

BILL ANALYSIS

Senate Research Center
86R32577 SOS-D

C.S.H.B. 2847
By: Goldman (Hancock)
Business & Commerce
5/14/2019
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

C.S.H.B. 2847 amends current law relating to the licensing and regulation of certain occupations, activities, and agreements; provides a civil penalty; authorizes fees; and requires an occupational registration and an occupational license.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Commission of Licensing and Regulation (TCLR) in SECTION 2.005 (Section 1001.2531, Occupations Code), SECTION 2.008, SECTION 3.001 (Section 401.509, Health and Safety Code), SECTION 7.001 (Section 51.203, Occupations Code), SECTION 8.008 (Section 601.252, Occupations Code), and SECTION 14.009 of this bill.

Rulemaking authority previously granted to TCLR is modified in SECTION 14.002 (Section 1602.255, Occupations Code) and SECTION 15.001 (Section 2309.102, Occupations Code) of this bill.

Rulemaking authority previously granted to the Texas State Board of Pharmacy is rescinded in SECTION 4.006 (Sections 554.016 and 556.0555, Occupations Code) of this bill.

Rulemaking authority previously granted to TCLR is rescinded in SECTION 8.005 (Section 202.602, Occupations Code), SECTION 8.009 (Section 202.6011, Occupations Code), SECTION 11.002 (Chapter 605, Occupations Code), SECTION 12.002 (Section 701.155, Occupations Code), SECTION 15.004 (2309.154, Occupations Code), and SECTION 15.005 (Chapter 2309, Occupations Code) of this bill.

Rulemaking authority previously granted to the Texas Department of Licensing and Regulation is rescinded in SECTION 15.004 (Section 2309.106, Occupations Code) of this bill.

SECTION BY SECTION ANALYSIS

ARTICLE 1. EXCESS WEAR AND USE WAIVERS FOR LEASES OF MOTOR VEHICLES

SECTION 1.001. Amends Subtitle B, Title 5, Business and Commerce Code, by adding Chapter 94, as follows:

CHAPTER 94. EXCESS WEAR AND USE WAIVERS FOR LEASES OF MOTOR VEHICLES

Sec. 94.001. DEFINITIONS. Defines "excess wear and use waiver," "lease agreement," "lessee," "lessor," and "motor vehicle" for purposes of this chapter.

Sec. 94.002. CONTRACT FOR EXCESS WEAR AND USE WAIVER. Authorizes a lessee to contract with a lessor for an excess wear and use waiver in connection with a lease agreement.

Sec. 94.003. RESTRICTIONS ON LESSOR CONCERNING EXCESS WEAR AND USE WAIVER. Prohibits a lessor from:

(1) selling an excess wear and use waiver, unless the lease agreement containing the excess wear and use waiver complies with this chapter and the lessee agrees to the excess wear and use waiver in writing; or

(2) imposing or requiring the purchase of an excess wear and use waiver as a condition of entering into a lease agreement.

Sec. 94.004. REQUIRED NOTICE. Requires an excess wear and use waiver to be in writing and include a certain notice. Sets forth required language for the notice.

Sec. 94.005. REQUIRED DISCLOSURES. Requires a lease agreement that includes an excess wear and use waiver to disclose the total charge for the excess wear and use waiver and any exclusions or limitations on the amount of excess wear and use that may be waived under the excess wear and use waiver.

Sec. 94.006. RELATIONSHIP TO INSURANCE. Provides that an excess wear and use waiver is not insurance.

Sec. 94.007. CIVIL PENALTY. Provides that a lessor that violates this chapter is liable for a civil penalty in an amount of not less than \$500 or more than \$1,000 for each violation.

Sec. 94.008. INJUNCTIVE RELIEF. Authorizes a person injured or threatened with injury by a violation of this chapter to seek injunctive relief against the person committing or threatening to commit the violation.

Sec. 94.009. SUIT FOR CIVIL PENALTY OR INJUNCTIVE RELIEF. Authorizes the Texas attorney general or a county or district attorney to bring an action in the name of the state for a civil penalty under Section 94.007, injunctive relief under Section 94.008, or both.

SECTION 1.002. Makes application of this article prospective.

ARTICLE 2. DRIVER EDUCATION

SECTION 2.001. Amends Section 1001.001(7), Education Code, to amend the definition of "driver education school" to provide that it is an enterprise that is operated by an individual, association, partnership, or corporation for educating and training persons in driver education, rather than training persons at a primary or branch location in driver education or driver education instructor development.

SECTION 2.002. Amends Section 1001.151(e), Education Code, to authorize the Texas Commission of Licensing and Regulation (TCLR) to establish a fee for an application for approval to offer a driver education course, rather than a driver education course by an alternative method of instruction under Section 1001.3541 (Alternative Method of Instruction For Driver Education Course).

