine members appointed by the presiding officer of TCLR with the approval of TCLR as set forth.

(b) Makes a conforming change.

SECTION 1.006. Amends Subchapter B, Chapter 203, Occupations Code, by adding Section 203.0521, as follows:

Sec. 203.0521. DUTIES OF ADVISORY BOARD. Requires the advisory board to provide advice and recommendations to DSHS on technical matters relevant to the administration of this chapter.

SECTION 1.007. Amends Section 203.055, Occupations Code, as follows:

Sec. 203.055. New heading: TERMS; VACANCIES. (a) Creates this subsection from existing text. Provides that members of the advisory board, rather than midwifery board, serve for staggered terms of six years and that the terms of three members expire on January 31 of each odd-numbered year.

(b) Requires the presiding officer of TCLR, with TCLR's approval, if a vacancy occurs during a member's term, to appoint a replacement who meets the qualifications for the vacant position to serve for the remainder of the term.

SECTION 1.008. Amends Section 203.056, Occupations Code, as follows:

Sec. 203.056. New heading: PRESIDING OFFICER. Requires the presiding officer of TCLR to designate a public member of the advisory board to serve as the presiding officer of the advisory board to serve for a term of one year, rather than requires the commissioner of state health services (commissioner) to designate a public member of the midwifery board as the presiding officer of the midwifery board to serve in that capacity at the pleasure of the commissioner. Authorizes the presiding officer of the advisory board to vote on any matter before the advisory board. Deletes existing text requiring the midwifery board to elect one of the other members of the midwifery board as vice presiding officer.

SECTION 1.009. Amends Section 203.059, Occupations Code, as follows:

Sec. 203.059. MEETINGS. Requires the advisory board to meet at the call of the presiding officer of TCLR or the executive director of TDLR, rather than requires the midwifery board to meet at least semiannually.

Deletes existing designations of Subsections (a) and (b) and text of existing Subsection (b) requiring the midwifery board to meet at other times at the call of the midwifery board or the commissioner of state health services.

SECTION 1.010. Amends the heading to Subchapter D, Chapter 203, Occupations Code, to read as follows:

#### SUBCHAPTER D. POWERS AND DUTIES

SECTION 1.011. Amends the heading to Section 203.151, Occupations Code, to read as follows:

Sec. 203.151. GENERAL POWERS AND DUTIES.

SECTION 1.012. Amends Section 203.151, Occupations Code, by amending Subsection (a) and adding Subsections (a-1) and (a-2), as follows:

(a) Requires the executive director of TDLR to administer and enforce this chapter.

(a-1) Require TCLR to adopt certain rules as set forth. Deletes existing text requiring the midwifery board, subject to the approval of the executive commissioner of HHSC (executive commissioner), to adopt substantive and procedural rules necessary for the licensing of midwives, adopt rules prescribing a procedure for reporting and processing

complaints relating to the practice of midwifery in this state, adopt and implement substantive and procedural rules as necessary to discipline midwives determined to be in violation of this chapter or otherwise a threat to the public health and safety, and adopt other rules necessary to implement a duty imposed on the executive commissioner or DSHS under this chapter.

(a-2) Requires TDLR to:

(1) implement rules governing:

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

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

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

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

(4) establish a program for licensure as a midwife as prescribed by TCLR rules.

SECTION 1.013. Amends Section 203.152(b), Occupations Code, to prohibit TCLR, rather than the midwifery board, from setting a fee for an amount less than the amount of that fee on September 1, 1993.

SECTION 1.014. Amends Sections 203.153(a) and (c), Occupations Code, as follows:

(a) Requires TLDR to issue basic information manuals for the practice of midwifery and instructor manuals that may be used in basic midwifery education courses, rather than requires the midwifery board, subject to the approval of DSHS, to issue basic information manuals for the practice of midwifery and to approve the basic information manuals and instructor manuals that may be used in basic midwifery education courses.

(c) Requires that a basic information manual include information about:

(1)-(4) Makes no change to these subdivisions.

(5) other information or procedures required by TCLR, rather than the midwifery board, or TDLR.

SECTION 1.015. Amends Section 203.154, Occupations Code, as follows:

Sec. 203.154. REPORTS ON MIDWIFERY. (a) Creates this subsection from existing text. Requires TDLR to prepare and publish reports on the practice of midwifery in this state.

(b) Requires DSHS to publish a statistical report of infant fetal morbidity and mortality.

Deletes existing text requiring the midwifery board to prepare and publish reports on the practice of midwifery in this state, including statistical reporting of infant fetal morbidity and mortality.

SECTION 1.016. Amends the heading to Section 203.155, Occupations Code, to read as follows:

Sec. 203.155. COMPLAINTS.

SECTION 1.017. Amends Sections 203.155(b) and (d), Occupations Code, as follows:

(b) Requires TCLR to adopt rules, for purposes of Section 51.252 (Complaints), to provide for the release of any relevant midwifery or medical record to TDLR, rather than the midwifery board, without the necessity of consent by the midwife's client, as necessary to conduct an investigation of a complaint. Deletes existing text requiring that the rules adopted under Subsection (a) distinguish among categories of complaints and ensure that a person who files a complaint has an opportunity to explain the allegations made in the complaint.

(d) Requires TDLR to provide reasonable assistance to a person who wishes to file a complaint with TDLR regarding a person or activity regulated by this chapter, rather than requires the midwifery board to provide reasonable assistance to a person who wishes to file a complaint with the midwifery board.

SECTION 1.018. Amends Section 203.252(a), Occupations Code, as follows:

(a) Provides that a person qualifies to become a licensed midwife under this chapter if the person provides TDLR, rather than the program coordinator of the program for licensure as a midwife prescribed by midwifery board rules, with documentary evidence that the person has fulfilled certain criteria as set forth.

SECTION 1.019. Amends Section 203.253, Occupations Code, as follows:

Sec. 203.253. LICENSE APPLICATION. Requires that a person who practices midwifery apply to TDLR to be licensed as a midwife in the manner and on a form prescribed by the executive director of TDLR. Requires that the application include information required by TCLR, rather than midwifery board, rules.

SECTION 1.020. Amends Section 203.254, Occupations Code, as follows:

Sec. 203.254. BASIC MIDWIFERY EDUCATION. Requires TCLR to establish requirements for basic midwifery education, rather than requires the midwifery board, subject to the approval of the executive commissioner, to establish requirements for basic midwifery education.

SECTION 1.021. Amends Section 203.255(a), Occupations Code, as follows:

(a) Requires TDLR, rather than the midwifery board with the approval of the executive commissioner, to:

(1) and (2) Makes no change to these subdivisions.

SECTION 1.022. Amends Section 203.2555, Occupations Code, as follows:

Sec. 203.2555. JURISPRUDENCE EXAMINATION. (a) Requires TDLR, rather than the midwifery board, to develop and administer at least twice each calendar year a jurisprudence examination to determine an applicant's knowledge of this chapter, TCLR rules, rather than midwifery board rules, under this chapter, and any other applicable laws of this state affecting the applicant's midwifery practice.

(b) Requires TCLR to adopt rules to implement this section, including rules related to the development and administration of the examination, examination fees, guidelines for reexamination, grading the examination, and providing notice of examination results, rather than requires the midwifery board, subject to the approval of the executive commissioner to adopt rules to implement this section.

SECTION 1.023. Amends Section 203.256, Occupations Code, as follows:

Sec. 203.256. TRAINING IN NEWBORN SCREENING AND BASIC LIFE SUPPORT CARDIOPULMONARY RESUSCITATION. Requires that a person who practices

midwifery in this state provide TDLR, rather than the program coordinator, with satisfactory evidence that the person:

(1) and (2) Makes no change to these subdivisions.

SECTION 1.024. Amends Section 203.304, Occupations Code, as follows:

Sec. 203.304. CONTINUING MIDWIFERY EDUCATION. (a) Requires TDLR by rule to establish requirements for continuing midwifery education, including a minimum number of hours of continuing education required to renew a license under this chapter, rather than requires the midwifery board subject to the approval of the executive commissioner to establish requirements for continuing midwifery education.

(b) Requires a midwife, on renewal of the license, to provide TDLR with evidence, acceptable under TDLR rules, of completion of continuing midwifery education as prescribed by TDLR by rule, rather than requires a midwife, on renewal of the license, to provide the program coordinator with evidence, acceptable under midwifery board rules, of completion of continuing midwifery education as prescribed by the midwifery board.

(c) Requires TDLR, rather than the midwifery board, by rule to develop a process to evaluate and approve continuing education courses.

SECTION 1.025. Amends Section 203.305, Occupations Code, as follows:

Sec. 203.305. REQUIRED ATTENDANCE AT SPECIFIC MIDWIFERY EDUCATION COURSES. Provides that TDLR, rather than the midwifery board, may assess the continuing education needs of licensed midwives and may require licensed midwives to attend continuing midwifery education courses specified by TDLR, rather than the midwifery board.

SECTION 1.026. Amends Section 203.306, Occupations Code, as follows:

Sec. 203.306. GROUNDS FOR REFUSING RENEWAL. Provides that TDLR may refuse to renew the license of a person who fails to pay an administrative penalty unless enforcement of the penalty is stayed or a court has ordered that the administrative penalty is not owed, rather than providing that the midwifery board may refuse to renew the license of a person who fails to pay an administrative penalty imposed under Subchapter J (Administrative Penalty), unless enforcement of the penalty is stayed or a court has ordered that the administrative penalty is not owed.

SECTION 1.027. Amends Section 203.351(b), Occupations Code, as follows:

(b) Requires TDLR, rather than the midwifery board, to prescribe the form of the informed choice and disclosure statement required to be used by a midwife under this chapter.

SECTION 1.028. Amends Section 203.352, Occupations Code, as follows:

Sec. 203.352. PRENATAL AND CERTAIN MEDICAL CARE ENCOURAGED. Requires a midwife to encourage a client to seek:

(1) Makes no change to this subdivision; and

(2) medical care through consultation or referral, as specified by TDLR rules, rather than midwifery board rules, if the midwife determines that the pregnancy, labor, delivery, postpartum period, or newborn period of a woman or newborn may not be classified as normal for purposes of this chapter.

SECTION 1.029. Amends Section 203.354(b), Occupations Code, as follows:

(b) Requires TCLR to adopt rules establishing the standards for approval, rather than requires the midwifery board, subject to the approval of the executive commissioner, to adopt rules establishing the standards for approval.

SECTION 1.030. Amends Section 203.355(b), Occupations Code, as follows:

(b) Requires DSHS, rather than TDLR and a local health department, a public health district, or a local health unit to provide clinical and laboratory support services to a pregnant woman or a newborn who is a client of a midwife if the midwife is required to provide the services under this chapter.

SECTION 1.031. Amends Section 203.356(a), Occupations Code, to change a reference to TDLR to DSHS.

SECTION 1.032. Amends Sections 203.357(a) and (b), Occupations Code, as follows:

(a) Changes references to the midwifery board to TDLR.

(b) Requires TDLR to prescribe forms for the additional information and to distribute those forms directly to each midwife, rather than requires TDLR, with the approval of the midwifery board, to prescribe forms for the additional information and to distribute those forms directly to each midwife.

SECTION 1.033. Amends Section 203.401, Occupations Code, as follows:

Sec. 203.401. PROHIBITED PRACTICES. Prohibits a midwife from:

(1) providing midwifery care in violation of TCLR rule, rather than midwifery board rule, except in an emergency that poses an immediate threat to the life of a woman or newborn;

(2) administering a prescription drug to a client other than:

(A) Makes no change to this paragraph;

(B) prophylaxis approved by DSHS, rather than TDLR, to prevent ophthalmia neonatorum; or

(C) oxygen administered in accordance with TCLR rule, rather than midwifery board rule;

(3)-(6) Makes no change to these subdivisions.

SECTION 1.034. Amends Section 203.404, Occupations Code, as follows:

Sec. 203.404. GROUNDS FOR DISCIPLINARY ACTION. (a) Authorizes TCLR or the executive director of TDLR, rather than authorizes the midwifery board, to discipline a licensed midwife, refuse to renew a midwife's license, or refuse to issue a license to an applicant if the person:

(1) Makes no change to this subdivision;

(2) submits false or misleading information to TDLR, rather than the midwifery board or TDLR;

(3)-(10) Makes no change to these subdivisions;

(b) Authorizes TCLR or the executive director of TDLR, rather than authorizes the midwifery board, to discipline a licensed midwife and to refuse to issue a

license to an applicant for a disciplinary action taken by another jurisdiction that affects the person's authority to practice midwifery, including a suspension, a revocation, or another action.

SECTION 1.035. Amends Section 203.406, Occupations Code, as follows:

Sec. 203.406. REFUND. (a) Authorizes TCLR or the executive director of TDLR, subject to Subsection (b) to order a licensed midwife to pay a refund to a consumer as provided in an agreed settlement, default order, or TCLR order instead of or in addition to imposing an administrative penalty against the license holder, rather than authorizes the midwifery board to order a licensed midwife to pay a refund to a consumer as provided in an agreement resulting from an informal settlement conference instead of or in addition to imposing an administrative penalty under this chapter.

(b) Provides that the amount of a refund ordered may not exceed the amount the consumer paid to the licensed midwife for a service regulated by this chapter, rather than provides that the amount of a refund ordered as provided in an agreement resulting from an informal settlement conference may not exceed the amount the consumer paid to the licensed midwife for a service regulated by this chapter. Prohibits TCLR or the executive director of TDLR, rather than the midwifery board, from requiring payment of other damages or estimate harm in a refund order.

SECTION 1.036. Amends Section 203.501(a), Occupations Code, to provide that a person is liable for a civil penalty if the person is required to be licensed under this chapter and the person knowingly or intentionally practices midwifery in violation of a TCLR order, rather than a midwifery board order.

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

(b) Authorizes the executive director of TDLR, if the executive director or a health authority determines that a person has violated this chapter, may institute an action as described by Section 51.352 (Injunctive Relief; Civil Penalty). Deletes existing text authorizing the Department of State Health Services (DSHS), or the health authority with the concurrence of DSHS, if DSHS or a health authority determines that a person has violated this chapter and that violation creates an immediate threat to the health and safety of the public, to request the attorney general of Texas or a district, county, or city attorney to bring an action in a district court for a restraining order to restrain the violation.

SECTION 1.038. Amends Section 203.503(a), Occupations Code, as follows:

(a) Provides that venue for a civil action arising out of the imposition of an administrative penalty is in the county in which the defendant resides or in the county in which the violation occurred, rather than provides that venue for a civil action brought under Section 203.451 or 203.452 is in the county in which the defendant resides or in the county in which the violation occurred.

SECTION 1.039. Amends Section 203.505(b), Occupations Code, as follows:

(b) Provides that a violation of a cease and desist order issued by the executive director of TDLR constitutes grounds for imposing an administrative penalty, rather than provides that a violation of an order under this section constitutes grounds for imposing an administrative penalty under Subchapter J.

SECTION 1.040. Amends Section 401.001, Occupations Code, by amending Subdivisions (1), (3), (4), and (4-a) and adding Subdivisions (1-a) and (4-b), as follows:

(1) Defines “advisory board” to mean the Speech-Language Pathologists and Audiologists Advisory Board.

(1-a) Creates this subdivision from existing text and makes no further change to this subdivision.

(3) Defines “commission” to mean the Texas Commission of Licensing and Regulation, rather than defines “board” to mean the State Board of Examiners for Speech-Language Pathology and Audiology.

(4) Defines “department” to mean the Texas Department of Licensing and Regulation, rather than the Department of State Health Services.

(4-a) Defines “executive director.”

(4-b) Creates this subdivision from existing text and makes no further change to this subdivision.

SECTION 1.041. Amends Section 401.052, Occupations Code, to change reference to the State Board of Examiners for Speech-Language Pathology and Audiology (board) to TCLR.

SECTION 1.042. Amends Section 401.053, Occupations Code, as follows:

Sec. 401.053. New heading: PERSONS TRAINED BY DEPARTMENT OF STATE HEALTH SERVICES. (a) Provides that this chapter does not apply to a person who shows evidence of having received training by DSHS, rather than TDLR, in a communication, speech, language, or hearing screening training program approved by DSHS if the person's activity is limited to screening as defined by TCLR rule, rather than by board rule.

(b) Prohibits a person who has received training by DSHS, rather than TDLR, in a program under Subsection (a) from practicing speech-language pathology or audiology or representing that the person is a speech-language pathologist or audiologist.

SECTION 1.043. Amends Sections 401.054(b), (c), and (d), Occupations Code, to change references to the board to TDLR.

SECTION 1.044. Amends the heading to Subchapter C, Chapter 401, Occupations Code, to read as follows:

**SUBCHAPTER C. SPEECH-LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS  
ADVISORY BOARD**

SECTION 1.045. Amends Section 401.102, Occupations Code, as follows:

Sec. 401.102. New heading: ADVISORY BOARD MEMBERSHIP. (a) Provides that the Speech-Language Pathologists and Audiologists Advisory Board (advisory board) consists of nine members appointed by the presiding officer of TCLR with the approval of TCLR, as set forth, rather than provides that the board consists of nine members as set forth appointed by the governor, as follows:

(b) Changes a reference to board to advisory board.

(c) Makes a conforming change.

(d) and (e) Makes conforming changes.

SECTION 1.046. Amends Subchapter C, Chapter 401, Occupations Code, by adding Section 401.10205, as follows:

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

SECTION 1.047. Amends the heading to Section 401.105, Occupations Code, as follows:

Sec. 401.105. New heading: TERMS; VACANCIES.

SECTION 1.048. Amends Section 401.105(b), Occupations Code, as follows:

(b) Requires the presiding officer of TCLR, with TCLR approval, if a vacancy occurs during a member's term, to appoint a replacement who meets the qualifications for the vacant position to serve for the remainder of the term. Deletes existing text prohibiting a person from being appointed to serve more than two consecutive terms.

SECTION 1.049. Amends Section 401.107, Occupations Code, as follows:

Sec. 401.107. New heading: PRESIDING OFFICER. (a) Requires the presiding officer of TCLR to designate a member of the advisory board to serve as the presiding officer of the advisory board for a term of one year, rather than requires the governor to designate a member of the board as the presiding officer of the board to serve in that capacity at the will of the governor.

(b) Authorizes the presiding officer of the advisory board to vote on any matter before the advisory board, rather than requires the presiding officer to hold a license under this chapter.

SECTION 1.050. Amends Section 401.108, Occupations Code, as follows:

Sec. 401.108. MEETINGS. Requires the advisory board to meet at the call of the presiding officer of TCLR or the executive director of TDLR, rather than requires the board to hold at least two regular meetings each year. Deletes Subsection (a) designation. Deletes Subsection (b) designation and existing text providing that additional meetings may be held at the call of the presiding officer or on the written request of any three members of the board.

SECTION 1.051. Amends the heading to Subchapter E, Chapter 401, Occupations Code, to read as follows:

#### SUBCHAPTER E. POWERS AND DUTIES

SECTION 1.052. Amends Section 401.201, Occupations Code, by amending Subsection (a) and adding Subsection (a-1), as follows:

(a) Requires the executive director of TDLR to administer and enforce this chapter.

(a-1) Creates this subsection from existing text. Requires TDLR to evaluate the qualifications of license applicants, provide for the examination of license applicants, in connection with a hearing under this chapter, issue subpoenas, examine witnesses, and administer oaths under the laws of this state, and investigate persons engaging in practices that violate this chapter, rather than requires the board, with the assistance of DSHS, to administer, coordinate, and enforce this chapter, evaluate the qualifications of license applicants, provide for the examination of license applicants, in connection with a hearing under Section 401.454 (Administrative Procedure), issue subpoenas, examine witnesses, and administer oaths under the laws of this state, conduct hearings and keep records and minutes necessary to the orderly administration of this chapter, and investigate persons engaging in practices that violate this chapter. Makes nonsubstantive changes.

SECTION 1.053. Amends Section 401.202, Occupations Code, as follows:

Sec. 401.202. New heading: STANDARDS OF ETHICAL PRACTICE. Requires TCLR to adopt rules under this chapter that establish standards of ethical practice, rather than requires the board to adopt rules necessary to administer and enforce this chapter, including rules that establish standards of ethical practice.

SECTION 1.054. Amends Section 401.2021, Occupations Code, as follows:

Sec. 401.2021. New heading: RULES FOR HEARING INSTRUMENTS. Requires TCLR, with the assistance of the advisory board and the Hearing Instrument Fitters and Dispensers Advisory Board, to adopt rules to establish requirements for each sale of a hearing instrument for purposes of this chapter and Chapter 402 (Hearing Instrument Fitters and Dispensers), rather than requires the board and the State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments, with the assistance of DSHS, to jointly adopt rules to establish requirements for each sale of a hearing instrument.

SECTION 1.055. Amends Section 401.2022, Occupations Code, as follows:

Sec. 401.2022. New heading: RULES FOR FITTING AND DISPENSING OF HEARING INSTRUMENTS BY TELEPRACTICE. (a) Defines “telepractice.”

(b) Requires TCLR, with the assistance of the advisory board and the Hearing Instrument Fitters and Dispensers Advisory Board, to adopt rules to establish the requirements for the fitting and dispensing of hearing instruments by the use of telepractice for purposes of this chapter and Chapter 402, including rules that establish the qualifications and duties of license holders who use telepractice, rather than requires the board and the State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments, with the assistance of DSHS, to jointly adopt rules to establish requirements for the fitting and dispensing of hearing instruments by the use of telepractice.

SECTION 1.056. Amends the heading to Section 401.203, Occupations Code, to read as follows:

Sec. 401.203. ASSISTANCE FILING COMPLAINT.

SECTION 1.057. Amends Section 401.203(c), Occupations Code, as follows:

(c) Requires TDLR to provide reasonable assistance to a person who wishes to file a complaint with TDLR regarding a person or activity regulated under this chapter, rather than requires to the board to provide reasonable assistance to a person who wishes to file a complaint with the board.

SECTION 1.058. Amends Section 401.251, Occupations Code, as follows:

Sec. 401.251. New heading: TELEPHONE NUMBER FOR COMPLAINTS. Requires TDLR, rather than the board, to list with its regular telephone number any toll-free telephone number established under other state law that may be called to present a complaint about a health professional.

SECTION 1.059. Amends the heading to Section 401.253, Occupations Code, to read as follows:

Sec. 401.253. RULES REGARDING USE OF PRIVATE INVESTIGATOR.

SECTION 1.060. Amends Section 401.253(a), Occupations Code, as follows:

(a) Requires TCLR to adopt rules to prescribe guidelines concerning the categories of complaints under this chapter that require the use of a private investigator and the procedures for TDLR to obtain the services of a private investigator. Deletes existing text requiring the board to adopt rules concerning the investigation of a complaint filed with the board and requiring that the rules distinguish among categories of complaints, ensure that a complaint is not dismissed without appropriate consideration, require that the board be advised of a complaint that is dismissed and that a letter be sent to the person who filed the complaint explaining the action taken on the dismissed complaint, and ensure that the person who filed the complaint has an opportunity to explain the allegations made in the complaint. Makes nonsubstantive changes.

SECTION 1.061. Amends the heading to Section 401.2535, Occupations Code, to read as follows:

Sec. 401.2535. CONFIDENTIALITY OF COMPLAINT AND DISCIPLINARY INFORMATION.

SECTION 1.062. Amends Sections 401.2535(h) and (i), Occupations Code, as follows:

(h) Provides that all information and materials subpoenaed or compiled by TDLR, rather than the board, in connection with a complaint and investigation are confidential and not subject to disclosure under Chapter 552 (Public Information), Government Code, and not subject to disclosure, discovery, subpoena, or other means of legal compulsion for their release to anyone other than TDLR, rather than the board, or its employees or agents involved in discipline of the holder of a license, except that this information may be disclosed to:

- (1) Makes a conforming change;
- (2) Makes no change to this subdivision;
- (3) peer assistance programs approved by TCLR, rather than the board, under Chapter 467 (Peer Assistance Programs), Health and Safety Code;
- (4) and (5) Makes no change to these subdivisions.

(i) Provides that the filing of formal charges by TDLR, against a holder of a license, the nature of those charges, disciplinary proceedings of TDLR, TCLR, or the executive director of TDLR, and final disciplinary actions, including warnings and reprimands, by TDLR, TCLR, or the executive director of TDLR are not confidential and are subject to disclosure in accordance with Chapter 552, Government Code, rather than provides that the filing of formal charges by the board against a holder of a license, the nature of those charges, disciplinary proceedings of the board, and final disciplinary actions, including warnings and reprimands, by the board are not confidential and are subject to disclosure in accordance with Chapter 552, Government Code.

SECTION 1.063. Amends Section 401.302, Occupations Code, as follows:

Sec. 401.302. ISSUANCE OF LICENSE. (a) Requires TDLR, rather than the board, to issue a license to an applicant who meets the requirements of this chapter and who pays to TDLR, rather than to the board, the initial nonrefundable license fee.

(b) and (c) Changes references to board to TDLR.

(d) Requires TCLR, rather than the board, by rule to establish qualifications for dual licensing in speech-language pathology and audiology and authorizes TCLR to develop a full range of licensing options and establish rules for qualifications.

SECTION 1.064. Amends Section 401.303(a), Occupations Code, to require a person who desires a license under this chapter to apply to TDLR, rather than the board, on a form and in the

manner prescribed by the executive director of TDLR, rather than in the manner the board prescribes.

SECTION 1.065. Amends Sections 401.304(a) and (c), Occupations Code, as follows:

(a) Requires an applicant, to be eligible for licensing as a speech-language pathologist or audiologist, to:

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

(A) speech-language pathology, possess at least a master's degree with a major in at least one of the areas of communicative sciences or disorders from a program accredited by a national accrediting organization that is approved by TCLR or TDLR, rather than the board, and recognized by the United States secretary of education under the Higher Education Act of 1965 (20 U.S.C. Section 1001 et seq.) in an accredited or approved college or university; or

(B) Makes a conforming change;

(2) submit a transcript from a public or private institution of higher learning showing successful completion of course work in amounts set by TCLR, rather than the board, by rule in:

(A)-(C) Makes no change to these paragraphs.

(3) Makes no change to this subdivision;

(4) Makes a conforming change;

(5) Changes a reference to board rule to TCLR rule.

(c) Requires that supervised professional experience under Subsection (a)(5):

(1) be under the supervision of a qualified person acceptable to TDLR, rather than the board, under guidelines approved by TCLR, rather than the board; and

(2) Makes no change to this subdivision.

SECTION 1.066. Amends Section 401.3041, Occupations Code, as follows:

Sec. 401.3041. CRIMINAL HISTORY RECORD INFORMATION REQUIREMENT FOR LICENSE ISSUANCE. (a) Requires TDLR, rather than the board, to require that an applicant for a license submit a complete and legible set of fingerprints, on a form prescribed by TDLR, rather than the board, to TDLR, rather than the board, or to the Department of Public Safety of the State of Texas (DPS) for the purpose of obtaining criminal history record information from DPS and the Federal Bureau of Investigation.

(b) and (c) Makes conforming changes to these subsections.

(d) Authorizes TDLR, rather than DSHS on behalf of the board, to take certain actions.

SECTION 1.067. Amends Section 401.305, Occupations Code, as follows:

Sec. 401.305. EXAMINATION. (a) Requires an applicant, to obtain a license, to pass an examination approved by TCLR by rule and pay fees in a manner prescribed by TCLR by rule, rather than requires an applicant, to obtain a license, to pass a validated examination approved by the board and pay fees in a manner prescribed the board.

(b) Requires TDLR, rather than the board, to administer an examination at least twice each year. Makes nonsubstantive changes.

(b-1) Requires TCLR by rule to determine the standards for acceptable performance on the examinations. Makes nonsubstantive changes.

Deletes existing Subdivision (3) requiring that the board maintain a record of all examination scores for at least two years after the date of examination.

(c) Authorizes TCLR, rather than the board, by rule to:

(1) and (2) Makes no change to these subdivisions.

(d) Authorizes TCLR by rule, rather than the board, to require the examination of an applicant in any theoretical or applied field of speech-language pathology or audiology it considers appropriate. Authorizes TCLR by rule, rather than the board, to require the examination of examine an applicant on professional skills and judgment in the use of speech-language pathology or audiology techniques or methods.

SECTION 1.068. Amends Section 401.307(b), Occupations Code, to change a reference to board to TDLR:

SECTION 1.069. Amends Section 401.308, Occupations Code, change references to board to TDLR.

SECTION 1.070. Amends Section 401.310(a), Occupations Code, to change a reference to board to TDLR.

SECTION 1.071. Amends Section 401.311(c), Occupations Code, to require TCLR, rather than the board, by rule to prescribe certain terms and establish certain guidelines and procedures.

SECTION 1.072. Amends Sections 401.312(a) and (b), Occupations Code, as follows:

(a) Requires TCLR by rule, rather than requires the board, to establish minimum qualifications for licensed assistants in speech-language pathology and in audiology.

(b) Requires that a licensed assistant in speech-language pathology or in audiology meet the minimum qualifications established by TCLR, rather than the board.

SECTION 1.073. Amends Section 401.351, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, as follows:

Sec. 401.351. New heading: LICENSE TERM. Provides that a license issued under this chapter is valid for two years. Deletes existing text authorizing the board by rule to adopt a system under which licenses expire on various dates during the year.

Deletes existing text requiring license fees payable on the original expiration date, for the year in which the license expiration date is changed, be prorated on a monthly basis so that each license holder pays only the portion of the license fee that is allocable to the number of months during which the license is valid. Deletes existing text providing that the total license renewal fee, on renewal of the license on the new expiration date, is payable.

SECTION 1.074. Amends Section 401.352(a), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, to delete existing text requiring the board to allow a 60-day grace period, and providing that the board, after expiration of the grace period, may renew a license on payment of a penalty set by board rule.

SECTION 1.075. Amends Section 401.355, Occupations Code, as follows:

Sec. 401.355. CONTINUING EDUCATION. (a) Requires TCLR by rule, rather than requires the board, to establish uniform mandatory continuing education requirements.

(b) Requires TCLR, rather than the board, to establish the requirements in a manner that allows a license holder to comply without an extended absence from the license holder's county of residence.

SECTION 1.076. Amends Section 401.401(c), Occupations Code, change a reference to board to TCLR.

SECTION 1.077. Amends Section 401.403(b), Occupations Code, as follows:

(b) Requires a person who meets the requirements of this chapter for licensing as an audiologist or audiologist intern and who fits and dispenses hearing instruments to:

(1) register with TDLR, rather than the board, the person's intention to fit and dispense hearing instruments;

(2) and (3) Makes no change to these subdivisions;

(4) when providing services in this state, use a written contract that contains TDLR's, rather than the board's, name, mailing address, and telephone number; and

(5) follow the guidelines adopted by TCLR rule, rather than board rule, for a 30-day trial period on every hearing instrument purchased.

SECTION 1.078. Amends Section 401.451(a), Occupations Code, as follows:

(a) Authorizes TCLR or the executive director of TDLR, rather than the board, after a hearing, to deny a license to an applicant or to suspend or revoke a person's license or place on probation a license holder if the applicant or license holder:

(1) violates this chapter or an order issued or rule adopted under this chapter, rather than violates this chapter or an order or rule of the board;

(2) and (3) Makes no change to these subdivisions; or

(4) engages in unprofessional conduct that:

(A) endangers or is likely to endanger the health, welfare, or safety of the public as defined by TCLR rule, rather than board rule;

(B) Makes a conforming change.

SECTION 1.079. Amends Section 401.453(a), Occupations Code, as follows:

(a) Provides that TCLR or TDLR, rather than the board, may deny a license or may suspend or revoke a license if the applicant or license holder has been convicted of a misdemeanor involving moral turpitude or a felony. Makes a conforming change.

SECTION 1.080. Amends Section 401.5021, Occupations Code, as follows:

Sec. 401.5021. New heading: REFUND. Authorizes TCLR or the executive director of TDLR to order an audiologist to pay a refund to a consumer who returns a hearing instrument during the 30-day trial period required by rules adopted under Section 401.2021.

SECTION 1.081. Amends Section 401.552(a), Occupations Code, as follows:

(a) Provides that the amount of an administrative penalty imposed for a violation of this chapter or a rule adopted or order issued under this chapter may not be less than \$50 or more than \$5,000 for each violation. Makes a nonsubstantive change.

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

(1) Defines “advisory board” to mean the Hearing Instrument Fitters and Dispensers Advisory Board.

(2) Defines “commission” to mean the Texas Commission of Licensing and Regulation, rather than defines “committee” to mean the State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments.

(3) Provides that the definition for “department” means the Texas Department of Licensing and Regulation, rather than the Department of State Health Services.

(3-a) Defines “executive director” to mean the executive director of the Texas Department of Licensing and Regulation, rather than defines “commissioner” to mean the executive commissioner of the Health and Human Services Commission.

(6) Provides that “license” means a license issued by TDLR, rather than the committee, under this chapter to a person authorized to fit and dispense hearing instruments.

SECTION 1.083. Amends the heading to Subchapter B, Chapter 402, Occupations Code, to read as follows:

**SUBCHAPTER B. HEARING INSTRUMENT FITTERS AND DISPENSERS ADVISORY BOARD**

SECTION 1.084. Amends Section 402.051, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, as follows:

Sec. 402.051. New heading: **ADVISORY BOARD MEMBERSHIP.** (a) Provides that the Hearing Instrument Fitters and Dispensers Advisory Board (advisory board) consists of nine members appointed by the presiding officer of TCLR with the approval of TCLR, rather than provides that the State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments (committee) is part of DSHS and consists of nine members appointed by the governor with the advice and consent of the senate, as follows:

(1) and (2) Makes no change to these subdivisions;

(b) Requires that appointments to the advisory board, rather than the committee, be made without regard to the race, creed, sex, religion, or national origin of the appointee.

SECTION 1.085. Amends Subchapter B, Chapter 402, Occupations Code, by adding Section 402.0511, as follows:

Sec. 402.0511. **DUTIES OF ADVISORY BOARD.** Requires the advisory board to provide advice and recommendations to TDLR on technical matters relevant to the administration of this chapter.

SECTION 1.086. Amends Section 402.055, Occupations Code, as follows:

Sec. 402.055. TERMS; VACANCIES. (a) Provides that members of the advisory board, rather than members of the committee, serve staggered six-year terms. Provides that the terms of three members expire on February 1 of each odd-numbered year.

(b) Requires the presiding officer of TCLR, if a vacancy occurs during a member's term, with TCLR's approval, to appoint a replacement who meets the qualifications for the vacant position to serve for the remainder of the term.

Deletes existing text providing that a member who has served two full consecutive terms on the committee is not eligible for reappointment to the committee for the 12 months following the expiration of the second full term. Deletes existing Subsection (c) requiring the governor, in the event of the death, resignation, or removal of a member, to fill the vacancy of the unexpired term in the same manner as other appointments.

SECTION 1.087. Amends Section 402.057, Occupations Code, as follows:

Sec. 402.057. New heading: PRESIDING OFFICER. Requires the presiding officer of TCLR to designate a member of the advisory board to serve as the presiding officer of the advisory board for a term of one year, rather than requires the governor to designate a member of the committee as the presiding officer of the committee to serve in that capacity at the will of the governor. Provides that the presiding officer of the advisory board may vote on any matter before the advisory board.

Deletes designation of Subsection (a) and existing text of Subsection (b) providing that the term of office as an officer of the committee is one year.

SECTION 1.088. Amends Section 402.058, Occupations Code, as follows:

Sec. 402.058. MEETINGS. Requires the advisory board to meet at the call of the presiding officer of TCLR or the executive director of TDLR.

Deletes designation of Subsection (a) and existing text requiring the committee to hold regular meetings at least twice a year, and deletes Subsection (b) designation and existing text requiring that a special meeting of the committee be held at the call of the presiding officer or a majority of the members.

SECTION 1.089. Amends the heading to Subchapter C, Chapter 402, Occupations Code, to read as follows:

#### SUBCHAPTER C. POWERS AND DUTIES

SECTION 1.090. Amends Section 402.101, Occupations Code, as follows:

Sec. 402.101. GENERAL POWERS AND DUTIES. (a) Requires the executive director of TDLR to administer and enforce this chapter, rather than requires the committee, with the assistance of DSHS, to administer, coordinate, and enforce this chapter.

(b) Requires TDRL to:

(1) evaluate the qualifications of applicants;

(2) examine applicants; and

(3) in connection with a hearing under this chapter, rather than under Section 402.502 (Administrative Procedure), issue subpoenas, examine witnesses, and administer oaths under the laws of this state.

Deletes existing Subdivision (5) requiring the committee, with the assistance of DSHS, to conduct hearings and keep records and minutes

necessary to the orderly administration of this chapter. Makes nonsubstantive changes.

SECTION 1.091. Amends Section 402.1021, Occupations Code, as follows:

Sec. 402.1021. New heading: RULES FOR HEARING INSTRUMENTS. Requires TCLR, with the assistance of the advisory board and the Speech-Language Pathologists and Audiologists Advisory Board, to adopt rules to establish requirements for each sale of a hearing instrument for purposes of this chapter and Chapter 401, rather than requires the committee and the State Board of Examiners for Speech-Language Pathology and Audiology, with the assistance of DSHS, to jointly adopt rules to establish requirements for each sale of a hearing instrument.

SECTION 1.092. Amends Section 402.1023, Occupations Code, as follows:

Sec. 402.1023. New heading: RULES FOR FITTING AND DISPENSING OF HEARING INSTRUMENTS BY TELEPRACTICE. (a) Defines “telepractice” in this section.

(b) Requires TCLR, with the assistance of the advisory board and the Speech-Language Pathologists and Audiologists Advisory Board, to adopt rules to establish requirements for the fitting and dispensing of hearing instruments by the use of telepractice for purposes of this chapter and Chapter 401, including rules that establish the qualifications and duties of license holders who use telepractice, rather than requires the committee and the State Board of Examiners for Speech-Language Pathology and Audiology, with the assistance of DSHS, to jointly adopt rules to establish requirements for the fitting and dispensing of hearing instruments by the use of telepractice.

SECTION 1.093. Amends the heading to Section 402.103, Occupations Code, to read as follows:

Sec. 402.103. FALSE, MISLEADING, OR DECEPTIVE ADVERTISING.

SECTION 1.094. Amends Section 402.103(c), Occupations Code, to provide that an advertisement, for purposes of Section 51.204 (Rules Restricting Advertising or Competitive Bidding), is false, misleading, or deceptive if the advertisement fulfills certain criteria.

SECTION 1.095. Amends Sections 402.104(a) and (e), Occupations Code, as follows:

(a) Requires TDLR, rather than the committee, to develop and maintain an examination that may include written, oral, or practical tests.

