The meeting was called to order 8:02 a.m. on May 1, 2014 by Chair, Michael Arambula, M.D., Committee members present were Frank S. Denton; John D. Ellis, Jr.; Carlos Gallardo; Robert B. Simonson, D.O.; and Wynne M. Snoots, M.D.

Mr. Ellis moved, Mr. Gallardo seconded, that the Committee close the meeting to the public and continue in Executive Session for deliberations concerning Agenda items 2, 3a and 3b. The motion passed. Dr. Arambula announced that the meeting would be closed for deliberations at 8:04 a.m. concerning licensure applications and the character and fitness of applicants under the authority of The Medical Practice Act Sections 152.009 and 155.058, Occupations Code, and that while in executive session, the Board would not take any action, make any decision, or vote with regard to any matter that may be considered or discussed. A certified agenda of any executive session will be made.

Devinder S. Bhatia, M.D. and Timothy Webb entered the meeting at 8:05 a.m.

Timothy Webb exited the meeting at 8:39 a.m.

Timothy Webb reentered the meeting at 9:25 a.m.

The Executive Session ended at 12:45 p.m.

The Licensure Committee conducted hearings to review applicants appearing concerning eligibility. The hearings were conducted in Executive Session. Following the hearings, the Committee reconvened and considered the applications.

**Agenda Item 2 - Discussion, recommendation and possible action regarding licensee requests**

**Licensee #1519** appeared before the Committee, in executive session, upon referral from the Executive Director due to the licensee’s request to return to active status from Retired and providing Voluntary Charity Care. Following discussion, Mr. Denton moved to recommend to the full Board that the
request to reactivate the retired license be approved. Mr. Gallardo seconded the motion. All voted in favor. The motion passed.

Agenda Item 3 - Discussion, recommendation and possible action regarding applicants for licensure, permits, and certification

Agenda Item 3a - Applicants Appearing for Pain Management Certification -

**Applicant #1504** appeared before the Committee, with counsel, in executive session to appeal the the Executive Director’s determination of ineligibility for certification as a pain management clinic. In open session, Mr. Gallardo moved to recommend to the full Board that the applicant’s appeal be denied and the original determination of ineligibility be upheld. This recommendation is based on the applicant’s failure to meet eligibility for pain management certification by virtue of a disciplinary order related to prescribing practices. **Dr. Simonson seconded the motion. All voted in favor. The motion passed.**

Agenda Item 3b – Applicants appearing concerning eligibility -

**Applicant #1305** appeared before the Committee, with counsel, in executive session. In open session, Mr. Webb moved to recommend to the full Board that the applicant be privately referred to the Texas Physician Health Program (TPHP) and upon resolution with the TPHP be granted an unrestricted license. **Dr. Bhatia seconded the motion. All others voted in favor. The motion passed.**

**Applicant #1501** appeared before the Committee in executive session. In open session, Mr. Denton moved to recommend to the full Board that the applicant be granted a license subject to an Agreed Order with the following conditions:

- **Public Referral to the Texas Physician Health Program**

This recommendation is based on unprofessional conduct, failure to practice medicine within the standard of care, disciplinary action by another state, and intemperate use of alcohol or drugs that could endanger the public. **Dr. Snoots seconded the motion. All voted in favor. The motion passed.**

**Applicant #1502** appeared before the Committee in executive session. In open session, Mr. Webb moved to recommend to the full Board that the applicant be determined ineligible for reinstatement. This recommendation is based on failure to demonstrate that reissuance of the license
would be in the best interest of the public. Mr. Gallardo seconded the motion. All others voted in favor. The motion passed.

Applicant #1505 appeared before the Committee in executive session. In open session, Mr. Denton moved to recommend to the full Board that the applicant be allowed to withdraw the application for a license. This recommendation is based on Sec. 164.052 - A physician or an applicant for a license to practice medicine commits a prohibited practice if that person commits unprofessional or dishonorable conduct that is likely to deceive or defraud the public, as provided by Section 164.053, or injure the public. Mr. Webb seconded the motion. All voted in favor. The motion passed.

Applicant #1513 appeared before the Committee, with counsel, in executive session. In open session, Dr. Snoots moved to recommend to the full Board that the applicant be privately referred to the Texas Physician Health Program (TPHP) and upon resolution with the TPHP be granted a license subject to an Agreed Order with the following conditions:

- Public Reprimand

This recommendation is based on disciplinary action by another state. Mr. Denton seconded the motion. All others voted in favor. The motion passed.

Applicant #1514 appeared before the Committee, with counsel, in executive session. In open session, Mr. Denton moved to recommend to the full Board that the applicant be allowed to withdraw the application for a physician license and reapply submitting a new application with truthful, correct answers. This recommendation is based on the applicant submitting a false statement to the Board. Dr. Bhatia seconded the motion. All Committee members except Mr. Gallardo voted in favor of the motion. The motion passed.

Applicant #1524 appeared before the Committee in executive session. In open session, Dr. Bhatia moved to recommend to the full Board that the applicant’s application for full licensure be deferred pending the outcome of the applicant’s expunction order hearing. Should the expunction order be granted Dr. Bhatia further recommended authorization for the Executive Director to approve the applicant for a full physician license. Mr. Webb seconded the motion. All voted in favor. The motion passed.

Applicant #1525 appeared before the Committee, with counsel, in executive session. Dr. Bhatia recused himself from this case. In open session, Mr. Webb moved to recommend to the full Board that the
applicant be determined ineligible for a surgical assistant license. This recommendation is based on unprofessional conduct. Mr. Gallardo seconded the motion. All voted in favor. The motion passed.

Applicant #1530 appeared before the Committee, with counsel, in executive session, on appeal of a remedial plan offered by the Executive Director. In open session, Mr. Webb moved to recommend to the full Board that the applicant’s appeal be denied and the original non-disciplinary remedial plan be upheld. This recommendation is based on the applicant submitting a false statement to the Board. Mr. Gallardo seconded the motion. All Committee members voted in favor, except Dr. Bhatia, who voted against the motion. The motion passed.

Applicant #1531 appeared before the Committee, with counsel, in executive session. In open session, Mr. Denton moved to recommend to the full Board that the applicant be granted an unrestricted license. Dr. Bhatia seconded the motion. All voted in favor. The motion passed.