SECTION 2.003. Amends Section 1001.204(b), Education Code, as follows:

(b) Requires the Texas Department of Licensing and Regulation (TDLR) to approve an application for a driver education school license if the application is submitted on a form approved by TDLR, the application is accompanied by the fee, and TDLR determines that the school, rather than requiring TDLR to approve an application for a driver education school license if the application is submitted on a form approved by the executive director of TDLR (executive director), includes the fee, and on inspection of the premises of the school, it is determined that the school that:

(1) makes no changes to this subdivision;

(2) has adequate space, equipment, instructional material, and instructors to provide training of good quality in the classroom and behind the wheel, if applicable, rather than has adequate space, equipment, instructional material, and instructors to provide training of good quality in the classroom and behind the wheel;

(3)–(6) makes no changes to these subdivisions;

(7) complies with certain county, municipal, state, and federal regulations, if applicable, rather than complies with certain county, municipal state, and federal regulations;

(8)–(12) makes no changes to these subdivisions;

(13) makes a nonsubstantive change to this subdivision;

(14) meets any additional criteria required by TDLR, including any applicable inspection requirements, rather than meets any additional criteria required by TDLR; and

(15) provides adequate testing and security measures for the school's method of instruction.

SECTION 2.004. Amends Section 1001.2513, Education Code, as follows:

Sec. 1001.2513. CONFIDENTIALITY OF INFORMATION. Provides that a social security number, driver's license number, other identification number, or fingerprint record collected for a person to comply with Section 1001.2511 (National Criminal History Record Information Review For Driver Education Instructors), rather than providing that information collected about a person to comply with Section 1001.2511, including the person's name, address, phone number, social security number driver's license number, other identification number, and fingerprint records:

(1)–(3) makes no changes to these subdivisions.

SECTION 2.005. Amends Subchapter F, Chapter 1001, Education Code, by adding Section 1001.2531, 1001.2532, 1001.2533, 1001.2534, and 1001.2535, as follows:

Sec. 1001.2531. DRIVER EDUCATION INSTRUCTOR REQUIREMENTS. (a) Requires TDLR by rule to establish standards for a driver education instructor to be certified as a teaching assistant, driver education teacher, or supervising teacher.

(b) Requires an applicant for a driver education instructor license under this section to complete certain enumerated tasks.

Sec. 1001.2532. TEACHING ASSISTANT. (a) Provides that a teaching assistant is a driver education instructor who is authorized to teach or provide only behind-the-wheel training.

(b) Requires a driver education instructor, to be eligible to be certified as a teaching assistant, to:

(1) have successfully completed six semester hours of driver and traffic safety education from an accredited college or university or a teaching assistant development course approved by TDLR; and

(2) pass any required examination.

Sec. 1001.2533. DRIVER EDUCATION TEACHER. (a) Provides that a driver education teacher is a driver education instructor who is authorized to teach or provide behind-the-wheel training and classroom training.

(b) Requires a driver education instructor, to be eligible to be certified as a driver education teacher, to:

(1) have successfully completed nine semester hours of driver and traffic safety education from an accredited college or university or a driver education teacher development course approved by TDLR; and

(2) pass any required examination.

Sec. 1001.2534. SUPERVISING TEACHER. (a) Provides that a supervising teacher is a driver education instructor who is authorized to teach instructor training classes.

(b) Requires a driver education instructor, to be eligible to be certified as a supervising teacher, to have:

(1) been certified as a driver education teacher for at least one year; and

(2) successfully completed 15 semester hours of driver and traffic safety education from an accredited college or university or a supervising teacher development course approved by TDLR.

(c) Authorizes TDLR, TDLR, or the executive director to adopt an alternative method to determine or verify an instructor's eligibility under Subsection (b).

Sec. 1001.2535. DEVELOPMENT COURSE FOR TEACHING ASSISTANT, DRIVER EDUCATION TEACHER, OR SUPERVISING TEACHER. Authorizes the classroom portion of a development course required for certification as a teaching assistant, driver education teacher, or supervising teacher to be completed online.

SECTION 2.006. Amends Subchapter H, Chapter 1001, Education Code, by adding Section 1001.3542, as follows:

Sec. 1001.3542. METHOD OF INSTRUCTION FOR DRIVER EDUCATION COURSE. Authorizes a driver education school to teach a driver education course by any method approved by TDLR, including an alternative method under Section 1001.3541 or a traditional method under Subchapter C (Operation of Driver Education School).

SECTION 2.007. Repealer: Section 1001.253 (Driver Education Instructor Training), Education Code.

Repealer: Section 1001.254 (Temporary License), Education Code.

Repealer: Section 1001.256 (Duplicate License), Education Code.

Repealer: Section 1001.3541(b) (relating to authorizing TDLR to approve the alternative method if it meets certain requirements), Education Code.

SECTION 2.008. (a) Requires TDLR, as soon as practicable after the effective date of this Act, to adopt rules to implement Section 1001.204(b), Education Code, as amended by this article, and Section 1001.2531, Education Code, as added by this article.

(b) Provides that a driver education instructor license issued under Section 1001.253, Education Code, before the repeal of that section by this article continues to be valid until the license expires and former Section 1001.253, Education Code, is continued in effect for that purpose.