(e) Requires TCLR by rule, rather than the committee by rule, to establish the qualifications for a proctor.

SECTION 1.096. Amends Section 402.152, Occupations Code, as follows:

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

(1) the name, mailing address, e-mail address, and telephone number of TDLR, rather than the committee; and

(2) a statement informing consumers that a complaint against a license or permit holder may be directed to TDLR, rather than the committee.

(b) Requires that each written contract for services in this state of a license holder contain TDLR’s name, mailing address, e-mail address, and telephone number,

rather than requires that each written contract for services in this state of a licensed hearing instrument dispenser contain the committee's name, mailing address, and telephone number.

SECTION 1.097. Amends the heading to Section 402.154, Occupations Code, to read as follows:

Sec. 402.154. CONFIDENTIALITY OF COMPLAINT AND DISCIPLINARY INFORMATION.

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

(h) Provides that all information and materials subpoenaed or compiled by TDLR, rather than the committee, in connection with a complaint and investigation are confidential and not subject to disclosure under Chapter 552, Government Code, and not subject to disclosure, discovery, subpoena, or other means of legal compulsion for their release to anyone other than TDLR, rather than the committee, or its agents or employees who are involved in discipline of the holder of a license, except that this information may be disclosed to:

(1) Makes a conforming change;

(2) Makes no change to this subdivision;

(3) peer assistance programs approved by TCLR, rather than the executive commissioner, under Chapter 467 (Peer Assistance Programs), Health and Safety Code;

(4) and (5) Makes no change to these subdivisions;

(i) Provides that the filing of formal charges by TDLR, rather than the committee, against a holder of a license, the nature of those charges, disciplinary proceedings of TDLR, TCLR, or the executive director of TDLR, rather than the committee, and final disciplinary actions, including warnings and reprimands, by TDLR, TCLR, or the executive director of TDLR, rather than the committee, are not confidential and are subject to disclosure in accordance with Chapter 552, Government Code.

SECTION 1.099. Amends Section 402.202(a), Occupations Code, to require a person, to engage in fitting and dispensing hearing instruments in this state, to pass an examination required by TDLR, rather than the committee.

SECTION 1.100. Amends Sections 402.203(a) and (c), Occupations Code, as follows:

(a) Requires an applicant for examination to:

(1) apply to TDLR in the manner and on a form prescribed by the executive director of TDLR, rather than apply to the committee on a form provide the committee;

(2) provide:

(A) documentation, rather than provide on the form sworn evidence, that the applicant is at least 18 years of age, rather than the age of majority, and has graduated from an accredited high school or equivalent; and

(B) other information determined necessary by TDLR, rather than the committee; and

(3) Makes no change to this subdivision.

(c) Authorizes TDLR, rather than the committee, to refuse to examine an applicant who has been convicted of a misdemeanor that involves moral turpitude or a felony.

SECTION 1.101. Amends Section 402.205(b), Occupations Code, to require that an examination be conducted in writing and by other means TDLR, rather than the committee, determines adequate to ascertain the qualifications of applicants.

SECTION 1.102. Amends Section 402.207, Occupations Code, as follows:

Sec. 402.207. ISSUANCE OF APPRENTICE PERMIT. (a) Changes a reference to committee to TDLR.

(b) Provides that TDLR may extend the apprentice permit for an additional period not to exceed one year, rather than six months. Makes a conforming change.

(c) Requires an apprentice permit holder to work under the supervision of a license holder, rather than a licensed hearing instrument dispenser, for at least one year.

SECTION 1.103. Amends Section 402.208, Occupations Code, to require TDLR to issue a license to an apprentice permit holder when TDLR has received sufficient evidence that the apprentice permit holder has met all the licensing requirements of this chapter, rather than requires the committee to issue a hearing instrument dispenser's license to an apprentice permit holder when the committee has received sufficient evidence that the apprentice permit holder has met all the licensing requirements of this chapter.

SECTION 1.104. Amends Sections 402.209(a), (c), (e), (f), and (i), Occupations Code, as follows:

(a) Authorizes a person licensed to fit and dispense hearing instruments in another state to apply for a license under this chapter by submitting a completed application on a form prescribed by TDLR, rather than the committee.

(c) Requires an applicant for a license under this section to provide as part of the application:

(1) Makes no change to this subdivision;

(2) written verification that:

(A) the requirements to obtain a license to fit and dispense hearing instruments in the state in which the applicant is licensed include passing an examination approved by TDLR by rule, rather than the committee by rule; or

(B) the applicant holds a certification from a professional organization approved by TDLR by rule, rather than the committee by rule;

(3) Makes no change to this subdivision;

(4) a statement of the applicant's criminal history acceptable to TDLR, rather than the committee.

(e) and (f) Makes conforming changes in these subsections.

(i) Prohibits TDLR, rather than the committee, from issuing a license under this section to an applicant who is a licensed audiologist in another state. Requires TDLR to inform

the applicant of the licensing requirements of Chapter 401, rather than requires the committee to refer the applicant to the State Board of Examiners for Speech-Language Pathology and Audiology.

SECTION 1.105. Amends Section 402.210, Occupations Code, as follows:

Sec. 402.210. CRIMINAL HISTORY RECORD INFORMATION REQUIREMENT FOR LICENSE ISSUANCE. (a) Requires TDLR, rather than the committee, to require that an applicant for a license submit a complete and legible set of fingerprints, on a form prescribed by TDLR, to TDLR or to DPS for the purpose of obtaining criminal history record information from DPS and the Federal Bureau of Investigation. Makes conforming changes.

(b) and (c) Makes conforming changes.

(d) Authorizes TDLR to, rather than authorizes DSHS on behalf of the committee, to take certain actions.

SECTION 1.106. Amends Section 402.251, Occupations Code, as follows:

Sec. 402.251. TEMPORARY TRAINING PERMIT QUALIFICATIONS. (a) Requires TDLR, rather than the committee, to issue a temporary training permit to a person who:

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

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

(3) submits a written application on a form prescribed by TDLR furnishing documentation that the applicant satisfies the requirements of Subdivisions (1) and (2), rather than submits a written application on a form provided by the committee furnishing sworn evidence that the applicant satisfies the requirements of Subdivisions (1) and (2); and

(4) pays any required fee, rather than pays the temporary training permit.

(b) Changes a reference to committee to TDLR.

SECTION 1.107. Amends Section 402.252, Occupations Code, as follows:

Sec. 402.252. New heading: SUPERVISION STATEMENT. (a) Requires that an application for a temporary training permit be accompanied by the statement, rather than the affidavit, of a person licensed to fit and dispense hearing instruments under this chapter or Chapter 401, other than a person licensed under Section 401.311 or 401.312.

(b) Requires that the statement be on a form prescribed by TDLR and state that, rather than requires the affidavit to state that:

(1) the person will supervise the applicant in all work done by the applicant under the temporary training permit, rather than the applicant, if granted a temporary training permit, will be supervised by the affiant in all work done by the applicant under the temporary training permit;

(2) the person, rather than the affiant, will notify TDLR, rather than the committee, not later than the 10th day after the date of the applicant's termination of supervision by the person, rather than the affiant; and

(3) Makes conforming changes.

SECTION 1.108. Amends Sections 402.253(b) and (c), Occupations Code, as follows:

(b) Provides that a temporary training permit automatically expires on the first anniversary of the date of issuance unless TDLR, rather than the committee, extends the permit for an additional period not to exceed one year, rather than six months.

(c) Changes a reference to the committee to TDLR.

SECTION 1.109. Amends Section 402.254(a), Occupations Code, to require TCLR by rule, rather than requires the committee, to establish formal and practical education guidelines for the training of temporary training permit holders.

SECTION 1.110. Amends Section 402.255(d), Occupations Code, as follows:

(d) Requires the supervisor to maintain a log of the contact hours by practicum category on a form prescribed, rather than provided, by TDLR, rather than the committee. Makes a conforming change.

SECTION 1.111. Amends Section 402.256, Occupations Code, as follows:

Sec. 402.256. AUTHORITY OF TEMPORARY TRAINING PERMIT HOLDER. (a) Makes a nonsubstantive and conforming change.

(b) Prohibits a temporary training permit holder from:

(1) Makes no change to this subdivision; or

(2) advertising or otherwise representing that the permit holder holds a license under this chapter, rather than holds a license as a hearing instrument dispenser.

SECTION 1.112. Amends Sections 402.257(a), (c), and (d), Occupations Code, to change references to the committee to TDLR.

SECTION 1.113. Amends Sections 402.301(a) and (f), Occupations Code, to change references to the committee to TDLR.

SECTION 1.114. Amends Sections 402.303(a), (b), (c), (d), and (e-1), Occupations Code, as follows:

(a) Requires TCLR, rather than the committee, by rule to adopt requirements for the continuing education of a license holder, including online continuing education requirements and a requirement that a license holder complete 20 hours of continuing education every two years. Prohibits TDLR, rather than the committee, from renewing a license unless the license holder demonstrates compliance with the continuing education requirements established TCLR by rule, rather than established by the committee.

(b) and (c) Changes references to the committee to TDLR.

(d) Requires TCLR, rather than the committee, to adopt rules to establish reasonable requirements for continuing education sponsors and courses and to clearly define what constitutes a manufacturer or nonmanufacturer sponsor. Requires TDLR to review and approve continuing education sponsor and course applications. Authorizes TDLR to request assistance from licensed members of the advisory board, rather than the committee, in approving a sponsor or course.

(e-1) Makes a conforming change.

SECTION 1.115. Amends Section 402.304(b), Occupations Code, to authorize TDLR, rather than the continuing education committee, to grant credit hours based on the degree to which a published book or article advances knowledge regarding the fitting and dispensing of hearing instruments.

SECTION 1.116. Amends Section 402.305, Occupations Code, to change a reference to the committee to TDLR and to make a nonsubstantive change.

SECTION 1.117. Amends Section 402.306, Occupations Code, to change references to the committee to TDLR.

SECTION 1.118. Amends Section 402.351, Occupations Code, to change a reference to the committee to TDLR.

SECTION 1.119. Amends Section 402.353(c), Occupations Code, to require TCLR, rather than the committee, to adopt rules necessary to enforce this section.

SECTION 1.120. Amends Section 402.401, Occupations Code, to require TCLR by rule, rather than to require the committee, to establish guidelines for a 30-day trial period during which a person may cancel the purchase of a hearing instrument.

SECTION 1.121. Amends Section 402.403, Occupations Code, as follows:

Sec. 402.403. WRITTEN CONTRACT. Requires the owner of a hearing instrument fitting and dispensing practice to ensure that each client receives a written contract at the time of purchase of a hearing instrument that contains:

(1)-(8) Makes no change these subdivisions;

(9) the name, mailing address, e-mail address, and telephone number of TDLR, rather than the committee.

SECTION 1.122. Amends Section 402.404, Occupations Code, as follows:

Sec. 402.404. SURETY BONDING. (a) Requires a sole proprietor, partnership, corporation, or other legal entity engaged in the fitting and dispensing of hearing instruments to file with TDLR, rather than the committee, security in a form provided by Subsection (b) in the amount of \$10,000 and conditioned on the promise to pay all of certain taxes, contributions, and judgments.

(b) and (c) Makes conforming changes.

SECTION 1.123. Amends Section 402.451(a), Occupations Code, to change a reference to the committee to TDLR.

SECTION 1.124. Amends Section 402.501, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, as follows:

Sec. 402.501. GROUNDS FOR LICENSE DENIAL AND DISCIPLINARY ACTION. Authorizes TCLR or the executive director of TDLR, rather than the committee, to refuse to issue or renew a license, revoke or suspend a license or permit, place on probation a person whose license or permit has been suspended, or reprimand a license or permit holder who:

(1) makes a material misstatement in furnishing information to TDLR, rather than the committee, or to another state or federal agency;

(2)-(6) Makes no change to these subdivisions;

(7) does not provide information in response to a written request made by TDLR, rather than SBME, within 60 days;

(8)-(24) Makes no change to these subdivisions.

SECTION 1.125. Amends the heading to Section 402.551, Occupations Code, to read as follows:

Sec. 402.551. AMOUNT OF ADMINISTRATIVE PENALTY.

SECTION 1.126. Amends Section 402.551(b), Occupations Code, to prohibit the amount of an administrative penalty imposed for a violation of this chapter or a rule adopted or order issued under this chapter from exceeding \$250 plus costs for the first violation and \$1,000 plus costs for each subsequent violation.

SECTION 1.127. Amends Section 402.5521, Occupations Code, as follows:

Sec. 402.5521. New heading: REFUND FOR HEARING INSTRUMENT. Authorizes TCLR or the executive director of TDLR, rather than the committee, to order a license holder to pay a refund to a consumer who returns a hearing instrument during the 30-day trial period required by rules adopted under Section 402.1021.

SECTION 1.128. Amends Section 402.553(a), Occupations Code, as follows:

(a) Provides that a person who violates this chapter or a rule adopted or order issued under this chapter is liable for a civil penalty not to exceed \$5,000 a day, rather than provides that a person who violates this chapter or a rule or order adopted by the committee under this chapter is liable for a civil penalty not to exceed \$5,000 a day.

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

(1) Defines “commission” to mean TCLR.

(2) Redefines “department” to mean TDLR, rather than DSHS.

(3) Defines “executive director” to mean the executive director of TDLR, rather than defines “commissioner” to mean the executive commissioner of the Health and Human Services Commission.

SECTION 1.130. Amends Section 403.051, Occupations Code, to require TDLR to appoint an advisory committee to provide advice and recommendations to TDLR on technical matters relevant to the administration of this chapter, rather than to require TDLR to appoint an advisory committee to advise TDLR in administering this chapter.

SECTION 1.131. Amends Subchapter B, Chapter 403, Occupations Code, by adding Section 403.0511, as follows:

Sec. 403.0511. GENERAL POWERS AND DUTIES. Requires the executive director to administer and enforce this chapter.

SECTION 1.132. Amends Section 403.052, Occupations Code, as follows:

Sec. 403.052. New heading: STANDARDS OF ETHICAL PRACTICE. Requires TCLR to adopt rules that establish standards of ethical practice, rather than requires the executive commissioner to adopt rules necessary to administer and enforce this chapter, including rules that establish standards of ethical practice.

SECTION 1.133. Amends Section 403.103(a), Occupations Code, to require a license applicant to apply to TDLR on a form and in the manner prescribed by the executive director, rather than in the manner TDLR prescribes.

SECTION 1.134. Amends the heading to Section 403.107, Occupations Code, to read as follows:

Sec. 403.107. EXAMINATION.

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

(a) Requires an applicant, to obtain a license, to:

(1) Makes no change to this subdivision; and

(2) pay the required fees, rather than pay fees set by the executive commissioner by rule.

SECTION 1.136. Amends Sections 403.152(a) and (b), Occupations Code, as follows:

(a) Provides that a license holder's license may not be renewed unless the license holder meets the continuing education requirements established by TCLR by rule, rather than established by the executive commissioner.

(b) Requires TCLR, rather than the executive commissioner, in consultation with the advisory committee, to establish the continuing education requirements in a manner that allows a license holder to comply without an extended absence from the license holder's county of residence.

SECTION 1.137. Amends the heading to Subchapter E, Chapter 403, Occupations Code, to read as follows:

SUBCHAPTER E. LICENSE DENIAL; DISCIPLINARY PROCEDURES

SECTION 1.138. Amends Section 403.202, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, to prohibit a license holder from engaging in unprofessional conduct that endangers or is likely to endanger the health, welfare, or safety of the public as defined by TCLR, rather than TDLR, rule.

SECTION 1.139. Amends Section 403.203, Occupations Code, as follows:

Sec. 403.203. GROUND FOR DISCIPLINARY ACTION. Requires TCLR or executive director, rather than TDLR, if a license holder violates this chapter or a rule or code of ethics adopted by TCLR, rather than the executive commissioner, to:

(1)-(4) Makes no change to these subdivisions.

SECTION 1.140. Amends Section 403.204(a), Occupations Code, as follows:

(a) Authorizes TCLR or executive director, rather than TDLR, to deny a license or to suspend or revoke a license if the applicant or license holder has been convicted of a misdemeanor involving moral turpitude or a felony. Authorizes TCLR or the executive director, rather than TDLR, to take action authorized by this section when:

(1)-(3) Makes no change to these subdivisions.

SECTION 1.141. Amends Section 403.207(a), Occupations Code, to require TCLR, rather than the executive commissioner, in consultation with the advisory committee, by rule to adopt a broad schedule of sanctions for a violation of this chapter.

SECTION 1.142. Amends Section 403.209, Occupations Code, as follows:

Sec. 403.209. MONITORING OF LICENSE HOLDER. (a) Requires TCLR, rather than the executive commissioner, by rule to develop a system for monitoring a license holder's compliance with the requirements of this chapter.

(b) Requires that rules adopted under this section include procedures to:

(1) monitor for compliance a license holder who is ordered by TCLR or the executive director, rather than ordered by TDLR, to perform certain acts; and

(2) Makes no change to this subdivision.

SECTION 1.143. Amends Section 403.212, Occupations Code, as follows:

Sec. 403.212. REPRIMAND; CONTINUING EDUCATION. (a) Authorizes TCLR or the executive director, rather than TDLR, in addition to other disciplinary action authorized by this subchapter, to:

(1) and (2) Makes no change to these subdivisions.

(b) Authorizes TCLR or the executive director, rather than TDLR, in consultation with the advisory committee, to specify the number of hours of continuing education that must be completed by a license holder to fulfill the requirement of Subsection (a)(2).

SECTION 1.144. Amends the heading to Subchapter F, Chapter 403, Occupations Code, to read as follows:

#### SUBCHAPTER F. PENALTIES

SECTION 1.145. Amends Section 403.251(a), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, to provide that a person who violates this chapter or a rule adopted or order issued under this chapter is liable for a civil penalty not to exceed \$500 for each occurrence, rather than to provide that a person who violates this chapter, a rule adopted by the executive commissioner under this chapter, or an order adopted by TDLR under this chapter is liable for a civil penalty not to exceed \$500 for each occurrence.

SECTION 1.146. Amends Section 451.001, Occupations Code, by amending Subdivision (2), amending Subdivisions (5) and (6), as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, and adding Subdivision (7), as follows:

(2) Redefines “athletic trainer.”

(5) Defines “commission” to mean the Texas Commission of Licensing and Regulation, rather than defines “commissioner” to mean the commissioner of state health services.

(6) Redefines “department” to mean the Texas Department of Licensing and Regulation (TDLR), rather than the Texas Department of State Health Services.

(7) Defines “executive director.”

SECTION 1.147. Amends Section 451.003, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, as follows:

Sec. 451.003. APPLICABILITY. Provides that this chapter does not apply to:

(1)-(9) Makes no change to these subdivisions;

(10) an athletic trainer who does not live in this state, who is licensed, registered, or certified by an authority recognized by TDLR, rather than the Advisory Board of Athletic Trainers (board), and who provides athletic training in this state for a period determined by TDLR, rather than the board.

SECTION 1.148. Amends Section 451.051(b), Occupations Code, as follows:

(b) Provides that the board consists of five members appointed by the presiding officer of TCLR with the approval of TCLR, rather than provides that the board consists of five members appointed by the governor with the advice and consent of the senate, as set forth.

SECTION 1.149. Amends Subchapter B, Chapter 451, Occupations Code, by adding Section 451.0521, as follows:

Sec. 451.0521. DUTIES OF BOARD. Requires the board to provide advice and recommendations to TDLR on technical matters relevant to the administration of this chapter.

SECTION 1.150. Amends Section 451.053(b), Occupations Code, as follows:

(b) Requires the presiding officer of TCLR, with TCLR's approval, if a vacancy occurs on the board, to appoint a replacement who meets the qualifications for the vacant position, to serve for the unexpired portion of the term, rather than requires the governor, if a vacancy occurs on the board, to appoint a successor to serve for the unexpired portion of the term.

SECTION 1.151. Amends Section 451.055, Occupations Code, as follows:

Sec. 451.055. New heading: PRESIDING OFFICER. Requires the presiding officer of TCLR to designate a member of the board to serve as the presiding officer of the board for a one-year term. Authorizes the presiding officer of the board to vote on any matter before the board.

Deletes existing text requiring the governor to designate a member of the board as the board's presiding officer to serve in that capacity at the will of the governor and requiring the board to elect an assistant presiding officer and secretary-treasurer from its members to serve a one-year term.

SECTION 1.152. Amends Section 451.056, Occupations Code, as follows:

Sec. 451.056. MEETINGS. Requires the board to meet at the call of the presiding officer of TCLR or the executive director of TDLR.

Deletes existing text requiring the board to meet at least twice a year and authorizing the board to hold additional meetings on the call of the presiding officer or at the written request of any three members of the board.

SECTION 1.153. Amends the heading to Subchapter C, Chapter 451, Occupations Code, to read as follows:

#### SUBCHAPTER C. POWERS AND DUTIES

SECTION 1.154. Amends Section 451.101, Occupations Code, by amending Subsection (a) and adding Subsections (a-1) and (a-2), as follows:

(a) Requires the executive director of TDLR to administer and enforce this chapter.

(a-1) Requires TDLR, rather than the board, to:

(1) and (2) Makes no change to these subdivisions;

(3) and (4) Makes nonsubstantive changes to these subdivisions;

(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) Requires TDLR to make a copy of the roster available to any person requesting it on payment of a fee established by TDLR in an amount sufficient to cover the cost of the roster.

SECTION 1.155. Amends the heading to Section 451.110, Occupations Code, to read as follows:

Sec. 451.110. CONFIDENTIALITY OF COMPLAINT AND DISCIPLINARY INFORMATION.

SECTION 1.156. Amends Sections 451.110(h) and (i), Occupations Code, as follows:

(h) Provides that all information and materials subpoenaed or compiled by TDLR, rather than the board, in connection with a complaint and investigation are confidential and not subject to disclosure under Chapter 552, Government Code, and not subject to disclosure, discovery, subpoena, or other means of legal compulsion for their release to anyone other than TDLR, rather than the board, or its employees or agents involved in discipline of the holder of a license, except that this information may be disclosed to:

- (1) Makes a conforming change;
- (2) Makes no change to this subdivision;
- (3) peer assistance programs approved by TCLR, rather than the board, under Chapter 467 (Peer Assistance Programs), Health and Safety Code;
- (4) and (5) Makes no change to these subdivisions;

(i) Provides that the filing of formal charges by TDLR against a holder of a license, the nature of those charges, disciplinary proceedings of TDLR, TCLR, or the executive director of TDLR, and final disciplinary actions, including warnings and reprimands, by TDLR, TCLR, or the executive director of TDLR are not confidential and are subject to disclosure in accordance with Chapter 552, Government Code, rather than provides that the filing of formal charges by the board against a holder of a license the nature of those charges, disciplinary proceedings of the board, and final disciplinary actions, including warnings and reprimands, by the board are not confidential and are subject to disclosure in accordance with Chapter 552, Government Code.

SECTION 1.157. Amends Section 451.152, Occupations Code, as follows:

Sec. 451.152. LICENSE APPLICATION. Requires an applicant for an athletic trainer license to submit to TDLR, rather than the board:

- (1) an application in the manner and on a form prescribed by the executive director of TDLR, rather than the board; and
- (2) Makes no change to this subdivision.

SECTION 1.158. Amends Section 451.153, Occupations Code, as follows:

Sec. 451.153. APPLICANT QUALIFICATIONS. (a) Requires an applicant for an athletic trainer license to:

- (1) have met the athletic training curriculum requirements of a college or university approved by TCLR, rather than the board, and give proof of graduation;

(2) Makes no change to this subdivision; or

(3) have a degree in corrective therapy with at least a minor in physical education or health that includes a basic athletic training course and meet the apprenticeship requirement or any other requirement established by TCLR, rather than the board.

(b) Provides that the apprenticeship required to be completed by an applicant consists of 720 hours completed in two years under the direct supervision of a licensed athletic trainer acceptable to TDLR, rather than the board.

SECTION 1.159. Amends Section 451.156, Occupations Code, as follows:

Sec. 451.156. REQUIREMENTS FOR LICENSE ISSUANCE. Entitles an applicant for an athletic trainer license to receive the license if the applicant:

(1) Makes no change to this subdivision;

(2) passes the examination required by TDLR, rather than satisfactorily completes the examination administered by the board;

(3) and (4) Makes no change to these subdivisions.

SECTION 1.160. Amends Section 451.157, Occupations Code, as follows:

Sec. 451.157. TEMPORARY LICENSE. (a) Provides that TDLR, rather than the board, may issue a temporary license to an applicant if the applicant satisfies:

(1) Makes no change to this subdivision; and

(2) any other requirement established by TCLR, rather than the board.

(b) Requires TCLR, rather than the board, by rule to prescribe the time during which a temporary license is valid.

SECTION 1.161. Amends the heading to Section 451.201, Occupations Code, to read as follows:

Sec. 451.201. LICENSE EXPIRATION; RENEWAL.

SECTION 1.162. Amends Section 451.201(a), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, to provide that a license issued under Section 451.156 expires on the second anniversary of the date of issuance and may be renewed biennially.

SECTION 1.163. Amends Section 451.251(a), Occupations Code, as follows:

(a) Provides that TCLR or the executive director of TDLR, rather than the board, may refuse to issue a license to an applicant and shall reprimand a license holder or suspend, revoke, or refuse to renew a person's license if the person commits certain offences.

SECTION 1.164. Amends the heading to Section 451.351, Occupations Code, to read as follows:

Sec. 451.351. AMOUNT OF ADMINISTRATIVE PENALTY.

SECTION 1.165. Amends Section 451.351(c), Occupations Code, as follows:

(c) Provides that the amount of an administrative penalty imposed for a violation of this chapter or a rule adopted or order issued under this chapter may not exceed \$500 for each

violation, and each day a violation continues or occurs is a separate violation for purposes of imposing a penalty. Prohibits the total amount of the penalty assessed for a violation continuing or occurring on separate days under this subsection from exceeding \$2,500. Makes a nonsubstantive change.

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

- (1) Defines “advisory board” to mean the Orthotists and Prosthetists Advisory Board, rather than defines “board” to mean the Texas Board of Orthotics and Prosthetics.
- (2) Defines “commission” to mean the Texas Commission of Licensing and Regulation.
- (5) Defines “department” to mean the Texas Department of Licensing and Regulation, rather than the Texas Department State Health Services.
- (5-a) Defines “executive director.”

SECTION 1.167. Amends the heading to Subchapter B, Chapter 605, Occupations Code, to read as follows:

#### SUBCHAPTER B. ORTHOTISTS AND PROSTHETISTS ADVISORY BOARD

SECTION 1.168. Amends Section 605.052, Occupations Code, as follows:

Sec. 605.052. New heading: ADVISORY BOARD MEMBERSHIP. (a) Provides that the Orthotists and Prosthetists Advisory Board (advisory board) consists of seven members appointed by the presiding officer of TCLR with the approval of TCLR, rather than provides that the Texas Board of Orthotics and Prosthetics (board) consists of seven members appointed by the governor with the advice and consent of the senate, as follows:

- (1) two licensed orthotist members who each have, rather than one licensed orthotist member who has, practiced orthotics for the five years preceding the date of appointment;
- (2) two licensed prosthetist members who each have, rather than one licensed orthotist member who has, practiced prosthetics for the five years preceding the date of appointment;
- (3) Makes no change to this subdivision;
- (4) and (5) Makes nonsubstantive changes.

Deletes existing subdivision (6) providing that the advisory board consists of two members who are representatives of the public who do not use an orthosis or prosthesis.

- (b) Requires that appointments to the advisory board be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.

SECTION 1.169. Amends Subchapter B, Chapter 605, Occupations Code, by adding Section 605.0521, as follows:

Sec. 605.0521. DUTIES OF ADVISORY BOARD. Requires the advisory board to provide advice and recommendations to TDLR on technical matters relevant to the administration of this chapter.

SECTION 1.170. Amends Section 605.055, Occupations Code, as follows:

Sec. 605.055. TERMS; VACANCY. (a) Provides that members of the advisory board serve staggered six-year terms.

(b) Requires the presiding officer of TCLR, with TCLR's approval, if a vacancy occurs during a member's term, to appoint a replacement who meets the qualifications for the vacant position to serve for the remainder of the term, rather than requires the governor, if a vacancy occurs during a member's term, to appoint a person to serve for the remainder of the term.

SECTION 1.171. Amends Section 605.056, Occupations Code, as follows:

Sec. 605.056. New heading: PRESIDING OFFICER. Requires the members of the advisory board to elect from the advisory board's membership a presiding officer of the advisory board to serve for a term of one year, rather than requires the members of the board to elect from the board's membership a presiding officer, a secretary, and other officers as required to conduct the board's business.. Authorizes the presiding officer of the advisory board to vote on any matter before the advisory board.

SECTION 1.172. Amends Section 605.059, Occupations Code, by amending Subsection (b) and adding Subsections (c) and (d), as follows:

(b) Requires the advisory board to meet at the call of the presiding officer of TCLR or the executive director of TDLR, rather than requires that a special meeting of the board be called by the presiding officer or on the written request of any three members.

(c) Authorizes four or more advisory board members to call a special meeting of the advisory board by providing written notice not less than 14 days before the date of the meeting to:

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

(d) Provides that not more than two special meetings of the advisory board may be called under Subsection (c) in a calendar year.

SECTION 1.173. Amends Section 605.151, Occupations Code, as follows:

Sec. 605.151. New heading: GENERAL POWERS AND DUTIES. Requires the executive director of TDLR to administer and enforce this chapter.

Deletes existing text authorizing the board to investigate complaints; issue, suspend, deny, and revoke licenses; reprimand license holders and place license holders on probation; in connection with a hearing under Section 605.353, issue subpoenas; hold hearings; and use personnel, facilities, furniture, equipment, and other items supplied by TDLR to administer this chapter.

SECTION 1.174. Amends Section 605.155, Occupations Code, as follows:

Sec. 605.155. EXAMINATIONS. Requires TDLR, rather than the board, to approve any examination required for a license under this chapter.

SECTION 1.175. Amends the heading to Subchapter E, Chapter 605, Occupations Code, to read as follows:

#### SUBCHAPTER E. COMPLAINT INFORMATION

SECTION 1.176. Amends the heading to Section 605.2021, Occupations Code, to read as follows:

Sec. 605.2021. CONFIDENTIALITY OF COMPLAINT AND DISCIPLINARY INFORMATION.

SECTION 1.177. Amends Sections 605.2021(h) and (i), Occupations Code, as follows:

(h) Provides that all information and materials subpoenaed or compiled by TDLR, rather than the board, in connection with a complaint and investigation are confidential and not subject to disclosure under Chapter 552, Government Code, and not subject to disclosure, discovery, subpoena, or other means of legal compulsion for their release to anyone other than TDLR, rather than the board, or its employees or agents involved in discipline of the holder of a license, except that this information may be disclosed to:

- (1) Makes a conforming change;
- (2) Makes no change to this subdivision;
- (3) peer assistance programs approved by TCLR, rather than the board, under Chapter 467 (Peer Assistance Programs), Health and Safety Code;
- (4) and (5) Makes no change to these subdivisions.

(i) Provides that the filing of formal charges by TDLR against a holder of a license, the nature of those charges, disciplinary proceedings of TDLR, TCLR, or the executive director of TDLR, and final disciplinary actions, including warnings and reprimands, by the TDLR, TCLR, or the executive director of TDLR are not confidential and are subject to disclosure in accordance with Chapter 552, Government Code, rather than provides that the filing of formal charges by the board against a holder of a license, the nature of those charges, disciplinary proceedings of the board, and final disciplinary actions, including warnings and reprimands, by the board are not confidential and are subject to disclosure in accordance with Chapter 552, Government Code.

SECTION 1.178. Amends Section 605.251, Occupations Code, as follows:

Sec. 605.251. LICENSE REQUIRED. Provides that a person may not practice, attempt to practice, or offer to practice orthotics or prosthetics, act as an assistant to a person who practices orthotics or prosthetics, or in any way hold the person out as being able to practice orthotics or prosthetics unless the person holds a license under this chapter, rather than holds a license issued by the board.

SECTION 1.179. Amends Section 605.252, Occupations Code, as follows:

Sec. 605.252. LICENSE ELIGIBILITY. (a) Requires a person, to be eligible for a license to practice orthotics or prosthetics in this state, to:

- (1) submit an application in the manner and on the form prescribed by the executive director of TDLR, rather than file a written application with the board on the form prescribed by the board;
- (2) and (3) Makes no change to these subdivisions;
- (4) have completed formal training, including the required hours of classroom education and clinical practice, in an area of study TCLR, rather than the board, by rule determines to be necessary and appropriate;
- (5) have completed a clinical residency in the professional area for which a license is sought that complies with the standards, guidelines, or

procedures established by TDLR, rather than the board, for a clinical residency that is offered in this state or another state; and

(6) Makes a conforming change.

(b) Requires that the requirements for a license established by TCLR, rather than board, rule include the requirement that the applicant hold certain degrees and certificates.

(c) Requires the applicant, to meet the clinical residency requirements for a license, to complete a professional clinical residency that meets the requirements established by TCLR, rather than board, rule and is conducted under the direct supervision of a licensed orthotist, licensed prosthetist, or a licensed prosthetist orthotist in the discipline for which licensure is sought. Makes a conforming change.

(d) Authorizes TDLR, rather than the board, to accept as a substitute for the examination requirement proof that the license applicant holds a license in a state that has licensing requirements that are equal to or exceed the requirements of this chapter.

SECTION 1.180. Amends Sections 605.254(a) and (c), Occupations Code, as follows:

(a) Entitles a person to an exemption from the license requirements established under Section 605.252 if the person is a resident of this state who presents evidence satisfactory to TDLR that the person possesses unique qualifications to practice orthotics, prosthetics, or orthotics and prosthetics.

Deletes existing text entitling a person to an exemption from the license requirements established by the board under Section 605.252 if the person is a resident of this state who applies for the exemption not later than the 181st day after the date on which the board's initial rules are finally adopted and has provided comprehensive orthotic or prosthetic care for at least three years before the date of the application, including practicing orthotics or prosthetics in this state for the year preceding that date; or has provided comprehensive orthotic and prosthetic care for at least six years, including practicing orthotics and prosthetics in this state for the year preceding the application date.

(c) Requires TDLR, rather than the board, to issue a license to a person who is determined to be eligible for a license under Subsection (a), rather than Subsection (a) or (b) (authorizing a person who has provided comprehensive orthotic, prosthetic, or orthotic and prosthetic care in this state for a term shorter than the number of years required by Subsection (a)(1) to obtain a certain license). Provides that the license holder is subject to the license renewal requirements established by TCLR, rather than the board, other than the academic, clinical training, and examination requirements, which TCLR, rather than the board, may not impose as a condition of the person's license.

SECTION 1.181. Amends Sections 605.255(a) and (b), Occupations Code, as follows:

(a) Requires an applicant for a license as an orthotist assistant or prosthetist assistant to:

(1) submit an application in the manner and on a form prescribed by the executive director to TDLR, rather than file a written application with the board on a form provided by the board;

(2) pay the nonrefundable application fee established by TCLR rule, rather than pay the nonrefundable application fee prescribed by the board; and

(3) present evidence satisfactory to TDLR, rather than the board, that the applicant has completed an education program, including courses in the

anatomical, biological, and physical sciences, and a clinical residency as prescribed and adopted by TCLR by rule, rather than prescribed and adopted by the board.

SECTION 1.182. Amends Sections 605.256(a) and (b), Occupations Code, as follows:

(a) Provides that TDLR, rather than the board, may issue a license or registration certificate under this chapter only to an individual.

(b) Makes conforming changes to this subsection.

SECTION 1.183. Amends Section 605.257, Occupations Code, to change references to the board to TDLR.

SECTION 1.184. Amends Section 605.258(a), Occupations Code, to change references to the board to TDLR.

SECTION 1.185. Amends Section 605.259(a), Occupations Code, as follows:

(a) Authorizes TDLR, rather than the board, to issue a registered orthotic technician or registered prosthetic technician certificate to an applicant who:

(1) submits an application in the manner and on a form prescribed by the executive director of TDLR, rather than files a written application with the board on a form provided by the board;

(2) Makes no change to this subdivision; and

(3) presents evidence satisfactory to TDLR, rather than the board, that the applicant has completed an education program and laboratory experience as prescribed by TCLR by rule, rather than as prescribed by the board.

SECTION 1.186. Amends Sections 605.260(a), (b), and (c), Occupations Code, as follows:

(a) Requires TCLR, rather than the board, by rule to establish requirements for the accreditation and the renewal of an accreditation of an orthotic or prosthetic facility in which orthotics or prosthetics are conducted. Authorizes TDLR, rather than the board, to issue an accreditation only to an orthotic or prosthetic facility.

(b) Requires TDLR, rather than the board, if a person owns more than one facility, to require only one application for the accreditation of each of the person's facilities. Requires that each orthotic or prosthetic facility meet the requirements established by TCLR rule, rather than established by the board rule.

(c) Requires that an orthotic or prosthetic facility be under the on-site direction of an orthotist or prosthetist licensed by TDLR, rather than the board, in the discipline for which accreditation is sought.

SECTION 1.187. Amends Section 605.261, Occupations Code, as follows:

Sec. 605.261. CONTINUING EDUCATION. (a) Requires TCLR, rather than the board, to:

(1) and (2) Makes no change to these subdivisions.

(b) Requires an applicant, to renew a license under this chapter, to submit to TDLR, rather than the board, evidence of satisfactory completion of the continuing education requirements required by TCLR, rather than the board.

(c) Requires TDLR, rather than the board, to notify a license holder who has failed to comply with the continuing education requirements, rather than the board's continuing education requirements, of the license holder's failure to comply and that failure to obtain the required continuing education before the expiration of three months after the date the notice is given constitutes grounds for TCLR or executive director of TDLR, rather than the board, to suspend or revoke the license holder's license.

SECTION 1.188. Amends Section 605.353, Occupations Code, as follows:

Sec. 605.353. DISCIPLINARY ACTIONS. (a) Authorizes TCLR or the executive director of TDLR, rather than the board, after notice and opportunity for a hearing, to revoke, suspend, or refuse to renew a license issued under this chapter on a finding that certain offenses were committed.

(b) Authorizes TCLR or the executive director of TDLR, rather than the board, to reinstate a license revoked under Subsection (a) after the first anniversary of the date of the revocation on terms TCLR or the executive director of TDLR, rather than the board determines to be necessary.

SECTION 1.189. Amends Section 605.354(c), Occupations Code, to require the attorney general to bring an action in the name of the state at TDLR's request, rather than the board's request, to collect a civil penalty under this section.