Item 3c - Proposed orders offered by the Executive Director – Ms. Knight reported on seven physician licensure orders and one surgical assistant order offered by the Executive Director and accepted by applicants. Dr. Bhatia moved to recommend to the full Board that the seven physician licensure orders and one surgical assistant order be approved. Mr. Gallardo seconded. All voted in favor. The motion passed.

Item 3d – Physician licensure applicants to be licensed. There were 213 applicants who met all requirements to be considered for permanent licensure by the full Board. Mr. Gallardo moved to recommend to the full Board that all 213 physician licensure applicants determined to meet eligibility requirements by staff be approved. Mr. Webb seconded the motion. All voted in favor. The motion passed.

Item 3e – Surgical assistant licensure applicants to be licensed. There were 11 surgical assistant applicants who met all requirements to be considered for licensure by the full Board. Mr. Gallardo moved to recommend to the full Board that all 11 surgical assistant applicants determined to meet eligibility requirements by staff be approved. Mr. Denton seconded the motion. All voted in favor. The motion passed.

Agenda Item 3f – Acudetox applicants for certification – There were none
Agenda Item 4 - Discussion, recommendation, and possible action regarding unsigned orders from previous meetings. – There were none

Agenda Item 5 – Report on physician licensure statistics. Ms. Knight reported that the average time to complete applications for physician licensure in the second quarter of FY 14 was 49 days. Ms. Knight also reported on the record number of physician licensure applications the Board has received for six of the seven recorded months of FY 14 so far.

Agenda Item 6a - Discussion, recommendation, and possible action regarding cancellation of licenses by request for incomplete registration: Surgical Assistants. There were none

Agenda Item 6b - Discussion, recommendation, and possible action regarding cancellation of licenses by request for incomplete registration: Acudetox. There were 10 Acudetox certifications for cancellation. Mr. Gallardo moved to recommend to the full Board that the 10 Acudetox certifications be cancelled. Mr. Webb seconded. All voted in favor and the motion passed.

Agenda Item 7a - Discussion, recommendation, and possible action regarding Nonprofit Health Organizations: Applicants for initial certification. There were six applications for initial certification as a Nonprofit Health Organization for approval. Dr. Simonson moved to recommend to the full Board that the six requests for initial certification as a Nonprofit Health Organization be approved. Mr. Gallardo seconded. All voted in favor and the motion passed.

Agenda Item 7b - Discussion, recommendation, and possible action regarding Nonprofit Health Organizations: Requests for biennial recertification - There were 26 applications for biennial recertification as a Nonprofit Health Organization for approval. Mr. Gallardo moved to recommend to the full Board that the 26 requests for biennial recertification as a Nonprofit Health Organization be approved. Mr. Denton seconded. All voted in favor and the motion passed.

Agenda Item 7c - Discussion, recommendation, and possible action regarding Nonprofit Health Organizations: Cancellations of organizations certified as Nonprofit Health Organizations - There were none

Agenda Item 8 - Discussion, recommendation, and possible action regarding proposed amendments to board rules:
a. 163.4 Procedural Rules for Licensure Applicants
b. 163.5 Licensure Documentation

Mr. Webb moved to recommend to the full Board that the rules with changes as proposed be published in the Texas Register for public comment. Mr. Gallardo seconded. All voted in favor. The motion passed.

c. 166.6 Exemption from Registration fee for retired physician providing voluntary charity care

Mr. Gallardo moved to recommend to the full Board that the rule as presented be published in the Texas Register for public comment. Dr. Snoots seconded. All voted in favor. The motion passed.

d. 172.5(b) – Visiting Physician Temporary Permit
e. 172.8 Faculty Temporary License

Mr. Denton moved to recommend to the full Board that the rules as presented be published in the Texas Register for public comment. Mr. Gallardo seconded. All voted in favor. The motion passed.

f. 184.4 Surgical Assistants – Qualifications for Licensure

Mr. Gallardo moved to recommend to the full Board that the rule as presented be published in the Texas Register for public comment. Mr. Webb seconded. All voted in favor. The motion passed.

g. 187.5 National Practitioner Data Bank

Dr. Snoots moved to recommend to the full Board that the rule not be published and be redrafted to include language that specifies which board actions are non-reportable actions. Mr. Webb seconded. All voted in favor except Mr. Gallardo. The motion passed.

h. 187.13 Ineligibility Determination
i. 187.24 Pleadings (pertaining to Licensure applicants who appeal)

Mr. Gallardo moved to recommend to the full Board that the rule as presented be published in the Texas Register for public comment. Mr. Webb seconded. All voted in favor. The motion passed.

Agenda Item 9 - Discussion, recommendation, and possible action regarding National Practitioner Data Bank (NPDB) reporting policy for licensure applicants. Mr. Freshour presented the committee with a demonstrative aid to help demonstrate reportable and non-reportable actions arising from pre-committee determinations, committee determinations, an applicant’s options. Mr. Freshour further explained how staff is notifying applicants prior to committee including the reporting changes and at which point an applicant would be able to withdraw an application without the withdrawal being reported to the NPDB.
Agenda Item 10 - Discussion, recommendation, and possible action regarding substantial equivalence list. Dr. Joseph Flaherty, M.D., Dean and Chancellor of Ross University School of Medicine (RUSM) appeared to address the Board’s concerns regarding the disproportionately high number of RUSM graduates who have been determined ineligible for physician licensure in Texas due to the unacceptable clinical clerkship rotations. Dr. Flaherty explained RUSM’s current policy to assist students in selecting clinical rotations, and advising students regarding Texas licensure requirements.

Agenda Item 11 - Discussion, recommendation, and possible action regarding applicant packets. This item was deferred until the next Board meeting.

Agenda Item 12 – Discussion, recommendation, and possible action regarding Ten Year Rule. This item was deferred until the next Board meeting.