(c) Entitles a person who holds on the effective date of this Act a driver education instructor license described by former Section 1001.253(b), Education Code, on expiration of that license to issuance of a driver education instructor license certified as a teaching assistant under Section 1001.2532, Education Code, as added by this article, if the person otherwise meets the requirements for renewal of a driver education instructor license certified as a teaching assistant.

(d) Entitles a person who holds on the effective date of this Act a driver education instructor license described by former Section 1001.253(c), Education Code, on expiration of that license to issuance of a driver education instructor license certified as a driver education teacher under Section 1001.2533, Education Code, as added by this article, if the person otherwise meets the requirements for renewal of a driver education instructor license certified as a driver education teacher.

(e) Entitles a person who holds on the effective date of this Act a driver education instructor license described by former Section 1001.253(e), Education Code, on expiration of that license to issuance of a driver education instructor license certified as a supervising teacher under Section 1001.2534, Education Code, as added by this article, if the person otherwise meets the requirements for renewal of a driver education instructor license certified as a supervising teacher.

(f) 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.

(g) Provides that Sections 1001.2531, 1001.2532, 1001.2533, and 1001.2534, Education Code, as added by this article, apply only to an application for, or renewal of, an instructor license submitted to TDLR on or after the effective date of this Act. Provides that an application submitted before that date is governed by the law in effect when the application was submitted, and the former law is continued in effect for that purpose.

ARTICLE 3. LASER HAIR REMOVAL

SECTION 3.001. Amends Subchapter M, Chapter 401, Health and Safety Code, by adding Section 401.509, as follows:

Sec. 401.509. CONTINUING EDUCATION. Requires TCLR by rule to establish continuing education requirements for renewal of a certificate under this subchapter (Laser Hair Removal).

SECTION 3.002. Requires TCLR, as soon as practicable after the effective date of this Act, to adopt the rules necessary to implement Section 401.509, Health and Safety Code, as added by this article.

ARTICLE 4. PHARMACISTS

SECTION 4.001. Amends Section 481.075(i), Health and Safety Code, as follows:

(i) Requires each dispensing pharmacists to:

(1) makes no changes to this subdivision;

(2)–(3) makes nonsubstantive changes to these subdivisions; and

(4) if the pharmacy does not dispense any controlled substance prescriptions during a period of seven consecutive days, send a report to the Texas State Board of Pharmacy (TSBP) indicating that the pharmacy did not dispense any controlled substance prescriptions during that period, unless the pharmacy has obtained a waiver or permission to delay reporting to TSBP.

SECTION 4.002. Amends Sections 481.076(a) and (k), Health and Safety Code, as follows:

(a) Prohibits TSBP from permitting any person to have access to information submitted to TSBP under Section 481.074(q) (relating to requiring each dispensing pharmacist to send certain information to TSBP by a certain method not later than the next business day after the prescription is filled) or 481.075 (Official Prescription Program) except:

(1) TSBP, the Texas Medical Board (TMB), TDLR, with respect to the regulation of podiatrists, rather than the State Board of Podiatric Medical Examiners, the Texas State Board of Dental Examiners, the Texas State Board of Veterinary Medical Examiners, the Texas Board of Nursing, or the Texas Optometry Board for certain purposes;

(2)–(4) makes no changes to these subdivisions;

(5) provided that accessing the information is authorized under the Health Insurance Portability and Accountability Act of 1996 (Pub. L. No. 104-191) and regulations adopted under that Act:

(A) a pharmacist or a pharmacist-intern, pharmacy technician, or pharmacy technician trainee, as defined by Section 551.003 (Definitions), Occupations Code, acting at the direction of a pharmacist, who is inquiring about a recent Schedule II, III, IV, or V prescription history of a particular patient of the pharmacist, rather than a pharmacist or a pharmacy technician, as defined by Section 551.003, Occupations Code, acting at the direction of a pharmacist; or

(B) makes no changes to this paragraphs;

(6) a pharmacist or practitioner who is inquiring about the person's own dispensing or prescribing activity or a practitioner who is inquiring about the prescribing activity of an individual to whom the practitioner has delegated prescribing authority, rather than a pharmacist or practitioner who is inquiring about the person's own dispensing or prescribing activity; or

(7) makes no changes to this subdivision.

(k) Provides that a person authorized to access information under Subsection (a)(4) or (5), rather than under Subsection (a)(4), who is registered with TSBP for electronic access to the information is entitled to directly access the information available from other states pursuant to a certain interoperability agreement.

SECTION 4.003. Amends Section 481.0766(a), Health and Safety Code, as follows:

(a) Requires a wholesale distributor to report to TSBP the distribution of all Schedules II, III, IV, and V controlled substances by the distributor to a person in this state. Requires the distributor to report the information to TSBP in the same format and with the same frequency as the information is reported to the Federal Drug Enforcement Administration, rather than requiring a wholesale distributor to report to TSBP the information that the distributor is required to report to the Automation of Reports and Consolidated Orders System (ARCOS) of the Federal Drug Enforcement Administration for the distribution of a controlled substance by the distributor to a person in this state. Deletes existing text requiring the distributor to report the information to TSBP in the same format and with the same frequency as the information is reported to ARCOS.