SECTION 1.190. Amends Section 605.402(a), Occupations Code, to provide that the amount of an administrative penalty imposed for a violation of this chapter or a rule adopted or order issued under this chapter may not be less than \$50 or more than \$5,000 for each violation. Makes a nonsubstantive change.

SECTION 1.191. Amends Section 701.002, Occupations Code, by amending Subdivisions (1), (2), and (4) and adding Subdivision (1-a), as follows:

(1) Defines "advisory board" to mean the Dietitians Advisory Board.

(1-a) Defines "commission" to mean the Texas Commission of Licensing and Regulation, rather than defines "commissioner" to mean the commissioner of state health services.

(2) Provides that "department" means the Texas Department of Licensing and Regulation, rather than the Department of State Health Services.

(4) Defines "executive director" to mean the executive director of the department, rather than defines "dietitians board" to mean the Texas State Board of Examiners of Dietitians.

SECTION 1.192. Amends the heading to Subchapter B, Chapter 701, Occupations Code, to read as follows:

#### SUBCHAPTER B. DIETITIANS ADVISORY BOARD

SECTION 1.193. Amends Section 701.051, Occupations Code, as follows:

Sec. 701.051. New heading: DIETITIANS ADVISORY BOARD MEMBERSHIP. (a) Provides that the Dietitians Advisory Board (advisory board) consists of nine members appointed by the presiding officer of TCLR with the approval of TCLR, rather than provides that the Texas State Board of Examiners of Dietitians consists of nine members appointed by the governor with the advice and consent of the senate, as follows:

(1) and (2) Makes no change to these subdivisions.

(b) Requires the presiding officer of TCLR in appointing dietitian members to the advisory board, rather than requiring the governor in appointing dietitian members to the dietitians' board, to attempt to maintain balanced representation among the following primary areas of expertise included in the professional discipline of dietetics:

(1)-(5) Makes no change to these subdivisions.

(c) Requires that appointments to the advisory board, rather than the dietitians board, be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.

SECTION 1.194. Amends Subchapter B, Chapter 701, Occupations Code, by adding Section 701.0511, as follows:

Sec. 701.0511. DUTIES OF ADVISORY BOARD. Requires the advisory board to provide advice and recommendations to TDLR on technical matters relevant to the administration of this chapter.

SECTION 1.195. Amends Section 701.054, Occupations Code, as follows:

Sec. 701.054. New heading: TERMS; VACANCIES. (a) Creates this subsection from existing text. Provides that members of the advisory board, rather than the dietitians board, serve staggered six-year terms. Provides that the terms of three, rather than two, members begin on September 1 of each odd-numbered year.

(b) Requires the presiding officer of TCLR, with TCLR's approval, if a vacancy occurs during a member's term, to appoint a replacement who meets the qualifications for the vacant position to serve for the remainder of the term.

SECTION 1.196. Amends Section 701.057, Occupations Code, as follows:

Sec. 701.057. New heading: PRESIDING OFFICER. Requires the presiding officer of TCLR to designate a member of the advisory board as the presiding officer of the advisory board to serve for a term of one year, rather than requires the governor to designate a member of the dietitians board as the presiding officer of the board to serve in that capacity at the pleasure of the governor. Authorizes the presiding officer of the advisory board to vote on any matter before the advisory board.

Deletes designation of Subsection (a) and existing Subsection (b) requiring the dietitians board, not later than the 30th day after the date the governor appoints new board members, to meet to elect an assistant presiding officer, who holds office according to board rules.

SECTION 1.197. Amends Section 701.058, Occupations Code, as follows:

Sec. 701.058. MEETINGS. Requires the advisory board to meet at the call of the presiding officer of TCLR or the executive director of TDLR, rather than requires the dietitians board to hold at least two regular meetings each year as provided by board rules.

SECTION 1.198. Amends Section 701.151, Occupations Code, as follows:

Sec. 701.151. New heading: GENERAL POWERS AND DUTIES. (a) Creates this subsection from existing text. Requires the executive director of TDLR to administer and enforce this chapter.

(b) Requires TDRL, rather than the dietitians board, to:

(1)-(3) Makes no change to these subdivisions.

(4) revoke, suspend, or deny a license, probate a license suspension, or reprimand a license holder for a violation of this chapter, a rule adopted under this chapter, rather than a board rule, or the code of ethics; and

(5) request and receive any necessary assistance from state educational institutions or other state agencies, rather than spend money necessary to properly administer the board's duties.

Deletes existing Subdivision (6) requiring the dietitians board to establish reasonable and necessary fees to administer this chapter.

SECTION 1.199. Amends Subchapter D, Chapter 701, Occupations Code, by adding Section 701.1511, as follows:

Sec. 701.1511. REGISTRY. Requires TDLR to prepare a registry of licensed dietitians and provisional licensed dietitians and make the registry available to the public, license holders, and appropriate state agencies.

SECTION 1.200. Amends Section 701.154, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, as follows:

Sec. 701.154. New heading: AMOUNT OF FEES. Prohibits TCLR, rather than prohibits the dietitians board, from setting a fee that existed on September 1, 1993, in an amount that is less than the amount of that fee on that date.

Deletes existing Subsection (a) requiring the dietitians board by rule, after consulting the commissioner of state health services (commissioner) or DSHS, to set fees in amounts reasonable and necessary to cover the cost of administering this chapter, and deletes designation of Subsection (b). Deletes existing text requiring that the fees for issuing or renewing a license be in amounts designed to allow TDLR and the dietitians board to recover from the license holders all of the direct and indirect costs to TDLR and to the dietitians board in administering and enforcing this chapter.

SECTION 1.201. Amends Section 701.155, Occupations Code, as follows:

Sec. 701.155. SEAL. (a) Authorizes TCLR, rather than the dietitians board, by rule to require a license holder to:

(1) obtain a seal authorized by TDLR, rather than the board, bearing the license holder's name and the legend "Licensed Dietitian"; and

(2) Makes a conforming change.

(b) Requires that the rules, if TCLR, rather than the dietitians board, adopts rules under Subsection (a), authorize a license holder to comply with Subsection (a)(2) by maintaining a facsimile of the license holder's seal on file at the location where services are provided if:

(1) the services are provided:

(A) and (B) Makes no change to these paragraphs; or

(C) under other circumstances determined reasonable and necessary by TDLR, rather than the board; and

(2) Makes no change to this subdivision.

SECTION 1.202. Amends the heading to Subchapter E, Chapter 701, Occupations Code, to read as follows:

#### SUBCHAPTER E. COMPLAINT PROCEDURES

SECTION 1.203. Amends the heading to Section 701.2041, Occupations Code, to read as follows:

Sec. 701.2041. CONFIDENTIALITY OF COMPLAINT AND DISCIPLINARY INFORMATION.

SECTION 1.204. Amends Sections 701.2041(h) and (i), Occupations Code, as follows:

(h) Provides that all information and materials subpoenaed or compiled by TDLR, rather than the dietitians board, in connection with a complaint and investigation are confidential and not subject to disclosure under Chapter 552, Government Code, and not subject to disclosure, discovery, subpoena, or other means of legal compulsion for their release to anyone other than TDLR, rather than the board, or its employees or agents involved in discipline of the holder of a license, except that this information may be disclosed to:

- (1) persons involved with TDLR, rather than the board, in a disciplinary action against the holder of a license;
- (2) Makes no change to this subdivision;
- (3) peer assistance programs approved by TCLR, rather than the board, under Chapter 467, Health and Safety Code;
- (4) and (5) Makes no change to these subdivisions.

(i) Provides that the filing of formal charges by TDLR against a holder of a license, the nature of those charges, disciplinary proceedings of TDLR, TCLR, or the executive director of TDLR, and final disciplinary actions, including warnings and reprimands, by TDLR, TCLR, or the executive director of TDLR are not confidential and are subject to disclosure in accordance with Chapter 552, Government Code, rather than provides that the filing of formal charges by the dietitians board against a holder of a license, the nature of those charges, disciplinary proceedings of the board, and final disciplinary actions, including warnings and reprimands, by the board are not confidential and are subject to disclosure in accordance with Chapter 552, Government Code.

SECTION 1.205. Amends Section 701.252, Occupations Code, as follows:

Sec. 701.252. LICENSE APPLICATION. (a) Requires that each applicant for a dietitian license submit an application, rather than a sworn application, in the manner and on a form prescribed by the executive director of TDLR accompanied by the application fee.

(b) Requires TCLR by rule to determine the information and documentation required to be submitted as part of an application, rather than requires the dietitians board to prescribe the application form and may by rule establish dates by which applications and fees must be received.

SECTION 1.206. Amends Sections 701.253(c), (e), and (f), Occupations Code, as follows:

(c) Requires TDLR, rather than the dietitians board, to prepare or approve an examination. Provides that an examination prescribed by TDLR, rather than the board, may be or may include an examination given by the Commission on Dietetic Registration or by a national or state testing service instead of an examination prepared by TDLR or TDLR's designee, rather than the board.

(e) and (f) Makes a conforming change.

SECTION 1.207. Amends Section 701.254, Occupations Code, to change a reference to the dietitians board to TDLR, and to change a reference to the board to TDLR.

SECTION 1.208. Amends Section 701.255(a), Occupations Code, to require TDLR, not later than the 45th day after the date a properly submitted and timely application is received and not later than the 30th day before the next examination date, to notify an applicant in writing of the receipt and investigation of the applicant's application and any other relevant evidence relating to applicant qualifications established by TCLR rule, rather than by dietitians board rule.

SECTION 1.209. Amends Sections 701.2575(a) and (c), Occupations Code, as follows:

(a) Requires TDLR, rather than the dietitians board, to develop and administer at least twice each calendar year a jurisprudence examination to determine an applicant's knowledge of this chapter, TCLR rules, rather than board rules, under this chapter, and any other applicable laws of this state affecting the applicant's dietetics practice.

(c) Requires TCLR, rather than the dietitians board, to adopt rules to implement this section, including rules related to the development and administration of the examination, examination fees, guidelines for reexamination, grading the examination, and providing notice of examination results.

SECTION 1.210. Amends Section 701.258, Occupations Code, as follows:

Sec. 701.258. QUALIFIED PERSON ENTITLED TO LICENSE. Requires TDLR, rather than the dietitians board, to issue a license, rather than a certificate, as a licensed dietitian to a person qualified for a license under this chapter.

SECTION 1.211. Amends Sections 701.259(a), (b), (c), and (d), Occupations Code, as follows:

(a) Authorizes TDLR, rather than the dietitians board, to issue a license to use the title "provisional licensed dietitian" to an applicant who files an application, pays an application fee, and submits evidence of successful completion of the education requirement under Section 701.254.

(b) Requires the supervising licensed dietitian be designated in the applicant's initial application for a provisional license, rather than requires the supervising licensed dietitian to sign the applicant's initial application for a provisional license.

(c) Requires TDLR, rather than the dietitians board, to issue a license, rather than certificate, as a provisional licensed dietitian to a person qualified for a provisional license under this chapter.

(d) Provides that a provisional license expires on the first anniversary of the date of issuance and may be renewed annually not more than twice, rather than provides that a provisional license expires on the first anniversary of the date of issuance and, if the supervising licensed dietitian signs the renewal application, may be renewed annually not more than twice by complying with the renewal procedures under Section 701.301 (License Renewal).

SECTION 1.212. Amends Section 701.260, Occupations Code, as follows:

Sec. 701.260. TEMPORARY LICENSE. (a) Authorizes TDLR, rather than the dietitians board, on receipt of an application and payment of an application fee, to grant a temporary license to an applicant who:

(1) Makes no change to this subdivision;

(2)-(3) Changes references to board to TDLR.

(b)-(d) Changes references to dietitians board to TDLR and references to board to TDLR.

SECTION 1.213. Amends Section 701.303, Occupations Code, as follows:

Sec. 701.303. CONTINUING EDUCATION. (a) Requires TCLR, rather than the dietitians board, by rule to establish a minimum number of hours of continuing education required for license renewal under this chapter.

(b) Provides that TCLR or TDLR, rather than the dietitians board, may assess the continuing education needs of license holders and may require license holders to attend continuing education courses specified by TCLR or TDLR, rather than the board. Requires TDLR, rather than the board, to develop a process to evaluate and approve continuing education courses.

(c) Requires TCLR or TDLR, rather than the dietitians board, to identify key factors for a license holder's competent performance of professional duties. Requires TDLR, rather than the board, to adopt a procedure to assess the license holder's participation in continuing education programs.

SECTION 1.214. Amends Section 701.304, Occupations Code, as follows:

Sec. 701.304. GROUNDS FOR REFUSING RENEWAL. Authorizes TCLR or TDLR, rather than the dietitians board, to refuse to renew the license of a person who fails to pay an administrative penalty imposed under Subchapter K, unless enforcement of the penalty is stayed or a court has ordered that the administrative penalty is not owed.

SECTION 1.215. Amends Section 701.351, Occupations Code, as follows:

Sec. 701.351. New heading: DISPLAY OF LICENSE. (a) Requires a license holder to display the person's license, rather than the person's license certificate, in an appropriate and public manner as prescribed by TCLR rule.

(b) Provides that a license issued by TDLR is the property of TDLR and shall be surrendered on demand, rather than provides that a license certificate issued by the dietitians board is the property of the board and shall be surrendered on demand.

SECTION 1.216. Amends Section 701.352, Occupations Code, to require a license holder to keep TDLR informed of the license holder's current address as provided by TCLR rule.

SECTION 1.217. Amends Section 701.353(a), Occupations Code, to prohibit a person from using a seal authorized by TDLR, rather than the dietitians board, unless the person holds a license issued under this chapter.

SECTION 1.218. Amends Section 701.401, Occupations Code, to require TCLR or the executive director of TDLR to refuse to renew a license, revoke or suspend a license, place on probation a person whose license has been suspended, or reprimand a license holder for a violation of this chapter, a rule or code of ethics adopted under this chapter, or an order of TCLR or the executive director of TDLR, rather than requiring the dietitians board to refuse to renew a license, revoke or suspend a license, place on probation a person whose license has been suspended, or reprimand a license holder for a violation of this chapter or a rule or code of ethics adopted by the board.

SECTION 1.219. Amends Section 701.403, Occupations Code, to require the State Office of Administrative Hearings to use the schedule of sanctions adopted by TCLR by rule, rather than by dietitians board rule, for a sanction imposed as the result of a hearing conducted by the office.

SECTION 1.220. Amends Section 701.502(a), Occupations Code, to provide that the amount of an administrative penalty imposed for a violation of this chapter or a rule adopted or order issued under this chapter may not be less than \$50 or more than \$5,000 for each violation, and makes a nonsubstantive change.

SECTION 1.221. Amends Section 701.512, Occupations Code, as follows:

Sec. 701.512. REFUND. (a) Authorizes TCLR or the executive director of TDLR, rather than the dietitians board, subject to Subsection (b), to order a license holder to pay a refund to a consumer as provided in an agreement resulting from an informal settlement conference instead of or in addition to imposing an administrative penalty under this chapter.

(b) Provides that TCLR or the executive director of TDLR, rather than the board, may not require payment of other damages or estimate harm in a refund order.

SECTION 1.222. Repealer: Section 203.006 (Application of Sunset Act), Occupations Code.

Repealer: Section 203.051 (Midwifery Board), Occupations Code.

Repealer: Section 203.053 (Eligibility of Public Members), Occupations Code.

Repealer: Section 203.054 (Membership and Employee Restrictions), Occupations Code.

Repealer: Section 203.057 (Grounds for Removal), Occupations Code.

Repealer: Section 203.058 (Reimbursement), Occupations Code.

Repealer: Section 203.060 (Training), Occupations Code.

Repealer: Subchapter C (Program Coordinator and Personnel), Chapter 203, Occupations Code.

Repealer: Section 203.151(b) (relating to certain rules adopted by the midwifery board), Occupations Code.

Repealer: Section 203.1515 (Rules on Consequences of Criminal Conviction), Occupations Code.

Repealer: Section 203.152(a) (requiring the midwifery board to establish certain fees), Occupations Code.

Repealers: Section 203.155(a) (requiring the midwifery board to adopt rules concerning the investigation of a complaint filed with the midwifery board) and (c) (requiring the midwifery board to adopt a form to standardize information and prescribe information to be provided to a person), Occupations Code.

Repealer: Section 203.156 (Duties of Midwifery Board and Department), Occupations Code.

Repealer: Section 203.158 (Rules Restricting Advertising or Competitive Bidding), Occupations Code.

Repealer: Section 203.159 (Board Committees), Occupations Code.

Repealer: Section 203.160 (Use of Technology), Occupations Code.

Repealer: Section 203.161 (Negotiated Rulemaking and Alternative Dispute Resolution Policy), Occupations Code.

Repealer: Subchapter E (Public Interest Information and Complaint Procedures), Chapter 203, Occupations Code.

Repealer: Section 203.255(b) (requiring the midwifery board to have an independent testing professional validate any written portion of a certain examination), Occupations Code.

Repealer: Section 203.2556 (Examination Results), Occupations Code.

Repealer: Section 203.302 (Procedure For Renewal), Occupations Code.

Repealer: Section 203.303 (Staggered Renewal Dates), Occupations Code.

Repealer: Section 203.405 (Emergency Suspension), Occupations Code.

Repealer: Subchapter J (Administrative Penalty), Chapter 203, Occupations Code.

Repealer: Section 203.502(c) (providing that the commissioner of state health services or a health authority may bring an action in a district court for a certain injunction), Occupations Code.

Repealer: Section 203.505(a) (authorizing the midwifery board to issue a cease and desist order under certain circumstances), Occupations Code.

Repealer: Section 401.002 (Application of Sunset Act), Occupations Code.

Repealer: Section 401.101 (Board Within Department), Occupations Code.

Repealer: Section 401.103 (Eligibility of Public Members), Occupations Code.

Repealer: Section 401.104 (Membership Restrictions), Occupations Code.

Repealer: Section 401.106 (Compensation; Pier Diem), Occupations Code.

Repealer: Section 401.109 (Grounds for Removal), Occupations Code.

Repealer: Section 401.110 (Training), Occupations Code.

Repealer: Subchapter D (Board Personnel), Chapter 401, Occupations Code.

Repealer: Section 401.201(b) (provides that the State Board of Examiners for Speech-Language Pathology and Audiology (board) may appoint subcommittees to work under its jurisdiction), Occupations Code.

Repealer: Sections 401.203(a) (requiring the board by rule to adopt a certain form) and (b) (requiring the board by rule to prescribe certain information), Occupations Code.

Repealer: Section 401.204 (Fees), Occupations Code.

Repealer: Section 401.205 (Seal), Occupations Code.

Repealer: Section 401.206 (Legal Representation), Occupations Code.

Repealer: Section 401.207 (Training), Occupations Code.

Repealer: Section 401.252 (Records of Complaints), Occupations Code.

Repealers: Sections 401.253(b) (requiring the board to dispose of each complaint in a timely manner and establish a certain schedule), (c) (requiring each party to a complaint to be notified of the projected time requirements for pursuing the complaint), (d)

(requiring each party to the complaint to be notified of any certain change), and (e) (requiring the director of the board to notify the board of a complaint that is not resolved within a certain amount of time), Occupations Code.

Repealers: Sections 401.2535(a) (providing that the board may request that the commissioner of public health or the commissioner's designee approve the issuance of a subpoena under certain circumstances) and (b) (providing that a subpoena may be served personally or by certified mail), Occupations Code.

Repealers: Sections 402.2535(c) (providing that the board, acting through the attorney general, may file suit to enforce a certain subpoena under certain circumstances) and (d) (requiring the court to order a certain person to comply with a certain subpoena), Occupations Code.

Repealers: Sections 402.2535(e) (providing that the board may delegate certain authority to the secretary-treasurer of the board), (f) (requiring the board to pay a reasonable fee for photocopies subpoenaed under this section), and (g) (providing that the reimbursement of the expenses of a witness whose attendance is compelled under this section), Occupations Code.

Repealer: Section 401.254 (Public Participation), Occupations Code.

Repealer: Section 401.306 (Examination Results), Occupations Code.

Repealer: Section 401.307(c) (requiring a person who fails a licensing examination administered under this chapter to contact the testing service), Occupations Code.

Repealer: Section 401.313 (Inactive Status), Occupations Code.

Repealer: Section 401.315 (Licensing for Military Spouses), Occupations Code.

Repealer: Sections 401.352(b) (providing that an application for a license filed not later than the second anniversary of the license expiration date is considered an application for renewal) and (c) (providing that a person whose license has been expired for two years or more may not renew the license), Occupations Code.

Repealer: Section 401.353 (Renewal of Expired License By Out-of-State Practitioner), Occupations Code.

Repealer: Section 401.354 (Medical Hardship), Occupations Code.

Repealer: Section 401.405 (Telepractice), Occupations Code.

Repealer: Section 401.451(b) (providing that any person may commence a proceeding for revocation or suspension of a license by filing written charges with the board under oath), Occupations Code.

Repealer: Section 401.452 (Monitoring of License Holder), Occupations Code.

Repealer: Section 401.4531 (Recusal of Board Member), Occupations Code.

Repealer: Section 401.454 (Administrative Procedure), Occupations Code.

Repealer: Section 401.455 (Informal Procedures), Occupations Code.

Repealer: Section 401.456 (Schedule of Sanctions), Occupations Code.

Repealer: Section 401.457 (Reinstatement), Occupations Code.

Repealer: Section 401.458 (Probation), Occupations Code.

Repealer: Section 401.459 (Reprimand; Continuing Education), Occupations Code.

Repealer: Section 401.460 (Emergency Suspension), Occupations Code.

Repealer: Section 401.502 (Injunction), Occupations Code.

Repealer: Section 401.5022 (Cease and Desist Order), Occupations Code.

Repealer: Section 401.551 (Imposition of Administrative Penalty), Occupations Code.

Repealer: Section 401.553 (Report and Notice of Violation and Penalty), Occupations Code.

Repealer: Section 401.554 (Penalty to Be Paid or Hearing Requested), Occupations Code.

Repealer: Section 401.555 (Hearing), Occupations Code.

Repealer: Section 401.556 (Decision by Board), Occupations Code.

Repealer: Section 401.557 (Options Following Decision: Pay or Appeal), Occupations Code.

Repealer: Section 401.558 (Collection of Penalty), Occupations Code.

Repealer: Section 401.559 (Determination by Court), Occupations Code.

Repealer: Section 401.560 (Remittance of Penalty and Interest), Occupations Code.

Repealer: Section 401.561 (Administrative Procedure), Occupations Code.

Repealer: Section 402.002 (Application of Sunset Act), Occupations Code.

Repealer: Section 402.052 (Public Member Eligibility), Occupations Code.

Repealer: Section 402.053 (Membership and Employee Restrictions), Occupations Code.

Repealer: Section 402.054 (Official Oath), Occupations Code.

Repealer: Section 402.056 (Grounds for Removal), Occupations Code.

Repealer: Section 402.0581 (Training), Occupations Code.

Repealer: Section 402.059 (Committee Employees), Occupations Code.

Repealer: Section 402.060 (Seal of Committee), Occupations Code.

Repealer: Section 402.061 (Application of Administrative Procedure Act), Occupations Code.

Repealer: Section 402.102 (Rules), Occupations Code.

Repealer: Section 402.1022 (Division of Responsibilities), Occupations Code.

Repealer: Sections 402.103(a) (prohibits the State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments (committee) from adopting rules restricting advertising or competitive bidding) and (b) (prohibits the committee from including in rules to prohibit false, misleading, or deceptive practices by a person regulated by the committee certain rules), Occupations Code.

Repealer: Section 402.105 (Subcommittees), Occupations Code.

Repealer: Section 402.106 (Fees and Expenses), Occupations Code.

Repealer: Section 402.151 (Public Interest Information), Occupations Code.

Repealer: Section 402.1511 (Public Participation), Occupations Code.

Repealer: Section 402.153 (Records of Complaints), Occupations Code.

Repealers: Sections 402.154(a) (providing that the committee may request an approval for the issuance of a subpoena, in an investigation of a complaint filed with the committee) and (b) (providing that a subpoena may be served personally or by certified mail), Occupations Code.

Repealers: Sections 402.154(c) (providing that the committee may file suit to enforce the subpoena if a person fails to comply with a subpoena) and (d) (requiring the court, on finding that good cause exists for issuing the subpoena, to order the person to comply with the subpoena), Occupations Code.

Repealers: Sections 402.154(e) (providing that the committee may delegate certain authority to the presiding officer of the committee), (f) (requiring the committee to pay a reasonable fee for photocopies subpoenaed under this section), and (g) (relating to the reimbursement of the expenses of a witness whose attendance is compelled under this section), Occupations Code.

Repealer: Section 402.205(d) (requiring DSHS, if requested in writing by a person who fails the licensing examination administered under this chapter, to provide to the person an analysis of the person's performance on the examination), Occupations Code.

Repealer: Section 402.206 (Notice of Examination Results), Occupations Code.

Repealers: Sections 402.209(b) (requiring an applicant for a certain license to complete the application form completely and accurately) (g) (provides that a certain applicant who fails a certain examination may request in writing that DSHS furnish the applicant with an analysis of the applicant's performance on the examination), Occupations Code.

Repealer: Section 402.257(b) (requiring the committee to act on a transfer request at the first committee meeting held after the date the request is made), Occupations Code.

Repealers: Sections 402.301(b) (providing that the committee may adopt a system under which certain licenses expire on various dates during the year) and (c) (providing that a person renew an unexpired license by paying the required renewal fee to the committee), Occupations Code.

Repealers: Sections 402.301(d) (providing that a person whose license has been expired for 90 days or less may renew the license by paying to the committee the required renewal fee and a fee that is equal to a certain amount) and (e) (prohibits a person whose license has been expired for two years or more from renewing the license), Occupations Code.

Repealer: Section 402.303(f) (requiring that a course summary and resume for each teacher of a course seeking approval from DSHS be submitted at least 30 days before the date the course is scheduled to take place), Occupations Code.

Repealer: Section 402.354 (Telepractice), Occupations Code.

Repealer: Section 402.452 (Investigation by Board), Occupations Code.

Repealer: Section 402.502 (Administrative Procedure), Occupations Code.

Repealer: Section 402.503 (Reissuance of License), Occupations Code.

Repealer: Section 402.504 (Emergency Suspension), Occupations Code.

Repealer: Section 402.505 (Informal Proceedings; Informal Settlement Conference), Occupations Code.

Repealer: Section 402.506 (Recusal of Committee Member), Occupations Code.

Repealer: Sections 402.551(a) (providing that the committee, with the board's approval may impose an administrative penalty on a person described in this chapter for a violation of this chapter or a rule adopted under this chapter) and (c) (provides that a certain administrative penalty may be imposed as an alternative to any other disciplinary measure, except for the placement of a license or permit holder on probation), Occupations Code.

Repealer: Section 402.552 (Injunction), Occupations Code.

Repealer: Section 402.5522 (Cease and Desist Order), Occupations Code.

Repealer: Section 402.553(b) (requiring the attorney general, at the request of the committee, to bring an action to recover a civil penalty authorized under this section), Occupations Code.

Repealer: Section 403.002 (Administration by Department of State Health Services), Occupations Code.

Repealer: Section 403.053.

Repealer: Section 403.109 (Inactive Status; Rules), Occupations Code.

Repealer: Section 403.201 (Complaints), Occupations Code.

Repealer: Section 403.205 (Hearing), Occupations Code.

Repealer: Section 403.206 (Administrative Procedure), Occupations Code.

Repealer: Section 403.208 (Probation), Occupations Code.

Repealer: Section 403.210 (Informal Procedures), Occupations Code.

Repealer: Section 403.211 (Reinstatement), Occupations Code.

Repealer: Section 403.252 (Cease and Desist Order), Occupations Code.

Repealer: Section 451.051(a) (providing that the Advisory Board of Athletic Trainers (board) is a part of the Texas Department of Health (TDH) and shall perform its duties as a board within TDH), Occupations Code.

Repealer: Section 451.0511 (Public Member Eligibility), Occupations Code.

Repealer: Section 451.0512 (Membership Restrictions), Occupations Code.

Repealer: Section 451.0513 (Grounds For Removal), Occupations Code.

Repealer: Section 451.052 (Official Oath), Occupations Code.

Repealer: Section 451.054 (Compensation), Occupations Code.

Repealer: Section 451.057 (Training), Occupations Code.

Repealer: Sections 451.101(b) (requiring the board to have suitable office space to perform certain duties) and (c) (providing that the board may appoint committees that the board considers necessary to carry out its duties), Occupations Code.

Repealer: Section 451.1015 (Standards of Conduct Information), Occupations Code.

Repealer: Section 451.1016 (Division of Responsibilities), Occupations Code.

Repealer: Section 451.102 (Executive Secretary and Employees), Occupations Code.

Repealer: Section 451.103 (Rules), Occupations Code.

Repealer: Section 451.1035 (Rules Regarding Advertising or Competitive Bidding), Occupations Code.

Repealer: Section 451.104 (Records), Occupations Code.

Repealer: Section 451.105 (Expenditures), Occupations Code.

Repealer: Section 451.106 (Fees), Occupations Code.

Repealer: Section 451.108 (Public Participation), Occupations Code.

Repealer: Section 451.109 (Complaints), Occupations Code.

Repealers: Sections 451.110(a) (providing that the board, in an investigation of a complaint filed with the board, may request the commissioner of public health (commissioner) or the commissioner's designee approve the issuance of a subpoena) and (b) (providing that a subpoena may be served personally or by certified mail), Occupations Code.

Repealers: Sections 451.110(c) (providing that the board, if a person fails to comply with a certain subpoena, may file suit to enforce the subpoena) and (d) (requiring the court, on finding that good cause exists for issuing the subpoena, to order the person to comply with the subpoena), Occupations Code.

Repealers: Sections 451.110(e) (providing that the board may delegate certain authority to the secretary-treasurer or executive secretary of the board), (f) (requiring the board to pay a reasonable fee for photocopies subpoenaed under this section in an amount not to exceed the amount the board may charge for copies of its records), and (g) (providing that the reimbursement of the expenses of a witness whose attendance is compelled under this section is governed by a certain section), Occupations Code.

Repealer: Section 451.155 (Examination Results), Occupations Code.

Repealer: Section 451.201(b) (providing that the board by rule may adopt a system under which licenses expire on various dates during the year), Occupations Code.

Repealer: Section 451.202 (License Renewal), Occupations Code.

Repealer: Section 451.203 (Renewal of Expired License by Out-Of-State Practitioner), Occupations Code.

Repealer: Section 451.204 (Continuing Education), Occupations Code.

Repealer: Section 451.2512 (Probation), Occupations Code.

Repealer: Section 451.252 (Administrative Hearing), Occupations Code.

Repealer: Section 451.253 (Authority to Issue Subpoena), Occupations Code.

Repealer: Section 451.254 (Administrative Procedure), Occupations Code.

Repealer: Section 451.255 (Emergency Suspension), Occupations Code.

Repealers: Sections 451.351(a) (providing that the board may impose an administrative penalty on a person licensed under this chapter who violates this chapter or a rule or order adopted under this chapter) and (b) (provides that a proceeding to impose the penalty is considered to be a contested case under a certain chapter), Occupations Code.

Repealers: Sections 451.351(e) (requiring the executive secretary, if the executive secretary determines that a certain violation occurred, to give written notice of the violation by certified mail to the person), (f) (requiring a certain notice to include certain information), and (g) (providing that a person who receives a certain notice may, in writing, accept the determination and recommended penalty of the executive secretary or make a request for a hearing), Occupations Code.

Repealers: Sections 451.351(h) (requiring the board by order to approve a certain determination and impose the recommended penalty under certain circumstances), (i) (requires the board, if the person requests a hearing, to refer the matter to the State Office of Administrative Hearings), and (j) (requiring the administrative law judge to make findings of fact and conclusions of law), Occupations Code.

Repealer: Sections 451.351(k) (providing that the board by order may determine that a violation occurred and impose a penalty or that a violation did not occur), and (l) (requiring the notice of a certain order to include a statement of the right of the person to judicial review of the order), Occupations Code.

Repealer: Section 451.352 (Payment and Collection of Administrative Penalty; Judicial Review), Occupations Code.

Repealer: Section 605.003 (Application of Sunset Act), Occupations Code.

Repealer: Section 605.051 (Texas Board of Orthotics and Prosthetics; Affiliation with Department), Occupations Code.

Repealer: Section 605.053 (Eligibility of Public Members), Occupations Code.

Repealer: Section 605.054 (Membership and Employee Restrictions), Occupations Code.

Repealer: Section 605.057 (Grounds For Removal), Occupations Code.

Repealer: Section 605.058 (Compensation; Reimbursement), Occupations Code.

Repealer: Section 605.059(a) (requiring the board to adopt rules necessary to govern its proceedings), Occupations Code.

Repealer: Section 605.060 (Civil Liability), Occupations Code.

Repealer: Section 605.061 (Training), Occupations Code.

Repealer: Subchapter C (Executive Director and Other Board Personnel), Chapter 605, Occupations Code.

Repealer: Section 605.152 (Fees), Occupations Code.

Repealer: Section 605.153 (Funds Received by Department), Occupations Code.

Repealer: Section 605.154 (Rulemaking), Occupations Code.

Repealer: Section 605.201 (Public Interest Information), Occupations Code.

Repealer: Section 605.202 (Complaints), Occupations Code.

Repealers: Sections 605.2021(a) (providing that the board may request that the commissioner or the commissioner's designee approve the issuance of a subpoena), (b) (providing that a subpoena may be served personally or by certified mail), and (c) (providing that the board, if a person fails to comply with a certain subpoena, may file suit to enforce the subpoena in a district court), Occupations Code.

Repealers: Sections 605.2021(d) (requiring the court, on finding that good cause exists for issuing a certain subpoena, to order the person to comply with the subpoena) and (e) (providing that the board may delegate certain authority to the executive director of the board), Occupations Code.

Repealers: Sections 605.2021(f) (requiring the board to pay a reasonable fee for photocopies subpoenaed under this section in a certain amount) and (g) (providing that the reimbursement of the expenses of a witness whose attendance is compelled under this section is governed by a certain section); Occupations Code.

Repealer: Section 605.203 (Public Participation), Occupations Code.

Repealer: Section 605.253 (Review of License Applications), Occupations Code.

Repealer: Section 605.254(b) (providing that a person who has provided comprehensive orthotic, prosthetic, or orthotic and prosthetic care in this state for a term shorter than the number of years may obtain a license to practice in this state by passing each written and practical examination approved and required by the board), Occupations Code.

Repealer: Section 605.255(c) (providing that a person is eligible for an exemption from the license requirements established by the board under this section if the person fulfills certain requirements), Occupations Code.

Repealer: Section 605.259(b) (providing that a person is eligible for an exemption from the registration requirements adopted by the board under this section if the person meets certain requirements). Occupations Code.

Repealer: Section 605.3535 (Emergency Suspension), Occupations Code.

Repealer: Section 605.355 (Assistance in Prosecution), Occupations Code.

Repealer: Section 605.401 (Imposition of Administrative Penalty), Occupations Code.

Repealer: Section 605.403 (Report and Notice of Violation and Penalty), Occupations Code.

Repealer: Section 605.404 (Penalty to be Paid or Hearing Requested), Occupations Code.

Repealer: Section 605.405 (Hearing), Occupations Code.

Repealer: Section 605.406 (Decision by Board), Occupations Code.

Repealer: Section 605.407 (Options Following Decision: Pay or Appeal), Occupations Code.

Repealer: Section 605.408 (Collection of Penalty), Occupations Code.

Repealer: Section 605.409 (Determination by Court), Occupations Code.

Repealer: Section 605.410 (Remittance of Penalty and Interest), Occupations Code.

Repealer: Section 605.411 (Administrative Procedure), Occupations Code.

Repealer: Section 701.003 (Application of Sunset Act), Occupations Code.

Repealer: Section 701.052 (Eligibility of Public Members), Occupations Code.

Repealer: Section 701.053 (Membership and Employee Restrictions), Occupations Code.

Repealer: Section 701.055 (Grounds for Removal), Occupations Code.

Repealer: Section 701.056 (Reimbursement), Occupations Code.

Repealer: Section 701.059 (Training), Occupations Code.

Repealer: Subchapter C (Executive Secretary and Personnel), Chapter 701, Occupations Code.

Repealer: Section 701.152 (General Rulemaking Authority), Occupations Code.

Repealer: Section 701.153 (Rules Restricting Advertising or Competitive Bidding), Occupations Code.

Repealer: Section 701.1535 (Rules on Consequences of Criminal Conviction), Occupations Code.

Repealer: Section 701.156 (Dietitians Board Duties Regarding Complaints), Occupations Code.

Repealer: Section 701.157 (Powers and Duties of Texas Board of Health), Occupations Code.

Repealer: Section 701.159 (Delegation to Committee), Occupations Code.

Repealer: Section 701.160 (Use of Technology), Occupations Code.

Repealer: Section 701.161 (Negotiated Rulemaking and Alternative Dispute Resolution Policy), Occupations Code.

Repealer: Section 701.201 (Public Interest Information), Occupations Code.

Repealer: Section 701.202 (Complaints), Occupations Code.

Repealer: Section 701.203 (Records of Complaints), Occupations Code.

Repealer: Section 701.204 (General Rules Regarding Complaint Investigation and Disposition).

Repealers: Sections 701.2041(a) (providing that the Texas State Board of Examiners of Dietitians (dietitians board) may, in an investigation of a complaint filed with the dietitians board, request that the commissioner of state health services (commissioner) or the commissioner's designee approve the issuance of a subpoena) and (b) (providing that a certain subpoena may be served personally or by certified mail), Occupations Code.

Repealers: Sections 701.2041(c) (provides that the dietitians board may, if a person fails to comply with a subpoena, file suit to enforce the subpoena in a district court in Travis County or in the county in which a hearing conducted by the board may be held) and (d)

(requiring the court, on finding that good cause exists for issuing a certain subpoena, to order the person to comply with the subpoena), Occupations Code.

Repealers: Sections 701.2041(e) (providing that the board may delegate certain authority to the executive secretary of the dietitians board), (f) (requiring the dietitians board to pay a reasonable fee for photocopies subpoenaed under this section in an amount not to exceed the amount the board may charge for copies of its records), and (g) (providing that reimbursement of the expenses of a witness whose attendance is compelled under this section is governed by a certain section), Occupations Code.

Repealer: Section 701.205 (Public Participation), Occupations Code.

Repealer: Section 701.206 (Complaint Committee), Occupations Code.

Repealer: Section 701.256 (Licensing Examination Results), Occupations Code.

Repealer: Section 701.261 (Inactive Status), Occupations Code.