Agenda Item 13 - There being no further business, the meeting was adjourned at 2:27 p.m.
## Agenda Item 03c – Proposed orders offered by the Executive Director

May 2014

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<td>1528</td>
<td>Surgical Assistant License</td>
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TOTAL APPLICANTS FOR CONSIDERATION FOR PERMANENT LICENSURE

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LICENSE TYPE AND METHOD:

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  - RELICENSURE: 0
  - REINSTATEMENT: 0
  - TOTAL: 0

- **CONCEDED EMINENCE**
  - REGULAR: 0
  - RELICENSURE: 0
  - REINSTATEMENT: 0
  - TOTAL: 0

- **FULL**
  - REGULAR: 188
  - RELICENSURE: 2
  - REINSTATEMENT: 0
  - TOTAL: 190

- **PUBLIC HEALTH**
  - REGULAR: 0
  - RELICENSURE: 0
  - REINSTATEMENT: 0
  - TOTAL: 0

- **TELEMEDICINE**
  - REGULAR: 1
  - RELICENSURE: 0
  - REINSTATEMENT: 0
  - TOTAL: 1
  - GRAND TOTAL: 191
1. ABDELFATTAH, BASEM MD  
   FULL-REG (579130)  
   SCHOOL: TEXAS TECH UNIV HLTH SCI CTR, LUBBOCK-2009
2. ABDULLAH, KAZEEN NURI MD  
   FULL-REG (559188)  
   SCHOOL: EAST TENN STATE UNIV, JAMES H QUILLEN COLL OF MED, JOHNSON CITY-2011
3. ABDULLAH, SAIF MD  
   FULL-REG (579624)  
   SCHOOL: BAGHDAD UNIV, BAGHDAD-2002
4. ARSENAULT, DANIEL MICHAEL JR MD  
   FULL-REG (580652)  
   SCHOOL: STATE UNIV OF NEW YORK HLTH SCI CTR, SYRACUSE COLL OF MED, SYRACUSE-2009
5. ARUNACHALAM, ATHIS RAJH MD  
   FULL-REG (556878)  
   SCHOOL: STANLEY MED COLL, MADRAS UNIV, MADRAS, TAMIL NADU-2003
6. ASIF SIDDIQUI, OMER MUHAMMAD MD  
   FULL-REG (577574)  
   SCHOOL: ALLAMA IQBAL MED COLL, UNIV OF HEALTH SCIENCES, LAHORE-2001
7. AYALA, SANTIAGO M MD  
   FULL-REG (558720)  
   SCHOOL: UNIV OF TEXAS, SOUTHWESTERN MED SCH, DALLAS-2011
8. BANGALORE HARISH, RAJASHEKHAR MD  
   FULL-REG (579351)  
   SCHOOL: JAWAHARLAL NEHRU MEDICAL COLLEGE, BELGAUM, KARNATAKA, INDIA-1999
9. BASKARAN, GAUTAM MD  
   FULL-REG (533976)  
   SCHOOL: UNIV OF TEXAS, SOUTHWESTERN MED SCH, DALLAS-2008
10. BECKER, STEPHEN MATTHEW MD  
    FULL-REG (526621)  
    SCHOOL: UNIV OF TEXAS, SOUTHWESTERN MED SCH, DALLAS-2001
11. BENSON, ANASTASIA MARIE DO  
    FULL-REG (557546)  
    SCHOOL: ARIZONA COLL OF OSTEOMED, MIDWESTERN UNIV, GLENDALE, AZ-2011
12. BERGERON, JENNIFER LYNN MD  
    FULL-REG (580603)  
    SCHOOL: BAYLOR COLL OF MED, HOUSTON-2008
13. BILBO, COREY MATTHEW MD  
    FULL-REG (578299)  
    SCHOOL: LOUISIANA STATE UNIV SCH OF MED, NEW ORLEANS-2011
14. BISHWAKARMA, RAJU MD  
    FULL-REG (580072)  
    SCHOOL: BP KOIRALA INST OF HLTH SCI, DHARAN, SUNSARI DISTRICT, NEPAL-2005
15. BLUMENFELD, YAIR MD  
    FULL-REG (577836)  
    SCHOOL: SACKLER SCH OF MED, UNIV OF TEL AVIV, TEL AVIV-2002
16. BOOTHBY, LESLIE BRADFORD MD  
    FULL-REG (537332)  
    SCHOOL: BOSTON UNIV SCH OF MED, BOSTON-2008
17. BORGES, NIRICA MARIA MD  
    FULL-REG (580323)  
    SCHOOL: CASE WESTERN RESERVE UNIV SCH OF MED, CLEVELAND-2010
18. BOWMAN, ISAAC ALEXANDER MD  
    FULL-REG (580251)  
    SCHOOL: UNIV OF TEXAS, SOUTHWESTERN MED SCH, DALLAS-2010
19. BROWN, EMILY MARIE MD  
    FULL-REG (540170)  
    SCHOOL: BAYLOR COLL OF MED, HOUSTON-2009
20. BROWN SMITH, LAVORIS RENEE MD  
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45. EMANUEL, MATTHEW EZRA MD  
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46. EVANS, JOSHUA MARK DO  
   FULL-REG (558026)  
   SCHOOL: UNIV OF NORTH TEXAS HLTH SCI CTR, FORT WORTH-2011
47. FAGBAMI, OLUWAKEMI YETUNDE MD  
   FULL-REG (580232)  
   SCHOOL: UNIV OF IBADAN, IBADAN-2001
48. FALLOM, SARA CHILDRESS MD  
   FULL-REG (539087)  
   SCHOOL: BAYLOR COLL OF MED, HOUSTON-2009
49. FERNANDEZ, EDGAR EDUARDO MD  
   FULL-REG (581775)  
   SCHOOL: UNIV OF TEXAS MED BRANCH, GALVESTON-2009
50. FORADORI, DANA MD  
   FULL-REG (557696)  
   SCHOOL: MED COLL OF OHIO AT TOLEDO, TOLEDO-2011
51. GABLE, LISA LYNELLE MD  
   FULL-REG (572549)  
   SCHOOL: LOUISIANA STATE UNIV SCH OF MED, NEW ORLEANS-1997
52. GARDNER, SARAH V DO  
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   2002-2011
53. GAY, ANDRE NICOLAS MD  
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54. GAYLE, SARITA MD  
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   2008
56. GIESLER, JOHN HAROLD MD  
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57. GILL, AVNEET MD  
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58. GOODWIN, BRETT JARED MD  
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113. MAHajan, Nitin MD
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120. MAUCH, BRIAN GERALD MD  
SCHOOL: UNIV OF NORTH DAKOTA SCH OF MED, GRAND FORKS-1993