SECTION 4.004. Amends Section 481.353(a), Health and Safety Code, to require the interagency prescription monitoring work group to meet when necessary as determined by TSBP, rather than to meet at least quarterly.

SECTION 4.005. Amends Section 560.051(f), Occupations Code, as follows:

(f) Authorizes a Class E pharmacy license or nonresident pharmacy license to be issued to a pharmacy located in another state whose primary business is to:

- (1) creates this subdivision from text of existing Paragraphs (A) and (B) and deletes the designation of those paragraphs;
- (2) process a prescription drug order for a patient, including a patient in this state;
or
- (3) perform another pharmaceutical service, as defined TSBP rule.

SECTION 4.006. Repealer: Section 554.016 (Canadian Pharmacy Inspection; Designation; Fees; Information), Occupations Code.

Repealer: Section 556.0555 (Inspections), Occupations Code.

Repealer: Section 560.001(c) (relating to prohibiting a pharmacy in Canada from shipping, mailing, or delivering certain prescription drugs to this state), Occupations Code.

Repealer: Section 560.0525 (Additional Qualification Requirements For Canadian Pharmacies), Occupations Code.

Repealer: Section 561.003(f) (relating to prohibiting a pharmacy from renewing a license under this section if the pharmacy meets certain criteria), Occupations Code.

Repealer: Section 562.101(f-1) (relating to certain requirements for a Canadian pharmacy that meets certain criteria), Occupations Code.

Repealer: Section 562.111 (Prescription Drug Order For Consumer), Occupations Code.

Repealer: Subchapter E (Practice by Canadian Pharmacy), Chapter 562, Occupations Code.

SECTION 4.007. Provides that, to the extent of any conflict, Section 481.076(a), Health and Safety Code, as amended by this article, prevails over another Act of the 86th Legislature, Regular Session, 2019, relating to nonsubstantive additions to and corrections in enacted codes.

ARTICLE 5. ELEVATORS, ESCALATORS, AND RELATED EQUIPMENT

SECTION 5.001. Amends Chapter 754, Health and Safety Code, by adding Section 754.026, as follows:

Sec. 754.026. DISCLOSURE OF E-MAIL ADDRESS. Provides that, notwithstanding any other law, an e-mail address provided to TDLR relating to an inspection or review of plans under this chapter (Elevators, Escalators, and Related Equipment) is not confidential and is subject to disclosure under Chapter 552 (Public Information), Government Code.

ARTICLE 6. BOILERS

SECTION 6.001. Amends Section 755.025, Health and Safety Code, by adding Subsection (h) to provide that, notwithstanding any other law, an e-mail address provided to TDLR relating to an inspection under this chapter (Boilers) is not confidential and is subject to disclosure under Chapter 552, Government Code.

SECTION 6.002. Amends Section 755.029(c), Health and Safety Code, to require a certificate of operation to be posted in a conspicuous place, rather than under glass in a conspicuous place, on or near the boiler for which it is issued.

ARTICLE 7. TEXAS DEPARTMENT OF LICENSING AND REGULATION

SECTION 7.001. Amends Section 51.203, Occupations Code, as follows:

Sec. 51.203. RULES REGARDING PROGRAMS REGULATED BY DEPARTMENT.

(a) Creates this subsection from existing text and makes no further changes.

(b) Authorizes TCLR by rule, notwithstanding any other law, for each program regulated by TDLR, including a program under which a license is issued by TDLR, to establish the length of a license term, not to exceed two years, a fee for the issuance or renewal of a license, and any continuing education required to renew a license.

SECTION 7.002. Amends Section 51.2031(a-2), Occupations Code, to remove the provision that this subsection and Subsection (a-1) (relating to prohibiting TCLR from adopting certain new rules unless the rule has been previously proposed and requiring TCLR to adopt rules prescribing procedure by which the advisory board advising TCLR is authorized to propose rules) expire September 1, 2019.

SECTION 7.003. Amends Section 51.252, Occupations Code, by amending Subsection (b) and adding Subsections (b-1) and (e), as follows:

(b) Requires the file that TDLR is required to maintain for each written complaint filed with TDLR to include:

(1) the name of a person who filed the complaint, except for a complaint described by Subsection (b-1); and

(2)–(6) makes no changes to these subdivisions.

(b-1) Authorizes TDLR to accept, but does not require TDLR to investigate, a complaint that lacks sufficient information to identify the source or name of the person who filed the complaint.

(e) Authorizes TDLR to contract with a qualified individual, including an advisory board member unless otherwise prohibited by law, to assist TDLR with reviewing or investigating complaints filed with TDLR. Provides that an individual with whom TDLR contracts is immune from liability, except for an act of the individual involving fraud, conspiracy, or malice, and is prohibited from being subject to a suit for damages for any act arising from the performance of the individual's certain duties.