Repealers: Sections 701.301(b) (providing that the Texas Board of Health by rule may adopt a system under which licenses expire on various dates during the year) and (c) (providing that a person may renew an unexpired license by paying the required renewal fee to the dietitians board before the license expiration date), Occupations Code.

Repealers: Sections 701.301(d) (providing that a person whose certain license has been expired for 90 days or less may renew the license by paying to the dietitians board a fee that is equal to 1-1/4 times the amount of the renewal fee for the license), (e) (prohibiting a person whose license has been expired for one year or more from renewing the license, under certain circumstances), and (f) (requiring the dietitians board, not later than the 30th day before a person's license expiration date, to send written notice of the impending license expiration to the person at the person's last known address according to board records), Occupations Code.

Repealer: Section 701.302 (Renewal of Expired License by Out-Of-State Practitioner), Occupations Code.

Repealer: Section 701.402 (Hearing), Occupations Code.

Repealer: Section 701.404 (Probation), Occupations Code.

Repealer: Section 701.405 (Monitoring of License Holder), Occupations Code.

Repealer: Section 701.406 (Informal Procedures), Occupations Code.

Repealer: Section 701.407 (Administrative Procedure), Occupations Code.

Repealer: Section 701.408 (Emergency Suspension), Occupations Code.

Repealer: Section 701.452 (Cease and Desist Order), Occupations Code.

Repealer: Section 701.453 (Injunction), Occupations Code.

Repealer: Section 701.501 (Imposition of Administrative Penalty), Occupations Code.

Repealer: Section 701.502(c) (requiring the dietitians board by rule to adopt an administrative penalty schedule based on certain criteria for violations of this chapter or board rules to ensure that the amounts of penalties imposed are appropriate to the violation), Occupations Code.

Repealer: Section 701.503 (Report and Notice of Violation and Penalty), Occupations Code.

Repealer: Section 701.504 (Penalty to be Paid or Hearing Requested), Occupations Code.

Repealer: Section 701.505 (Hearing), Occupations Code.

Repealer: Section 701.506 (Decision by Dietitians Board), Occupations Code.

Repealer: Section 701.507 (Options Following Decision: Pay or Appeal), Occupations Code.

Repealer: Section 701.508 (Collection of Penalty), Occupations Code.

Repealer: Section 701.509 (Determination by Court), Occupations Code.

Repealer: Section 701.510 (Remittance of Penalty and Interest), Occupations Code.

Repealer: Section 701.511 (Administrative Procedure), Occupations Code.

## PART 2. TRANSFERS DURING BIENNIUM ENDING AUGUST 31, 2019

SECTION 1.223. Amends Sections 106.115(a), (b-1), and (b-3), Alcoholic Beverage Code, as follows:

(a) Requires a court, on the placement of a minor on deferred disposition for an offense under Section 49.02 (Public Intoxication), Penal Code, or under Section 106.02 (Purchase of Alcohol by a Minor), 106.025 (Attempt to Purchase Alcohol by a Minor), 106.04 (Consumption of Alcohol by a Minor), 106.041 (Driving or Operating Watercraft Under the Influence of Alcohol by Minor), 106.05 (Possession of Alcohol by a Minor), or 106.07 (Misrepresentation of Age by a Minor), to require the defendant to attend an alcohol awareness program approved by the Texas Department of Licensing and Regulation (TDLR), rather than the Department of State Health Services (DSHS), under this section or a drug and alcohol driving awareness program approved by the Texas Education Agency (TEA). Provides that TDLR or the Texas Commission of Licensing and Regulation (TCLR), rather than DSHS, as appropriate:

(1)-(4) Makes no change to these subdivisions.

(b-1) Requires the court, if the defendant resides in a county with a population of 75,000 or less and access to an alcohol awareness program is not readily available in the county, to allow the defendant to take an online alcohol awareness program if TDLR, rather than DSHS, approves online courses or require the defendant to perform not less than eight hours of community service related to alcohol abuse prevention or treatment and approved by TDLR, rather than DSHS under Subsection (b-3) instead of attending the alcohol awareness program.

(b-3) Requires TDLR, rather than DSHS, to create a list of community services related to alcohol abuse prevention or treatment in each county in the state to which a judge may sentence a defendant under Subsection (b-1).

SECTION 1.224. Amends Sections 13(h) and (j), Article 42.12, Code of Criminal Procedure, as follows:

(h) Requires a judge, if a person convicted of an offense under Sections 49.04-49.08 (relating to driving while intoxicated), Penal Code, is placed on community supervision, to require, as a condition of the community supervision, that the defendant attend and successfully complete before the 181st day after the day community supervision is granted an educational program jointly approved by TDLR, rather than the Texas Commission of Alcohol and Drug Abuse (TCADA), the Department of Public Safety of the State of Texas (DPS), the Traffic Safety Section of the Texas Department of Transportation (TxDOT), and the community justice assistance division of the Texas

Department of Criminal Justice (TDCJ) designed to rehabilitate persons who have driven while intoxicated. Makes conforming changes.

(j) Changes references to TCADA to TDLR. Requires TCLR, rather than TCADA, to adopt rules and monitor, coordinate, and provide training to persons providing the educational programs.

SECTION 1.225. Amends Section 401.501, Health and Safety Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, by amending Subdivisions (1) and adding Subdivision (1-a) and (2), as follows:

(1) Defines “commission” to mean TCLR.

(1-a) Defines “department” to mean TDLR, rather than DSHS.

(2) Defines “executive director” to mean the executive director of TDLR.

SECTION 1.226. Amends Subchapter M, Chapter 401, Health and Safety Code, by adding Section 401.5011, as follows:

Sec. 401.5011. GENERAL POWERS AND DUTIES. Requires the executive director to administer and enforce this chapter.

SECTION 1.227. Amends Section 401.502, Health and Safety Code, as follows:

Sec. 401.502. EXAMINATION. Authorizes TCLR, rather than the executive commissioner of the Health and Human Services Commission (executive commissioner; HHSC), to adopt rules to govern the development and administration of an examination for an applicant under this subchapter.

SECTION 1.228. Amends Section 401.503, Health and Safety Code, as follows:

Sec. 401.503. APPLICATION PROCESS. (a) Requires that an application for a certificate or license under this subchapter be submitted in the manner and on a form prescribed by the executive director, rather than requires that an application for a certificate or license under this subchapter be made on a form prescribed and provided by the Texas Department of State Health Services (DSHS).

(b) Requires that the application require an applicant to provide sworn statements relating to the applicant's education and to provide other information required by TCLR, rather than DSHS.

SECTION 1.229. Amends Section 401.505(a), Health and Safety Code, to require that an applicant for a laser hair removal professional certificate pass an examination required, rather than administered, by TDLR.

SECTION 1.230. Amends the heading to Section 401.512, Health and Safety Code, to read as follows:

Sec. 401.512. TERM OF CERTIFICATE OR LICENSE.

SECTION 1.231. Amends Section 401.512(a), Health and Safety Code, to provide that a certificate or license expires on the second anniversary of the date of issuance and may be renewed.

SECTION 1.232. Amends Section 401.515(b), Health and Safety Code, to require TCLR, rather than the executive commissioner, to adopt rules relating to the customer notice.

SECTION 1.233. Amends Sections 401.516(a) and (b), Health and Safety Code, as follows:

(a) Requires that a laser hair removal facility post a warning sign as prescribed by TCLR, rather than DSHS, in a conspicuous location readily visible to a person entering the facility. Requires that the sign provide a toll-free telephone number and e-mail address for DSHS and inform the customer that the customer may contact, rather than call, TDLR.

(b) Requires TCLR, rather than the executive commissioner, to adopt rules specifying the size, content, and design of the sign, with wording listing the potential dangers involved.

SECTION 1.234. Amends Section 401.518(a), Health and Safety Code, to provide that a laser hair removal facility operator is responsible for maintaining the laser hair removal facility's compliance with the requirements of this subchapter and TCLR, rather than DSHS, rules relating to laser and pulsed light devices.

SECTION 1.235. Amends Section 401.519(b), Health and Safety Code, to require that a laser hair removal facility, under the rules of TCLR, rather than DSHS, document with TDLR the facility's contractual relationship with the consulting physician.

SECTION 1.236. Amends Section 401.521(b), Health and Safety Code, as follows:

(b) Provides that a person who violates Subsection (a) (prohibiting a person from operating a laser or pulsed light device with the intent to treat an illness or other physical defect or deformity) is practicing medicine in violation of Subtitle B (Physicians), Title 3 (Health Professions), Occupations Code, and is subject to the penalties under that subtitle and Subchapter F (Administrative Penalty), Chapter 51 (Texas Department of Licensing and Regulation), Occupations Code, rather than under that subtitle and under Section 401.522.

SECTION 1.237. Amends the heading to Section 401.522, Health and Safety Code, to read as follows:

Sec. 401.522. AMOUNT OF ADMINISTRATIVE PENALTY.

SECTION 1.238. Amends Section 401.522(a), Health and Safety Code, as follows:

(a) Provides that the amount of an administrative penalty imposed for a violation of this subchapter or a rule adopted or order issued under this subchapter may not exceed \$5,000 for each violation, rather than provides that DSHS may impose an administrative penalty on a person who violates this subchapter or a rule adopted under this subchapter. Makes a nonsubstantive change.

SECTION 1.239. Amends Section 455.001, Occupations Code, by amending Subdivisions (1) and (2) and adding Subdivision (1-a), as follows:

(1) Defines "commission" to mean the Texas Commission of Licensing and Regulation.

(1-a) Defines "department" to mean the Texas Department of Licensing and Regulation, rather than to mean the Texas Department of State Health Services.

(2) Defines "executive director" to mean the executive director of the Texas Department of Licensing and Regulation, rather than defines "executive commissioner" to mean to the executive commissioner of the Health and Human Services Commission.

SECTION 1.240. Amends the heading to Subchapter B, Chapter 455, Occupations Code, to read as follows:

#### SUBCHAPTER B. POWERS AND DUTIES

SECTION 1.241. Amends Section 455.053, Occupations Code, to change a reference in Subdivision (13) requiring that rules adopted under this chapter relating to a massage school contain minimum standards for any other aspect of the operation of a massage school that TCLR, rather than the executive commissioner, considers necessary to protect students, massage school personnel, or the public.

SECTION 1.242. Amends the heading to Subchapter C, Chapter 455, Occupations Code, to read as follows:

SUBCHAPTER C. POWERS AND DUTIES

SECTION 1.243. Amends Section 455.101, Occupations Code, as follows:

Sec. 455.101. New heading: GENERAL POWERS AND DUTIES. (a) Requires the executive director to administer and enforce this chapter, rather than requires DSHS to administer this chapter.

(b) Requires DSHS to:

(1)-(3) Makes nonsubstantive changes.

SECTION 1.244. Amends Section 455.103, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, as follows:

Sec. 455.103. MEMORANDUM OF UNDERSTANDING REGARDING MASSAGE SCHOOLS. (a) Authorizes TCLR, rather than DSHS, to enter into a memorandum of understanding with the Texas Education Agency to regulate massage schools.

(b) Requires that a memorandum:

(1) be adopted by TCLR, rather than the executive commissioner, by rule; and

(2) Makes no change to this subdivision.

SECTION 1.245. Amends Section 455.151(d), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, to authorize TCLR, rather than the executive commissioner, to adopt rules governing a license issued under this subsection.

SECTION 1.246. Amends Section 455.153, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, as follows:

Sec. 455.153. APPLICATION FOR LICENSE. Requires an applicant for a license under this chapter to:

(1) submit an application in the manner and on a form prescribed by the executive director, rather than submit an application on a form provided by DSHS; and

(2) include with the application the application fee set by TCLR by rule, rather than set by the executive commissioner by rule.

SECTION 1.247. Amends Sections 455.1572(c) and (e), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, as follows:

(c) Requires TDLR to issue a license under this chapter to the provisionally licensed person if the person:

(1) is eligible for a license under Section 51.404, rather than Section 455.1571; or

(2) Makes no change to this subdivision.

(e) Authorizes TCLR by rule, rather than the executive commissioner, to establish a fee for a provisional license.

SECTION 1.248. Amends the heading to Section 455.160, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, to read as follows:

Sec. 455.160. LICENSE TERM AND RENEWAL.

SECTION 1.249. Amends Section 455.160(a), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, as follows:

(a) Requires a license holder to renew the license biennially. Deletes existing text providing that the license expires unless the license holder submits an application for renewal accompanied by the renewal fee prescribed by the executive commissioner by rule or by the late fee prescribed by this section.

SECTION 1.250. Amends Sections 455.203(a) and (b), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, as follows:

(a) Requires a massage school to meet the minimum standards of operation established by TCLR rule, rather than by DSHS rule.

(b) Requires an instructor to meet the minimum requirements established by TCLR rule, rather than by DSHS rule.

SECTION 1.251. Amends Section 455.251, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, as follows:

Sec. 455.251. GROUNDS FOR LICENSE DENIAL OR DISCIPLINARY ACTION.

(a) Authorizes TCLR or the executive director, rather than DSHS, to refuse to issue a license to a person and shall suspend, revoke, or refuse to renew the license of a person or shall reprimand a person licensed under this chapter if the person:

(1) and (2) Makes no change to these subdivisions;

(3) violates a rule adopted by TCLR, rather than the executive commissioner, under this chapter;

(4) engages in unprofessional conduct as defined by TCLR rule, rather than DSHS rule, that endangers or is likely to endanger the health, welfare, or safety of the public;

(5) and (6) Makes no change to these subdivisions;

(b) Changes references to DSHS to TCLR or executive director.

(c) Makes conforming changes.

SECTION 1.252. Amends the heading to Section 455.302, Occupations Code, to read as follows:

Sec. 455.302. AMOUNT OF ADMINISTRATIVE PENALTY.

SECTION 1.253. Amends Section 455.302(a), Occupations Code, to provide that the amount of an administrative penalty imposed for a violation of this chapter or a rule adopted or order issued under this chapter may not exceed \$1,000 for each violation.

SECTION 1.254. Amends Section 1952.001, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, by adding Subdivisions (2-a) and amending Subdivisions (3) and (4), as follows:

- (2-a) Defines “commission” to mean TCLR.
- (3) Defines “department” to mean TDLR, rather than DSHS.
- (4) Defines “executive director” to mean the executive director of TDLR, rather than defines “executive commissioner” to mean the executive commissioner of HHSC.

SECTION 1.255. Amends the heading to Subchapter B, Chapter 1952, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, to read as follows:

#### SUBCHAPTER B. POWERS AND DUTIES

SECTION 1.256. Amends Section 1952.051, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, as follows:

Sec. 1952.051. New heading: GENERAL POWERS AND DUTIES. (a) Requires the executive director to administer and enforce this chapter.

- (b) Creates this subsection from existing text. Requires TCLR, rather than the executive commissioner, by rule to adopt standards and education requirements consistent with those established under Chapter 654, Government Code, for the registration of code enforcement officers and code enforcement officers in training. Deletes existing text requiring the executive commissioner to prescribe application forms for original and renewal certificates of registration. Makes nonsubstantive changes.

SECTION 1.257. Amends Section 1952.053(b), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, to require that the register include any other information required by TCLR, rather than DSHS, rule.

SECTION 1.258. Amends Subchapter B, Chapter 1952, Occupations Code, by adding Section 1952.055, as follows:

Sec. 1952.055. ADVISORY COMMITTEE. Provides that TDLR may establish an advisory committee to provide advice and recommendations to TDLR on technical matters relevant to the administration of this chapter.

SECTION 1.259. Amends Section 1952.102, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, as follows:

Sec. 1952.102. ELIGIBILITY TO REGISTER AS CODE ENFORCEMENT OFFICER. Requires a person, to be eligible to receive a certificate of registration as a code enforcement officer, to:

- (1) submit an application in the manner and on the form prescribed by the executive director;
- (2) Makes a nonsubstantive change;
- (3) pass the examination required by TDLR, rather than pass the examination conducted by DSHS or DSHS’s designee;
- (4) Makes a nonsubstantive change; and
- (5) meet any other requirements prescribed by this chapter or by TCLR, rather than DSHS, rule.

SECTION 1.260. Amends Section 1952.103(a), Occupations Code, as follows:

(a) Entitles an applicant for a certificate of registration under this chapter who has less than one year of full-time experience in code enforcement to receive a certificate of registration as a code enforcement officer in training on:

- (1) passing the examination described by Section 1952.102(3), rather than Section 1952.102(2);
- (2) paying the required fees; and
- (3) meeting any other requirement prescribed by this chapter or by TCLR rule.

SECTION 1.261. Amends the heading to Section 1952.105, Occupations Code, to read as follows:

Sec. 1952.105. TERM OF CERTIFICATE; RENEWAL.

SECTION 1.262. Amends Section 1952.105(a), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, as follows:

(a) Provides that a certificate of registration issued under this chapter expires on the second anniversary of the date of issuance and may be renewed biennially on payment of the required renewal fee and on completion of the continuing education requirements prescribed by TCLR rule, rather than prescribed by DSHS rule.

SECTION 1.263. Amends Section 1952.1051, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, as follows:

Sec. 1952.1051. CONTINUING EDUCATION. Requires TCLR, rather than the executive commissioner, by rule to prescribe annual continuing education requirements for code enforcement officers and code enforcement officers in training that:

- (1)-(3) Makes no change to these subdivisions.

SECTION 1.264. Amends Section 1952.151, Occupations Code, as follows:

Sec. 1952.151. DENIAL OF CERTIFICATE; DISCIPLINARY ACTION. (a) Provides that TCLR or the executive director, rather than TDH, may deny a person's application for a certificate of registration if the person's certificate or license to engage in code enforcement or a related profession has been revoked by another licensing entity in this state or another state for certain conduct or offenses.

- (b) Makes conforming changes.

SECTION 1.265. Amends Section 1952.252(a), Occupations Code, as follows:

(a) Provides that the amount of an administrative penalty imposed for a violation of this chapter or a rule adopted or order issued under this chapter may not be less than \$50 or more than \$5,000 for each violation. Makes a nonsubstantive change.

SECTION 1.266. Amends Section 1953.001, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, by amending Subdivisions (1) and (2) and adding Subdivision (1-a), as follows:

- (1) Defines "commission" to mean TCLR.
- (1-a) Defines "department" to mean TDLR, rather than DSHS.

(1-b) Defines “executive director” to mean the executive director of TDLR, rather than defines “commissioner” to mean the executive commissioner of HHSC.

SECTION 1.267. Amends the heading to Subchapter B, Chapter 1953, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, to read as follows:

SUBCHAPTER B. POWERS AND DUTIES

SECTION 1.268. Amends Section 1953.051, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, as follows:

Sec. 1953.051. New heading: GENERAL POWERS AND DUTIES. (a) Requires the executive director to administer and enforce this chapter.

(b) Creates this subsection from existing text and makes no further change.

SECTION 1.269. Amends Subchapter B, Chapter 1953, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, by adding Section 1953.0512, as follows:

Sec. 1953.0512. ADVISORY COMMITTEE. Authorizes TDLR to establish an advisory committee to provide advice and recommendations to TDLR on technical matters relevant to the administration of this chapter.

SECTION 1.270. Amends Section 1953.102, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, as follows:

Sec. 1953.102. ELIGIBILITY REQUIREMENTS. (a) Requires a person, to be eligible to receive a certificate of registration as a professional sanitarian, to:

- (1) Makes no change to this subdivision;
- (2) complete any additional training in the basic sciences or public health TDLR, rather than the executive commissioner, determines necessary to effectively serve as a professional sanitarian; and
- (3) have at least two years of full-time experience in sanitation.

(b) Authorizes TDLR, rather than the executive commissioner, by rule to establish other qualifications for registration.

SECTION 1.271. Amends Section 1953.104(a), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, as follows:

(a) Requires TDLR to issue a certificate of registration as a professional sanitarian to a person who:

- (1) applies in the manner and on the form prescribed by the executive director, rather than DSHS;
- (2) pays the registration fee set by TDLR by rule, rather than set by the executive commissioner by rule;
- (3) and (4) Makes no change to these subdivisions.

SECTION 1.272. Amends Section 1953.105(a), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, as follows:

(a) Requires TDLR to issue a certificate of registration as a sanitarian in training to a person who:

(1) and (2) Makes no change to these subdivisions;

(3) pays a registration fee prescribed by TCLR, rather than prescribed by the executive commissioner, by rule for a sanitarian in training; and

(4) Makes no change to this subdivision.

SECTION 1.273. Amends the heading to Section 1953.106, Occupations Code, to read as follows:

Sec. 1953.106. RENEWAL OF CERTIFICATE.

SECTION 1.274. Amends Section 1953.106(a), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, as follows:

(a) Requires a professional sanitarian, to renew a certificate of registration under this chapter, to:

(1) pay to TDLR a renewal fee prescribed by TCLR, rather than the executive commissioner, by rule; and

(2) provide proof of completion of continuing education requirements prescribed by TCLR by rule, rather than provide proof of completion of continuing education contact hours as prescribed by the executive commissioner.

SECTION 1.275. Amends Section 1953.151(b), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, to prohibit an applicant for a certificate of registration from taking the examination unless the applicant pays the required examination fee prescribed by TCLR, rather than the executive commissioner, by rule.

SECTION 1.276. Amends Section 1953.201, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, as follows:

Sec. 1953.201. DENIAL OF CERTIFICATE; DISCIPLINARY ACTION. (a) Authorizes TCLR or the executive director, rather than authorizes DSHS, to deny a person's application for a certificate of registration if certain conditions apply. Makes a conforming change.

(b) Makes a conforming change.

SECTION 1.277. Amends Section 1953.302(a), Occupations Code, to provide that the amount of an administrative penalty imposed for a violation of this chapter or a rule adopted or order issued under this chapter may not be less than \$50 or more than \$5,000 for each violation, and makes a nonsubstantive change.

SECTION 1.278. Amends Section 1958.001, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, by amending Subdivisions (1) and (2) and adding Subdivision (1-a), as follows:

(1) Defines "commission" to mean the Texas Commission of Licensing and Regulation (TCLR).

(1-a) Defines "department" to mean the Texas Department of Licensing and Regulation (TDLR), rather than the Department of State Health Services (DSHS).

(2) Defines "executive director" to mean the executive director of TDLR, rather than defines "executive commissioner" to mean the executive commissioner of the Health and Human Services Commission.

SECTION 1.279. Amends Section 1958.051, Occupations Code, as follows:

Sec. 1958.051. New heading: GENERAL POWERS AND DUTIES. Requires the executive director, rather than DSHS, to administer and enforce this chapter to protect the public from the adverse health effects of mold.

SECTION 1.280. Amends Section 1958.054, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, to require TCLR, rather than the executive commissioner, by rule to establish minimum performance standards and work practices for conducting a mold assessment or mold remediation in this state.

SECTION 1.281. Amends Section 1958.056(b), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, to require TCLR, rather than the executive commissioner, to adopt rules regarding compliance investigations.

SECTION 1.282. Amends Section 1958.058, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, to authorize TCLR, rather than authorize the executive commissioner, by rule to develop and establish mold safety standards for license holders if appropriate scientific information exists regarding the effect of mold.

SECTION 1.283. Amends Section 1958.059, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, to require TCLR, rather than the executive commissioner, by rule to adopt a code of ethics for license holders that promotes the education of mold assessors and mold remediators concerning the ethical, legal, and business principles that should govern their conduct.

SECTION 1.284. Amends Section 1958.101(b), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, to require TCLR, rather than the executive commissioner, to adopt rules regarding certain criteria for license holders and license renewal.

SECTION 1.285. Amends Section 1958.103, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, to authorize TCLR, rather than the executive commissioner, to adopt rules to require the registration of employees supervised by license holders.

SECTION 1.286. Amends Section 1958.104, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, to change references to executive commissioner to TCLR.

SECTION 1.287. Amends Section 1958.106(a), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, to make a conforming change.

SECTION 1.288. Amends Section 1958.153(c), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, to make a conforming change.

SECTION 1.289. Amends Section 1958.154(c), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, to make a conforming change.

SECTION 1.290. Amends Section 1958.155(c), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, to make a conforming change.

SECTION 1.291. Amends Section 1958.201, Occupations Code, as follows:

Sec. 1958.201. DISCIPLINARY ACTION. Requires TCLR or the executive director, rather than DSHS, if a license holder violates this chapter or an order or rule adopted under this chapter, after providing the person with notice and an opportunity for a hearing, to take one or more of certain actions.

SECTION 1.292. Amends Section 1958.252, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, as follows:

Sec. 1958.252. AMOUNT OF PENALTY. (a) Prohibits the amount of an administrative penalty imposed for a violation of this chapter or a rule adopted or order issued under this chapter from exceeding \$5,000 for each violation.

(b) Requires that the amount be based on, rather than requires DSHS, in determining the amount of the penalty to consider, certain criteria.

SECTION 1.293. Amends Section 1958.253(a), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, as follows:

(a) Authorizes TCLR or the executive director, rather than authorizes DSHS, to choose not to impose an administrative penalty under this subchapter if, not later than the 10th day after the date of written notice of the violation, rather than written notice of the violation under Section 1958.254 (Notice; Opportunity for Hearing; Order), the person provides conclusive evidence that the circumstances giving rise to the violation have been corrected and all actual damages are paid.

SECTION 1.294. Amends Section 521.374(a), Transportation Code, as follows:

(a) Provides that a person whose license is suspended under Section 521.372 may attend an educational program, approved by TDLR, rather than the Texas Commission on Alcohol and Drug Abuse (TCADA), under rules adopted by TCLR and TDLR, rather than TCADA, and TDLR, that is designed to educate persons on the dangers of drug abuse.

SECTION 1.295. Amends Section 521.375, Transportation Code, as follows:

Sec. 521.375. JOINT ADOPTION OF RULES. (a) Requires TCLR, rather than TCADA, and TDLR to jointly adopt rules for the qualification and approval of providers of educational programs under Section 521.374.

(b) Requires TDLR, rather than TCADA, to publish the jointly adopted rules.

SECTION 1.296. Amends Section 521.376, Transportation Code, as follows:

Sec. 521.376. New heading: DUTIES OF TEXAS DEPARTMENT OF LICENSING AND REGULATION; APPLICATION AND RENEWAL FEES. Provides that TDLR, rather than TCADA, is required to monitor and administer certain aspects of educational programs and is authorized to charge certain fees.

SECTION 1.297. Repealer: Section 401.509 (Continuing Education), Health and Safety Code.

Repealer: Section 401.511 (Expiration of Certificate or License), Health and Safety Code.

Repealer: Section 401.512(b) (requiring a person to renew the person's certificate or license on or before the expiration date) and (c) (requiring DSHS to issue a renewal certificate or license on receipt of the application), Health and Safety Code.

Repealer: Section 401.522(b) (providing that DSHS may suspend or revoke a license or certificate issued under this subchapter in addition to or instead of imposing a penalty under a certain subsection) and (c) (requiring the executive commissioner to adopt rules as necessary to implement this section), Health and Safety Code.

SECTION 1.298. Repealer: Section 455.051 (General Rulemaking Authority), Occupations Code.

Repealer: Section 455.056 (Rules Regarding Advertising or Competitive Bidding), Occupations Code.

Repealer: Section 455.057 (Continuing Education), Occupations Code.

Repealer: Section 455.058, Occupations Code.

Repealer: Section 455.1565 (Notification of Examination Results), Occupations Code.

Repealer: Section 455.1571 (Applicant Licensed in Another Jurisdiction), Occupations Code.

Repealers: Sections 455.160(b) (requiring DSHS to adopt a system under which licenses expire on various dates during the year) and (c) (providing that a person who is otherwise eligible to renew a license may renew an unexpired license by paying the required renewal fee to DSHS before the expiration date of the license), Occupations Code.

Repealers: Sections 455.160(d) (providing that a person whose license has been expired for 90 days or less may renew the license by paying to DSHS a certain fee) and (e) (providing that a person whose license has been expired for more than 90 days but less than one year may renew the license by paying to DSHS a certain fee), Occupations Code.

Repealers: Sections 455.160(f) (prohibiting a person whose license has been expired for more than one year from renewing the license by paying to DSHS a certain fee) and (g) (requiring DSHS, not later than the 30th day before the date a person's license is scheduled to expire, to send written notice of the impending expiration to the person at the person's last known address according to the records of DSHS), Occupations Code.

Repealer: Section 455.161 (Renewal of Expired License of Out-of-State Practitioner), Occupations Code.

Repealer: Section 455.252 (Hearing on Denial or Disciplinary Action), Occupations Code.

Repealer: Section 455.253 (Probation), Occupations Code.

Repealer: Section 455.254 (Emergency Suspension), Occupations Code.

Repealer: Section 455.301 (Imposition of Administrative Penalty), Occupations Code.

Repealer: Section 455.303 (Notice of Violation and Penalty), Occupations Code.

Repealer: Section 455.304 (Penalty to be Paid or Hearing Requested), Occupations Code.

Repealer: Section 455.305 (Hearing on Department Determination), Occupations Code.

Repealer: Section 455.306 (Decision by Executive Commissioner), Occupations Code.

Repealer: Section 455.307 (Options Following Decision: Pay or Appeal), Occupations Code.

Repealer: Section 455.308 (Determination by Court), Occupations Code.

Repealer: Section 455.309 (Remittance of Penalty and Interest), Occupations Code.

Repealer: Section 455.310 (Collection of Penalty), Occupations Code.

Repealer: Section 455.311 (Administrative Procedure), Occupations Code.

Repealer: Section 1952.052 (Fees), Occupations Code.

Repealer: Section 1952.054 (Record of Proceedings), Occupations Code.

Repealer: Section 1952.105(b) (providing that the Texas Department of Health (TDH) may reinstate as provided by board rule a certificate of registration that was revoked for failure to pay the renewal fee), Occupations Code.

Repealer: Section 1952.152 (Procedure), Occupations Code.

Repealer: Section 1952.251 (Imposition of Administrative Penalty), Occupations Code.

Repealer: Section 1952.253 (Report and Notice of Violation and Penalty), Occupations Code.

Repealer: Section 1952.254 (Penalty to be Paid or Hearing Requested), Occupations Code.

Repealer: Section 1952.255 (Hearing), Occupations Code.

Repealer: Section 1952.256 (Decision by Department), Occupations Code.

Repealer: Section 1952.257 (Options Following Decision: Pay or Appeal), Occupations Code.

Repealer: Section 1952.258 (Collection of Penalty), Occupations Code.

Repealer: Section 1952.259 (Determination by Court), Occupations Code.

Repealer: Section 1952.260 (Remittance of Penalty and Interest), Occupations Code.

Repealer: Section 1952.261 (Administrative Procedure), Occupations Code.

Repealer: Section 1953.0511, Occupations Code.

Repealer: Section 1953.052 (Fees; Payment of Administrative Costs), Occupations Code.

Repealer: Section 1953.054 (Record of Proceedings), Occupations Code.

Repealer: Section 1953.055 (Reports), Occupations Code.

Repealer: Section 1953.103 (Reciprocal Registration), Occupations Code.

Repealer: Section 1953.106(b) (providing that the Texas Board of Health (board) may reinstate a certificate of registration as provided by board rules that was revoked for failure to pay the renewal fee), Occupations Code.

Repealer: Section 1953.152 (Examination Results), Occupations Code.

Repealer: Section 1953.202 (Hearing), Occupations Code.

Repealer: Section 1953.301 (Imposition of Administrative Penalty), Occupations Code.

Repealer: Section 1953.303 (Report and Notice of Violation and Penalty), Occupations Code.

Repealer: Section 1953.304 (Penalty to be Paid or Hearing Requested), Occupations Code.

Repealer: Section 1953.305 (Hearing), Occupations Code.

Repealer: Section 1953.306 (Decision by Board), Occupations Code.

Repealer: Section 1953.307 (Options Following Decision: Pay or Appeal), Occupations Code.

Repealer: Section 1953.308; (Collection of Penalty), Occupations Code.

Repealer: Section 1953.309 (Determination by Court), Occupations Code.

Repealer: Section 1953.310 (Remittance of Penalty and Interest), Occupations Code.

Repealer: Section 1953.311 (Administrative Procedure), Occupations Code.

Repealer: Section 1958.053 (General Rulemaking Authority), Occupations Code.

Repealer: Section 1958.055(a) (requiring the Texas Board of Health (board) to establish reasonable and necessary fees to administer this chapter, including fees for licenses, registrations, and examinations), Occupations Code.

Repealer: Section 1958.057 (Complaints), Occupations Code.

Repealer: Section 1958.107 (Reciprocity), Occupations Code.

Repealer: Section 1958.251 (Imposition of Administrative Penalty), Occupations Code.

Repealer: Section 1958.254 (Notice; Opportunity for Hearing; Order), Occupations Code.

Repealer: Section 1958.255 (Options Following Decision: Pay or Appeal), Occupations Code.

Repealer: Section 1958.256 (Collection of Penalty), Occupations Code.

Repealer: Section 1958.257 (Judicial Review), Occupations Code.

Repealer: Section 1958.258 (Remittance of Penalty and Interest or Release of Bond), Occupations Code.

Repealer: Section 1958.302 (Injunctive Relief), Occupations Code.

### PART 3. TRANSITION PROVISIONS

SECTION 1.299. (a) Provides that a rule or fee of DSHS that relates to a program transferred under this article and that is in effect on the effective date of the transfer remains in effect until changed by TCLR.

(b) Provides that a license, permit, certificate of registration, or other authorization issued by DSHS for a program transferred under this article is continued in effect as a license, permit, certificate, or other authorization of TCLR after the effective date of the transfer.

(c) Provides that a complaint, investigation, contested case, or other proceeding before DSHS relating to a program transferred under this article that is pending on the effective date of the transfer is transferred without change in status to TCLR or TDLR, as appropriate.

SECTION 1.300. (a) Requires DSHS and TDLR, as soon as practicable after the effective date of a transfer under this article, to adopt a transition plan to provide for the orderly transfer of powers, duties, functions, programs, and activities under this article. Requires that the transition plan provide for the transfer to be completed:

(1) not later than August 31, 2017, for a program transferred under Part 1 of this article; or

(2) not later than August 31, 2019, for a program transferred under Part 2 of this article.

(b) Requires DSHS to provide TDLR with access to any systems or information necessary for TDLR to accept a program transferred under this article.

(c) Provides that, on the date specified in the transition plan required under Subsection (a) of this section for the transfer of a particular program to TDLR, if applicable, the existing board associated with the program is abolished and TDLR is required, as soon as practicable after that date, to appoint the advisory board for the program.

(d) Provides that all full-time equivalent employee positions at DSHS that primarily concern the administration or enforcement of the program being transferred, on the date specified in the transition plan required under Subsection (a) of this section for the transfer of a particular program to TDLR, become positions at TDLR. Requires TDLR to post the positions for hiring and, when filling the positions, to give consideration to, but is not required to hire, an applicant who, immediately before the date of the transfer, was an employee at DSHS primarily involved in administering or enforcing the transferred program.

(e) Requires TDLR, not later than August 31, 2017, to create a health professions division to oversee programs transferred under this article and to ensure TDLR develops the necessary health-related expertise.

SECTION 1.301. (a) Requires TDLR to, not later than December 1 of each year, submit a report regarding the implementation of this article with respect to that calendar year to:

(1) the Sunset Advisory Commission;

(2) each standing committee of the senate and house of representatives having primary jurisdiction over matters related to health and human services or the occupational licensing of health-related professions; and

(3) each advisory board or committee established to advise TDLR with regard to a program transferred to TDLR under this article.

(b) Requires that a report submitted under this section include:

(1) detailed information regarding:

(A) the status of the implementation of the transition plan adopted under Section 1.300 of this Act, including an explanation of any delays or challenges in implementing the plan;

(B) appointments to each advisory board or committee established to advise the TDLR with regard to a program transferred to TDLR under this article; and

(C) the establishment and operation of the health professions division of TDLR; and

(2) any other information TDLR considers relevant to the transfer of programs to TDLR under this article.

(c) Requires TDLR, in preparing a report required by this section, to solicit input from DSHS and each advisory board or committee established to advise TDLR with regard to a program transferred to TDLR under this article.

(d) Requires TDLR to make each report submitted under this section available to the public on TDLR's Internet website.

(e) Provides that this section expires January 1, 2020.

## ARTICLE 2. REGULATORY PROGRAMS TRANSFERRED TO THE TEXAS MEDICAL BOARD

SECTION 2.001. Amends Section 151.004, Occupations Code, as follows:

Sec. 151.004. APPLICATION OF SUNSET ACT. Provides that the Texas Medical Board, unless continued in existence as provided by that chapter (Chapter 325, Government Code), is abolished and this subtitle and Chapters 204 (Physician Assistants), 205 (Acupuncture), 206 (Surgical Assistants), 601 (Medical Radiologic Technologists), 602 (Medical Physicists), 603 (Perfusionists), and 604 (Respiratory Care Practitioners) expire September 1, 2017. Makes a nonsubstantive change.

SECTION 2.002. Amends Chapter 167, Occupations Code, by adding Section 167.0091, as follows:

Sec. 167.0091. REFERRALS FOR CERTAIN PROFESSIONS. Authorizes the Texas Medical Board, the Texas Board of Medical Radiologic Technology, or the Texas Board of Respiratory Care, as appropriate, notwithstanding any other provision of this chapter, to make a referral to the program and require participation in the program as a prerequisite for issuing or maintaining a license, certificate, permit, or other authorization under Chapter 601, 602, 603, or 604.

SECTION 2.003. Amends Section 601.002, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, by amending Subdivisions (1), (3), and (4) and adding Subdivisions (1-a), (4-a), and (4-b), as follows:

(1) Defines "advisory board" to mean the Texas Board of Medical Radiologic Technology.

(1-a) Redefines "authorized person" to mean a person who meets or exceeds the minimum educational standards of the advisory board, rather than the standards of the Texas Department of Health (TDH), under Section 601.201.

(3) Redefines "direct supervision."

(4) Redefines "education program" to mean clinical training or any other program offered by an organization approved by the advisory board, rather than TDH, that fulfills certain criteria.

(4-a) Defines "hospital."

(4-b) Defines "medical board" to mean the Texas Medical Board.

SECTION 2.004. Amends Chapter 601, Occupations Code, by adding Subchapter A-1, as follows:

### SUBCHAPTER A-1. TEXAS BOARD OF MEDICAL RADIOLOGIC TECHNOLOGY

Sec. 601.021. TEXAS BOARD OF MEDICAL RADIOLOGIC TECHNOLOGY. Provides that the Texas Board of Medical Radiologic Technology (advisory board) is an advisory board to the Texas Medical Board (TMB).

Sec. 601.022. APPOINTMENT OF ADVISORY BOARD. (a) Provides that the advisory board consists of nine members appointed by the governor with the advice and consent of the senate and sets forth the composition of the advisory board.