121. MCCLAIN, LAUREN NICOLE MD  
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123. MENEGHINI, LUIGI FERNANDO MD  
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124. MODALLEL, LADAN MD  
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126. MUNS, JAMES ALAN MD  
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127. MUSTAFA, MUHAMMAD MD  
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128. MYERS, PAUL JOSEPH JR DO  
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129. NAHAR, TAMANNA MD  
SCHOOL: M.S. RAMAIAH MEDICAL COLLEGE, BANGALORE UNIVERSITY, KARNATAKA-1989

130. NASSER EDDIN, AMMAR MD  
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132. NEIMAN, VANESSA RENEE MD  
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133. NELSON, JENNY LYNN MD  
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135. NEWMAN, ADAM TODD MD  
SCHOOL: NEW YORK UNIV SCH OF MED, NEW YORK-1992

136. NG, GARRY MD  
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137. NIHAWAN, RAJIV INDIRA MD  
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138. NOSNIK, ISRAEL PAUL MD  
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TEXAS MEDICAL BOARD
TELEMEDICINE LICENSURE APPLICANTS FOR
CONSIDERATION AT MAY 1-2, 2014 BOARD MEETING

1. BRESCE, ROBERT J MD
   SCHOOL: UNIV OF ILLINOIS COLLEGE OF MEDICINE, CHICAGO-1979
   TELE-REG (576755)
Agenda Item 03e: Surgical Assistant Licensure Applicants

May 2014

1. Almanza, Martin Saul
2. Bosch, Tina Lee
3. Cantu, Aimee Alisa
4. Centeno, Mauricio Antonio
5. George, Benoy Abraham
6. Graffagnino, Jordan Brett
7. Lopez-Ramos, Jorge Ignacio
8. McClinton-Salinas, Danielle
9. Perez, Francis A
10. Robertson, Timothy Wayne Jr.
11. Sandelis, Raquel
Agenda Item 6b: Cancellation of Acudetox Licenses by Request or Incomplete Registration

May 2014

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**Agenda Item 6b: Cancellation of Acudetox Licenses by Request or Incomplete Registration**

**May 2014**

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Agenda Item 7a: Applications for Initial Certification as Nonprofit Health Organization

May 2014

1) AIDS Arms Physicians, Inc.
2) Cardiology Services of East Texas
3) CHRISTUS Pediatric Physician Group
4) Diabetes and Obesity Prevention of South Texas
5) Methodist – CDI
6) The Texas International Institute of Health Professions
Agenda Item 7b: Requests for Biennial Recertification as Nonprofit Health Organization

May 2014

1) Atascosa Health Center, Inc.
2) Brazos Valley Community Action Agency, Inc.
3) Cardiovascular Care Providers, Inc.
4) Children’s Physician Services
5) Community Care Specialists, Inc.
6) Conroe Medical Education Foundation
7) Critical Access Medical Group
8) Dallas Methodist Physicians Network
9) Depelchin Psychiatric Services
10) Diagnostic Path Lab, Inc.
11) Driscoll Physicians Group
12) East Texas Medical Center Healthcare
13) El Centro Del Barrio d/b/a CentroMed
14) FHC Family Healthcare Centers, Inc.
15) Fort Bend Family Health Center
16) Fourth Ward Clinic, d/b/a Good Neighbor Healthcare Center
17) Gateway Community Health Center, Inc.
18) Heart of Texas Community Healthcare Center, Inc.
19) Houston Community Healthcare Inc.
20) Legacy Community Health Services, Inc.
21) Lone Star Circle of Care
22) Matagorda Episcopal Health Outreach
23) Sound Inpatient Physicians of Texas I, Inc.
24) SPMG Signature Pampa Medical Group, d/b/a Pampa Medical Group
25) United Medical Centers
26) Vida y Salud Health Systems, Inc.
§163.4 Procedural Rules for Licensure Applicants

(a) All applicants for licensure:

(1) if appropriate, are encouraged to use the Federation Credentials Verification Service (FCVS) offered by the Federation of State Medical Boards of the United States (FSMB) to verify medical education, postgraduate training, licensure examination history, board action history and identity;

(2) whose applications have been filed with the board in excess of one year will be considered expired. Any fee previously submitted with that application shall be forfeited unless otherwise provided by §175.5 of this title (relating to Payment of Fees or Penalties). Any further request for licensure will require submission of a new application and inclusion of the current licensure fee. An extension to an application may be granted under certain circumstances, including:

   (A) Delay by board staff in processing an application;
   (B) Application requires Licensure Committee review after completion of all other processing and will expire prior to the next scheduled meeting;
   (C) Licensure Committee requires an applicant to meet specific additional requirements for licensure and the application will expire prior to deadline established by the Committee;
   (D) Applicant requires a reasonable, limited additional period of time to obtain documentation after completing all other requirements and demonstrating diligence in attempting to provide the required documentation;
   (E) Applicant is delayed due to unanticipated military assignments, medical reasons, or catastrophic events.

(3) who in any way submit a false or misleading statement, document, or certificate in an application may be required to appear before the board. It will be at the discretion of the board whether or not the applicant will be issued a Texas license;

(4) on whom adverse information is received by the board may be required to appear before the board. It will be at the discretion of the board whether or not the applicant will be issued a Texas license;

(5) shall be required to comply with the board's rules and regulations which are in effect at the time the application form and fee are filed with the board;

(6) may be required to sit for additional oral, written, mental or physical examinations that, in the opinion of the board, are necessary to determine competency and ability of the applicant;
must have the application for licensure complete in every detail 20 days prior to the board meeting in which they are considered for licensure. Applicants with complete applications may qualify for a Temporary License prior to being considered by the board for licensure, as required by §172.11 of this title (relating to Temporary Licensure--Regular); and

that receive any medical or osteopathic medical education in the United States must have obtained such education while enrolled as a full-time or visiting student at a medical school that is accredited by an accrediting body officially recognized by the United States Department of Education as the accrediting body for medical education leading to the doctor of medicine degree or the doctor of osteopathy degree in the United States. This subsection does not apply to postgraduate medical education or training. An applicant who is unable to comply with this requirement must demonstrate that the applicant either:

(A) received such medical education in a hospital or teaching institution sponsoring or participating in a program of graduate medical education accredited by the Accreditation Council for Graduate Medical Education, the American Osteopathic Association, or the board in the same subject as the medical or osteopathic medical education if the hospital or teaching institution has an agreement with the applicant's school; or

(B) is specialty board certified by a board approved by the Bureau of Osteopathic Specialists or the American Board of Medical Specialties.