SECTION 7.004. Amends Subchapter E, Chapter 51, Occupations Code, by adding Section 51.254, as follows:

Sec. 51.254. CONFIDENTIALITY OF COMPLAINT AND DISCIPLINARY INFORMATION. (a) Defines, unless the context requires otherwise, "disciplinary action" and "patient."

(b) Provides that this section applies to certain health-related professions regulated by this state the administration of which is assigned to TDLR by law.

(c) Provides that, except as otherwise provided by this section, a complaint and investigation concerning a person to whom this section applies and all information and materials subpoenaed or compiled by TDLR in connection with the complaint and investigation are confidential and not subject to certain disclosures.

(d) Authorizes a complaint or investigation subject to this section and all information and materials subpoenaed or compiled by TDLR in connection with the complaint and investigation to be disclosed to certain entities.

(e) Authorizes TDLR, notwithstanding any other provision of this section, if a TDLR investigation would be jeopardized by the release or disclosure, to temporarily withhold or otherwise refrain from releasing or disclosing to any person any information or materials that TDLR would otherwise be required to release or disclose.

(f) Prohibits TDLR from being compelled to release or disclose complaint and investigation information or materials to a person listed in Subsection (d) if TDLR has not issued a notice of alleged violation related to the information or materials.

(g) Authorizes TDLR to release or disclose complaint and investigation information or materials in accordance with Subsection (d) at any stage of a disciplinary action.

(h) Requires TDLR to protect the identity of any patient whose records are examined in connection with a disciplinary action, other than a patient who initiates the disciplinary action, is a witness in the disciplinary action, or has submitted a written consent to release the records.

(i) Provides that notices of alleged violation issued by TDLR against respondents, disciplinary proceedings of TDLR, TCLR, or the executive director, and final disciplinary actions, including warnings and reprimands, by TDLR, TCLR, or the executive director are not confidential and are subject to disclosure in accordance with Chapter 552, Government Code.

SECTION 7.005. Amends Section 202.2032(c), Occupations Code, to include Chapter 51 (Texas Department of Licensing and Regulation) among chapters the confidentiality requirements of which do not apply to a certain disclosure under this subsection.

SECTION 7.006. Amends Section 202.404(e), Occupations Code, to require TDLR to protect the identity of a patient whose podiatric records are examined or provided under Subsection (c), rather than under Subsection (c) or (d), other than a certain patient.

SECTION 7.007. Amends Section 202.509(g), Occupations Code, to remove Subsections (b) and (d) from a list of provisions TDLR's disclosure of information under which does not constitute a waiver of privilege or confidentiality under this chapter (Podiatrists) or any other law.

SECTION 7.008. Repealer: Section 202.404(d) (relating to providing that the privilege and confidentiality requirements under this subchapter do not apply to certain criminal investigations and criminal proceedings), Occupations Code.

Repealer: Section 202.509(a) (relating to providing that certain complaints, reports, investigation files, or other investigative information is privileged, confidential, and not subject to certain legal methods compelling release), Occupations Code.

Repealer: Section 202.509(b) (relating to authorizing TDLR to release information in TDLR possession if certain criteria are met), Occupations Code.

Repealer: Section 202.509(c) (relating to providing that TDLR is not required to release certain information regarding certain individuals), Occupations Code.

Repealer: Section 202.509(d) (relating to authorizing certain investigative information in TDLR's possession that relates to a disciplinary action regarding a license holder to be disclosed to certain individuals), Occupations Code.

Repealer: Section 202.509(h) (relating to requiring TDLR to protect the identity of a complainant to the extent possible), Occupations Code.

Repealer: Section 401.2535 (Confidentiality of Complaint and Disciplinary Information), Occupations Code.

Repealer: Section 402.154 (Confidentiality of Complaint and Disciplinary Information), Occupations Code.

Repealer: Section 451.110 (Confidentiality of Complaint and Disciplinary Information), Occupations Code.

Repealer: Section 506.202 (Confidentiality of Complaint Information), Occupations Code.

Repealer: Subchapter E (Complaint Information), Chapter 605, Occupations Code.

Repealer: Subchapter E (Complaint Procedures), Chapter 701, Occupations Code.

SECTION 7.009. Makes application of this article prospective.

ARTICLE 8. PODIATRISTS

SECTION 8.001. Amends Section 202.2032(d), Occupations Code, to require TDLR to notify the license holder who is the subject of the complaint, rather than to notify the license holder who is the subject of the complaint not later than the 15th day after the date the complaint is filed with TDLR, of the name and address of certain entities who filed the complaints, unless the notice would jeopardize the investigation.

SECTION 8.002. Amends Subchapter E, Chapter 202, Occupations Code, by adding Section 202.204, as follows:

Sec. 202.204. EXPERT WITNESS. (a) Defines "expert witness" for purposes of this section.