(b) Requires that appointments to the advisory board be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.

Sec. 601.023. MEMBERSHIP ELIGIBILITY AND RESTRICTIONS. (a) Defines "Texas trade association."

(b) Prohibits a person from being a public member of the advisory board if the person or the person's spouse:

(1) is registered, certified, or licensed by a regulatory agency in a health care profession;

(2) is employed by or participates in the management of a business entity or other organization regulated by or receiving money from TMB or the advisory board;

(3) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by or receiving money from TMB or the advisory board; or

(4) uses or receives a substantial amount of tangible goods, services, or money from TMB or the advisory board other than compensation or reimbursement authorized by law for advisory board membership, attendance, or expenses.

(c) Provides that a person may not be a member of the advisory board if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of health care; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of health care.

(d) Prohibits a person from being a member of the advisory board or act as the general counsel to the advisory board if the person is required to register as a lobbyist under Chapter 305 (Registration of Lobbyists), Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of TMB or the advisory board.

Sec. 601.024. TERMS; VACANCIES. (a) Provides that members of the advisory board are appointed for staggered six-year terms. Provides that the terms of three members expire on February 1 of each odd-numbered year.

(b) Prohibits a member from serving more than:

(1) two consecutive full terms; or

(2) a total of three full terms.

(c) Requires the governor, if a vacancy occurs during a member's term, to appoint a new member to fill the unexpired term.

Sec. 601.025. OFFICERS. Requires the governor to designate a member of the advisory board as the presiding officer of the advisory board to serve in that capacity at the will of the governor. Requires the advisory board to select from its membership an assistant presiding officer and other officers as the advisory board considers necessary to carry out the advisory board's duties.

Sec. 601.026. GROUND FOR REMOVAL. (a) Provides that it is a ground for removal from the advisory board that a member:

(1) does not have at the time of taking office the qualifications required by Sections 601.022 and 601.023;

(2) does not maintain during service on the advisory board the qualifications required by Sections 601.022 and 601.023;

(3) is ineligible for membership under Section 601.023;

(4) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term; or

(5) is absent from more than half of the regularly scheduled advisory board meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the advisory board.

(b) Provides that the validity of an action of the advisory board is not affected by the fact that it is taken when a ground for removal of an advisory board member exists.

(c) Requires the executive director of TMB, if the executive director of TMB has knowledge that a potential ground for removal exists, to notify the presiding officer of the advisory board of the potential ground. Requires the presiding officer to then notify the governor and the attorney general that a potential ground for removal exists. Requires the executive director, if the potential ground for removal involves the presiding officer, to notify the next highest ranking officer of the advisory board, who shall then notify the governor and the attorney general that a potential ground for removal exists.

Sec. 601.027. PER DIEM. Entitles a member of the advisory board to receive a per diem as set by legislative appropriation for each day that the member engages in the business of the advisory board.

Sec. 601.028. APPLICATION OF OPEN MEETINGS, OPEN RECORDS, AND ADMINISTRATIVE PROCEDURE LAWS. Provides that the advisory board, except as otherwise provide by this chapter, is subject to Chapters 551 (Open Meetings), 552, and 2001 (Administrative Procedure), Government Code.

Sec. 601.029. MEETINGS; QUORUM REQUIREMENTS. (a) Requires the advisory board to conduct regular meetings at least three times a year at the times and places the advisory board considers most convenient for applicants and advisory board members.

(b) Authorizes the advisory board to hold special meetings in accordance with rules adopted by the advisory board and approved by TMB.

(c) Provides that a majority of the advisory board members constitutes a quorum for all purposes except for an advisory board activity related to examining the credentials of applicants, acting as a panel for disciplinary action under Section 601.306, or conducting an informal meeting under Section 601.311.

Sec. 601.030. TRAINING. (a) Provides that a person who is appointed to and qualifies for office as a member of the advisory board may not vote, deliberate, or be counted as a member in attendance at a meeting of the advisory board until the person completes a training program that complies with this section.

(b) Requires that the training program provide the person with information regarding:

- (1) this chapter and the advisory board's programs, functions, rules, and budget;
- (2) the results of the most recent formal audit of the advisory board;
- (3) the requirements of laws relating to open meetings, public information, administrative procedure, and conflicts of interest; and
- (4) any applicable ethics policies adopted by the advisory board or the Texas Ethics Commission.

(c) Entitles a person appointed to the advisory board to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

SECTION 2.005. Amends the heading to Subchapter B, Chapter 601, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, to read as follows:

SUBCHAPTER B. POWERS AND DUTIES OF ADVISORY BOARD AND MEDICAL BOARD

SECTION 2.006. Amends Section 601.052, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, as follows:

Sec. 601.052. New heading: GENERAL POWERS AND DUTIES OF ADVISORY BOARD. Requires the advisory board, rather than authorizes the executive commissioner, to:

- (1) adopt rules that are reasonable and necessary for the performance of the advisory board's duties under, rather than to implement, this chapter, as provided by Chapter 2001, Government Code, including rules to establish:
  - (A) the certification program required by Subchapter C, including minimum standards for issuing, renewing, suspending, canceling, or revoking a certificate;
  - (B) certification renewal dates;
  - (C) the registry required by Subchapter E;
  - (D) grounds for disciplinary actions;
  - (E) procedures for disciplinary proceedings;
  - (F) procedures for non-disciplinary remedial plans;
  - (G) minimum standards for approving and rescinding approval of curricula and education programs to train medical radiologic technologists to perform radiologic procedures;
  - (H) minimum standards for approving and rescinding approval of instructors to teach approved curricula or education programs to train medical radiologic technologists to perform radiologic procedures;
  - (I) procedures for requiring an applicant for or holder of a certificate to submit to:

(i) an examination of the applicant's or holder's physical or mental health; and

(ii) screening for alcohol or substance abuse or behavioral issues; and

(J) procedures for making a confidential referral to the Texas Physician Health Program established under Chapter 167, and for requiring participation in the program as a prerequisite for issuing or maintaining a certificate under this chapter or approval under Section 601.054 or 601.055;

(2) review and approve or reject each application for the issuance or renewal of a certificate;

(3) issue each certificate;

(4) deny, suspend, or revoke a certificate or otherwise discipline a certificate holder; and

(5) take any action necessary to carry out the functions and duties of the advisory board under this chapter.

SECTION 2.007. Amends Subchapter B, Chapter 601, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, by adding Sections 601.0521 and 601.0522, as follows:

Sec. 601.0521. GUIDELINES FOR EARLY INVOLVEMENT IN RULEMAKING PROCESS. (a) Requires the advisory board to adopt guidelines to establish procedures for receiving input during the rulemaking process from individuals and groups that have an interest in matters under the advisory board's jurisdiction. Requires that the guidelines provide an opportunity for those individuals and groups to provide input before the advisory board submits the rule to TMB for approval.

(b) Provides that a rule adopted under this chapter may not be challenged on the grounds that the advisory board did not comply with this section. Requires the advisory board, if the advisory board was unable to solicit a significant amount of input from the public or affected persons early in the rulemaking process, to state in writing the reasons why it was unable to do so.

Sec. 601.0522. POWERS AND DUTIES OF MEDICAL BOARD RELATING TO RADIOLOGIC PROCEDURES. (a) Requires TMB to adopt rules consistent with this chapter to regulate individuals who:

(1) perform radiologic procedures; and

(2) are licensed by TMB and supervise an individual who performs radiologic procedures.

(b) Requires TMB, by a majority vote, to approve or reject each rule adopted by the advisory board. Provides that the rule, if approved, may take effect. Requires TMB, if the rule is rejected, to return the rule to the advisory board for revision.

SECTION 2.008. Amends Section 601.054, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, as follows:

Sec. 601.054. APPROVAL AND REVIEW OF CURRICULA AND TRAINING PROGRAMS. (a) Requires an applicant for approval of a curriculum or training program to apply to the advisory board on a form and under rules adopted by the advisory board, rather than requires an applicant for approval of a curriculum or training program

to apply to the Texas Department of Health (TDH) on a form prescribed by TDH and under rules adopted by the executive commissioner.

(b) Requires the advisory board, rather than TDH, to approve a curriculum or training program that meets the minimum standards adopted under Section 601.052, rather than Section 601.053. Authorizes the advisory board, rather than TDH, to review the approval annually.

(c) Authorizes the advisory board, rather than the executive commissioner, to set a fee for approval of a curriculum or training program not to exceed the estimated amount that the advisory board, rather than TDH, projects to be required for the evaluation of the curriculum or training program.

SECTION 2.009. Amends Section 601.055, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, to make conforming changes.

SECTION 2.010. Amends Sections 601.056(a) and (b), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, to require TMB, rather than the executive commissioner, with the assistance of the Texas Board of Nursing, the Texas Physician Assistant Board, and other appropriate state agencies, to identify by rule radiologic procedures, other than radiologic procedures described by Subsection (c) (providing that Subsection (a) does not apply to a radiologic procedure involving a dental X-ray machine), that are dangerous or hazardous and that may be performed only by a practitioner, medical radiologic technologist certified under this chapter, registered nurse, or licensed physician assistant.

SECTION 2.011. Amends Section 601.057, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, as follows:

Sec. 601.057. FEES. Authorizes the advisory board by rule, rather than authorizes the executive commissioner, to set fees for examination, certificate issuance, registration of a person under Section 601.202, and application processing under Section 601.203 in amounts that are reasonable to cover the costs of administering this chapter without the use of additional general revenue. Deletes existing text requiring that the fees for issuing or renewing a certificate be in amounts designed to allow TDH to recover from the certificate holders all of TDH's direct and indirect costs in administering and enforcing this chapter.

SECTION 2.012. Amends Subchapter B, Chapter 601, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, by adding Sections 601.0571 and 601.0572, as follows:

Sec. 601.0571. FEE REFUND ON CANCELLATION. Authorizes the advisory board to adopt rules relating to the refund of a fee for the issuance or renewal of a certificate after the cancellation of a certificate.

Sec. 601.0572. RULES ON CONSEQUENCES OF CRIMINAL CONVICTION. Requires the advisory board to adopt rules and guidelines as necessary to comply with Chapter 53 (Consequences of Criminal Conviction), except to the extent the requirements of this chapter are stricter than the requirements of Chapter 53.

SECTION 2.013. Amends Section 601.058, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, as follows:

Sec. 601.058. RULES RESTRICTING ADVERTISING OR COMPETITIVE BIDDING. (a) Prohibits the advisory board, rather than the executive commissioner, from adopting rules restricting advertising or competitive bidding by a medical radiologic technologist except to prohibit false, misleading, or deceptive practices.

(b) Prohibits the advisory board, rather than the executive commissioner, in adopting rules, rules to prohibit false, misleading, or deceptive practices, from including a rule of certain rules regarding advertising.

SECTION 2.014. Amends Subchapter B, Chapter 601, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, by adding Sections 601.059 and 601.060, as follows:

Sec. 601.059. ASSISTANCE BY MEDICAL BOARD; DIVISION OF RESPONSIBILITIES. (a) Requires TMB to provide administrative and clerical employees as necessary to enable the advisory board to administer this chapter.

(b) Requires the advisory board, subject to the advice and approval of TMB, to develop and implement policies that clearly separate the policy-making responsibilities of the advisory board and the management responsibilities of the executive director and staff of TMB.

Sec. 601.060. PUBLIC PARTICIPATION. Requires the advisory board, subject to the advice and approval of TMB, to develop and implement policies that provide the public with a reasonable opportunity to appear before the advisory board and to speak on any issue under the jurisdiction of the advisory board.

SECTION 2.015. Amends Section 601.102, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, as follows:

Sec. 601.102. CLASSES OF CERTIFICATES. (a) Requires the advisory board, rather than the executive commissioner, to establish classes of certificates to include all radiologic procedures used in the course and scope of the practice of practitioners licensed in this state.

(b) Authorizes the advisory board, rather than TDH, to issue to a person certain certificates.

(c) Authorizes the advisory board, rather than TDH, to issue to a person a certain temporary certificate.

SECTION 2.016. Amends Subchapter C, Chapter 601, Occupations Code, by adding Section 601.1031, as follows:

Sec. 601.1031. CRIMINAL HISTORY RECORD INFORMATION REQUIREMENT FOR REGISTRATION. (a) Requires the advisory board to require that an applicant for a certificate submit a complete and legible set of fingerprints, on a form prescribed by the advisory board, to the advisory board or to the Department of Public Safety of the State of Texas (DPS) for the purpose of obtaining criminal history record information from DPS and the Federal Bureau of Investigation.

(b) Prohibits the advisory board from issuing a certificate to a person who does not comply with the requirement of Subsection (a).

(c) Requires the advisory board to conduct a criminal history check of each applicant for a certificate using information:

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

(2) made available to the advisory board by DPS, the Federal Bureau of Investigation, and any other criminal justice agency under Chapter 411 (Department of Public Safety of the State of Texas), Government Code.

(d) Authorizes the advisory board to:

(1) enter into an agreement with DPS to administer a criminal history check required under this section; and

(2) authorize DPS to collect from each applicant the costs incurred by DPS in conducting the criminal history check.

SECTION 2.017. Amends Section 601.104, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, as follows:

Sec. 601.104. EXAMINATION. (a) Creates this subsection from existing text. Authorizes the advisory board, rather than the executive commissioner, to adopt rules providing for the preparation and administration of an examination for applicants for a certificate.

(b) Requires an applicant for a certificate to pass a jurisprudence examination approved by the advisory board.

SECTION 2.018. Amends Section 601.1041, Occupations Code, as follows:

Sec. 601.1041. NOTIFICATION OF EXAMINATION RESULTS. (a) Requires the advisory board, rather than TDH, not later than the 30th day after the date a person takes an examination for a certificate under this chapter, to notify the person of the results of the examination.

(b)-(d) Makes conforming changes to these subsections.

SECTION 2.019. Amends Section 601.105, by amending Subsection (a) and adding Subsection (c), as follows:

(a) Requires the advisory board, rather than TDH, to issue a certificate to an applicant who:

(1) meets the minimum standards for certification established under Section 601.052, rather than Section 601.053 (Minimum Standards);

(2) passes the required examinations;

(3) complies with the criminal history record information requirement of Section 601.1031;

(4) submits an application on a form prescribed by the advisory board;

(5) pays the required application fee;

(6) certifies that the applicant is mentally and physically able to perform radiologic procedures; and

(7) submits to the advisory board any other information the advisory board considers necessary to evaluate the applicant's qualifications.

(c) Provides that the advisory board may delegate authority to TMB employees to issue certificates under this chapter to applicants who clearly meet all certification requirements. Requires that the application, if TMB employees determine that the applicant does not clearly meet all certification requirements, be returned to the advisory board. Provides that a certificate issued under this subsection does not require formal advisory board approval.

SECTION 2.020. Amends Section 601.107, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, as follows:

Sec. 601.107. CERTIFICATION BY ENDORSEMENT. Authorizes the advisory board, rather than the executive commissioner, in adopting minimum standards for certifying medical radiologic technologists, to establish criteria for issuing a certificate to a person licensed or otherwise registered as a medical radiologic technologist by the American Registry of Radiologic Technologists, the American Registry of Clinical Radiography Technologists, or another state whose requirements for licensure or registration were on the date of licensing or registration substantially equal to the requirements of this chapter.

SECTION 2.021. Amends Section 601.108, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, as follows:

Sec. 601.108. CONTINUING EDUCATION AND OTHER GUIDELINES. (a) Authorizes the advisory board, rather than the executive commissioner, to establish guidelines.

(b) Requires the advisory board, rather than the executive commissioner, to provide for the preparation, recognition, or administration of continuing education programs for medical radiologic technologists in which participation is required, to the extent required by the advisory board, rather than TDH, to keep the person's certificate.

SECTION 2.022. Amends Section 601.109, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, as follows:

Sec. 601.109. PROVISIONAL CERTIFICATE. (a) Authorizes the advisory board, rather than TDH, to issue a provisional certificate to an applicant currently licensed or certified in another jurisdiction who seeks certification in this state and who:

(1) Makes no change to this subdivision;

(2) and (3) Changes a reference to TDH to advisory board;

(b)-(d) Makes conforming changes.

(e) Authorizes the advisory board by rule to establish a fee for a provisional certificate in an amount reasonable and necessary to cover the cost of issuing the certificate, rather than authorizes the executive commissioner by rule to establish a fee for a provisional certificate in an amount designed to allow TDH to recover from the certificate holders all of TDH's direct and indirect costs in administering and enforcing this chapter.

SECTION 2.023. Amends Section 601.110, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, as follows:

Sec. 601.110. CERTIFICATE EXPIRATION. (a) Requires the advisory board, rather than TDH, not later than the 30th day before the date a person's certificate is scheduled to expire, to send written notice of the impending expiration to the person at the person's last known address according to the records of the advisory board, rather than TDH.

(b) Authorizes the advisory board, rather than the executive commissioner, by rule, rather than the board by rule, to adopt a system under which certificates expire on various dates during the year. Requires the advisory board, rather than TDH, for the year in which the certificate expiration date is changed, to prorate certificate fees on a monthly basis so that each certificate holder pays only that portion of the certificate fee that is allocable to the number of months during which the certificate is valid.

SECTION 2.024. Amends Section 601.111, Occupations Code, as follows:

Sec. 601.111. New heading: CERTIFICATE RENEWAL. (a) Authorizes a person who is otherwise eligible to renew a certificate, on notification from the advisory board, to renew an unexpired certificate by:

- (1) paying the required renewal fee to the advisory board, rather than TDH, before the expiration date of the certificate;
- (2) submitting the appropriate form; and
- (3) meeting any other requirement established by advisory board rule.

(a-1) Creates this subsection from existing text and makes no further change to this subsection.

(b) and (c) Makes conforming changes.

(d) Makes no change to this subsection.

SECTION 2.025. Amends Subchapter C, Chapter 601, Occupations Code, by adding Section 601.1111, as follows:

Sec. 601.1111. CRIMINAL HISTORY RECORD INFORMATION REQUIREMENT FOR RENEWAL. (a) Requires an applicant for renewal of a certificate to submit a complete and legible set of fingerprints for purposes of performing a criminal history check of the applicant as provided by Section 601.1031.

(b) Prohibits the advisory board from renewing the certificate of a person who does not comply with the requirement of Subsection (a).

(c) Provides that a certificate holder is not required to submit fingerprints under this section for the renewal of the certificate if the holder has previously submitted fingerprints under:

- (1) Section 601.1031 for the initial issuance of the certificate of registration; or
- (2) this section as part of a prior renewal of a certificate of registration.

SECTION 2.026. Amends the heading to Section 601.112, Occupations Code, to read as follows:

Sec. 601.112. RENEWAL OF CERTIFICATE BY OUT-OF-STATE PERSON.

SECTION 2.027. Amends Section 601.112(b), Occupations Code, as follows:

(b) Requires the person to pay to the advisory board, rather than TDH, a fee that is equal to two times the normally required renewal fee for the certificate.

SECTION 2.028. Amends Section 601.154, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, as follows:

Sec. 601.154. HOSPITAL PROCEDURES. Provides that a person is not required to hold a certificate issued under this chapter to perform a radiologic procedure in a hospital if:

- (1) Makes no change to this subdivision; and
- (2) the person has completed a training program approved by the advisory board, rather than TDH, under Section 601.201.

SECTION 2.029. Amends Section 601.156, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, to provide that a person is not required to hold a certificate issued under this chapter or to comply with the registration requirements adopted under Section 601.252 if the person is licensed or otherwise registered as a medical radiologic technologist by another state, the American Registry of Radiologic Technologists, the American Registry of Clinical Radiography Technologists, or a professional organization or association recognized by the advisory board, rather than TDH.

SECTION 2.030. Amends Subchapter E, Chapter 601, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, as follows:

#### SUBCHAPTER E. MANDATORY TRAINING FOR CERTAIN AUTHORIZED PERSONS

Sec. 601.201. MANDATORY TRAINING. (a) Requires that the minimum standards of the advisory board, rather than TDH, for approval of a curriculum or an education program under Section 601.052, rather than 601.053, include mandatory training guidelines for a person, other than a practitioner, medical radiologic technologist, registered nurse, or licensed physician assistant, who intentionally uses radiologic technology, including a person who does not hold a certificate issued under this chapter and who is performing a radiologic procedure at a hospital or under the direction of a practitioner, other than a dentist.

(b) Requires that the training program approved by the advisory board, rather than TDH, contain an appropriate number of hours of education that must be completed before the person may perform a radiologic procedure.

Sec. 601.202. REGISTRY. Requires the advisory board, rather than the executive commissioner, by rule to establish a registry of persons required to comply with this subchapter.

Sec. 601.203. HARDSHIP EXEMPTION. (a) Requires the advisory board, rather than TDH, on application to the advisory board, rather than TDH, by a hospital, a federally qualified health center as defined by 42 U.S.C. Section 1396d, or a practitioner, to exempt the applicant from the requirements of Section 601.201 in employing a person certified under this chapter or trained as required by Section 601.201 if the applicant shows a hardship in employing a person certified under this chapter or trained as required by Section 601.201.

(b) Provides that the following conditions are considered to be a hardship for the purposes of Subsection (a):

(1)-(4) Makes no change to these subdivisions;

(5) any other criteria determined by advisory board rule, rather than TDH rule.

SECTION 2.031. Amends Section 601.251, Occupations Code, to provide that this subchapter applies to certain boards as set forth, and the Texas Physician Assistant Board, and to make a nonsubstantive change.

SECTION 2.032. Amends Section 601.252(a), Occupations Code, to require each agency subject to this subchapter, other than the Texas Board of Nursing and the Texas Physician Assistant Board, to adopt rules to regulate the manner in which a person who holds a license issued by the agency may order, instruct, or direct another authorized person in the performance of a radiologic procedure.

SECTION 2.033. Amends Section 601.253(a), Occupations Code, as follows:

(a) Requires the Texas Board of Nursing, rather than authorizes the Texas Board of Nursing, to adopt rules governing registered nurses performing radiologic procedures under Section 601.151 or 601.154, including rules:

- (1) establishing mandatory training guidelines; and
- (2) requiring registered nurses performing radiologic procedures under Section 601.151 to register with the Texas Board of Nursing and to identify the practitioner ordering the procedures.

Makes a nonsubstantive change.

SECTION 2.034. Amends Subchapter F, Chapter 601, Occupations Code, by adding Section 601.254, as follows:

Sec. 601.254. TEXAS PHYSICIAN ASSISTANT BOARD. (a) Requires the Texas Physician Assistant Board to adopt rules governing licensed physician assistants performing radiologic procedures under Section 601.151 or 601.154, including rules:

- (1) establishing mandatory training guidelines; and
- (2) requiring licensed physician assistants performing radiologic procedures under Section 601.151 to register with the Texas Physician Assistant Board and to identify the practitioner ordering the procedures.

(b) Requires the Texas Physician Assistant Board to notify the agency licensing the practitioner that the physician assistant has registered under this section.

SECTION 2.035. Amends Chapter 601, Occupations Code, by adding Subchapter F-1, as follows:

#### SUBCHAPTER F-1. COMPLAINTS AND INVESTIGATIVE INFORMATION

Sec. 601.271. COMPLAINT INFORMATION AND STATUS. (a) Requires the advisory board to maintain a system to promptly and efficiently act on complaints filed with the advisory board. Requires the advisory board to maintain:

- (1) information about the parties to the complaint and the subject matter of the complaint;
- (2) a summary of the results of the review or investigation of the complaint; and
- (3) information about the disposition of the complaint.

(b) Requires the advisory board to make information available describing its procedures for complaint investigation and resolution.

(c) Requires the advisory board, as often as quarterly and until final determination of the action to be taken on the complaint, if a written complaint is filed with the advisory board relating to a certificate holder or a person approved under Section 601.054 or 601.055, to notify the parties to the complaint of the status of the complaint unless the notice would jeopardize an active investigation.

Sec. 601.272. CONDUCT OF INVESTIGATION. Requires the advisory board to complete a preliminary investigation of a complaint filed with the advisory board not later than the 45th day after the date of receiving the complaint. Requires the advisory board to first determine whether the person constitutes a continuing threat to the public welfare. Requires the advisory board, on completion of the preliminary investigation, to determine whether to officially proceed on the complaint. Provides that the advisory

board's official investigation of the complaint, if the advisory board fails to complete the preliminary investigation in the time required by this section, is considered to commence on that date.

Sec. 601.273. ACCESS TO COMPLAINT INFORMATION. (a) Requires the advisory board, except as provided by Subsection (b), to provide a person who is the subject of a formal complaint filed under this chapter with access to all information in its possession that the advisory board intends to offer into evidence in presenting its case in chief at the contested hearing on the complaint, subject to any other privilege or restriction established by rule, statute, or legal precedent. Requires the advisory board to provide the information not later than the 30th day after receipt of a written request from the person or the person's counsel, unless good cause is shown for delay.

(b) Provides that the advisory board is not required to provide:

- (1) advisory board investigative reports;
- (2) investigative memoranda;
- (3) the identity of a nontestifying complainant;
- (4) attorney-client communications;
- (5) attorney work product; or
- (6) other material covered by a privilege recognized by the Texas Rules of Civil Procedure or the Texas Rules of Evidence.

(c) Provides that providing information under this section does not constitute a waiver of privilege or confidentiality under this chapter or other law.

Sec. 601.274. HEALTH CARE ENTITY REQUEST FOR INFORMATION. Requires the advisory board, on the written request of a health care entity, to provide to the entity:

- (1) information about a complaint filed against a person that was resolved after investigation by:
  - (A) a disciplinary order of the advisory board; or
  - (B) an agreed settlement; and
- (2) the basis of and current status of any complaint that has been referred by the executive director of TMB for enforcement action.

Sec. 601.275. CONFIDENTIALITY OF INVESTIGATIVE INFORMATION. Provides that a complaint, adverse report, investigation file, other report, or other investigative information in the possession of or received or gathered by the advisory board, TMB, or an employee or agent of the medical board relating to a certificate holder, a person approved under Section 601.054 or 601.055, an application for certification or approval, or a criminal investigation or proceeding is privileged and confidential and is not subject to discovery, subpoena, or other means of legal compulsion for release to any person other than the advisory board, TMB, or an employee or agent of the advisory board or TMB involved in discipline under this chapter. Provides that "investigative information," for purposes of this section, includes information related to the identity of a person performing or supervising compliance monitoring for the advisory board or TMB and a report prepared by the person related to compliance monitoring.

Sec. 601.276. PERMITTED DISCLOSURE OF INVESTIGATIVE INFORMATION. (a) Provides that investigative information in the possession of the advisory board, TMB,

or an employee or agent of TMB that relates to the discipline of a certificate holder or a person approved under Section 601.054 or 601.055, may be disclosed to:

(1) a licensing authority in another state or country in which the certificate holder or person is licensed, certified, or permitted or has applied for a license, certification, or permit; or

(2) a medical peer review committee reviewing:

(A) an application for privileges; or

(B) the qualifications of the certificate holder or person with respect to retaining privileges.

(b) Requires the advisory board or TMB, as appropriate, if investigative information in the possession of the advisory board, TMB, or an employee or agent of the medical board indicates that a crime may have been committed, to report the information to the proper law enforcement agency. Requires the advisory board and TMB to cooperate with and assist each law enforcement agency conducting a criminal investigation of a certificate holder or a person approved under Section 601.054 or 601.055 by providing information relevant to the investigation. Provides that confidential information disclosed to a law enforcement agency under this subsection remains confidential and may not be disclosed by the law enforcement agency except as necessary to further the investigation.

SECTION 2.036. Amends Subchapter G, Chapter 601, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, as follows:

#### SUBCHAPTER G. CERTIFICATE DENIAL AND DISCIPLINARY ACTION

Sec. 601.301. CERTIFICATE DENIAL AND DISCIPLINARY ACTION. Authorizes the advisory board, rather than TDH, to, for a violation of this chapter or a rule adopted under this chapter:

(1) suspend, restrict, revoke, or refuse to renew a certificate;

(2)-(4) Makes no change to these subdivisions; or

(5) place the offender's certificate on probation and require compliance with a requirement of the advisory board, rather than TDH, including requiring the offender to fulfill certain criteria.

Sec. 601.302. GROUNDS FOR CERTIFICATE DENIAL OR DISCIPLINARY ACTION. Changes references to TDH to the advisory board. Authorizes the advisory board to take action under Section 601.301 against a person subject to this chapter for certain offenses as set forth.

Sec. 601.303. STUDENT PRACTICING WITHOUT DIRECT SUPERVISION. Makes a conforming changes.

Sec. 601.304. ADMINISTRATIVE PROCEDURE FOR CONTESTED CASE HEARING. Provides that the procedure by which the advisory board, rather than TDH, takes a disciplinary action and the procedure by which a disciplinary action is appealed, for a contested case hearing in which a formal complaint has been filed under this chapter, are governed by advisory board rules, rather than TDH rules, for a contested case hearing; and Chapter 2001, Government Code.

Sec. 601.305. New heading: SURRENDER OF CERTIFICATE. (a) Provides that the advisory board may accept the voluntary surrender of a certificate. Provides that a person

who has surrendered a certificate may not engage in activities that require a certificate, and the advisory board may not return the certificate to the person, until the person demonstrates to the satisfaction of the advisory board that the person is able to resume the practice of radiologic technology, rather than requires a person subject to disciplinary action under Section 601.302(6) (developing a certain incapacity) to, at reasonable intervals, be given an opportunity to demonstrate that the person is able to resume the practice of radiologic technology.

(b) Requires the advisory board to by rule establish guidelines for determining when a person is competent to resume the practice of radiologic technology, rather than provides that TDH may not reinstate a certificate to a holder or issue a certificate to an applicant previously denied a certificate unless TDH is satisfied that the holder or applicant has complied with requirements set by TDH and is capable of engaging in the practice of radiologic technology.

Sec. 601.306. EMERGENCY SUSPENSION. (a) Requires the presiding officer of the advisory board to appoint a three-member disciplinary panel consisting of advisory board members to determine whether a certificate should be temporarily suspended.

(a-1) Creates this subsection from existing text. Requires the disciplinary panel, rather than TDH, to temporarily suspend the certificate of a certificate holder if the panel, rather than TDH, determines from the evidence or information presented to it that continued practice by the certificate holder would constitute a continuing threat, rather than an imminent threat, to the public welfare.

(b) Provides that a certificate may be suspended under this section without notice or hearing on the complaint if:

(1) action is taken to initiate proceedings for a hearing before the advisory board, rather than the State Office of Administrative Hearings (SOAH), simultaneously with the temporary suspension; and

(2) Makes no change to this subdivision.

(c) Provides that the disciplinary panel, notwithstanding Chapter 551, Government Code, may hold a meeting by telephone conference call if immediate action is required and convening of the panel at one location is inconvenient for any member of the panel, rather than requires SOAH to hold a preliminary hearing not later than the 14th day after the date of the temporary suspension to determine if there is probable cause to believe that a continuing and imminent threat to the public welfare still exists and requires that a final hearing on the matter be held not later than the 61st day after the date of the temporary suspension.

Sec. 601.307. DELEGATION OF CERTAIN COMPLAINT DISPOSITIONS. (a) Provides that the advisory board may delegate to a committee of TMB employees the authority to dismiss or enter into an agreed settlement of a complaint that does not relate directly to patient care or that involves only administrative violations. Requires that the disposition determined by the committee be approved by the advisory board at a public meeting.

(b) Requires that a complaint delegated under this section be referred for an informal proceeding under Section 601.311 if:

(1) the committee of employees determines that the complaint should not be dismissed or settled;

(2) the committee is unable to reach an agreed settlement; or

(3) the affected person requests that the complaint be referred for an informal proceeding.

Sec. 601.308. SUBPOENA. (a) Authorizes the executive director of TMB, the director's designee, or the secretary-treasurer of TMB to issue a subpoena or subpoena duces tecum for the advisory board:

(1) to conduct an investigation or a contested proceeding related to:

(A) alleged misconduct by a certificate holder or a person approved under Section 601.054 or 601.055;

(B) an alleged violation of this chapter or other law related to radiologic technology; or

(C) the provision of health care under this chapter; or

(2) for purposes of determining whether to issue, suspend, restrict, or revoke a certificate or approval under this chapter.

(b) Provides that failure to timely comply with a subpoena issued under this section is a ground for:

(1) disciplinary action by the advisory board or another licensing or regulatory agency with jurisdiction over the person subject to the subpoena; and

(2) denial of an application for certification or approval.

Sec. 601.309. PROTECTION OF PATIENT IDENTITY. Requires the advisory board, in a disciplinary investigation or proceeding conducted under this chapter, to protect the identity of each patient whose medical records are examined and used in a public proceeding unless the patient:

(1) testifies in the public proceeding; or

(2) submits a written release in regard to the patient's records or identity.

Sec. 601.310. REQUIRED SUSPENSION OF LICENSE OF INCARCERATED CERTIFICATE HOLDER. Requires the advisory board, regardless of the offense, to suspend the certificate or approval of a person serving a prison term in a state or federal penitentiary during the term of the incarceration.

Sec. 601.311. INFORMAL PROCEEDINGS. (a) Requires the advisory board by rule to adopt procedures governing:

(1) informal disposition of a contested case under Section 2001.056 (Informal Disposition of Contested Case), Government Code; and

(2) informal proceedings held in compliance with Section 2001.054 (Licenses), Government Code.

(b) Requires that rules adopted under this section must require that:

(1) an informal meeting in compliance with Section 2001.054, Government Code, be scheduled and the advisory board give notice to the person who is the subject of a complaint of the time and place of the meeting not later than the 45th day before the date the meeting is held;

(2) the complainant and the person who is the subject of the complaint be provided an opportunity to be heard;

(3) at least one of the advisory board members participating in the informal meeting as a panelist be a member who represents the public;

(4) a member of the medical board's staff be at the meeting to present to the advisory board's representative the facts the staff reasonably believes it could prove by competent evidence or qualified witnesses at a hearing; and

(5) the advisory board's legal counsel or a representative of the attorney general be present to advise the advisory board or TMB's staff.

(c) Entitles the person who is the subject of the complaint to:

(1) reply to the staff's presentation; and

(2) present the facts the person reasonably believes the person could prove by competent evidence or qualified witnesses at a hearing.

(d) Requires the advisory board representative, after ample time is given for the presentations, to recommend that the investigation be closed or to attempt to mediate the disputed matters and make a recommendation regarding the disposition of the case in the absence of a hearing under applicable law concerning contested cases.

(e) Requires the advisory board, if the person who is the subject of the complaint has previously been the subject of disciplinary action by the advisory board, to schedule the informal meeting as soon as practicable.

(f) Provides that Section 601.275 applies to an investigation file and investigative information in the possession of or used by the advisory board in an informal proceeding under this section.

Sec. 601.312. ADVISORY BOARD REPRESENTATION IN INFORMAL PROCEEDINGS. (a) Requires at least two panelists, in an informal meeting under Section 601.311, to be appointed to determine whether an informal disposition is appropriate.

(b) Provides that an informal proceeding, notwithstanding Subsection (a) and Section 601.311(b)(3), may be conducted by one panelist if the person who is the subject of the complaint waives the requirement that at least two panelists conduct the informal proceeding. Provides that the panelist, if the person waives that requirement, may be any member of the advisory board.

(c) Provides that the panel requirements described by Subsections (a) and (b), except as provided by Subsection (d), apply to an informal proceeding conducted by the advisory board under Section 601.311, including a proceeding to:

(1) consider a disciplinary case to determine if a violation has occurred; or

(2) request modification or termination of an order.

(d) Provides that the panel requirements described by Subsections (a) and (b) do not apply to an informal proceeding conducted by the advisory board under Section 601.311 to show compliance with an order of the advisory board.

Sec. 601.313. ROLES AND RESPONSIBILITIES OF PARTICIPANTS IN INFORMAL PROCEEDINGS. (a) Requires an advisory board member who serves as a panelist at an informal meeting under Section 601.311 to make recommendations for the disposition of a complaint or allegation. Authorizes the member to request the assistance of a TMB employee at any time.

(b) Requires TMB employees to present a summary of the allegations against the person who is the subject of the complaint and of the facts pertaining to the allegation that the employees reasonably believe may be proven by competent evidence at a formal hearing.

(c) Requires an attorney for the advisory board or TMB to act as counsel to the panel and, notwithstanding Subsection (e), to be present during the informal meeting and the panel's deliberations to advise the panel on legal issues that arise during the proceeding. Authorizes the attorney to ask questions of a participant in the informal meeting to clarify any statement made by the participant. Requires the attorney to provide to the panel a historical perspective on comparable cases that have appeared before the advisory board or TMB, keep the proceedings focused on the case being discussed, and ensure that TMB's employees and the person who is the subject of the complaint have an opportunity to present information related to the case. Requires the attorney, during the panel's deliberations, to be present only to advise the panel on legal issues and to provide information on comparable cases that have appeared before the advisory board or TMB.

(d) Requires the panel and TMB employees to provide an opportunity for the person who is the subject of the complaint and the person's authorized representative to reply to TMB employees' presentation and to present oral and written statements and facts that the person and representative reasonably believe could be proven by competent evidence at a formal hearing.

(e) Prohibits an employee of TMB who participated in the presentation of the allegation or information gathered in the investigation of the complaint, the person who is the subject of the complaint, the person's authorized representative, the complainant, the witnesses, and members of the public from being present during the deliberations of the panel. Provides that only the members of the panel and the attorney serving as counsel to the panel may be present during the deliberations.

(f) Provides that the panel shall recommend the dismissal of the complaint or allegations or, if the panel determines that the person has violated a statute or advisory board rule, the panel may recommend advisory board action and terms for an informal settlement of the case.

(g) Requires the panel's recommendations under Subsection (f) to be made in a written order and presented to the affected person and the person's authorized representative. Authorizes the person to accept the proposed settlement within the time established by the panel at the informal meeting. Authorizes the advisory board, if the person rejects the proposed settlement or does not act within the required time, to proceed with the filing of a formal complaint with SOAH.

Sec. 601.314. LIMIT ON ACCESS TO INVESTIGATION FILES. Requires the advisory board to prohibit or limit access to an investigation file relating to a person subject to an informal proceeding in the manner provided by Sections 164.007(c) (providing that certain investigative information in the possession of or received or gathered by TMB or its employees or agents relating to a license holder, an application for license, or a criminal investigation or proceeding is privileged and confidential and is not subject to discovery, subpoena, or other means of legal compulsion for release to anyone other than TMB or its employees or agents involved in discipline of a license holder) and 601.275.