(b) Applicants for a license must subscribe to an oath in writing. The written oath is part of the application.

c) An applicant is not eligible for a license if:

1. the applicant holds a medical license that is currently restricted for cause, canceled for cause, suspended for cause, or revoked by a state of the United States, a province of Canada, or a uniformed service of the United States;

2. an investigation or a proceeding is instituted against the applicant for the restriction, cancellation, suspension, or revocation of the applicant's medical license in a state of the United States, a province of Canada, or a uniformed service of the United States;

3. a prosecution is pending against the applicant in any state, federal, or Canadian court for any offense that under the laws of this state is a felony or a misdemeanor that involves moral turpitude; or

4. the applicant has violated §170.002 or Chapter 171, Texas Health and Safety Code.

d) Review and Recommendations by the Executive Director.

1. The executive director shall review applications for licensure and may determine whether an applicant is eligible for licensure or refer an application to a committee of the board for review. If an applicant is determined to be ineligible for a license by the executive director pursuant to §§155.001 - 155.152 of the Act, Chapter 163 of this title (relating to Licensure), Chapter 171 of this title (relating to Postgraduate Training
Permits), or Chapter 172 of this title (relating to Temporary and Limited Licenses), the applicant may request review of that determination by a committee of the board. The applicant must request the review not later than the 20th day after the date the applicant receives notice of the determination.

(4) If the Executive Director determines that the applicant clearly meets all licensing requirements, the Executive Director or a person designated by the Executive Director, may issue a license to the applicant, to be effective on the date issued without formal board approval, as authorized by §155.002(b) of the Act.

(5) If the Executive Director determines that the applicant does not clearly meet all licensing requirements, a license may be issued only upon action by the board following a recommendation by the Licensure Committee, in accordance with §155.007 of the Act (relating to Application Process) and §187.13 of this title (relating to Informal Board Proceedings Relating to Licensure Eligibility).

(4) To promote the expeditious resolution of any licensure matter, the executive director with the approval of the board, may recommend that an applicant be eligible for a license, but only under certain terms and conditions and present a proposed agreed order or remedial plan to the applicant.

(A) If the proposed agreed order or remedial plan is acceptable to the applicant, the applicant shall sign the order/remedial plan and the order/remedial plan shall be presented to the board for consideration and acceptance without initiating a Disciplinary Licensure Investigation (as defined in §187.13 of this title) or appearing before the licensure committee concerning issues relating to conducting an informal board proceeding relating to licensure eligibility.

(B) If the proposed agreed order or remedial plan is not acceptable to the applicant, the applicant may:

(i) request a review of the executive director's recommendation by a committee of the board conducted in accordance with §187.13 of this title (relating to Informal Board Proceedings Relating to Licensure Eligibility). The applicant must request review not later than the 20th day after the date the applicant receives notice of the executive director's recommendation; or

(ii) withdraw their application.

(5) If the Executive Director determines that the applicant is ineligible for licensure based on one or more of the statutory or regulatory provisions listed in paragraphs (1) - (5) of this subsection, the applicant may appeal that decision to the Licensure Committee before completing other licensure requirements for a determination by the Committee solely regarding issues raised by the determination of ineligibility. If the Committee overrules the determination of the Executive Director, the applicant may then provide additional information to complete the application, which must be analyzed by board staff and approved before a license may be issued. Grounds for ineligibility under this subsection include noncompliance with the following:
(1) Section 155.003(a)(1) of the Act that requires the applicant to be 21 years of age;

(2) Section 155.003(b) and (c) of the Act that require that medical or osteopathic medical education received by an applicant must be accredited by an accrediting body officially recognized by the United States Department of Education, or meet certain other requirements, as more fully set forth in §§163.4(a)(8), 163.5(b)(11), 163.5(c)(2)(C), 163.5(c)(2)(D), and 163.1(11)(B)(iii) and (iv) of this chapter;

(3) Sections 155.051 - 155.0511, and 155.056 of the Act that relates to required licensure examinations and examination attempts;

(4) Section 163.7 of this chapter (relating to the Ten Year Rule); and

(5) Section 163.6(e) of this chapter (relating to Examinations Accepted for Licensure) that requires passage of the Jurisprudence Examination.
163.5 Licensure Documentation
(a) On request of board staff, an applicant must appear for a personal interview at the board offices and present original documents to a representative of the board for inspection. Original documents may include, but are not limited to, those listed in subsections (b) - (e) of this section.

(b) Documentation required of all applicants for licensure.

(1) Birth Certificate/Proof of Age. Each applicant for licensure must provide a copy of a valid passport or birth certificate and translation if necessary to prove that the applicant is at least 21 years of age. In instances where such documentation is not available, the applicant must provide copies of other suitable alternate documentation.

(2) Name Change. Any applicant who submits documentation showing a name other than the name under which the applicant has applied must present copies of marriage licenses, divorce decrees, or court orders stating the name change. In cases where the applicant's name has been changed by naturalization, the applicant should send the original naturalization certificate by certified mail to the board office for inspection.

(3) Examination Scores. Each applicant for licensure must have a certified transcript of grades submitted directly from the appropriate testing service to the board for all examinations accepted by the board for licensure.

(4) Dean's Certification. Each applicant for licensure must have a certificate of graduation submitted directly from the medical school on a form provided to the applicant by the board. The applicant shall attach a recent photograph, meeting United States Government passport standards, to the form before submitting to the medical school. The school shall have the Dean of the medical school or designated appointee sign the form attesting to the information on the form and placing the school seal over the photograph.