(b) Authorizes TDLR to contract with an expert witness, member of the Podiatric Medical Examiners Advisory Board (advisory board) under Section 202.051(a)(1) (relating to providing specific members for the advisory board), to assist TDLR with reviewing, investigating, or prosecuting a complaint filed under this chapter.

(c) Provides that, except for an act by an expert witness involving fraud, conspiracy, or malice, an expert witness is immune from liability and is prohibited from being subject to a suit for damages for any act arising from the performance of the expert witness's specific duties.

SECTION 8.003. Section 202.253(a-1), Occupations Code, as follows:

(a-1) Authorizes TDLR and TDLR to refuse to admit a person to an examination, and to refuse to issue a license to practice podiatry to a person, for:

(1) makes no changes to this subdivision;

(2) being convicted of an offense under 202.606 (Criminal Penalty: Amputation of Foot), rather than being convicted of a felony, a crime that involves moral turpitude, or an offense under Section 202.606; or

(3)–(18) makes no changes to these subdivisions.

SECTION 8.004. Amends Subchapter H, Chapter 202, Occupations Code, by adding Section 202.354, as follows:

Sec. 202.354. DELEGATION OF CERTAIN ACTS. (a) Authorizes a podiatrist to delegate to a qualified and properly trained podiatric medical assistant acting under the podiatrist's supervision any podiatric medical act that a reasonable and prudent podiatrist would find within the scope of sound medical judgment to delegate if:

(1) in the opinion of the delegating podiatrist, the medical act can be properly and safely performed by the podiatric medical assistant to whom the podiatric medical act is delegated and is performed in a customary manner and not in violation of any other statute; and

(2) the podiatric medical assistant to whom the podiatric medical act is delegated does not represent to the public that the medical assistant is authorized to practice podiatry.

(b) Provides that a delegating podiatrist is responsible for a podiatric medical act performed by the podiatric medical assistant to whom the podiatrist delegates the act.

(c) Authorizes TDLR to determine whether an act constitutes the practice of podiatric medicine and whether a podiatric medical act may be properly or safely delegated by podiatrists.

SECTION 8.005. Amends Section 202.602(a), Occupations code, as follows:

(a) Requires TDLR to develop a system to identify and monitor a podiatrist's compliance with this chapter and any order issued by TCLR or the executive director under this chapter, rather than requiring TCLR by rule to develop a system to monitor a podiatrist's compliance with this chapter. Deletes the requirement of the system to include procedures for determining whether a podiatrist is in compliance with an order issued by TCLR or the executive director and a method of identifying and monitoring each podiatrist who represents a risk to the public.

SECTION 8.006. Amends Subchapter D, Chapter 601, Occupations Code, by adding Section 601.157, as follows:

Sec. 601.157. PERSON SUPERVISED BY PODIATRIST. Provides that a person is not required to hold a certificate issued under this chapter (Medical Radiologic Technologists) to perform a radiologic procedure if the procedure is performed under the supervision of a podiatrist and the person is registered with TDLR to assist a podiatrist complies with rules adopted under Section 601.252(e).

SECTION 8.007. Amends Section 601.251, Occupations code, as follows:

Sec. 601.251. APPLICABILITY. Provides that this subchapter (Other Licensing Agencies; Rulemaking and Registration Requirements) applies to:

(1)–(4) makes no changes to these subdivisions;

(5) TDLR, with respect to TDLR's authority to regulate podiatrists, rather than to the Texas State Board of Podiatric Medical Examiners; and

(6) makes no changes to this subdivision.

SECTION 8.008. Amends Section 601.252, Occupations Code, by adding Subsections (e) and (f), as follows:

(e) Requires rules adopted under this section (Requirement to Adopt Rules) by TCLR to meet certain enumerated criteria.

(f) Authorizes TCLR, in adopting rules under Subsection (e), to take into account whether the radiologic procedure will be performed by a registered nurse.

SECTION 8.009. Repealer: Section 202.2025 (Complaint Priority), Occupations Code.

Repealer: Section 202.6011 (Penalty Schedule), Occupations Code.

SECTION 8.010. Makes application of Section 202.2032, Occupations Code, as amended by this article, prospective.

SECTION 8.011. Makes application of section 202.253(a-1), Occupations Code, as amended by this article, prospective.

SECTION 8.012. Provides that, to the extent of any conflict, Section 601.251, Occupations Code, as amended by this article, prevails over another Act of the 86th Legislature, Regular Session, 2019, relating to nonsubstantive additions to and corrections in enacted codes.

ARTICLE 9. MIDWIVES

SECTION 9.001. Amends Section 203.056, Occupations Code, to require the presiding officer of TCLR to designate a member, rather than a public member, of the Midwives Advisory Board to serve as the presiding officer of that advisory board for a term of one year.

SECTION 9.002. Repealer: Section 203.152 (Fees), Occupations Code.