Sec. 601.315. REFUND. (a) Authorizes the advisory board, subject to Subsection (b), to order a certificate holder to pay a refund to a consumer as provided in an agreement resulting from an informal settlement conference instead of or in addition to imposing an administrative penalty under Subchapter H.

(b) Provides that the amount of a refund ordered as provided in an agreement resulting from an informal settlement conference may not exceed the amount the consumer paid to the certificate holder for a service regulated by this chapter. Provides that the advisory board may not require payment of other damages or estimate harm in a refund order.

Sec. 601.316. EXPERT IMMUNITY. Provides that an expert who assists the advisory board is immune from suit and judgment and may not be subjected to a suit for damages for any investigation, report, recommendation, statement, evaluation, finding, or other action taken in the course of assisting the advisory board in a disciplinary proceeding. Requires the attorney general to represent the expert in any suit resulting from a service provided by the person in good faith to the advisory board.

SECTION 2.037. Amends Section 601.351, Occupations Code, as follows:

Sec. 601.351. IMPOSITION OF PENALTY. Provides that the advisory board, rather than TDH, may impose an administrative penalty against a person who violates this chapter or a rule adopted under this chapter.

SECTION 2.038. Amends Section 601.353(a), Occupations Code, as follows:

(a) Requires the advisory board, rather than TDH, if, after investigating a possible violation and the facts surrounding that possible violation, the advisory board determines that a violation occurred, to give written notice of the violation to the person alleged to have committed the violation. Makes a conforming change.

SECTION 2.039. Amends Section 601.354, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, as follows:

Sec. 601.354. PENALTY TO BE PAID OR HEARING REQUESTED. (a) Provides that the person, not later than the 20th day after the date the person receives the notice, may:

(1) accept the determination, rather than accept TDH's determination, including the proposed administrative penalty; or

(2) Makes no change to this subdivision.

(b) Requires the advisory board, if the person accepts determination, by order to approve the determination and impose the proposed penalty, rather than requires TDH, if the person accepts TDH's determination, by order to approve the determination and impose the proposed penalty.

SECTION 2.040. Amends Section 601.355, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, as follows:

Sec. 601.355. HEARING. (a) Requires the advisory board, rather than TDH, if the person timely requests a hearing, to:

(1)-(3) Makes no change to these subdivisions.

(b) Requires the hearings examiner to make findings of fact and conclusions of law and promptly issue to the advisory board, rather than TDH, a proposal for

decision as to the occurrence of the violation and the amount of any proposed administrative penalty.

SECTION 2.041. Amends Section 601.356, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, as follows:

Sec. 601.356. New heading: DECISION BY ADVISORY BOARD. (a) Makes a conforming change.

(b) Requires the advisory board, rather than TDH, to give notice of the order to the person.

SECTION 2.042. Amends Sections 601.357(b) and (c), Occupations Code, as follows:

(b) Authorizes a person who acts under Subsection (a)(3), within the 30-day period, to:

(1) Makes no change to this subdivision:

(A) and (B) Makes no change to these paragraphs; or

(2) request the court to stay enforcement of the penalty by:

(A) Makes no change to this paragraph; and

(B) giving a copy of the affidavit to the advisory board, rather than TDH, by certified mail.

(c) Makes conforming changes.

SECTION 2.043. Amends Section 601.358, Occupations Code, to make a conforming change.

SECTION 2.044. Amends Section 601.360(a), Occupations Code, to make conforming changes.

SECTION 2.045. Amends Section 601.361, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, to make conforming changes.

SECTION 2.046. Amends Sections 601.401(a) and (c), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, as follows:

(a) Provides that the advisory board, rather than TDH, if it appears that a person has violated, is violating, or is threatening to violate this chapter or a rule adopted under this chapter, may bring an action to enjoin the continued or threatened violation.

(c) Makes a conforming change.

SECTION 2.047. Amends Section 601.402(a), Occupations Code, as follows:

(a) Provides that a person who is required to be certified under this chapter commits an offense if the person:

(1) knowingly administers a radiologic procedure to another person without holding a valid certificate issued by the advisory board, rather than TDH;

(2)-(8) Makes no change to these subdivisions.

SECTION 2.048. Amends Section 602.002, Occupations Code, by amending Subdivisions (1), as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, amending Subdivision (4), and adding Subdivision (5-a), as follows:

(1) Defines “advisory committee” to mean the Medical Physicist Licensure Advisory Committee, rather than defines “board” to mean the Texas Board of Licensure for Professional Medical Physicists.

(4) Provides that “license” means a certificate issued by the Texas Medical Board (TMB) that authorized the holder to engage in the practice of medical physics.

(5-a) Defines “medical board” to mean the Texas Medical Board.

SECTION 2.049. Amends the heading to Subchapter B, Chapter 602, Occupations Code, to read as follows:

**SUBCHAPTER B. MEDICAL PHYSICIST LICENSURE ADVISORY COMMITTEE**

SECTION 2.050. Amends Section 602.051, Occupations Code, as follows:

Sec. 602.051. New heading: **ADVISORY COMMITTEE**. (a) Provides that the Medical Physicist Licensure Advisory Committee (advisory committee) is an informal advisory committee to TMB and is not subject to Chapter 2110 (State Agency Advisory Committees), Government Code, rather than provides that the Texas Board of Licensure for Professional Medical Physicists (board) is the division of TDH responsible for regulating the practice of medical physics.

(b) Provides that the advisory committee has no independent rulemaking authority.

SECTION 2.051. Amends the heading to Section 602.052, Occupations Code, to read as follows:

Sec. 602.052. **APPOINTMENT OF ADVISORY COMMITTEE**.

SECTION 2.052. Amends Sections 602.052(a) and (d), Occupations Code, as follows:

(a) Provides that the advisory committee consists of seven members appointed by the president of TMB as follows:

(1) four medical physicists licensed in this state who each have at least five years of experience as a medical physicist;

(2) two physicians licensed in this state who each have at least five years of clinical experience related to medical physics; and

(3) one member who represents the public.

Deletes existing text providing that board consists of nine members appointed by the governor with the advice and consent of the senate as follows: five licensed medical physicists, with at least one board certified representative of each of certain specialties; three physicians, with a board certified representative of each of certain specialties, and one member who represents the public.

(d) Requires that appointments to the advisory committee, rather than to the board, be made without regard to the race, color, disability, creed, sex, religion, age, or national origin of the appointee.

SECTION 2.053. Amends the heading to Section 602.053, Occupations Code, to read as follows:

Sec. 602.053. **PUBLIC MEMBER ELIGIBILITY**.

SECTION 2.054. Amends Section 602.053(d), Occupations Code, as follows:

(d) Requires an advisory committee member representing the public, rather than a public board member representing the public, to be a resident of this state for a period of not less than four years preceding appointment. Prohibits a person from being a member of the advisory committee representing the public, rather than a public member of the board, if the person or the person's spouse:

- (1) is registered, certified, or licensed by a regulatory agency in a health care profession, rather than in the field of medical physics;
- (2) is employed by or participates in the management of a business entity or other organization regulated by or receiving money from TMB;
- (3) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by or receiving money from TMB; or
- (4) uses or receives a substantial amount of tangible goods, services, or money from TMB other than compensation or reimbursement authorized by law for TMB membership, attendance, or expenses.

SECTION 2.055. Amends Sections 602.054(b) and (c), Occupations Code, as follows:

- (b) Prohibits a person from being a member of the advisory committee, rather than the board, if certain criteria applies.
- (c) Provides that a person may not serve as a member of the advisory committee, rather than the board, if the person is required to register as a lobbyist under Chapter 305 (Registration of Lobbyists), Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the advisory committee or TMB.

SECTION 2.056. Amends Section 602.055, Occupations Code, as follows:

Sec. 602.055. TERMS; VACANCY. (a) Provides that members of the advisory committee serve two-year terms, rather than provides that members of the board serve staggered six-year terms. Provides that the terms of the members, rather than the terms of three members, expire on February 1 of each odd-numbered year.

- (b) Provides that a person is not eligible to serve more than two consecutive full terms, rather than more than one six-year terms.

Deletes existing text providing that a person may serve consecutively one six-year term and a shorter term that arises because of filling an unexpired vacancy.

- (c) Requires the president of TMB, if a vacancy occurs during a member's term, to appoint a person to serve for the unexpired term, rather than requires the governor, if a vacancy occurs on the board, to appoint a person to serve for the unexpired term.

SECTION 2.057. Amends Sections 602.056(a) and (b), Occupations Code, as follows:

- (a) Provides that it is a ground for removal from the advisory committee, rather than the board, that a member:
  - (1) does not have at the time of appointment the qualifications required by Section 602.052 for appointment to the advisory committee, rather than required by Section 602.053 for appointment to the board;
  - (2) Makes a conforming change;

(3) and (4) Makes nonsubstantive changes.

Deletes existing subdivision (5) providing that it is ground for removal from the board that a member does not attend at least half of the regularly scheduled board meetings held in a calendar year, excluding meetings held while the person was not a board member, without an excuse approved by the board.

(b) Provides that the validity of an action of the advisory committee is not affected by the fact that it is taken while a ground for removal of a member of the advisory committee exists, rather than provides that a the board action taken while a ground for removal of a member of the board exists is not invalid for that reason.

SECTION 2.058. Amends Section 602.057, Occupations Code, as follows:

Sec. 602.057. COMPENSATION. Entitles a member of the advisory committee, rather than TBH, to a per diem in an amount set by the legislature for each day that the member engages in the business of the advisory committee, rather than the board.

SECTION 2.059. Amends Section 602.058, Occupations Code, as follows:

Sec. 602.058. New heading: ADVISORY COMMITTEE OFFICERS; MEETINGS. (a) Requires the president of TMB to biennially designate a member of the advisory committee as the presiding officer of the advisory committee to serve in that capacity at the will of the president, rather than requires the governor to designate a member of the board as the presiding officer of the board to serve in that capacity at the will of the governor. Authorizes the advisory committee to elect from its members additional officers as necessary, rather than requires the board, at the first regularly scheduled meeting of each calendar year, to elect from its members an assistant presiding officer.

(b) Requires the advisory committee to meet as requested by TMB. Authorizes a meeting to be held by telephone conference call. Deletes existing text requiring the board to hold a meeting at least once a year and at other times in accordance with board rule.

(c) Provides that the advisory committee, except as otherwise provided by this chapter, is subject to Chapters 551, 552, and 2001, Government Code.

(d) Provides that a majority of the advisory committee members constitutes a quorum for all purposes except when advisory committee members are participating in a proceeding of the medical board as described by Section 602.151(b).

SECTION 2.060. Amends the heading to Subchapter D, Chapter 602, Occupations Code, to read as follows:

#### SUBCHAPTER D. MEDICAL BOARD POWERS AND DUTIES

SECTION 2.061. Amends Section 602.151, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, as follows:

Sec. 602.151. GENERAL POWERS AND DUTIES. (a) Creates this subsection from existing text. Requires TMB to:

(1) adopt rules reasonably necessary to properly perform its duties under this chapter; including:

(A) procedural rules governing investigations, informal hearings, the issuance of cease and desist orders, and disciplinary sanctions; and

(B) rules governing character and conduct for applicants or license holders and fitness to practice medical physics in this state;

(2) establish qualifications for a medical physicist to practice in this state and the fitness of each applicant for a license or license renewal;

(3) establish minimum education and training requirements necessary for a license under this chapter;

(4) establish requirements for examinations for licensure;

(5) prescribe the application form for a license under this chapter; and

(6) issue, deny, renew, revoke, cancel, restrict, suspend, or accept the surrender of a license;

(7) charge fees that are reasonable and necessary to cover the costs of administering this chapter;

(8) conduct informal hearings concerning violations of this chapter or rules adopted under this chapter;

(9) issue disciplinary sanctions, including agreed orders and non-disciplinary remedial plans; and

(10) establish procedures for making a confidential referral to the Texas Physician Health Program established under Chapter 167, and for requiring participation in the program as a prerequisite for issuing or maintaining a license under this chapter.

Deletes existing text requiring the board to adopt and revise, with the approval of the executive commissioner of the Health and Human Services Commission, rules reasonably necessary to properly perform its duties under this chapter; adopt an official seal; determine the qualifications and fitness of each applicant for a license or license renewal; charge a fee for processing and issuing or renewing a license; conduct examinations for licensure; issue, deny, renew, revoke, and suspend licenses; adopt and publish a code of ethics; and conduct hearings on complaints concerning violations of this chapter or rules adopted under this chapter. Makes nonsubstantive changes.

(b) Authorizes TMB to include any member of the advisory committee in a proceeding of TMB related to a power or duty described by Subsection (a) if TMB considers the expertise of the advisory committee member to be beneficial in the proceeding.

SECTION 2.062. Amends Section 602.152, Occupations Code, as follows:

Sec. 602.152. CONSUMER INTEREST INFORMATION; COMPLAINTS. (a) Requires TMB to prepare information of consumer interest describing the regulatory functions of TMB and the procedures by which complaints are filed with and resolved by TMB.

(b) Requires TMB to maintain a file on each written complaint filed with TMB. Requires that the file include certain information, including an explanation of the reason the file was closed, if TMB closed the file without taking action other than to investigate the complaint.

(c) Requires TMB to provide to the person filing the complaint and to each person who is a subject of the complaint a copy of TMB's policies and procedures relating to complaint investigation and resolution.

(d) Requires TMB, at least quarterly until final disposition of the complaint, to notify the person filing the complaint and each person who is a subject of the complaint of the status of the complaint unless the notice would jeopardize an undercover investigation.

SECTION 2.063. Amends Section 602.1521, Occupations Code, as follows:

Sec. 602.1521. PUBLIC PARTICIPATION. Requires TMB to develop and implement policies that provide the public with a reasonable opportunity to appear before TMB and to speak on any issue relating to medical physicists, rather than speak on any issue under the jurisdiction of the board.

SECTION 2.064. Amends the heading to Section 602.1525, Occupations Code, to read as follows:

Sec. 602.1525. SUBPOENAS; CONFIDENTIALITY OF INFORMATION.

SECTION 2.065. Amends Section 602.1525, Occupations Code, by amending Subsection (a), as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, amending Subsections (h) and (i), and adding Subsection (a-1), as follows:

(a) Authorizes the executive director of TMB, the director's designee, or the secretary-treasurer of TMB to issue a subpoena or subpoena duces tecum:

(1) to conduct an investigation or a contested case proceeding related to:

(A) alleged misconduct by a medical physicist;

(B) an alleged violation of this chapter or another law related to the practice of medical physics; or

(C) the provision of health care under this chapter; or

(2) for purposes of determining whether to issue, suspend, restrict, or revoke a license under this chapter.

Deletes existing text authorizing the board, in an investigation of a complaint filed with the board, to request that the commissioner or the commissioner's designee approve the issuance of a subpoena, and authorizing the board, if the request is approved, to issue a subpoena to compel the attendance of a relevant witness or the production, for inspection or copying, of relevant evidence that is in this state.

(a-1) Provides that failure to timely comply with a subpoena issued under this section is a ground for:

(1) disciplinary action by TMB or another licensing or regulatory agency with jurisdiction over the person subject to the subpoena; and

(2) denial of a license application.

(h) Provides that all information and materials subpoenaed or compiled by TMB in connection with a complaint and investigation are confidential and not subject to disclosure under Chapter 552, Government Code, and not subject to disclosure, discovery, subpoena, or other means of legal compulsion for their release to anyone other than TMB or its agents or employees who are involved in discipline of the holder of a license, except that this information may be disclosed to:

(1) persons involved with TMB in a disciplinary action against the holder of a license;

(2) Makes no change to this subdivision;

(3) peer assistance programs approved by TMB under Chapter 467, Health and Safety Code;

(4) and (5) Makes no change to these subdivisions.

(i) Provides that the filing of formal charges by TMB against a holder of a license, the nature of those charges, disciplinary proceedings of TMB, and final disciplinary actions, including warnings and reprimands, by TMB are not confidential and are subject to disclosure in accordance with Chapter 552, Government Code.

SECTION 2.066. Amends Section 602.153, Occupations Code, as follows:

Sec. 602.153. CONTINUING EDUCATION. Requires TMB to recognize, prepare, or administer continuing education programs for persons licensed under this chapter, rather than persons licensed by the board. Requires a license holder to participate in the programs to the extent required by TMB to keep the person's license.

SECTION 2.067. Amends Section 602.154, Occupations Code, to make conforming changes.

SECTION 2.068. Amends Subchapter D, Chapter 602, Occupations Code, by adding Section 602.156, as follows:

Sec. 602.156. RULES ON CONSEQUENCES OF CRIMINAL CONVICTION. Requires TMB to adopt rules and guidelines as necessary to comply with Chapter 53, except to the extent the requirements of this chapter are stricter than the requirements of Chapter 53.

SECTION 2.069. Amends Section 602.203, Occupations Code, as follows:

Sec. 602.203. LICENSE APPLICATION. (a) Provides that a person may apply for a license by filing an application with TMB.

(b) and (c) Makes conforming changes.

(d) Provides that TMB may require an applicant to appear before TMB to present additional information in support of the application, rather than provides that the board or the executive secretary may require an applicant to appear before the board or secretary to present additional information in support of the application.

SECTION 2.070. Amends Section 602.205, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, to change a reference to the board to TMB.

SECTION 2.071. Amends Section 602.206(a), Occupations Code, to make a conforming change.

SECTION 2.072. Amends Section 602.207(a), Occupations Code, to make conforming changes.

SECTION 2.073. Amends Section 602.208, Occupations Code, to make conforming changes.

SECTION 2.074. Amends Subchapter E, Chapter 602, Occupations Code, by adding Section 602.2081, as follows:

Sec. 602.2081. CRIMINAL HISTORY RECORD INFORMATION REQUIREMENT FOR LICENSE. (a) Requires TMB to require that an applicant for a license submit a

complete and legible set of fingerprints, on a form prescribed by TMB, to TMB or to DPS for the purpose of obtaining criminal history record information from DPS and the Federal Bureau of Investigation.

(b) Prohibits TMB from issuing license to a person who does not comply with the requirement of Subsection (a).

(c) Requires TMB to conduct a criminal history check of each applicant for a license using information:

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

(2) made available to TMB by DPS, the Federal Bureau of Investigation, and any other criminal justice agency under Chapter 411, Government Code.

(d) Authorizes TMB to:

(1) enter into an agreement with DPS to administer a criminal history check required under this section; and

(2) authorize DPS to collect from each applicant the costs incurred by DPS in conducting the criminal history check.

SECTION 2.075. Amends Sections 602.209(a), (b), (c), and (e), Occupations Code, as follows:

(a) Authorizes TMB to issue a license to an eligible applicant who:

(1) and (2) Makes no change to these subdivisions.

(b)-(e) Makes conforming changes to these subsections.

SECTION 2.076. Amends Section 602.210, Occupations Code, by amending Subsections (b), (c), (d), (e), and (f) and adding Subsection (g), as follows:

(b) Authorizes TMB by rule to adopt a system under which licenses expire on various dates during the year.

(c) and (d) Makes conforming changes.

(e) Provides that a person, if the person's license has been expired for longer than 90 days but less than one year, rather than two years, may renew the license by paying to TMB the renewal fee that was due at expiration and a penalty fee in an amount equal to the amount of the renewal fee.

(f) Prohibits a person, if the person's license has been expired for one year, rather than two years, or longer, from renewing the license. Requires a person, to obtain a new license, to comply with the requirements and procedures for obtaining an original license, including the examination requirement.

Deletes existing text from Subsection (f) requiring a person to comply with the application requirements of this chapter and to submit to the board a supplemental experience record as required by the board, a description of professional activities undertaken during the expiration period, a list of current professional references, and a transcript for any degree or college credit earned since the person's previous license application.

(g) Requires TMB, not later than the 30th day before the date a person's license expires, to send written notice of the impending license expiration to the person at the license holder's last known address according to the records of TMB.

SECTION 2.077. Amends Subchapter E, Chapter 602, Occupations Code, by adding Section 602.2101, as follows:

Sec. 602.2101. **CRIMINAL HISTORY RECORD INFORMATION REQUIREMENT FOR RENEWAL.** (a) Requires an applicant renewing a license to submit a complete and legible set of fingerprints for purposes of performing a criminal history check of the applicant as provided by Section 602.2081.

(b) Prohibits TMB from renewing the license of a person who does not comply with the requirement of Subsection (a).

(c) Provides that a license holder is not required to submit fingerprints under this section for the renewal of the license if the license holder has previously submitted fingerprints under:

(1) Section 602.2081 for the initial issuance of the license; or

(2) this section as part of a prior renewal of the license.

SECTION 2.078. Amends Section 602.211, Occupations Code, to change references to the board to TMB.

SECTION 2.079. Amends Section 602.212, Occupations Code, to make conforming changes.

SECTION 2.080. Amends Section 602.213, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, to make conforming changes.

SECTION 2.081. Amends Section 602.251, Occupations Code, to authorize TMB, rather than require TMB, to refuse to issue or renew a license, suspend, restrict, or revoke a license, or reprimand a license holder for certain actions, and to change references to the board to TMB.

SECTION 2.082. Amends Section 602.252, Occupations Code, as follows:

Sec. 602.252. New heading: **ADMINISTRATIVE PROCEDURE FOR CONTESTED CASE HEARING.** Provides that chapter 2001, Government Code, and TMB rules for a contested case hearing apply to a proceeding by TMB under this chapter in which a formal complaint has been filed, rather than provides that Chapters 2001 and 2002, Government Code, and board rules for a contested hearing apply to a proceeding by the board under this subchapter.

SECTION 2.083. Amends Subchapter F, Chapter 602, Occupations Code, by adding Section 602.2521, as follows:

Sec. 602.2521. **INFORMAL PROCEDURES.** (a) Requires TMB by rule to adopt procedures governing:

(1) informal disposition of a contested case under Section 2001.056 (Informal Disposition of Contested Case), Government Code; and

(2) informal proceedings held in compliance with Section 2001.054 (Licenses), Government Code.

(b) Requires that rules adopted under Subsection (a) must:

(1) provide the complainant, if applicable and permitted by law, an opportunity to be heard;

(2) provide the license holder an opportunity to be heard; and

(3) require TMB's legal counsel or a representative of the attorney general to be present to advise TMB or TMB's employees.

(c) Provides that Chapters 551 and 552, Government Code, do not apply to an investigation file and investigative information in the possession of or used by the medical board in an informal proceeding under this section.

SECTION 2.084. Amends Section 602.253, Occupations Code, as follows:

Sec. 602.253. PROBATION. Authorizes TMB to place on probation a person whose license is suspended. Authorizes TMB, if a license suspension is probated, to require the person to:

- (1) report regularly to TMB on matters that are the basis of the probation;
- (2) limit practice to the areas prescribed by TMB; or
- (3) continue or review professional education until the person attains a degree of skill satisfactory to TMB in those areas that are the basis of the probation.

SECTION 2.085. Amends Section 602.254(a), Occupations Code, as follows:

(a) Requires TMB or a three-member panel, rather than a three-member committee, of TMB members designated by the president of TMB to temporarily suspend the license of a license holder if TMB or panel, rather than committee, determines from the evidence or information presented to it that continued practice by the license holder would constitute a continuing and imminent threat to the public welfare.

SECTION 2.086. Amends Section 602.301, Occupations Code, to require TMB to prosecute or file suit to enjoin a violation of this chapter or a rule adopted under this chapter.

SECTION 2.087. Amends Section 602.3015, Occupations Code, as follows:

Sec. 602.3015. CIVIL PENALTY. (a) Provides that a person who violates this chapter or a rule adopted or order issued, rather than a rule or order adopted by the board) under this chapter is liable for a civil penalty not to exceed \$5,000 a day.

(b) Requires the attorney general, at the request of TMB to bring an action to recover a civil penalty authorized under this section.

SECTION 2.088. Amends Sections 602.351(a), (e), (g), (h), (i), (j), (k), and (l), Occupations Code, as follows:

(a) Authorizes TMB to impose an administrative penalty on a person licensed under this chapter who violates this chapter or a rule adopted or order issued, rather than adopted, under this chapter.

(e) Requires TMB, if TMB determines that a violation occurred, to give written notice by certified mail to the person, rather than requires the executive if the executive secretary determines that a violation occurred, to give written notice of the report by certified mail to the person.

(g) Provides that the person in writing, within 20 days after the date the person receives the notice under Subsection (e), may:

- (1) accept the determination and recommended penalty, rather than accept the determination and recommended penalty of the executive secretary; or
- (2) Makes no change to this subdivision.

(h) Requires TMB by order, if the person accepts the determination and recommended penalty or if the person fails to respond to the notice, to approve the determination and impose the recommended penalty.

(i)-(l) Makes conforming changes to these subsections.

SECTION 2.089. Amends Sections 602.352(a), (b), and (c), Occupations Code, to make conforming changes.

SECTION 2.090. Amends Sections 603.002(2) and (3), Occupations Code, as follows:

(2) Defines “advisory committee” to mean the Perfusionist Licensure Advisory Committee, rather than defines “committee” to mean the Texas State Perfusionist Advisory Committee.

(3) Defines “medical board” to mean the Texas Medical Board, rather than defines “department” to mean the Texas Department of State Health Services.

SECTION 2.091. Amends Section 603.006, Occupations Code, as follows:

Sec. 603.006. APPLICABILITY OF OTHER LAW. Provides that Chapter 2110 (State Agency Advisory Committees), Government Code, does not apply to the Perfusionist Licensure Advisory Committee (advisory committee).

SECTION 2.092. Amends the heading to Subchapter B, Chapter 603, Occupations Code, to read as follows:

#### SUBCHAPTER B. PERFUSIONIST LICENSURE ADVISORY COMMITTEE

SECTION 2.093. Amends Section 603.051, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, as follows:

Sec. 603.051. ADVISORY COMMITTEE MEMBERSHIP. (a) Provides that the advisory committee is an informal advisory committee to TMB. Provides that the advisory committee has no independent rulemaking authority.

(a-1) Creates this subsection from existing text. Provides that the advisory committee, rather than the Texas State Perfusionist Advisory Committee) consists of seven, rather than five, members appointed by the president of TMB, rather than appointed by the commissioner of state health services (commissioner), as follows:

(1) four perfusionists licensed in this state who each have at least five years of experience as a perfusionist, rather than two licensed perfusionist members who have been licensed under this chapter for at least three years before the date of appointment;

(2) two physicians licensed in this state who supervise perfusionists, rather than one physician member licensed by TMB who is certified by that board in cardiovascular surgery; and

(3) one member who represents the public, rather than two members who represent the public.

(b) Requires that appointments to the advisory committee reflect the historical and cultural diversity of the inhabitants of this state.

(c) Requires that appointments to the advisory committee be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.

SECTION 2.094. Amends Section 603.0511, Occupations Code, as follows:

Sec. 603.0511. New heading: PUBLIC MEMBER ELIGIBILITY. Prohibits a person from being a public member of the advisory committee if the person or the person's spouse:

- (1) is registered, certified, or licensed by a regulatory agency in a health care profession, rather than in the field of health care;
- (2) is employed by or participates in the management of a business entity or other organization regulated by or receiving money from TMB, rather than DSHS;
- (3) Makes a conforming change; or
- (4) uses or receives a substantial amount of tangible goods, services, or money from TMB, rather than DSHS, other than compensation or reimbursement authorized by law for advisory committee membership, attendance, or expenses.

SECTION 2.095. Amends Sections 603.052(b) and (c), Occupations Code, as follows:

(b) Provides that a person may not be an advisory committee member, rather than provides that a person may not be a committee member and may not be DSHS employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), if:

- (1) and (2) Makes no change to these subdivisions.

(c) Provides that a person may not be a member of the advisory committee or act as the general counsel to the advisory committee, rather than to the committee or DSHS, if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the advisory committee or TMB, rather than to the operation of DSHS.

SECTION 2.096. Amends Section 603.053, Occupations Code, as follows:

Sec. 603.053. New heading: TERMS; VACANCY. (a) Provides that members of the advisory committee serve two-year terms, rather than serve staggered six-year terms. Provides that the terms of the members expire on February 1 of each odd-numbered year, rather than provides that the terms of one or two members, as appropriate, expire on February 1 of each odd-numbered year.

- (b) Requires the president of TMB, if a vacancy occurs during a member's term, to appoint a person to serve for the unexpired term.

SECTION 2.097. Amends Sections 603.054(a) and (b), Occupations Code, as follows:

(a) Provides that it is a ground for removal from the advisory committee that a member:

- (1) Makes no change to this subdivision;
- (2) does not maintain during service on the advisory committee the qualifications required by Section 603.051;
- (3)-(4) Makes nonsubstantive changes to these subdivisions.

Deletes existing Subdivision (5) providing that it is a ground for removal from the committee that a member is absent from more than half of the regularly scheduled committee meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the committee.

(b) Provides that the validity of an action of the advisory committee is not affected by the fact that it is taken when a ground for removal of a member of the advisory committee exists.

SECTION 2.098. Amends Section 603.056, Occupations Code, as follows:

Sec. 603.056. OFFICERS. (a) Requires the president of TMB to designate biennially an advisory committee member as the presiding officer of the advisory committee to serve in that capacity at the will of the president, rather than requires the commissioner, not later than the 30th day after the date the commissioner appoints new committee members, to designate a presiding officer. Deletes existing text providing that the presiding officer serves at the pleasure of the commissioner.

(b) Provides that the advisory committee may appoint additional officers as necessary.

SECTION 2.099. Amends Section 603.057, Occupations Code, as follows:

Sec. 603.057. MEETINGS. Requires the advisory committee to meet as requested by TMB, rather than to meet subject to the call of the commissioner. Authorizes a meeting to be held by telephone conference call.

SECTION 2.100. Amends the heading to Subchapter D, Chapter 603, Occupations Code, to read as follows:

#### SUBCHAPTER D. MEDICAL BOARD POWERS AND DUTIES

SECTION 2.101. Amends Section 603.151, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, as follows:

Sec. 603.151. New heading: GENERAL POWERS AND DUTIES. Requires TMB to:

- (1) establish the qualifications for a perfusionist to practice in this state, including rules governing character and conduct for applicants or license holders and fitness of applicants or license holders to practice;
- (2) issue, revoke, restrict, suspend, deny, cancel, or accept the surrender of a license;
- (3) charge fees that are reasonable and necessary to cover the costs of administering this chapter;
- (4) establish requirements for an examination for a license under this chapter;
- (5) establish minimum education and training requirements necessary for a license under this chapter;
- (6) prescribe the application form for a license under this chapter;
- (7) adopt and publish a code of ethics;
- (8) establish procedural rules governing investigations, informal hearings, the issuance of cease and desist orders, and disciplinary sanctions;
- (9) conduct informal hearings concerning violations of this chapter or rules adopted under this chapter;
- (10) issue disciplinary sanctions, including agreed orders and non-disciplinary remedial plans; and

(11) establish procedures for making a confidential referral to the Texas Physician Health Program established under Chapter 167, and for requiring participation in the program as a prerequisite for issuing or maintaining a license under this chapter.

Deletes existing text requiring DSHS to establish qualifications and fitness of applicants for licenses, including renewed and reciprocal licenses; revoke, suspend, or deny a license, probate a license suspension, or reprimand a license holder for a violation of this chapter, a rule adopted by the executive commissioner under this chapter, or the code of ethics adopted by the executive commissioner; spend money necessary to administer DSHS's duties; request and receive necessary assistance from another state agency, including a state educational institution; adopt an official seal; and publish the code of ethics adopted by the executive commissioner.

SECTION 2.102. Amends Section 603.152, Occupations Code, as follows:

Sec. 603.152. GENERAL RULEMAKING AUTHORITY. Provides that TMB, rather than the executive commissioner, may adopt rules necessary to:

- (1) and (2) Makes no change to these subdivisions; and
- (3) perform TMB, rather than DSHS, duties under this chapter.

SECTION 2.103. Amends Section 603.153, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, as follows:

Sec. 603.153. RULES RESTRICTING ADVERTISING OR COMPETITIVE BIDDING. (a) Provides that TMB, rather than the executive commissioner, may not adopt a rule restricting advertising or competitive bidding by a person regulated by TMB, rather than DSHS, under this chapter except to prohibit a false, misleading, or deceptive practice.

(b) Provides that TMB, rather than the executive commissioner, may not include in rules to prohibit a false, misleading, or deceptive practice by a person regulated by TMB, rather than DSHS, under this chapter certain restrictive rules as set forth.

SECTION 2.104. Amends Section 603.1535, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, as follows:

Sec. 603.1535. RULES ON CONSEQUENCES OF CRIMINAL CONVICTION. (a) Requires TMB, rather than the executive commissioner, to adopt rules necessary to comply with Chapter 53, except to the extent the requirements of this chapter are stricter than the requirements of Chapter 53.

(b) Requires TMB, rather than the executive commissioner, in rules under this section, to list the specific offenses for which a conviction would constitute grounds for TMB, rather than DSHS, to take action under Section 53.021 (Authority to Revoke, Suspend, or Deny License).

SECTION 2.105. Amends Section 603.154, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, by amending Subsection (a) to require TMB to set fees in amounts reasonable and necessary to cover the costs of administering this chapter, rather than to require the executive commissioner, after consulting the commissioner or DSHS, to set fees in amounts reasonable and necessary to cover the costs of administering this chapter.

SECTION 2.106. Amends Section 603.155, Occupations Code, as follows:

Sec. 603.155. New heading: DUTIES REGARDING COMPLAINTS. (a) Requires TMB, rather than the executive commissioner, by rule to:

(1) adopt a form to standardize information concerning complaints made to TMB, rather than DSHS; and

(2) Makes a conforming change.

(b) Makes conforming changes.

SECTION 2.107. Amends Section 603.156, Occupations Code, to change a reference to DSHS to TMB.

SECTION 2.108. Amends Section 603.201, Occupations Code, to change a reference to DSHS to TMB.

SECTION 2.109. Amends Section 603.202, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, as follows:

Sec. 603.202. COMPLAINTS. (a) Requires TMB, rather than the executive commissioner, by rule to establish methods by which consumers and service recipients are notified of the name, mailing address, and telephone number of TMB, rather than DSHS for the purpose of directing complaints under this chapter to TMB, rather than DSHS. Provides that TMB, rather than DSHS, may provide for that notice certain criteria.

(b) Requires TMB, rather than DSHS, to list with its regular telephone number any toll-free telephone number established under other state law that may be called to present a complaint about a health professional.

SECTION 2.110. Amends Section 603.203, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, as follows:

Sec. 603.203. RECORDS OF COMPLAINTS. (a) Requires TMB, rather than DSHS, to maintain a system to promptly and efficiently act on complaints filed under this chapter, rather than filed with DSHS. Requires TMB, rather than DSHS, to maintain certain information.

(b) and (c) Changes references to DSHS to TMB.

SECTION 2.111. Amends Sections 603.204, Occupations Code, by amending Subsections (a) and (d), as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, and amending Subsection (b), as follows:

(a) Requires TMB, rather than the executive commissioner, to adopt rules concerning the investigation of a complaint filed under this chapter, rather than filed with DSHS. Requires that the rules:

(1) and (2) Makes no change to these subdivisions;

(3) require that if a complaint is dismissed, a letter shall be sent to the person who filed the complaint explaining the action taken on the dismissed complaint, rather than require that DSHS be advised of a complaint that is dismissed and that a letter be sent to the person who filed the complaint explaining the action taken on the dismissed complaint;

(4) Makes no change to this subdivision; and

(5) prescribe guidelines concerning the categories of complaints that require the use of a private investigator and the procedures for TMB, rather than DSHS, to obtain the services of a private investigator.

(b) Changes references to DSHS to TMB.

(d) Requires the executive director of TMB to notify the president of TMB of a complaint that is not resolved within the time prescribed by TMB for resolving the complaint so that the president may take necessary action on the complaint, rather than requires the executive secretary to notify DSHS of a complaint that is not resolved within the time prescribed by DSHS for resolving the complaint so that DSHS may take necessary action on the complaint.

SECTION 2.112. Amends the heading to Section 603.2041, Occupations Code, to read as follows:

Sec. 603.2041. SUBPOENAS; CONFIDENTIALITY OF INFORMATION.

SECTION 2.113. Amends Section 603.2041, Occupations Code, by amending Subsections (a), (h), and (i), as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, and adding Subsection (a-1), as follows:

(a) Provides that the executive director of TMB, the director's designee, or the secretary-treasurer of TMB may issue a subpoena or subpoena duces tecum:

(1) to conduct an investigation or a contested case proceeding related to:

(A) alleged misconduct by a perfusionist;

(B) an alleged violation of this chapter or another law related to the practice of perfusion; or

(C) the provision of health care under this chapter; or

(2) for purposes of determining whether to issue, suspend, restrict, or revoke a license under this chapter.

Deletes existing text authorizing DSHS, in an investigation of a complaint filed with DSHS, to issue a subpoena to compel the attendance of a relevant witness or the production, for inspection or copying, of relevant evidence that is in this state.

(a-1) Provides that failure to timely comply with a subpoena issued under this section is a ground for:

(1) disciplinary action by the medical board or another licensing or regulatory agency with jurisdiction over the person subject to the subpoena; and

(2) denial of a license application.

(h) Changes references to DSHS to TMB.

(i) Makes conforming changes to this subsection.

SECTION 2.114. Amends Section 603.205, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, as follows:

Sec. 603.205. PUBLIC PARTICIPATION. (a) Requires TMB, rather than DSHS, to develop and implement policies that provide the public with a reasonable opportunity to appear before TMB, rather than DSHS, and to speak on any issue related to the practice of perfusion.

(b) Requires TMB, rather than DSHS, to prepare and maintain a written plan that describes how a person who does not speak English or who has a physical, mental, or developmental disability may be provided reasonable access to TMB's, rather than DSHS's, programs under this chapter.

SECTION 2.115. Amends Section 603.252(b), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, as follows:

(b) Requires TMB to prescribe the application form and by rule may establish dates by which applications and fees must be received, rather than requires DSHS to prescribe the application form and the executive commissioner by rule may establish dates by which applications and fees must be received.

SECTION 2.116. Amends Sections 603.253(b), (c), (d), and (e), Occupations Code, as follows:

(b) Requires TMB, rather than DSHS, to prepare or approve an examination. Provides that TMB, rather than DSHS, may prescribe an examination that consists of or includes a written examination given by the American Board of Cardiovascular Perfusion or by a national or state testing service.

(c)-(e) Makes conforming changes to these subsections.

SECTION 2.117. Amends Sections 603.2535(b) and (c), Occupations Code, as follows:

(b) Requires TMB, rather than DSHS, to develop and administer at least twice each calendar year a jurisprudence examination to determine an applicant's knowledge of this chapter, rules adopted under this chapter, rather than rules adopted by the executive commissioner, and any other applicable laws of this state affecting the applicant's practice of perfusion.