(5) Evaluations. All applicants must provide evaluations completed by an appropriate supervisor, on a form provided by the board, of their professional affiliations for the past five years or since graduation from medical school, whichever is the shorter period.

(6) Medical School Transcript. On request of board staff, an applicant must have his or her medical school submit a transcript of courses taken and grades obtained.

(7) National Practitioner Data Bank/Health Integrity and Protection Data Bank (NPDB-HIPDB). Each applicant must contact the NPDB-HIPDB and have a report of action submitted directly to the board on the applicant's behalf.

(8) Graduate Training Verification. On request of board staff, an applicant must have any of the training programs in which they have participated in submit verification on a form.
provided by the board. The evaluation must show the beginning and ending dates of the program and state that the program was successfully completed.

(9) Specialty Board Certification. Each applicant who has obtained certification by a board that is a member of the American Board of Medical Specialties or the Bureau of Osteopathic Specialists must submit a copy of the certificate issued by the member showing board certification.

(10) Medical License Verifications. On request of board staff, an applicant must have any state in which he or she has ever been licensed, regardless of the current status of the license, submit directly to this board a letter verifying the status of the license and a description of any sanctions or pending disciplinary matters.

(11) U.S. medical education. Applicants must demonstrate that any medical school education that was completed in the United States in satisfaction of their core basic and clinical science courses as established by the Texas Higher Education Coordinating Board, the Liaison Council on Medical Education, and/or the American Osteopathic Association, and in satisfaction of the 130 weeks of required medical education was accredited by an accrediting body officially recognized by the United States Department of Education as the accrediting body for medical education leading to the doctor of medicine degree or the doctor of osteopathy degree. An applicant who is unable to comply with these requirements may in the alternative demonstrate that the applicant:

(A) received such medical education in a hospital or teaching institution sponsoring or participating in a program of graduate medical education accredited by the Accrediting Council for Graduate Medical Education, the American Osteopathic Association, or approved by the board under §171.4 of this title (relating to Board-Approved Postgraduate Fellowship Training Programs) in the same subject as the medical or osteopathic medical education if the hospital or teaching institution has an agreement with the applicant's school;

(B) is specialty board certified by a board approved by the Bureau of Osteopathic Specialists or the American Board of Medical Specialties; or

(C) for the purpose of remedying a single deficient U.S. clerkship that was obtained while enrolled in medical school, the applicant may subsequent to graduation from medical school, and after submission of an application for licensure:

(i) complete a clerkship in the United States in satisfaction of clinical science courses as established by the Texas Higher Education Coordinating Board, the Liaison Committee on Medical Education, and/or the American Osteopathic Association and in a hospital or teaching institution sponsoring or participating in a program of graduate medical
education accredited by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association in the same specialty or sub-specialty as the deficient clerkship; or

(ii) re-enroll in a medical school accredited by the Liaison Council on Medical Education, and/or the American Osteopathic Association as a visiting student and satisfactorily complete necessary coursework in the appropriate subject.

Remainder of Rule unchanged
§166.6. Exemption From Registration Fee for Retired Physician Providing Voluntary Charity Care.
(a) A retired physician licensed by the board whose only practice is the provision of voluntary charity care shall be exempt from the registration fee.
(b) As used in this section:
   (1) "voluntary charity care" means medical care provided for no compensation to:
      (A) indigent populations;
      (B) in medically underserved areas; or
      (C) for a disaster relief organization.
   (2) "compensation" means direct or indirect payment of anything of monetary value, except payment or reimbursement of reasonable, necessary, and actual travel and related expenses.
(c) To qualify for and obtain such an exemption, a physician must truthfully certify under oath, on a form approved by the board that the following information is correct:
   (1) the physician's practice of medicine does not include the provision of medical services for either direct or indirect compensation which has monetary value of any kind;
   (2) the physician's practice of medicine is limited to voluntary charity care for which the physician receives no direct or indirect compensation of any kind for medical services rendered;
   (3) the physician's practice of medicine does not include the provision of medical services to members of the physician's family; and
   (4) the physician's practice of medicine does not include the self-prescribing of controlled substances or dangerous drugs.
(d) A physician who qualifies for and obtains an exemption from the registration fee authorized under this section shall obtain and report continuing medical education as required under the Act, §§156.051 - 156.055 and §166.2 of this title (relating to Continuing Medical Education), except that the number of credits of informal CME, as required by §166.2(a)(3) of this title shall be reduced from 24 credits to 20 credits.
(e) A retired physician who has obtained an exemption from the registration fee as provided for under this section, may be subject to disciplinary action under the Act, §§164.051 - 164.053, based on unprofessional or dishonorable conduct likely to deceive, defraud, or injure the public if the physician engages in the compensated practice of medicine, the provision of medical services to members of the physician's family, or the self-prescribing of controlled substances or dangerous drugs.
(f) A physician who attempts to obtain an exemption from the registration fee under this section by submitting false or misleading statements to the board shall be subject to disciplinary action pursuant to the Act, §164.052(a)(1), in addition to any civil or criminal actions provided for by state or federal law.
(g) A retired physician providing voluntary charity care must obtain the approval of the board before returning to active status by submitting a written request to the attention of the Permits Department of the board which indicates the following:

(A) the physician's Texas medical license number;
(B) current mailing address;
(C) proposed practice location;
(D) intended type of medical practice;
(E) length of retired status providing voluntary charity care;
(F) any other medical licenses held;
(G) any condition which adversely affects the physician's ability to practice medicine with reasonable skill and safety;
(H) any current specialty board certifications;
(I) any formal or informal continuing medical education obtained during the period of retired status; and
(J) a description of all voluntary charity care provided during the period of retired status.