SECTION 9.003. Provides that Section 203.056, Occupations Code, as amended by this article, does not affect the entitlement of a member of the Midwives Advisory Board who is serving as the presiding officer of the advisory board immediately before the effective date of this Act to continue to serve in that capacity for the remainder of the member's term as presiding officer.

ARTICLE 10. AUDIOLOGISTS

SECTION 10.001. Amends Section 401.403(b), Occupations Code, as follows:

(b) Deletes existing text of Subdivision (1) relating to registration with TDLR, redesignates existing Subdivisions (2)–(5) as Subdivisions (1)–(4) and makes nonsubstantive changes. Requires a person who holds a license, rather than a person who meets the requirements of this chapter (Speech-Language Pathologists and Audiologists) for licensing, as an audiologist or audiologist intern and who fits and dispenses hearing instruments to:

(1) comply with rules adopted under this chapter related to fitting and dispensing hearing instruments, rather than comply with the profession's code of ethics;

(2) makes no further changes to this subdivision;

(3) when providing services in this state, use a written contract that contains TDLR's name, mailing address, telephone number, and Internet website address, rather than that contains TDLR's names, mailing address, and telephone number; and

(4) makes no further changes to this subdivision.

ARTICLE 11. ORTHOTIC AND PROSTHETIC TECHNICIANS

SECTION 11.001. Repealers: Sections 605.002(19) (relating to the definition of "registered orthotic technician"), (20) (relating to the definition of "registered prosthetic orthotic technician"), and (21) (relating to the definition of "registered prosthetic technician"), Occupations Code.

Repealer: Section 605.259 (Orthotic or Prosthetic Technician Registration Certificate), Occupations Code.

SECTION 11.002. (a) Provides that, on the effective date of this Act, a registered orthotic technician or registered prosthetic technician certificate issued under former Section 605.259, Occupations Code, expires.

(b) Requires TCLR, as soon as practicable after the effective date of this Act, to repeal all rules regarding the regulation of orthotic and prosthetic technicians adopted under Chapter 605 (Orthotists and Prosthetists), Occupations Code.

SECTION 11.003. Provides that the change in law made by this article does not affect the validity of a proceeding pending before a court or other governmental entity on the effective date of this Act.

ARTICLE 12. DIETITIANS

SECTION 12.001. Amends Section 701.151(b), Occupations Code, as follows:

(b) Requires TCLR or TDLR, as appropriate, rather than requiring TDLR, to:

- (1) adopt and publish a code of ethics, rather than adopt an official seal;
- (2) establish the qualifications and fitness of applicants for licenses, including renewed and reciprocal licenses;
- (3) request and receive any necessary assistance from state educational institutions or other state agencies. Deletes existing Subdivision (4) requiring TDLR, to revoke, suspend, or deny a license, probate a license suspension, or reprimand a license holder for a violation of this chapter (Dietitians), a rule adopted under this chapter, or the code of ethics.

SECTION 12.002. Repealer: Sections 701.155 (Seal), Occupations Code.

Repealer: Section 701.353 (Prohibited Use of Seal), Occupations Code.

ARTICLE 13. INTERIOR DESIGNERS

SECTION 13.001. Repealer: Subchapter H (Penalties), Chapter 1053, Occupations Code.

SECTION 13.002. Provides that the repeal by this article of Subchapter H, Chapter 1053, Occupations Code, does not apply to an offense committed under that subchapter before the effective date of the repeal. Provides that an offense committed before the effective date of the repeal is governed by the law as it existed on the date the offense was committed, and the former law is continued in effect for that purpose. Provides that, for purposes of this section, an offense was committed before the effective date of the repeal if any element of the offense occurred before that date.

ARTICLE 14. BARBERS AND COSMETOLOGISTS

SECTION 14.001. Amends Section 1602.254(b), Occupations Code, to require an applicant for an operator license to have completed 1,000 hours, rather than 1,500 hours, of instruction in a licensed beauty culture school.

SECTION 14.002. Amends Section 1602.255(c), Occupations Code, as follows:

(c) Requires TCLR to adopt rules for the licensing of specialty instructors to teach specialty courses in the practice of cosmetology defined in Sections 1602.002(a)(2) (relating to servicing a person's wig or artificial hairpiece), (4) (relating to cleansing, stimulating, or massaging a person's scalp, face, neck, or arms) (5) (relating to

beautifying a person's face, neck, or arms), (6) (relating to administering facial treatments), (7) (relating to removing superfluous hair using certain methods), (8) (relating to treating a person's nails), (9) (relating to performing certain actions on feet), (10) (relating to applying certain extensions to eyelashes), and (11) (relating to weaving a person's hair), rather than Sections 1602.002(a)(5), (7), (8), (9), and (10).

SECTION 14.003. Amends Section 1602.261(a), Occupations Code, to authorize a person holding a manicurist/esthetician specialty license to perform only the practice of cosmetology defined in Sections 1602.002(a)(4) through (10), rather than through (9).