(c) Changes a reference to executive commissioner to TMB.

SECTION 2.118. Amends Section 603.254, Occupations Code, as follows:

Sec. 603.254. QUALIFICATION FOR EXAMINATION. (a) Requires an applicant, to qualify for the licensing examinations under this chapter, to have successfully completed a perfusion education program approved by TMB, rather than DSHS.

(b) Makes a conforming change to this subsection.

SECTION 2.119. Amends Section 603.255(a), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, as follows:

(a) Requires TMB, rather than DSHS, to notify an applicant in writing of the receipt and investigation of the applicant's application and any other relevant evidence relating to qualifications established by rule, rather than relating to qualifications established by DSHS rule, not later than certain dates as set forth.

SECTION 2.120. Amends Section 603.256, Occupations Code, as follows:

Sec. 603.256. EXAMINATION RESULTS. (a) Requires TMB, rather than DSHS, to notify each examinee of the examination results not later than the 30th day after the date the examination is administered. Requires TMB, rather than DSHS, if an examination is graded or reviewed by a national or state testing service, to notify each examinee of the examination results not later than the 14th day after the date TMB, rather than DSHS, receives the results from the testing service.

(b) and (c) Makes conforming changes to these subsections.

SECTION 2.121. Amends Section 603.257, Occupations Code, as follows:

Sec. 603.257. REEXAMINATION AND ALTERNATIVES TO EXAMINATION. Requires TMB, rather than the executive commissioner, by rule to establish certain criteria related to examinations.

SECTION 2.122. Amends Subchapter F, Chapter 603, Occupations Code, by adding Section 603.2571, as follows:

Sec. 603.2571. CRIMINAL HISTORY RECORD INFORMATION REQUIREMENT FOR LICENSE. (a) Requires TMB to require that an applicant for a license submit a complete and legible set of fingerprints, on a form prescribed by TMB, to TMB or to DPS for the purpose of obtaining criminal history record information from DPS and the Federal Bureau of Investigation.

(b) Provides that TMB may not issue a license to a person who does not comply with the requirement of Subsection (a).

(c) Requires TMB to conduct a criminal history check of each applicant for a license using information:

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

(2) made available to TMB by DPS, the Federal Bureau of Investigation, and any other criminal justice agency under Chapter 411, Government Code.

(d) Authorizes TMB to:

(1) enter into an agreement with DPS to administer a criminal history check required under this section; and

(2) authorize DPS to collect from each applicant the costs incurred by DPS in conducting the criminal history check.

SECTION 2.123. Amends Section 603.259, Occupations Code, by amending Subsections (a) and (d) and Subsection (c), as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, as follows:

(a) Authorizes TMB, rather than DSHS, to issue a provisional license to an applicant who files an application, pays an application fee, and submits evidence satisfactory to TMB, rather than DSHS, of successful completion of the education requirement under Section 603.254.

(c) Authorizes supervision and direction to be provided by a physician who is licensed by TMB and certified by the American Board of Thoracic Surgery or certified by the American Osteopathic Board of Surgery, if TMB finds that a licensed perfusionist is not reasonably available to provide supervision and direction and if TMB approves an application submitted by the provisionally licensed perfusionist, rather than if DSHS finds that a licensed perfusionist is not reasonably available to provide supervision and direction and if DSHS approves an application submitted to DSHS by the provisionally licensed perfusionist.

(d) Prohibits TMB, rather than the executive commissioner, from adopting a rule governing supervision and direction that requires the immediate physical presence of the supervising person.

SECTION 2.124. Amends Sections 603.301(b), (c), (d), and (f), Occupations Code, as follows:

(b) Authorizes TMB, rather than the executive commissioner, by rule to adopt a system under which licenses expire on various dates during the year.

(c), (d), and (f) Changes references to DSHS to TMB.

SECTION 2.125. Amends Section 603.303, Occupations Code, as follows:

Sec. 603.303. RENEWAL OF EXPIRED LICENSE BY OUT-OF-STATE PRACTITIONER. (a) Provides that TMB, rather than DSHS, may renew without reexamination an expired license of a person who was licensed as a perfusionist in this state, moved to another state, and is licensed or certified and has been in practice in the other state for the two years preceding the date the person applies for renewal.

(b) Makes a conforming change.

SECTION 2.126. Amends Subchapter G, Chapter 603, Occupations Code, by adding Section 603.3031, as follows:

Sec. 603.3031. CRIMINAL HISTORY RECORD INFORMATION REQUIREMENT FOR RENEWAL. (a) Requires an applicant renewing a license to submit a complete and legible set of fingerprints for purposes of performing a criminal history check of the applicant as provided by Section 603.2571.

(b) Provides that TMB may not renew the license of a person who does not comply with the requirement of Subsection (a).

(c) Provides that a license holder is not required to submit fingerprints under this section for the renewal of the license if the license holder has previously submitted fingerprints under:

(1) Section 603.2571 for the initial issuance of the license; or

(2) this section as part of a prior renewal of the license.

SECTION 2.127. Amends Section 603.304, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, as follows:

Sec. 603.304. CONTINUING EDUCATION. (a) Requires a person, to renew a license under this chapter, to submit proof satisfactory to TMB, rather than DSHS, that the person has complied with the continuing education requirements prescribed by TMB, rather than the executive commissioner.

(b) Requires TMB, rather than the executive commissioner, to establish continuing education programs for licensed perfusionists and provisionally licensed perfusionists under this chapter.

(c) Makes a conforming change.

(d) Makes conforming changes.

SECTION 2.128. Amends Section 603.305, Occupations Code, as follows:

Sec. 603.305. GROUNDS FOR REFUSING RENEWAL. Authorizes TMB, rather than DSHS, to refuse to renew the license of a person who fails to pay an administrative penalty imposed under Subchapter K unless enforcement of the penalty is stayed or a court has ordered that the administrative penalty is not owed.

SECTION 2.129. Amends Section 603.352, Occupations Code, to change a reference to DSHS to TMB.

SECTION 2.130. Amends Section 603.353, Occupations Code, to make conforming changes.

SECTION 2.131. Amends Section 603.401, Occupations Code, as follows:

Sec. 603.401. **GROUND FOR DISCIPLINARY ACTION.** Authorizes TMB, rather than DSHS, if a license holder violates this chapter or a rule or code of ethics adopted under this chapter, rather than adopted by the executive commissioner, to:

- (1) revoke, restrict, or suspend the license;
- (2)-(4) Makes no change to these subdivisions.

SECTION 2.132. Amends Section 603.402, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, as follows:

Sec. 603.402. New heading: **CONTESTED CASE HEARING.** (a) Provides that Chapter 2001, Government Code, and TMB rules for a contested case hearing apply to a proceeding by TMB under this chapter in which a formal complaint has been filed.

Deletes existing text entitling a person, if DSHS proposes to revoke, suspend, or refuse to renew the person's license, to a hearing before a hearing officer appointed by the State Office of Administrative Hearings (SOAH). Deletes existing Subsection (b) requiring the executive commissioner to prescribe procedures for appealing to DSHS a decision to revoke, suspend, or refuse to renew a license.

SECTION 2.133. Amends Section 603.404(a), Occupations Code, to require TMB, rather than the executive commissioner, by rule to adopt a broad schedule of sanctions for a violation of this chapter.

SECTION 2.134. Amends Section 603.405, Occupations Code, as follows:

Sec. 603.405. **PROBATION.** Authorizes TMB, rather than DSHS, to require a person whose license suspension is probated to:

- (1)-(3) Makes conforming changes.

SECTION 2.135. Amends Section 603.406, Occupations Code, as follows:

Sec. 603.406. **MONITORING OF LICENSE HOLDER.** (a) Requires TMB, rather than the executive commissioner, by rule to develop a system for monitoring a license holder's compliance with the requirements of this chapter.

(b) Requires that rules adopted under this section include procedures to:

- (1) monitor for compliance a license holder who is ordered by TMB, rather than DSHS, to perform certain acts; and
- (2) Makes no change to this subdivision.

SECTION 2.136. Amends Section 603.407, Occupations Code, as follows:

Sec. 603.407. **INFORMAL PROCEDURES.** (a) Requires TMB, rather than the executive commissioner, by rule to adopt procedures governing:

- (1) and (2) Makes no change to these subdivisions.

(b) Requires that rules adopted under Subsection (a):

- (1) provide the complainant, if applicable and permitted by law, an opportunity to be heard;

(2) provide the license holder an opportunity to be heard; and

(3) require the presence of a representative of the attorney general or TMB's legal counsel to advise TMB or TMB's employees, rather than requires the presence of a representative of the attorney general or DSHS legal counsel to advise DSHS or DSHS's employees.

Deletes existing text requiring that rules adopted under Subsection (a) provide the complainant and the license holder an opportunity to be heard. Makes nonsubstantive changes.

(c) Provides that Chapters 551 and 552, Government Code, do not apply to an investigation file and investigative information in the possession of or used by TMB in an informal proceeding under this section.

SECTION 2.137. Amends Section 603.408(a), Occupations Code, to require TMB or a three-member panel of TMB members designated by the president of TMB to temporarily suspend the license of a license holder if TMB or the panel determines from the evidence or information presented to it that continued practice by the license holder would constitute a continuing and imminent threat to the public welfare, rather than requires DSHS to temporarily suspend the license of a license holder if DSHS determines from the evidence or information presented to it that continued practice by the license holder would constitute a continuing and imminent threat to the public welfare.

SECTION 2.138. Amends Section 603.409, Occupations Code, as follows:

Sec. 603.409. REFUND. (a) Authorizes TMB, rather than DSHS, subject to Subsection (b), to order a license holder to pay a refund to a consumer as provided in an agreement resulting from an informal settlement conference instead of or in addition to imposing an administrative penalty under this chapter.

(b) Makes a conforming change.

SECTION 2.139. Amends Section 603.451(a), Occupations Code, to make a conforming change.

SECTION 2.140. Amends Section 603.4515, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, as follows:

Sec. 603.4515. CIVIL PENALTY. (a) Provides that a person who violates this chapter or a rule adopted or an order issued under this chapter is liable for a civil penalty not to exceed \$5,000 a day, rather than provides that a person who violates this chapter, a rule adopted by the executive commissioner under this chapter, or an order adopted by DSHS under this chapter is liable for a civil penalty not to exceed \$5,000 a day.

(b) Requires the attorney general, at the request of TMB, rather than DSHS, to bring an action to recover a civil penalty authorized under this section.

SECTION 2.141. Amends Section 603.453(a), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, to authorize TMB, rather than DSHS, after notice and an opportunity for a hearing, if it appears to TMB, rather than DSHS, that a person who is not licensed under this chapter is violating this chapter, a rule adopted under this chapter, or another state statute or rule relating to the practice of perfusion, to issue a cease and desist order prohibiting the person from engaging in the activity.

SECTION 2.142. Amends Section 603.501, Occupations Code, to authorize TMB, rather than DSHS, to impose an administrative penalty on a person licensed under this chapter who violates this chapter or a rule or order adopted under this chapter.

SECTION 2.143. Amends Section 603.502(c), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, as follows:

(c) Requires TMB, rather than the executive commissioner, by rule to adopt an administrative penalty schedule based on the criteria listed in Subsection (b) for violations of this chapter or applicable rules to ensure that the amounts of penalties imposed are appropriate to the violation. Requires TMB, rather than DSHS, to provide the administrative penalty schedule to the public on request.

SECTION 2.144. Amends Section 603.503, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, as follows:

Sec. 603.503. NOTICE OF VIOLATION AND PENALTY. Requires TMB, rather than DSHS, if TMB, rather than DSHS, determines that a violation occurred, to give written notice of the violation to the person. Requires that the notice:

- (1) include a brief summary of the alleged violation;
- (2) state the amount of the recommended administrative penalty, rather than state the amount of the administrative penalty recommended by DSHS; and
- (3) inform the person of the person's right to a hearing on the occurrence of the violation, the amount of the penalty, or both.

SECTION 2.145. Amends Section 603.504, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, as follows:

Sec. 603.504. PENALTY TO BE PAID OR HEARING REQUESTED. (a) Provides that the person in writing, within 10 days after the date the person receives the notice, may:

- (1) accept the determination and recommended administrative penalty of TMB, rather than DSHS; or
- (2) Makes no change to this subdivision.

(b) Requires TMB, rather than DSHS, by order, if the person accepts the determination and recommended penalty of TMB, rather than DSHS, to approve the determination and impose the recommended penalty.

SECTION 2.146. Amends Sections 603.505(a) and (c), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, as follows:

(a) Requires TMB, rather than DSHS, if the person requests a hearing or fails to respond in a timely manner to the notice, to set a hearing and give written notice of the hearing to the person.

(c) Requires the administrative law judge to make findings of fact and conclusions of law and promptly issue to TMB, rather than DSHS, a proposal for a decision about the occurrence of the violation and the amount of a proposed administrative penalty.

SECTION 2.147. Amends Section 603.506, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, as follows:

Sec. 603.506. New heading: DECISION BY MEDICAL BOARD. (a) and (b) Changes references to DSHS to TMB.

SECTION 2.148. Amends Sections 603.507(a), (b), and (c), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, as follows:

(a) Changes a reference to DSHS to TMB.

(b) and (c) Makes conforming changes.

SECTION 2.149. Amends Sections 604.001(1) and (2), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, as follows:

(1) Defines “advisory board” to mean the Texas Board of Respiratory Care, rather than defines “department” to mean DSHS.

(2) Defines “medical board” to mean the Texas Medical Board, rather than defines “executive commissioner” to mean the executive commissioner of HHSC.

SECTION 2.150. Amends Section 604.003, Occupations Code, to change a reference to the Texas Department of Health (TDH) to the Texas Board of Respiratory Care (advisory board).

SECTION 2.151. Amends Chapter 604, Occupations Code, by adding Subchapter A-1, as follows:

#### SUBCHAPTER A-1. TEXAS BOARD OF RESPIRATORY CARE

Sec. 604.021. TEXAS BOARD OF RESPIRATORY CARE. Provides that the advisory board is an advisory board to TMB.

Sec. 604.022. APPOINTMENT OF ADVISORY BOARD. (a) Provides that the advisory board consists of nine members appointed by the governor with the advice and consent of the senate as follows:

- (1) four respiratory care practitioners who each have at least five years of experience as a respiratory care practitioner;
- (2) two physicians licensed in this state who supervise respiratory care practitioners; and
- (3) three members who represent the public.

(b) Requires that appointments to the advisory board be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.

Sec. 604.023. MEMBERSHIP ELIGIBILITY AND RESTRICTIONS. (a) Defines “Texas trade association.”

(b) Prohibits a person from being a public member of the advisory board if the person or the person's spouse:

- (1) is registered, certified, or licensed by a regulatory agency in a health care profession;
- (2) is employed by or participates in the management of a business entity or other organization regulated by or receiving money from TMB or advisory board;
- (3) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by or receiving money from TMB or the advisory board; or
- (4) uses or receives a substantial amount of tangible goods, services, or money from TMB or the advisory board other than compensation or

reimbursement authorized by law for advisory board membership, attendance, or expenses.

(c) Prohibits a person from being a member of the advisory board if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of health care; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of health care.

(d) Prohibits a person from being a member of the advisory board or acting as the general counsel to the advisory board if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of TMB or advisory board.

Sec. 604.024. TERMS; VACANCIES. (a) Provides that members of the advisory board are appointed for staggered six-year terms. Provides that the terms of three members expire on February 1 of each odd-numbered year.

(b) Prohibits a member from serving more than:

(1) two consecutive full terms; or

(2) a total of three full terms.

(c) Requires the governor, if a vacancy occurs during a member's term, to appoint a new member to fill the unexpired term.

Sec. 604.025. OFFICERS. Requires the governor to designate a member of the advisory board as the presiding officer of the advisory board to serve in that capacity at the will of the governor. Requires the advisory board to select from its membership an assistant presiding officer and other officers as the advisory board considers necessary to carry out the advisory board's duties.

Sec. 604.026. GROUNDS FOR REMOVAL. (a) Provides that it is a ground for removal from the advisory board that a member:

(1) does not have at the time of taking office the qualifications required by Sections 604.022 and 604.023;

(2) does not maintain during service on the advisory board the qualifications required by Sections 604.022 and 604.023;

(3) is ineligible for membership under Section 604.023;

(4) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term; or

(5) is absent from more than half of the regularly scheduled advisory board meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the advisory board.

(b) Provides that the validity of an action of the advisory board is not affected by the fact that it is taken when a ground for removal of an advisory board member exists.

(c) Requires the executive director of TMB, if the executive director of TMB has knowledge that a potential ground for removal exists, to notify the presiding

officer of the advisory board of the potential ground. Requires the presiding officer to then notify the governor and the attorney general that a potential ground for removal exists. Requires the executive director to notify the next highest ranking officer of the advisory board, if the potential ground for removal involves the presiding officer, who shall then notify the governor and the attorney general that a potential ground for removal exists.

Sec. 604.027. PER DIEM. Entitles a member of the advisory board to receive a per diem as set by legislative appropriation for each day that the member engages in the business of the advisory board.

Sec. 604.028. APPLICATION OF OPEN MEETINGS, OPEN RECORDS, AND ADMINISTRATIVE PROCEDURE LAWS. Provides that the advisory board, except as otherwise provided by this chapter, is subject to Chapters 551, 552, and 2001, Government Code.

Sec. 604.029. MEETINGS; QUORUM REQUIREMENTS. (a) Requires the advisory board to conduct regular meetings at least three times a year at the times and places the advisory board considers most convenient for applicants and advisory board members.

(b) Authorizes the advisory board to hold special meetings in accordance with rules adopted by the advisory board and approved by TMB.

(c) Provides that a majority of the advisory board members constitutes a quorum for all purposes except for an advisory board activity related to examining the credentials of applicants, acting as a panel for disciplinary action under Section 604.202, or conducting an informal meeting under Section 604.209.

Sec. 604.030. TRAINING. (a) Prohibits a person who is appointed to and qualifies for office as a member of the advisory board from voting, deliberating, or being counted as a member in attendance at a meeting of the advisory board until the person completes a training program that complies with this section.

(b) Requires that the training program provide the person with information regarding:

(1) this chapter and the advisory board's programs, functions, rules, and budget;

(2) the results of the most recent formal audit of the advisory board;

(3) the requirements of laws relating to open meetings, public information, administrative procedure, and conflicts of interest; and

(4) any applicable ethics policies adopted by the advisory board or the Texas Ethics Commission.

(c) Entitles a person appointed to the advisory board to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

SECTION 2.152. Amends the heading to Subchapter B, Chapter 604, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, to read as follows:

#### SUBCHAPTER B. POWERS AND DUTIES OF ADVISORY BOARD AND MEDICAL BOARD

SECTION 2.153. Amends the heading to Section 604.052, Occupations Code, to read as follows:

Sec. 604.052. GENERAL POWERS AND DUTIES OF ADVISORY BOARD.

SECTION 2.154. Amends Section 604.052(a), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, as follows:

(a) Requires the advisory board to:

(1) adopt rules that are reasonable and necessary for the performance of the advisory board's duties under this chapter, as provided by Chapter 2001, Government Code, including rules to establish:

(A) the certification and permitting program; and

(B) minimum qualifications for respiratory care practitioners;

(C) standards of conduct and fitness for respiratory care practitioners;

(D) grounds for disciplinary actions;

(E) procedures for disciplinary proceedings;

(F) guidelines for the issuance of sanctions;

(G) procedures for non-disciplinary remedial plans; and

(H) procedures for requiring an applicant for or holder of a certificate or temporary permit to submit to:

(i) an examination of the applicant's or holder's physical or mental health; and

(ii) screening for alcohol or substance abuse or behavioral issues;

(2) review and approve or reject each application for the issuance or renewal of a certificate or temporary permit;

(3) adopt procedures for the issuance or renewal of each certificate or permit;

(4) deny, suspend, restrict, cancel, or revoke a certificate or temporary permit or otherwise discipline a certificate or permit holder; and

(5) take any other action necessary to carry out the functions and duties of the advisory board under this chapter.

Deletes existing text requiring the executive commissioner by rule to establish minimum standards for issuing, denying, renewing, suspending, suspending on an emergency basis, or revoking a certificate or temporary permit under this chapter. Makes a nonsubstantive change.

SECTION 2.155. Amends Subchapter B, Chapter 604, Occupations Code, by adding Sections 604.0521 and 604.0522, as follows:

Sec. 604.0521. GUIDELINES FOR EARLY INVOLVEMENT IN RULEMAKING PROCESS. (a) Requires the advisory board to adopt guidelines to establish procedures for receiving input during the rulemaking process from individuals and groups that have an interest in matters under the advisory board's jurisdiction. Requires that the guidelines provide an opportunity for those individuals and groups to provide input before the advisory board submits the rule to TMB for approval.

(b) Provides that a rule adopted under this chapter may not be challenged on the grounds that the advisory board did not comply with this section. Requires the advisory board, if the advisory board was unable to solicit a significant amount of input from the public or affected persons early in the rulemaking process, to state in writing the reasons why it was unable to do so.

Sec. 604.0522. POWERS AND DUTIES OF MEDICAL BOARD RELATING TO RESPIRATORY CARE PRACTITIONERS. (a) Requires TMB to adopt rules consistent with this chapter to regulate:

- (1) respiratory care practitioners; and
- (2) physicians who supervise respiratory care practitioners.

(b) Requires TMB, by a majority vote, to approve or reject each rule adopted by the advisory board. Authorizes the rule to take effect, if approved. Requires TMB, if the rule is rejected, to return the rule to the advisory board for revision.

SECTION 2.156. Amends Section 604.053, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, as follows:

Sec. 604.053. FEES. (a) Requires the advisory board, rather than the executive commissioner, by rule to set fees for an application, examination, certificate, temporary permit, permit and certificate renewal, and certificate reinstatement.

(b) Requires the advisory board, rather than the executive commissioner, by rule to set fees in reasonable amounts that are sufficient to cover the costs of administering this chapter.

Deletes existing text requiring the executive commissioner to set fees for issuing or renewing a certificate or permit in amounts designed to allow DSHS to recover from the certificate and permit holders all of DSHS's direct and indirect costs in administering and enforcing this chapter.

SECTION 2.157. Amends Section 604.054, Occupations Code, to require the advisory board, rather than DSHS, in determining whether to approve a respiratory care education program, to consider relevant information about the quality of the program, including accreditation of the program by a professional medical association, such as the Commission on Accreditation of Allied Health Education Programs.

SECTION 2.158. Amends Section 604.055, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, as follows:

Sec. 604.055. PEER ASSISTANCE PROGRAM. Authorizes the advisory board to use the Texas Physician Health Program established under Chapter 167 as the advisory board's peer assistance program, rather than authorizes DSHS to establish, approve, and fund a peer assistance program in accordance with Section 467.003, Health and Safety Code, and DSHS rules. Authorizes the advisory board by rule to establish procedures for making a confidential referral to the Texas Physician Health Program and for requiring participation in the program as a prerequisite for issuing or maintaining a certificate or temporary permit under this chapter.

SECTION 2.159. Amends Section 604.057, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, as follows:

Sec. 604.057. RULES REGARDING ADVERTISING OR COMPETITIVE BIDDING. (a) Prohibits the advisory board, rather than the executive commissioner, from adopting rules restricting advertising or competitive bidding by a temporary permit or certificate holder except to prohibit false, misleading, or deceptive practices.

(b) Prohibits the advisory board, rather than the executive commissioner, from including certain rules in adopting rules to prohibit false, misleading, or deceptive practices.

SECTION 2.160. Amends Subchapter B, Chapter 604, Occupations Code, by adding Sections 604.058, 604.059, and 604.060, as follows:

Sec. 604.058. RULES ON CONSEQUENCES OF CRIMINAL CONVICTION. Requires the advisory board to adopt rules and guidelines as necessary to comply with Chapter 53, except to the extent the requirements of this chapter are stricter than the requirements of Chapter 53.

Sec. 604.059. ASSISTANCE BY MEDICAL BOARD; DIVISION OF RESPONSIBILITIES. (a) Requires TMB to provide administrative and clerical employees as necessary to enable the advisory board to administer this chapter.

(b) Requires the advisory board, subject to the advice and approval of TMB, to develop and implement policies that clearly separate the policy-making responsibilities of the advisory board and the management responsibilities of the executive director of TMB and staff of TMB.

Sec. 604.060. PUBLIC PARTICIPATION. Requires the advisory board, subject to the advice and approval of TMB, to develop and implement policies that provide the public with a reasonable opportunity to appear before the advisory board and to speak on any issue under the jurisdiction of the advisory board.

SECTION 2.161. Amends Section 604.101(b), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, to prohibit a person from practicing respiratory care other than under the direction of a qualified medical director or other physician licensed by TMB.

SECTION 2.162. Amends Section 604.103, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, as follows:

Sec. 604.103. APPLICATION; APPLICATION FEE. Requires an applicant for a certificate or temporary permit to:

(1) apply to the advisory board on a form prescribed by and under rules adopted by the advisory board, rather than apply to DSHS on a form prescribed by DSHS and under rules adopted by the executive commissioner.

(2) Makes no change to this subdivision.

SECTION 2.163. Amends Subchapter C, Chapter 604, Occupations Code, by adding Section 604.1031, as follows:

Sec. 604.1031. CRIMINAL HISTORY RECORD INFORMATION REQUIREMENT FOR CERTIFICATE OR TEMPORARY PERMIT. (a) Requires the advisory board to require that an applicant for a certificate or temporary permit submit a complete and legible set of fingerprints, on a form prescribed by the advisory board, to the advisory board or to DPS for the purpose of obtaining criminal history record information from DPS and the Federal Bureau of Investigation.

(b) Prohibits the advisory board from issuing a certificate or temporary permit to a person who does not comply with the requirement of Subsection (a).

(c) Requires the advisory board to conduct a criminal history check of each applicant for a certificate or temporary permit using information:

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

(2) made available to the advisory board by DPS, the Federal Bureau of Investigation, and any other criminal justice agency under Chapter 411, Government Code.

(d) Authorizes the advisory board to:

(1) enter into an agreement with DPS to administer a criminal history check required under this section; and

(2) authorize DPS to collect from each applicant the costs incurred by DPS in conducting the criminal history check.

SECTION 2.164. Amends Section 604.104, Occupations Code, as follows:

Sec. 604.104. REQUIREMENT FOR CERTIFICATE. Requires an applicant for a certificate to submit to the advisory board, rather than DSHS, written evidence, verified by oath, that the applicant has completed certain education requirements, including a respiratory care education program approved by the advisory board, rather than DSHS.

SECTION 2.165. Amends Section 604.1041, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, as follows:

Sec. 604.1041. EXAMINATION. (a) Creates this subsection from existing text. Requires the advisory board, rather than the executive commissioner, by rule to establish examination requirements for a certificate under this chapter. Authorizes the advisory board, rather than the executive commissioner, to use the entry level examination prepared by the National Board for Respiratory Care or an equivalent examination.

(b) Requires an applicant for a certificate or temporary permit to pass a jurisprudence examination approved by the advisory board.

SECTION 2.166. Amends Section 604.1042, Occupations Code, as follows:

Sec. 604.1042. NOTIFICATION OF EXAMINATION RESULTS. (a) Requires the advisory board, rather than DSHS, not later than the 30th day after the date a person takes a certification examination under this chapter, to notify the person of the results of the examination.

(b)-(d) Makes conforming changes.

SECTION 2.167. Amends Section 604.105, Occupations Code, as follows:

Sec. 604.105. ISSUANCE OF CERTIFICATE. Requires the advisory board, rather than DSHS, to issue a certificate to an applicant who:

(1) meets the minimum qualifications, rather than standards, adopted under Section 604.052(a);

(2) passes the required examinations;

(3) complies with the criminal history record information requirement of Section 604.1031;

(4) submits an application on a form prescribed by the advisory board;

(5) certifies that the applicant is mentally and physically able to be a respiratory care practitioner;

(6) submits to the advisory board any other information the advisory board considers necessary to evaluate the applicant's qualifications; and

(7) pays the certificate fee.

Makes nonsubstantive changes.

SECTION 2.168. Amends Section 604.106, Occupations Code, to provide that the advisory board, rather than DSHS, may issue a certificate to a person who is licensed or certified to practice respiratory care by another state whose requirements for licensure or certification were on the date the license or certificate was issued substantially equal to the requirements of this chapter.

SECTION 2.169. Amends Section 604.107, Occupations Code, as follows:

Sec. 604.107. REQUIREMENTS FOR TEMPORARY PERMIT. Requires an applicant for a temporary permit to practice respiratory care to submit to the advisory board, rather than to TDH:

(1) written evidence, verified by oath, that the applicant is:

(A)-(C) Makes nonsubstantive changes to these paragraphs; and

(2) any additional information required by advisory board rules.

SECTION 2.170. Amends Section 604.108, Occupations Code, by amending Subsection (a) and Subsection (b), as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, as follows:

(a) Requires the advisory board, rather than DSHS, to issue a temporary permit to an applicant who fulfills certain criteria, including complies with the criminal history record information requirement of Section 604.1031.

Makes nonsubstantive changes.

(b) Provides that a temporary permit is valid for the period set by advisory board rule, rather than DSHS rule.

SECTION 2.171. Amends Subchapter C, Chapter 604, Occupations Code, by adding Section 604.110, as follows:

Sec. 604.110. DELEGATION OF AUTHORITY TO ISSUE CERTIFICATE OR TEMPORARY PERMIT. Authorizes the advisory board to delegate authority to TMB employees to issue certificates or temporary permits under this chapter to applicants who clearly meet all applicable requirements. Requires that the application, if TMB employees determine that an applicant does not clearly meet all applicable requirements, be returned to the advisory board. Provides that a certificate or temporary permit issued under this section does not require formal advisory board approval.

SECTION 2.172. Amends Section 604.151(b), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, as follows:

(b) Provides that the advisory board, rather than the executive commissioner, by rule may adopt a system under which certificates expire on various dates during the year. Requires the advisory board, rather than DSHS, for the year in which the certificate expiration date is changed, to prorate certificate fees on a monthly basis so that each certificate holder pays only that portion of the certificate fee that is allocable to the number of months during which the certificate is valid.

SECTION 2.173. Amends Section 604.152, Occupations Code, as follows:

Sec. 604.152. NOTICE OF CERTIFICATE RENEWAL. (a) Requires the advisory board, rather than DSHS, not later than the 30th day before the expiration date of a person's certificate, to mail a renewal notice to the person at the person's last known address.

(b) Requires the certificate holder, to renew a certificate, to complete the renewal notice and return the notice with the renewal fee to the advisory board, rather than TDH, on or before the expiration date and meet meet any other requirement established by advisory board rule. Makes nonsubstantive changes.

SECTION 2.174. Amends Sections 604.1521(a) and (b), Occupations Code, to change references to TDH to the advisory board.

SECTION 2.175. Amends Section 604.1522(b), Occupations Code, to make conforming changes.

SECTION 2.176. Amends Subchapter D, Chapter 604, Occupations Code, by adding Section 604.1523, as follows:

Sec. 604.1523. CRIMINAL HISTORY RECORD INFORMATION REQUIREMENT FOR RENEWAL. (a) Requires an applicant for renewal of a certificate or temporary permit to submit a complete and legible set of fingerprints for purposes of performing a criminal history check of the applicant as provided by Section 604.1031.

(b) Prohibits the advisory board from renewing the certificate or temporary permit of a person who does not comply with the requirement of Subsection (a).

(c) Provides that a person is not required to submit fingerprints under this section for the renewal of a certificate or temporary permit if the person has previously submitted fingerprints under:

(1) Section 604.1031 for the initial issuance of the certificate or permit; or

(2) this section as part of a prior renewal of a certificate or permit.

SECTION 2.177. Amends Section 604.153(a), Occupations Code, to require the advisory board, rather than TDH, to issue to the certificate holder a certificate for the renewal period on receipt of the completed renewal notice and other information required by advisory board rule and payment of the renewal fee.

SECTION 2.178. Amends Section 604.154, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, as follows:

Sec. 604.154. CONTINUING EDUCATION REQUIREMENTS. (a) Requires the advisory board, rather than the executive commissioner, to establish for the renewal of a certificate uniform continuing education requirements of not less than 12 or more than 24 continuing education hours for each renewal period.

(b) Authorizes the advisory board, rather than the executive commissioner, to adopt rules relating to meeting the continuing education requirements in a hardship situation.

SECTION 2.179. Amends Section 604.156, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, as follows:

Sec. 604.156. INACTIVE STATUS. (a) Provides that a respiratory care practitioner who does not practice respiratory care during a renewal period and who notifies the advisory board, rather than TDH, that the practitioner is not practicing respiratory care is not required to pay the renewal fee until the practitioner resumes practice.

(b) Requires the practitioner, to resume the practice of respiratory care, to:

- (1) notify the advisory board, rather than DSHS;
- (2) satisfy requirements adopted by the advisory board; and
- (3) Makes no change to this subdivision.

SECTION 2.180. Amends Section 604.157(b), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, to provide that the advisory board, rather than DSHS, may renew a temporary permit for not more than one additional period, pending compliance with this chapter and advisory board rules, rather than DSHS rules.

SECTION 2.181. Amends Chapter 604, Occupations Code, by adding Subchapter D-1, as follows:

#### SUBCHAPTER D-1. COMPLAINTS AND INVESTIGATIVE INFORMATION

Sec. 604.171. COMPLAINT INFORMATION AND STATUS. (a) Requires the advisory board to maintain a system to promptly and efficiently act on complaints filed with the advisory board. Requires the advisory board to maintain:

- (1) information about the parties to the complaint and the subject matter of the complaint;
- (2) a summary of the results of the review or investigation of the complaint; and
- (3) information about the disposition of the complaint.

(b) Requires the advisory board to make information available describing its procedures for complaint investigation and resolution.

(c) Requires the advisory board, as often as quarterly and until final determination of the action to be taken on the complaint, if a written complaint is filed with the advisory board relating to a certificate or temporary permit holder, to notify the parties to the complaint of the status of the complaint unless the notice would jeopardize an active investigation.

Sec. 604.172. CONDUCT OF INVESTIGATION. Requires the advisory board to complete a preliminary investigation of a complaint filed with the advisory board not later than the 45th day after the date of receiving the complaint. Requires the advisory board to first determine whether the person constitutes a continuing threat to the public welfare. Requires the advisory board, on completion of the preliminary investigation, to determine whether to officially proceed on the complaint. Provides that the advisory board's official investigation of the complaint, if the advisory board fails to complete the preliminary investigation in the time required by this section, is considered to commence on that date.

Sec. 604.173. ACCESS TO COMPLAINT INFORMATION. (a) Requires the advisory board, except as provided by Subsection (b), to provide a person who is the subject of a formal complaint filed under this chapter with access to all information in its possession that the advisory board intends to offer into evidence in presenting its case in chief at the contested hearing on the complaint, subject to any other privilege or restriction established by rule, statute, or legal precedent. Requires the advisory board to provide the information not later than the 30th day after receipt of a written request from the person or the person's counsel, unless good cause is shown for delay.

(b) Provides that the advisory board is not required to provide:

- (1) advisory board investigative reports;
- (2) investigative memoranda;
- (3) the identity of a nontestifying complainant;
- (4) attorney-client communications;
- (5) attorney work product; or
- (6) other material covered by a privilege recognized by the Texas Rules of Civil Procedure or the Texas Rules of Evidence.

(c) Provides that information under this section does not constitute a waiver of privilege or confidentiality under this chapter or other law.

Sec. 604.174. **HEALTH CARE ENTITY REQUEST FOR INFORMATION.** Requires the advisory board, on the written request of a health care entity, to provide to the entity:

- (1) information about a complaint filed against a person that was resolved after investigation by:
  - (A) a disciplinary order of the advisory board; or
  - (B) an agreed settlement; and
- (2) the basis of and current status of any complaint that has been referred by the executive director of TMB for enforcement action.

Sec. 604.175. **CONFIDENTIALITY OF INVESTIGATIVE INFORMATION.** Provides that a complaint, adverse report, investigation file, other report, or other investigative information in the possession of or received or gathered by the advisory board, TMB, or an employee or agent of TMB relating to a certificate or temporary permit holder, an application for a certificate or temporary permit, or a criminal investigation or proceeding is privileged and confidential and is not subject to discovery, subpoena, or other means of legal compulsion for release to any person other than the advisory board, TMB, or an employee or agent of the advisory board or TMB involved in discipline under this chapter. Provides that "investigative information," for purposes of this section, includes information related to the identity of a person performing or supervising compliance monitoring for the advisory board or TMB and a report prepared by the person related to compliance monitoring.

Sec. 604.176. **PERMITTED DISCLOSURE OF INVESTIGATIVE INFORMATION.**

(a) Provides that investigative information in the possession of the advisory board, TMB, or an employee or agent of TMB that relates to the discipline of a certificate or temporary permit holder may be disclosed to:

- (1) a licensing authority in another state or country in which the certificate or temporary permit holder is licensed, certified, or permitted or has applied for a license, certification, or permit; or
- (2) a medical peer review committee reviewing:
  - (A) an application for privileges; or
  - (B) the qualifications of the certificate holder or person with respect to retaining privileges.

(b) Requires the advisory board or TMB, as appropriate, if investigative information in the possession of the advisory board, TMB, or an employee or agent of TMB indicates that a crime may have been committed, to report the information to the proper law enforcement agency. Requires the advisory board and TMB to cooperate with and assist each law enforcement agency conducting a criminal investigation of a certificate or temporary permit holder by providing information relevant to the investigation. Provides that confidential information disclosed to a law enforcement agency under this subsection remains confidential and may not be disclosed by the law enforcement agency except as necessary to further the investigation.

SECTION 2.182. Amends Section 604.201, Occupations Code, as follows:

Sec. 604.201. DISCIPLINARY ACTION. (a) Authorizes the advisory board, rather than TDH, for a violation of this chapter or a rule adopted under this chapter to:

- (1) deny, suspend, suspend on an emergency basis, restrict, revoke, or refuse to renew a certificate or temporary permit;
- (2) place the certificate or permit holder on probation under conditions set by the advisory board, rather than DSHS; or
- (3) reprimand the certificate or permit holder.

(b) Requires the advisory board, rather than DSHS, to take disciplinary action authorized under Subsection (a) if the advisory board, rather than DSHS, determines that a person who holds a certificate or temporary permit:

- (1)-(3) Makes no change to these subdivisions;
- (4) is guilty of dishonest or unethical conduct as determined by the advisory board, rather than DSHS;
- (5) and (6) Makes no change to these subdivisions;
- (7) and (8) Makes nonsubstantive changes; or
- (9) has violated:
  - (A) a rule adopted under this chapter;
  - (B) an order of the advisory board previously entered in a disciplinary proceeding; or
  - (C) an order to comply with a subpoena issued under this chapter.