(h) The request of a physician seeking a return to active status whose license has been placed on retired status providing voluntary charity care for two years or longer shall be submitted to the Licensure Committee of the board for consideration and a recommendation to the full board for approval or denial of the request. After consideration of the request and the recommendation of the Licensure Committee, the board shall grant or deny the request. If the request is granted, it may be granted without conditions or subject to such conditions which the board determines are necessary to adequately protect the public including but not limited to:

(A) current certification by a member board of the American Board of Medical Specialties, Bureau of Osteopathic Specialists, or the American Board of Oral and Maxillofacial Surgery obtained by passing within the two years prior to date request to return to active status, a monitored:
   (i) specialty certification examination;
   (ii) maintenance of certification examination; or
   (iii) continuous certification examination;
(B) limitation of the practice of the requestor to specified activities of medicine and/or exclusion of specified activities of medicine;
(C) passage of the Special Purpose Examination (SPEX);
(D) remedial education, including but not limited to a mini-residency, fellowship or other structured program;
(E) passage of the Medical Jurisprudence Examination; and/or
(F) such other remedial or restrictive conditions or requirements which, in the discretion of the board are necessary to ensure protection of the public and minimal competency of the applicant to safely practice medicine.

(i) The request of a physician seeking a return to active status whose license has been placed on retired status providing voluntary charity care for less than two years may be approved by the executive director of the board or submitted by the executive director to the Licensure Committee for consideration and a recommendation to the full board for approval or denial of the request. In those instances in which the executive director submits the request to the Licensure Committee of the board, the Licensure Committee shall make a recommendation to the full board for approval or denial. After consideration of the request and the recommendation of the Licensure Committee, the board shall grant or deny the request subject to such conditions
which the board determines are necessary to adequately protect the public including, but not limited to, those options provided in paragraph (h)(A) - (F) of this subsection.

(j) In evaluating a request of a physician seeking a return to active status whose license has been placed on retired status providing voluntary charity care, the Licensure Committee or the full board may require a personal appearance by the requesting physician at the offices of the board, and may also require a physical or mental examination by one or more physicians or other health care providers approved in advance in writing by the executive director, the secretary-treasurer, the Licensure committee, or other designee(s) determined by majority vote of the board.
§172.5. Visiting Physician Temporary Permit.
(a) Visiting Physician Temporary Permit - General.
   (1) The executive director of the board may issue a permit to practice medicine to an
   applicant who intends to practice under the supervision of a licensed Texas physician,
   excluding training in postgraduate training programs:
      (A) for educational purposes;
      (B) to practice charity care to underserved populations in Texas;
      (C) in cases of declared emergency disasters;
      (D) for the provision of forensic psychiatric examinations related to criminal
           matters; or
      (E) for the provision of specialized medical care for which the applying physician
           has demonstrated good cause for the issuance of the permit.
   (2) In order to be determined eligible for a visiting physician temporary permit the
       applicant must:
      (A) not have any medical license that is under restriction, disciplinary order, or
          probation in another state, territory, or Canadian province;
      (B) be supervised by a physician who:
          (i) has an unrestricted license in Texas; and
          (ii) has not been the subject of a disciplinary order, unless the order was
               administrative in nature;
      (C) present written verification from the physician who will be supervising the
          applicant that the physician will provide continuous supervision of the applicant.
      Constant physical presence of the physician is not required but the physician must
      remain readily available; and
      (D) present written verification from the supervising physician as to the purpose
          for the requested permit.
   (3) Visiting physician temporary permits shall be valid for no more than ten working days
       and for a specified locale and purpose. The executive director of the board, in his/her
       discretion, may extend the length of the temporary permit if the applicant shows good
       cause for why the extended time is needed.
(b) Visiting Physician Temporary Permit - KSTAR.
   (1) The executive director of the board may issue a permit to practice medicine to an
   applicant who intends to participate in the Texas A&M KSTAR program. In order to be
   determined eligible for a visiting physician temporary permit, the applicant must:
      (A) present written verification from the KSTAR program of acceptance into the
          program;
      (B) be supervised by a physician who:
          (i) [with] has an unrestricted license in Texas; and
(ii) has not been the subject of a disciplinary order, unless the order was administrative in nature;

(C) present written verification from the physician who will be supervising the applicant that the physician will provide continuous supervision of the applicant. Constant physical presence of the physician is not required but the physician must remain readily available; and

(D) not have been convicted of a felony or have any medical license that is or has been under restriction, disciplinary order, or probation in another state, territory, or Canadian province based on a professional boundary violation, unless otherwise determined eligible by the Board.

(2) Visiting physician temporary permits for participation in the KSTAR program shall be valid for the length of the program. The executive director of the board, in his/her discretion, may extend the length of the temporary permit if the applicant shows good cause for why the extended time is needed.
172.8 Faculty Temporary License
(a) The board may issue a faculty temporary license to practice medicine to a physician in accordance with §155.104, Texas Occupations Code. "Physician," as used in that statute and in this section, is interpreted to mean a person who holds an M.D., D.O., or equivalent degree and who is licensed to practice medicine in another state or a Canadian province or has completed at least two years of postgraduate residency, but does not hold a license to practice medicine in this state.

(1) Each medical license held in any state, territory, or Canadian province must be free of any restrictions, disciplinary order or probation.

(2) The physician must have passed the Texas medical jurisprudence examination within three attempts, with a score of 75 or better, unless the board allows an additional attempt based upon a showing of good cause. An applicant who is unable to pass the JP exam within three attempts must appear before the licensure committee of the board to address the applicant's inability to pass the examination and to re-evaluate the applicant's eligibility for licensure. It is at the discretion of the committee to allow an applicant additional attempts to take the JP exam.

(3) "Institution," as used in this section, shall mean any of the following:
   (A) a school of medicine in this state accredited by the Liaison Committee on Medical Education or the American Osteopathic Association Bureau of Professional Education;
   (B) The University of Texas Health Science Center at Tyler;
   (C) The University of Texas M.D. Anderson Cancer Center;
   (D) an institutional sponsor of a graduate medical education program accredited by the Accreditation Council for Graduate Medical Education or;
   (E) a nonprofit health corporation certified under §162.00, Medical Practice Act, and affiliated with a program as described in subparagraph (D) of this paragraph.

(4) The physician must:
   (A) hold a salaried faculty position equivalent to a assistant professor-level or higher as determined by the institution working full-time in one of the institutions; or
   (B) hold a faculty position equivalent to a assistant professor-level or higher as determined by the institution, work at least part-time in one of the institutions; and
   (i) be on active duty in the United States military; and
   (ii) be engaged in a practice under the faculty temporary license that will fulfill a critical need of the citizens of Texas.
(5) The physician must sign an oath on a form provided by the board swearing that the physician has read and is familiar with board rules and the Medical Practice Act; will abide by board rules and the Medical Practice Act in activities permitted by this section; and will subject themselves to the disciplinary procedures of the board.