SECTION 14.004. Amends Section 1602.305(a), Occupations Code, to authorize a person holding a specialty shop license to maintain an establishment in which only the practice of cosmetology as defined in Section 1602.002(a)(2), (4), (5), (6), (7), (8), (9), (10), or (11), rather than in Section 1602.002(a)(2), (5), (7), (8), or (10), is performed.

SECTION 14.005. Amends Section 1602.451(a), Occupations Code, to require the holder of a private beauty culture school license to meet certain enumerated requirements, including requiring a school term of not less than six months and not less than 1,000 hours of instruction for a complete course in cosmetology, rather than requiring the holder of a private beauty culture school license to meet certain enumerated requirements, including requiring a school term of not less than nine months and not less than 1,500 hours of instruction for a complete course in cosmetology.

SECTION 14.006. Amends Section 1603.104, Occupations Code, by amending Subsection (b) and adding Subsections (c) and (c-1), as follows:

(b) Requires TDLR, except as otherwise provided by this section (Periodic Inspections), at least once every four years, rather than requiring TDLR every two years, to inspect each shop or other facility that holds a license, certificate, or permit in which the practice of barbering or cosmetology is performed under this chapter, Chapter 1601, or Chapter 1602.

(c) Creates this subsection from existing text and makes nonsubstantive changes.

(c-1) Requires TDLR, at least once every two years, to inspect each specialty shop that holds a license, certificate, or permit issued under this chapter, Chapter 1601, or Chapter 1602 and at which the practices described by Section 1601.002(1)(E) (relating to treating a person's nails) or (F) (relating to performing certain actions on a person's hands) or 1602.002(a)(8) or (9) are performed.

SECTION 14.007. Amends Section 1603.255, Occupations Code, as follows:

Sec. 1603.255. EARLY EXAMINATION. Authorizes TDLR to allow for the early written examination of a student who has completed the following number of hours of instruction in a TDLR approved training program:

(1) 1,000 hours for a student seeking a Class A barber certification in a private barber school, rather than 1,000 hours for a student seeking a Class A barber certificate or operator license in a private barber or cosmetology school;

(2) 900 hours for a student seeking an operator license in a private cosmetology school; or

(3) creates this subdivision from existing Subdivision (2) and makes no further changes.

SECTION 14.008. Amends Section 1603.256(c), Occupations Code, to authorize a barber school, private beauty culture school, or public secondary or postsecondary beauty culture school that is approved by TDLR to administer the examination under Section 1603.252 or the Windham School District to administer a practical examination required under this subchapter.

SECTION 14.009. Requires TCLR, as soon as practicable after the effective date of this Act, to adopt rules implementing Chapters 1602 and 1603, Occupations Code, as amended by this article.

SECTION 14.010. Makes application of Section 1602.254(b), Occupations Code, prospective to September 1, 2020.

SECTION 14.011. Makes application of Section 1603.255, Occupations Code, prospective.

ARTICLE 15. USED AUTOMOTIVE PARTS RECYCLERS

SECTION 15.001. Amends Section 2309.102(a), Occupations Code, to require that TCLR adopt rules for licensing used automotive parts recyclers, rather than adopt rules for licensing used automotive parts recyclers and used automotive parts employees.

SECTION 15.002. Amends the heading to Section 2309.106, Occupations Code, to read as follows:

Sec. 2309.106. PERIODIC INSPECTIONS.

SECTION 15.003. Amends Section 2309.106(a), Occupations Code, to require TDLR to inspect each used automotive parts recycling facility at least once every four years, rather than once every two years.

SECTION 15.004. Repealer: Sections 2309.106(c) (relating to requiring TDLR to conduct certain additional inspections), Occupations Code.

Repealer: Section 2309.106(d) (relating to requiring a used automotive parts recycler to pay a certain fee), Occupations Code.

Repealer: 2309.154 (Used Automotive Parts Employee License Required), Occupations Code.

SECTION 15.005. (a) Provides that, on the effective date of this Act, a used automotive parts employee license issued under former Section 2309.154, Occupations Code, expires.

(b) Requires TCLR, as soon as practicable after the effective date of this Act, to repeal all rules regarding the regulation of used automotive parts employees adopted under Chapter 2309, Occupations Code.

SECTION 15.006. (a) Provides that the change in law made by this article to Chapter 2309, Occupations Code, does not affect the validity of a proceeding pending before a court or other governmental entity on the effective date of this Act.

(b) Provides that an offense or other violation of law committed before the effective date of this Act is governed by the law in effect when the offense or violation was committed, and that the former law is continued in effect for that purpose. Provides that, for purposes of this subsection, an offense or violation was committed before the effective date of this Act if any element of the offense or violation occurred before that date.

ARTICLE 16. EFFECTIVE DATE

SECTION 16.001. Requires TCLR and TDLR to implement a provision of this Act only if the legislature appropriates money specifically for that purpose. Authorizes, but does not require, TCLR and TDLR, if the legislature does not appropriate money specifically for that purpose, to implement a provision of this Act using other appropriations available for that purpose.

SECTION 16.002. Effective date: September 1, 2019.