SECTION 2.183. Amends Subchapter E, Chapter 604, Occupations Code, by adding Section 604.2011, as follows:

Sec. 604.2011. SURRENDER OF CERTIFICATE OR TEMPORARY PERMIT. (a) Provides that the advisory board may accept the voluntary surrender of a certificate or temporary permit. Prohibits a person who has surrendered a certificate or temporary permit from engaging in activities that require a certificate or permit, and prohibits the advisory board from returning the certificate or permit to the person, until the person demonstrates to the satisfaction of the advisory board that the person is able to resume practice as a respiratory care practitioner.

(b) Requires the advisory board by rule to establish guidelines for determining when a person is competent to resume practice as a respiratory care practitioner.

SECTION 2.184. Amends Section 604.202, Occupations Code, as follows:

Sec. 604.202. EMERGENCY SUSPENSION. (a) Requires the presiding officer of the advisory board to appoint a three-member disciplinary panel consisting of advisory board members to determine whether a certificate or permit should be temporarily suspended.

(a-1) Creates this subsection from existing text. Requires the disciplinary panel to temporarily suspend a certificate or temporary permit issued under this chapter on a determination that continued practice by a certificate or temporary permit holder would constitute a continuing threat to the public welfare, rather than authorizes TDH to suspend a certificate or temporary permit issued under this chapter on a determination that the health and safety of a person is threatened and authorizes TDH to make the suspension effective immediately.

(b) Provides that a certificate or temporary permit may be suspended under this section without notice or hearing on the complaint if:

(1) action is taken to initiate proceedings for a hearing before the advisory board simultaneously with the temporary suspension; and

(2) a hearing is held as soon as practicable under this chapter and Chapter 2001, Government Code.

Deletes existing text providing that a person whose certificate or temporary permit is suspended under this section is entitled to a hearing before TDH not later than the 10th day after the effective date of the emergency suspension.

(c) Provides that the disciplinary panel, notwithstanding Chapter 551, Government Code, may hold a meeting by telephone conference call if immediate action is required and convening of the panel at one location is inconvenient for any member of the panel.

SECTION 2.185. Amends Section 604.203, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, as follows:

Sec. 604.203. New heading: ADMINISTRATIVE PROCEDURE FOR CONTESTED CASE HEARING. Provides that the procedure by which the advisory board, rather than DSHS, for a contested case hearing in which a formal complaint has been filed under this chapter, takes a disciplinary action and the procedure by which a disciplinary action is appealed are governed by:

(1) advisory board rules, rather than DSHS rules, for a contested case hearing; and

(2) Makes no change to this subdivision.

SECTION 2.186. Amends Subchapter E, Chapter 604, Occupations Code, by adding Sections 604.205 through 604.214, as follows:

Sec. 604.205. DELEGATION OF CERTAIN COMPLAINT DISPOSITIONS. (a) Authorizes the advisory board to delegate to a committee of TMB employees the authority to dismiss or enter into an agreed settlement of a complaint that does not relate directly to patient care or that involves only administrative violations. Requires that the disposition determined by the committee be approved by the advisory board at a public meeting.

(b) Requires that a complaint delegated under this section to be referred for an informal proceeding under Section 604.209 if:

- (1) the committee of employees determines that the complaint should not be dismissed or settled;
- (2) the committee is unable to reach an agreed settlement; or
- (3) the affected person requests that the complaint be referred for an informal proceeding.

Sec. 604.206. SUBPOENA. (a) Authorizes the executive director of TMB, the director's designee, or the secretary-treasurer of TMB to issue a subpoena or subpoena duces tecum for the advisory board:

- (1) to conduct an investigation or a contested proceeding related to:
  - (A) alleged misconduct by a certificate or temporary permit holder;
  - (B) an alleged violation of this chapter or other law related to respiratory care; or
  - (C) the provision of health care under this chapter; or
- (2) for purposes of determining whether to issue, suspend, restrict, or revoke a certificate or temporary permit under this chapter.

(b) Provides that failure to timely comply with a subpoena issued under this section is a ground for:

- (1) disciplinary action by the advisory board or another licensing or regulatory agency with jurisdiction over the person subject to the subpoena; and
- (2) denial of an application for a certificate or temporary permit.

Sec. 604.207. PROTECTION OF PATIENT IDENTITY. Requires the advisory board, in a disciplinary investigation or proceeding conducted under this chapter, to protect the identity of each patient whose medical records are examined and used in a public proceeding unless the patient:

- (1) testifies in the public proceeding; or
- (2) submits a written release in regard to the patient's records or identity.

Sec. 604.208. REQUIRED SUSPENSION OF LICENSE OF INCARCERATED CERTIFICATE OR TEMPORARY PERMIT HOLDER. Requires the advisory board, regardless of the offense, to suspend the certificate or temporary permit of a person serving a prison term in a state or federal penitentiary during the term of the incarceration.

Sec. 604.209. INFORMAL PROCEEDINGS. (a) Requires the advisory board by rule to adopt procedures governing:

- (1) informal disposition of a contested case under Section 2001.056, Government Code; and
- (2) informal proceedings held in compliance with Section 2001.054, Government Code.

(b) Requires that rules adopted under this section require that:

(1) an informal meeting in compliance with Section 2001.054, Government Code, be scheduled and the advisory board give notice to the person who is the subject of a complaint of the time and place of the meeting not later than the 45th day before the date the meeting is held;

(2) the complainant and the person who is the subject of the complaint be provided an opportunity to be heard;

(3) at least one of the advisory board members participating in the informal meeting as a panelist be a member who represents the public;

(4) a member of TMB's staff be at the meeting to present to the advisory board's representative the facts the staff reasonably believes it could prove by competent evidence or qualified witnesses at a hearing; and

(5) the advisory board's legal counsel or a representative of the attorney general be present to advise the advisory board or TMB's staff.

(c) Entitles the person who is the subject of the complaint to:

(1) reply to the staff's presentation; and

(2) present the facts the person reasonably believes the person could prove by competent evidence or qualified witnesses at a hearing.

(d) Requires the advisory board representative, after ample time is given for the presentations, to recommend that the investigation be closed or to attempt to mediate the disputed matters and make a recommendation regarding the disposition of the case in the absence of a hearing under applicable law concerning contested cases.

(e) Requires the advisory board, if the person who is the subject of the complaint has previously been the subject of disciplinary action by the advisory board, to schedule the informal meeting as soon as practicable.

(f) Provides that Section 604.175 applies to an investigation file and investigative information in the possession of or used by the advisory board in an informal proceeding under this section.

**Sec. 604.210. ADVISORY BOARD REPRESENTATION IN INFORMAL PROCEEDINGS.** (a) Requires at least two panelists, in an informal meeting under Section 604.209, to be appointed to determine whether an informal disposition is appropriate.

(b) Authorizes an informal proceeding, notwithstanding Subsection (a) and Section 604.209(b)(3), to be conducted by one panelist if the person who is the subject of the complaint waives the requirement that at least two panelists conduct the informal proceeding. Authorizes the panelist, if the person waives that requirement, to be any member of the advisory board.

(c) Provides that the panel requirements described by Subsections (a) and (b), except as provided by Subsection (d), apply to an informal proceeding conducted by the advisory board under Section 604.209, including a proceeding to:

(1) consider a disciplinary case to determine if a violation has occurred; or

(2) request modification or termination of an order.

(d) Provides that the panel requirements described by Subsections (a) and (b) do not apply to an informal proceeding conducted by the advisory board under Section 604.209 to show compliance with an order of the advisory board.

Sec. 604.211. ROLES AND RESPONSIBILITIES OF PARTICIPANTS IN INFORMAL PROCEEDINGS. (a) Requires an advisory board member who serves as a panelist at an informal meeting under Section 604.209 to make recommendations for the disposition of a complaint or allegation. Authorizes the member to request the assistance of a TMB employee at any time.

(b) Requires TMB employees to present a summary of the allegations against the person who is the subject of the complaint and of the facts pertaining to the allegation that the employees reasonably believe may be proven by competent evidence at a formal hearing.

(c) Requires an attorney for the advisory board or TMB to act as counsel to the panel and, notwithstanding Subsection (e), to be present during the informal meeting and the panel's deliberations to advise the panel on legal issues that arise during the proceeding. Authorizes the attorney to ask questions of a participant in the informal meeting to clarify any statement made by the participant. Requires the attorney to provide to the panel a historical perspective on comparable cases that have appeared before the advisory board or TMB, keep the proceedings focused on the case being discussed, and ensure that TMB's employees and the person who is the subject of the complaint have an opportunity to present information related to the case. Requires the attorney, during the panel's deliberations, to be present only to advise the panel on legal issues and to provide information on comparable cases that have appeared before the advisory board or TMB.

(d) Requires the panel and TMB employees to provide an opportunity for the person who is the subject of the complaint and the person's authorized representative to reply to TMB employees' presentation and to present oral and written statements and facts that the person and representative reasonably believe could be proven by competent evidence at a formal hearing.

(e) Prohibits an employee of TMB who participated in the presentation of the allegation or information gathered in the investigation of the complaint, the person who is the subject of the complaint, the person's authorized representative, the complainant, the witnesses, and members of the public from being present during the deliberations of the panel. Provides that only the members of the panel and the attorney serving as counsel to the panel may be present during the deliberations.

(f) Requires the panel to recommend the dismissal of the complaint or allegations or, if the panel determines that the person has violated a statute or advisory board rule, the panel may recommend advisory board action and terms for an informal settlement of the case.

(g) Requires that the panel's recommendations under Subsection (f) be made in a written order and presented to the affected person and the person's authorized representative. Authorizes the person to accept the proposed settlement within the time established by the panel at the informal meeting. Provides that the advisory board, if the person rejects the proposed settlement or does not act within the required time, may proceed with the filing of a formal complaint with SOAH.

Sec. 604.212. LIMIT ON ACCESS TO INVESTIGATION FILES. Requires the advisory board to prohibit or limit access to an investigation file relating to a person subject to an informal proceeding in the manner provided by Sections 164.007(c) and 604.175.

Sec. 604.213. REFUND. (a) Provides that the advisory board, subject to Subsection (b), may order a certificate or temporary permit holder to pay a refund to a consumer as provided in an agreement resulting from an informal settlement conference instead of or in addition to imposing an administrative penalty under Subchapter F (Administrative Penalties).

(b) Prohibits the amount of a refund ordered as provided in an agreement resulting from an informal settlement conference from exceeding the amount the consumer paid to the certificate or temporary permit holder for a service regulated by this chapter. Provides that the advisory board may not require payment of other damages or estimate harm in a refund order.

Sec. 604.214. EXPERT IMMUNITY. Provides that an expert who assists the advisory board is immune from suit and judgment and may not be subjected to a suit for damages for any investigation, report, recommendation, statement, evaluation, finding, or other action taken in the course of assisting the advisory board in a disciplinary proceeding. Requires the attorney general to represent the expert in any suit resulting from a service provided by the person in good faith to the advisory board.

SECTION 2.187. Amends Section 604.301, Occupations Code, to change a reference to TDH to the advisory board.

SECTION 2.188. Amends Section 604.303, Occupations Code, to make conforming changes.

SECTION 2.189. Amends Section 604.304, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, as follows:

Sec. 604.304. PENALTY TO BE PAID OR HEARING REQUESTED. (a) Authorizes the person, not later than the 20th day after the date the person receives the notice under Section 604.303, to:

(1) accept the advisory board's, rather than TDH's, determination and proposed administrative penalty; or

(2) Makes no change to this subdivision.

(b) Requires the advisory board by order, if the person accepts the determination, to approve the determination and assess the proposed penalty, rather than requires the DSHS, if the person accepts DSHS's determination, by order to approve the determination and assess the proposed penalty.

SECTION 2.190. Amends Section 604.305, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, as follows:

Sec. 604.305. HEARING. (a) Requires the advisory board, rather than DSHS, if the person requests a hearing in a timely manner, to:

(1) and (2) Makes no change to these subdivisions.

(b) Requires the hearings examiner to:

(1) Makes no change to this subdivision; and

(2) promptly issue to the advisory board, rather than DSHS, a proposal for decision as to the occurrence of the violation and the amount of any proposed administrative penalty.

SECTION 2.191. Amends Section 604.306, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, as follows:

Sec. 604.306. New heading: DECISION BY ADVISORY BOARD. (a) Authorizes the advisory board, rather than DSHS, based on the findings of fact, conclusions of law, and proposal for decision, by order to make certain determinations.

(b) Requires the advisory board, rather than DSHS, to give notice of the order to the person. Requires that the notice include certain statements.

SECTION 2.192. Amends Sections 604.307(b) and (c), Occupations Code, to change references to TDH to the advisory board.

SECTION 2.193. Amends Section 604.308, Occupations Code, to make a conforming change.

SECTION 2.194. Amends Section 604.311, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, as follows:

Sec. 604.311. ADMINISTRATIVE PENALTY EXPENSES AND COSTS. (a) Makes a conforming change to this subsection.

(b) Makes a conforming change and requires the person to pay expenses and costs assessed under this subsection not later than the 30th day after the date the order of the advisory board, rather than DSHS, requiring the payment of expenses and costs is final. Changes a reference to DSHS to the advisory board.

(c) Changes a reference to DSHS to the advisory board.

SECTION 2.195. Amends the heading to Subchapter G, Chapter 604, Occupations Code, to read as follows:

#### SUBCHAPTER G. CRIMINAL PENALTIES AND ENFORCEMENT PROVISIONS

SECTION 2.196. Amends Section 604.352(a), Occupations Code, as follows:

(a) Provides that a person commits an offense if the person knowingly engages in certain activities, including conducts a formal respiratory care education program to prepare respiratory care personnel other than a program approved by the advisory board, rather than DSHS.

SECTION 2.197. Repealers: Sections 601.002(2) (defining “board”) and (5) (defining “education program”), Occupations Code.

Repealer: Section 601.051 (Certification Program), Occupations Code.

Repealer: Section 601.053 (Minimum Standards), Occupations Code.

Repealer: Section 601.056(b) (authorizing the board to consider whether the radiologic procedure will be performed by a registered nurse or a licensed physician assistant), Occupations Code.

Repealer: Section 601.103 (Application; Application Fee), Occupations Code.

Repealer: Section 602.002 (1-a) and (2) (defining “department”), Occupations Code.

Repealers: Sections 602.052(b) (requiring the governor to appoint the Texas Board of Licensure for Professional Medical Physicists’ (board’s) medical physicist members from lists of candidates who have practiced medical physics for a certain period) and (c) (requiring the governor to appoint the board’s physician members from lists of candidates who have practiced medicine in the designated specialties for a certain period), Occupations Code.

Repealers: Sections 602.053(a) (requiring a board member to be a United States citizen), (b) (requires a medical physicist board member to be a resident of the state for a period of not less than four years before appointment and to have practiced medical physics for not less than six years preceding appointment), and (c) (requiring a physician board member to be licensed to practice medicine in the state and to have practiced a specialty listed by a certain section for not less than four years preceding appointment), Occupations Code.

Repealer: Section 602.056(c) (requiring the commissioner of public health (commissioner), if the commissioner has knowledge that a potential ground for removal exists, to notify the presiding officer of the board of the potential ground), Occupations Code.

Repealer: Section 602.059 (Training), Occupations Code.

Repealer: Subchapter C (Executive Secretary and Personnel), Chapter 602, Occupations Code.

Repealers: Sections 602.1525(b) (providing that a subpoena may be served personally or by certified mail) and (c) (providing that the board, acting through the attorney general, if a person fails to comply with a subpoena, may file suit to enforce the subpoena in a district court in Travis County or in the county in which a hearing conducted by the board may be held)

Repealers: Sections 602.1525(d) (requiring the court, on finding that good cause exists for issuing the subpoena, to order the person to comply with the subpoena) and (e) (providing that the board may delegate the authority granted under a certain subsection to the executive secretary of the board), Occupations Code.

Repealers: Sections 602.1525(f) (requiring the board to pay a reasonable fee for photocopies subpoenaed under this section in an amount not to exceed the amount the board may charge for copies of its records) and (g) (providing that the reimbursement of the expenses of a witness whose attendance is compelled under this section is governed by a certain section), Occupations Code.

Repealer: Section 602.155, Occupations Code.

Repealer: Section 602.204 (Board Consideration of Application), Occupations Code.

Repealers: Sections 603.002(1) (defining “commissioner”) and (4) (defining “executive commissioner”), Occupations Code.

Repealer: Section 603.005 (Application of Sunset Act), Occupations Code.

Repealer: Section 603.054(c) (requires the executive secretary, if the executive secretary has knowledge that a potential ground for removal exists, to notify the presiding officer of the committee of the potential ground), Occupations Code.

Repealer: Section 603.058 (Training), Occupations Code.

Repealer: Subchapter C (Executive Secretary and Other Personnel), Chapter 603, Occupations Code.

Repealer: Section 603.154(b), Occupations Code.

Repealer: Section 603.158 (Use of Technology), Occupations Code.

Repealer: Section 603.159 (Negotiated Rulemaking and Alternative Dispute Resolution Policy), Occupations Code.

Repealers: Sections 603.2041(b) (providing that a subpoena may be served personally or by certified mail) and (c) (providing that the Department of State Health Services (DSHS) may file suit to enforce a certain subpoena in a district court in Travis County or in the county in which a hearing conducted by DSHS may be held), Occupations Code.

Repealer: Section 603.2041(d) (requiring the court, on finding that good cause exists for issuing a certain subpoena, to order the person to comply with the subpoena), Occupations Code.

Repealers: Sections 603.2041(f) (requiring DSHS to pay a reasonable fee for photocopies subpoenaed under this section in an amount not to exceed the amount DSHS may charge for copies of its records), and (g) (providing that the reimbursement of the expenses of a witness whose attendance is compelled under this section is governed by a certain section), Occupations Code.

Repealer: Section 604.051 (Certification and Permitting Program), Occupations Code.

Repealers: Sections 604.052(b) (authorizing the Texas Board of Health (board) to adopt rules necessary to implement this chapter) and (c) (authorizing the board to adopt rules relating to certifying, examining, or disciplining a person under this chapter only if necessary to protect the public health by ensuring that only a qualified person practices respiratory care), Occupations Code.

Repealer: Section 604.056 (Personnel), Occupations Code.

SECTION 2.198. Provides that Sections 601.1031, 601.1111, 602.2081, 602.2101, 603.2571, 603.3031, 604.1031, and 604.1523, Occupations Code, as added by this article, apply only to an application for the issuance or renewal of a license, certificate, or permit filed under Chapter 601, 602, 603, or 604, Occupations Code, on or after January 1, 2016. Provides that an application filed before that date is governed by the law in effect at the time the application was filed, and the former law is continued in effect for that purpose.

SECTION 2.199. (a) Provides that a rule or fee of the Department of State Health Services (DSHS) that relates to a program transferred under this article and that is in effect on the effective date of this Act remains in effect until changed by the Texas Medical Board (TMB), the Texas Board of Medical Radiologic Technology, or the Texas Board of Respiratory Care, as appropriate.

(b) Provides that a license, certificate, or permit issued by DSHS for a program transferred under this article is continued in effect as a license, certificate, or permit of TMB, the Texas Board of Medical Radiologic Technology, or the Texas Board of Respiratory Care, as appropriate, after the effective date of this Act.

(c) Provides that a complaint, investigation, contested case, or other proceeding before DSHS relating to a program transferred under this article that is pending on the effective date of this Act is transferred without change in status to TMB, the Texas Board of Medical Radiologic Technology, or the Texas Board of Respiratory Care, as appropriate.

SECTION 2.200. (a) Requires DSHS and TMB, as soon as practicable after the effective date of this Act, to adopt a transition plan to provide for the orderly transfer of powers, duties, functions, programs, and activities under this article. Requires that the transition plan provide for the transfer to be completed as soon as practicable after the effective date of this Act.

(b) Requires DSHS to provide TMB with access to any systems or information necessary for TMB to accept a program transferred under this article.

(c) Provides that the Texas Board of Licensure for Professional Medical Physicists and the Texas State Perfusionist Advisory Committee, on the effective date of this Act, are abolished and the governor and the president of TMB, as appropriate, shall, as soon as practicable after the effective date of this Act, appoint the members of the Texas Board of

Medical Radiologic Technology, the Medical Physicist Licensure Advisory Committee, the Perfusionist Licensure Advisory Committee, and the Texas Board of Respiratory Care.

(d) Provides that all full-time equivalent employee positions at the Department of State Health Services (DSHS) that primarily concern the administration or enforcement of Chapter 601, 602, 603, or 604, Occupations Code, on the effective date of this Act, become positions at TMB. Requires TMB to post the positions for hiring and, when filling the positions, shall give consideration to, but is not required to hire, an applicant who, immediately before the effective date of this Act, was an employee at DSHS primarily involved in administering or enforcing the applicable law.

### ARTICLE 3. DEREGULATION OF CERTAIN ACTIVITIES AND OCCUPATIONS

SECTION 3.001. Amends Section 2165.303(b), Government Code, to require the Texas Facilities Commission (TFC) to report the findings and test results obtained under a contract for air monitoring under this section to the State Office of Risk Management (SORM), rather than to SORM and the Texas Department of Health (TDH) in a form and manner prescribed by SORM, rather than prescribed by SORM and TDH, for that purpose.

SECTION 3.002. Amends Section 2165.305(c), Government Code, to delete TDH from the entities from which SORM is required to receive assistance.

SECTION 3.003. Amends the heading to Subtitle G, Title 2, Health and Safety Code, to read as follows:

#### SUBTITLE G. LICENSES AND OTHER REGULATION

SECTION 3.004. Amends the heading to Subchapter C, Chapter 144, Health and Safety Code, to read as follows:

#### SUBCHAPTER C. OPERATING PROCEDURES

SECTION 3.005. Amends Section 144.021, Health and Safety Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, as follows:

Sec. 144.021. New heading: **GENERAL REQUIREMENTS FOR RENDERING OPERATIONS**. Requires each rendering establishment, related station, transfer station, dead animal hauler, or renderable raw material hauler, rather than requires each applicant for or holder of an operating license, to adopt certain operating procedures set forth.

Deletes existing Subdivision (a) designation and text of existing Subdivision (b) authorizing TDH, in accordance with TDH rules, as a condition of licensure, to prescribe other reasonable and appropriate construction, operational, maintenance, and inspection requirements to ensure compliance with this chapter and other applicable rules.

SECTION 3.006. Amends Section 144.022, Health and Safety Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, as follows:

Sec. 144.022. **RECORDS**. (a) Changes references to licensed rendering establishment to rendering establishment.

(b) Requires a rendering establishment, related station, or dead animal hauler that receives a dead animal to enter in a log certain information set forth, rather than requires the license holder, when a license holder receives a dead animal, to enter certain information in the log.

(c) Requires the rendering establishment, related station, or dead animal hauler, rather than license holder, to also keep a record in the log, or in an appendix to the log, of the general route followed in making the collection.

(d) Provides that the log is subject to inspection at all reasonable times by TDH or a person with written authorization from TDH. Deletes existing text from providing that repeated or wilful failure or refusal to produce the log for inspection or to permit inspection by persons properly authorized to inspect the log constitutes grounds for license revocation.

(e) Provides that this section does not apply to a renderable raw material hauler, rather than to a licensed renderable raw material hauler.

SECTION 3.007. Amends the heading to Section 144.023, Health and Safety Code, to read as follows:

Sec. 144.023. VEHICLES.

SECTION 3.008. Amends Section 144.023(c), Health and Safety Code, to require that a truck bed used to transport dead animals or renderable raw materials be thoroughly sanitized with a bactericidal agent that is safe for use in a rendering establishment, rather than be thoroughly sanitized with a bactericidal agent that is determined by TDH to be safe in a rendering establishment.

SECTION 3.009. Amends Section 144.027(c), Health and Safety Code, to require that a drinking water supply, rather than a drinking water supply approved by TDH, be provided at convenient locations in the establishment for the use of employees.

SECTION 3.010. Amends Section 144.078(a), Health and Safety Code, to authorize the attorney general to bring an action in any district court of this state that has jurisdiction and venue for an injunction to compel compliance with this chapter or to restrain any actual or threatened violation of this chapter, rather than authorizes the attorney general, on request of TDH, to bring an action in any district court of this state that has jurisdiction and venue for an injunction to compel compliance with this chapter or to restrain any actual or threatened violation of this chapter.

SECTION 3.011. Amends Section 144.079(c), Health and Safety Code, to delete existing Subdivision (1) prohibiting a renderer, hauler, or any other person from taking possession of recyclable cooking oil from an unlicensed hauler or an employee or contractor of an unlicensed hauler, and to make nonsubstantive changes.

SECTION 3.012. Amends Sections 145.006(a) and (b), Health and Safety Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, as follows:

(a) Deletes existing text requiring the executive commissioner by rule to specify the size, design, and graphic design of a warning sign posted by a tanning facility in a conspicuous location where it is readily visible by persons entering the establishment. Sets forth the required format and language of the sign.

(b) Deletes existing text requiring executive commissioner by rule to specify the size, design, and graphic design of a warning sign posted by a tanning facility operator in conspicuous location that is readily visible to a person about to use the device. Sets forth the required format and language of the sign.

SECTION 3.013. Amends Sections 145.008(i) and (j), Health and Safety Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, to delete existing text from Subsection (i) requiring the executive commissioner of the Health and Human Services Commission by rule to prescribe the form and content of the records of each customer using a tanning device, and to delete existing text from Subsection (j) requiring the executive commissioner by rule to prescribe the form and content of an incident log.

SECTION 3.014. Amends Section 145.0096, Health and Safety Code, by amending Subsections (a) and (b) and adding Subsection (a-1), as follows:

(a) Provides that this section applies only to a business that:

(1) is operated under a license or permit as a sexually oriented business issued in accordance with Section 243.007 (Licenses or Permits), Local Government Code; or

(2) offers, as its primary business, a service or the sale, rental, or exhibition of a device or other item that is intended to provide sexual stimulation or sexual gratification to a customer.

(a-1) Provides that a business to which this section applies, rather than a business described by Section 145.0095(a)(1) or (2), may not use the word "tan" or "tanning" in a sign or any other form of advertising.

(b) Provides that a person commits an offense if the person violates Subsection (a-1), rather than Subsection (a).

SECTION 3.015. Amends the heading to Section 145.011, Health and Safety Code, to read as follows:

Sec. 145.011. ACCESS TO RECORDS.

SECTION 3.016. Amends Section 145.011(c), Health and Safety Code, to require a person who is required to maintain records under this chapter or a person in charge of the custody of those records to, at the request of a health authority, rather than at the request of an authorized agent or health authority, permit the health authority, rather than permit the authorized agent or health authority, access to copy or verify the records at reasonable times.

SECTION 3.017. Amends Sections 145.0121(a) and (f), Health and Safety Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, as follows:

(a) Authorizes the attorney general, or the district, county, or municipal attorney, if it appears that a person has violated or is violating this chapter, in the jurisdiction where the violation is alleged to have occurred or may occur, to institute a civil suit for, rather than authorizes TDH, if it appears that a person has violated or is violating this chapter or an order issued or a rule adopted under this chapter, to request the attorney general or the district or county attorney or the municipal attorney of a municipality in the jurisdiction where the violation is alleged to have occurred or may occur to institute a civil suit for:

(1) Makes no change to this subdivision;

(2) a permanent or temporary injunction, a temporary restraining order, or other appropriate remedy, rather than a permanent or temporary injunction, a temporary restraining order, or other appropriate remedy if TDH shows that the person has engaged in or is engaging in a violation;

(3) and (4) Makes no change to these subdivisions.

(f) Authorizes the attorney general, rather than TDH or the attorney general, to recover reasonable expenses incurred in obtaining injunctive relief or a civil penalty under this section, including investigation and court costs, reasonable attorney's fees, witness fees, and other expenses. Deletes existing text requiring that the expenses recovered by TDH under this section be used for the administration and enforcement of this chapter.

SECTION 3.018. Amends Section 145.013(a), Health and Safety Code, to provide that a person, other than a customer, commits an offense if the person violates this chapter, rather than if the person violates this chapter or a rule adopted under this chapter.

SECTION 3.019. Amends Section 145.016(b), Health and Safety Code, to authorize an operator or other person to disclose a customer record under certain conditions, including if a health authority requests the record under Section 145.011 (Rules; Inspection), rather than if the commissioner or an authorized agent or health authority requests the record under Section 145.011.

SECTION 3.020. Amends Section 1001.071(b), Health and Safety Code, as redesignated by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, to delete bottled and vended drinking water from the list of items that DSHS is responsible for in its administration of human services programs regarding the public health.

SECTION 3.021. Amends Section 32.074(a), Human Resources Code, to provide that “personal emergency response system” has the meaning assigned by Section 1702.331 (Personal Emergency Response Systems), Occupations Code, rather than Section 781.001 (Definitions), Health and Safety Code.

SECTION 3.022. Amends Section 843.002(24), Insurance Code, to delete registered optician as one of the persons included in the definition of “provider.”

SECTION 3.023. Amends Sections 351.005(a) and (d), Occupations Code, as follows:

(a) Provides that this chapter does not:

(1) Makes no change to this subdivision;

(2) prevent or interfere with the right of a physician licensed by TMB, rather than TSBME, to:

(A) and (B) Makes no change to these paragraphs;

(3) and (4) Makes no change to these subdivisions;

(5) prevent an ophthalmic dispenser who does not practice optometry or therapeutic optometry from measuring interpupillary distances or making facial measurements to dispense or adapt an ophthalmic prescription, lens, product, or accessory in accordance with the specific directions of a written prescription signed by an optometrist, therapeutic optometrist, or licensed physician;

(6) and (7) Makes nonsubstantive changes to these subdivisions.

Deletes existing text from Subdivision (5) providing that this chapter does not prevent or interfere with the right of a dispensing optician registered under Chapter 352 (Opticians) to engage in spectacle or contact lens dispensing under that chapter.

(d) Provides that continuation of the practice of a deceased optometrist or therapeutic optometrist by an estate under Subsections (a)(6) and (7), rather than Subsections (a)(7) and (8), must be:

(1) and (2) Makes no change to these subdivisions.

SECTION 3.024. Amends Section 353.004, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, as follows:

Sec. 353.004. PUBLIC INFORMATION ON PRESCRIPTION RELEASE. Requires the Texas Optometry Board, rather than DSHS and the Texas Optometry Board, to

prepare and provide to the public and appropriate state agencies information regarding the release and verification of contact lens prescriptions.

Deletes existing Subsection (a) designation and Subsection (b) authorizing the executive commissioner to adopt rules necessary to implement this section.

SECTION 3.025. Amends Section 353.1015(b), Occupations Code, as follows:

(b) Provides that a prescription is considered verified under this section if:

(1) and (2) Makes no change to these subdivisions; or

(3) the prescribing physician, optometrist, or therapeutic optometrist fails to communicate with the person dispensing the contact lenses not later than the eighth business hour after the prescribing physician, optometrist, or therapeutic optometrist receives from the person dispensing the contact lenses the request for verification, rather than the request for verification or within another similar period specified by rule.

SECTION 3.026. Amends Section 353.103(a), Occupations Code, as follows:

(a) Requires the person dispensing the lenses, if a patient presents a contact lens prescription to be filled or asks a person who dispenses contact lenses, rather than a permit holder, to verify a contact lens prescription under Section 353.1015 (Verification Procedure), but requests that fewer than the total number of lenses authorized by the prescription be dispensed, to note on the prescription or verification:

(1) and (2) Makes no changes to these subdivisions; and

(3) the name, address, and telephone number of the person dispensing the lenses, rather than the name, address, telephone number, and license or permit number of the person dispensing the lenses.

SECTION 3.027. Amends Section 353.104(a), Occupations Code, as follows:

(a) Authorizes a physician, optometrist, or therapeutic optometrist, if a patient needs an emergency refill of the patient's contact lens prescription, to telephone or fax the prescription to a person who dispenses contact lenses, rather than a person authorized to dispense contact lenses under Section 353.051, or may verify a prescription under Section 353.1015. Makes a nonsubstantive change.

SECTION 3.028. Amends Section 353.151, Occupations Code, as follows:

Sec. 353.151. New heading: DIRECTIONS FOR INDEPENDENT DISPENSER; DELEGATION. (a) Changes references to an optician to a person.

(b) Provides that a person who dispenses contact lenses, rather than a person who holds a contact lens dispensing permit issued under Subchapter B, may measure the eye or cornea and may evaluate the physical fit of lenses for a particular patient under certain conditions.

(c) Changes references to an optician to person.

SECTION 3.029. Repealer: Section 2165.301(2) (Defines "department"), Government Code.

Repealer: Section 2165.302 (General Investigation and Testing), Government Code.

Repealer: Section 2165.304 (Technical Assistance), Government Code.

SECTION 3.030. Repealer: Section 144.001 (Short Title), Health and Safety Code.

Repealer: Subchapter B (Operating Licenses), Chapter 144 (Renderers), Health and Safety Code.

Repealers: Sections 144.023(d) (prohibiting the owner of a vehicle from operating the vehicle on public roads and highways to haul dead animals or renderable raw materials unless the owner holds a certain permit) and (e) (providing that the Department of Aging and Disability Services (DADS) may require that a dead animal or renderable raw material hauling vehicle conspicuously display a permit decal), Health and Safety Code.

Repealer: Section 144.031 (Prohibited Purchases or Sales), Health and Safety Code.

Repealer: Subchapter D (Construction Permits), Chapter 144, Health and Safety Code.

Repealer: Subchapter E (Construction and Layout Requirements for Rendering Establishments and Related Stations), Chapter 144, Health and Safety Code.

Repealer: Subchapter F (Provisions Applicable to Licenses and Permits), Chapter 144, Health and Safety Code.

Repealer: Section 144.071 (Inspections), Health and Safety Code.

Repealer: Section 144.072 (Fees), Health and Safety Code.

Repealer: Section 144.073 (Account), Health and Safety Code.

Repealer: Section 144.074 (Adoption of Rules), Health and Safety Code.

Repealer: Section 144.075 (Certificates; Certified Copies), Health and Safety Code.

Repealer: Section 144.076 (Public Records), Health and Safety Code.

Repealer: Section 144.077 (Hearings and Judicial Review), Health and Safety Code.

Repealer: Section 144.078(c) (providing that the attorney general on behalf of DADS may bring a certain action in addition to any other action provided by this chapter), Health and Safety Code.

Repealer: Section 144.080 (Criminal Penalty), Health and Safety Code.

Repealer: Section 144.081 (Administrative Penalty), Health and Safety Code.

Repealer: Section 144.082 (Administrative Penalty Assessment Procedure), Health and Safety Code.

Repealer: Section 144.083 (Payment of Administrative Penalty), Health and Safety Code.

Repealer: Section 144.084 (Refund of Administrative Penalty), Health and Safety Code.

Repealer: Section 144.085 (Recovery of Administrative Penalty by Attorney General), Health and Safety Code.

Repealer: Section 145.001 (Short Title), Health and Safety Code.

Repealer: Section 145.002(1) (defines “authorized agent”), Health and Safety Code.

Repealer: Section 145.004(b) (providing that the Texas Department of Health (TDH) may enforce Chapter 431 against a person who adulterates or misbrands a tanning device), Health and Safety Code.

Repealer: Section 145.006(c) (requiring TDH to include with a license application and an application for renewal of a license a description of the design standards required for signs under this section), Health and Safety Code.

Repealer: Section 145.008(k) (requiring TDH to provide to each applicant for an original or renewal license a written copy of the Fitzpatrick scale), Health and Safety Code.

Repealer: Section 145.009 (Licenses), Health and Safety Code.

Repealer: Section 145.0095 (Issuance of License for Certain Facilities Prohibited), Health and Safety Code.

Repealer: Section 145.010 (Fees), Health and Safety Code.

Repealers: Sections 145.011(a) (authorizing TBH to adopt rules as necessary to implement this chapter) and (b) (provides that the commissioner or an authorized agent may inspect a tanning facility to determine compliance with this chapter), Health and Safety Code.

Repealer: Section 145.012 (Emergency Order), Health and Safety Code.

Repealer: Section 145.0122 (Administrative Penalty), Health and Safety Code.

Repealer: Section 145.015 (Toll-Free Number), Health and Safety Code.

Repealer: Chapter 345 (Bedding), Health and Safety Code.

Repealer: Chapter 385 (Indoor Air Quality in Government Buildings), Health and Safety Code.

Repealer: Chapter 441 (Regulation of Bottled and Vended Drinking Water), Health and Safety Code.

Repealer: Chapter 781 (Personal Emergency Response Systems), Health and Safety Code.

SECTION 3.031. Repealer: Section 351.005(c) (providing that a certain subsection does not prohibit the Texas Optometry Board (board) from acting under this chapter to restrict the unauthorized), Occupations Code.

Repealer: Chapter 352 (Opticians), Occupations Code.

Repealers: Sections 353.002(2) (defining “department”) and (4) (defining “optician”), Occupations Code.

Repealer: Section 353.005 (Rules), Occupations Code.

Repealer: Subchapter B (Dispensing Contact Lenses; Permit), Chapter 353, Occupations Code.

Repealer: Section 353.202 (Disciplinary Action), Occupations Code.

Repealer: Section 353.2025 (Emergency Suspension), Occupations Code.

Repealer: Section 353.203 (Separate Violations), Occupations Code.

Repealer: Section 353.204(b) (providing that the board is responsible for enforcing this chapter, except as otherwise provided by this section), Occupations Code.

Repealer: Section 353.205 (Administrative Penalty), Occupations Code.

SECTION 3.032. Provides that a license, permit, certification of registration, or other authorization issued under a law that is repealed by this article, on the effective date of this Act, expires.

SECTION 3.033. Provides that the changes in law made by this article do not affect the validity of a disciplinary action or other proceeding that was initiated before the effective date of this Act and that is pending before a court or other governmental entity on the effective date of this Act.

SECTION 3.034. (a) Provides that an offense under or other violation of a law that is repealed by this article is governed by the law in effect when the offense or violation was committed, and the former law is continued in effect for that purpose.

(b) Provides that an offense or violation, for purposes of this section, was committed before the effective date of this Act if any element of the offense or violation occurred before that date.

SECTION 3.035. Provides that the repeal of a law by this article does not entitle a person to a refund of an application, licensing, or other fee paid by the person before the effective date of this Act.

#### ARTICLE 4. EFFECTIVE DATE

SECTION 4.001. (a) Effective date, except as provided by Subsection (b) of this section: September 1, 2015.

(b) Effective date, Part 2 of Article 1 of this Act: September 1, 2017.