(b) The faculty temporary license shall be issued for a period of one year. The holder of a faculty temporary license may apply for one or more successive faculty temporary licenses.

(c) The faculty temporary license holder's practice of medicine shall be limited to the teaching confines of the applying institution as a part of duties and responsibilities assigned by the institution to the physician.

(d) The physician may participate in the full activities of the department of any hospital for which the physician's institution has full responsibility for clinical, patient care, and teaching activities. "Full responsibility" means that the institution has agreed to provide physicians to see patients in the hospital and that the institution provides any necessary supervision for such physicians.

(e) The physician and the institution shall file affidavits with the board affirming acceptance of the terms, limitations, and conditions imposed by the board on the medical activities of the physician. The institution must also affirm in its affidavit that prior to filing the affidavit, the institution has reviewed the physician's criminal background, disciplinary history with other state licensing entities, and medical malpractice history.

(f) The application and fee for the faculty temporary license shall be presented to the executive director of the board at least 30 days prior to the effective date of the appointment of the physician.

(g) The application shall be made by the chairman of the department of the institution in which the physician teaches or the person holding the equivalent position at the institution where the physician teaches, and provide such information and documentation to the board as may be requested.

(h) The application shall be endorsed by the dean of the medical school or by the president of the institution. An endorsement must include a statement that the medical school or institution has investigated and determined the physician to be of good professional character and fit to practice medicine. An endorsement shall also state that the medical school or institution has accepted the responsibility to properly supervise the medical activities of the physician.

(i) Two years in a teaching faculty position under a faculty temporary license at any institution listed in subsection (a)(3) of this section may be equivalent to two years of approved postgraduate training if, at the conclusion of this two-year period, the physician presents recommendations in his or her behalf from the chief administrative officer and the president of the institution. A recommendation must include verification that the physician has completed at least two years in a teaching faculty position under a faculty temporary license at the level of assistant professor or higher and that the duties of the physician in such position required activities that demonstrate that the physician's medical competence is substantially equivalent to the competence of a person who has completed two years of an approved postgraduate residency program as described in §171.3(a)(1) of this title (relating to Physician-in-Training Permits).

Each year in a teaching faculty position under a faculty temporary license shall be considered the equivalent of one year of approved postgraduate training.
(j) An applicant is not eligible for a faculty temporary license if:
(1) the applicant holds a medical license that is currently restricted for cause, canceled for cause, suspended for cause, or revoked by a state of the United States, a province of Canada, or a uniformed service of the United States;

(2) the applicant holds a medical license that has been subject to disciplinary action in another state, territory, or Canadian province;

(3) an investigation or a proceeding is instituted against the applicant for the restriction, cancellation, suspension, or revocation of the applicant's medical license in a state of the United States, a province of Canada, or a uniformed service of the United States; or

(4) a prosecution is pending against the applicant in any state, federal, or Canadian court for any offense that under the laws of this state is a felony or a misdemeanor that involves moral turpitude.

(k) Six months under a faculty temporary license may be used to meet the requirements under §163.7(2) of this title (relating to Ten Year Rule).
§184.4 Qualifications for Licensure.

(a) Except as otherwise provided in this section, an individual applying for licensure must:
   (1) submit an application on forms approved by the board;
   (2) pay the appropriate application fee;
   (3) certify that the applicant is mentally and physically able to function safely as a surgical assistant;
   (4) not have a license, certification, or registration in this state or from any other licensing authority or certifying professional organization that is currently revoked, suspended, or subject to probation or other disciplinary action for cause;
   (5) have no proceedings that have been instituted against the applicant for the restriction, cancellation, suspension, or revocation of certificate, license, or authority to practice surgical assisting in the state, Canadian province, or uniformed service of the United States in which it was issued;
   (6) have no prosecution pending against the applicant in any state, federal, or Canadian court for any offense that under the laws of this state is a felony;
   (7) be of good moral character;
   (8) not have been convicted of a felony or a crime involving moral turpitude;
   (9) not use drugs or alcohol to an extent that affects the applicant's professional competency;
   (10) not have engaged in fraud or deceit in applying for a license;
   (11) pass an independently evaluated surgical or first assistant examination approved by the board;
   (12) have been awarded at least an associate's degree at a two or four year institution of higher education;
   (13) have successfully completed an educational program as set forth in subparagraphs (A) and (B) of this paragraph;
      (A) A surgical assistant program accredited by the Commission on Accreditation of Allied Health Education Programs (CAAHEP); or
      (B) a substantially equivalent program that is one of the following:
         (i) a medical school whereby the applicant can verify completion of basic and clinical sciences coursework;
         (ii) a registered nurse first assistant program that is approved or recognized by an organization recognized by the Texas Board of Nursing for purposes of licensure as a registered nurse first assistant [by]; [and ]or
         (iii) a post graduate clinical physician assistant program accredited by the Accreditation Review Commission on Education for the Physician Assistant, Inc. (ARC-PA, or by that committee’s predecessor or successor entities designed to prepare the physician assistant for a surgical specialty [an accredited surgical physician assistant program that is approved by the Texas Physician Assistant Board for purposes of physician assistant licensure].
(C) The curriculum of an educational program listed in subparagraphs (A) and (B) of this paragraph must include at a minimum, either as a part of that curriculum or as a required prerequisite, successful completion of college level instruction in the following courses:

(i) anatomy;
(ii) physiology;
(iii) basic pharmacology;
(iv) aseptic techniques;
(v) operative procedures;
(vi) chemistry;
(vii) microbiology; and
(viii) pathophysiology.

(14) demonstrate to the satisfaction of the board the completion of full-time work experience performed in the United States under the direct supervision of a physician licensed in the United States consisting of at least 2,000 hours of performance as an assistant in surgical procedures for the three years preceding the date of the application;

(15) be currently certified by a national certifying board approved by the board; and

(16) submit to the board any other information the board considers necessary to evaluate the applicant's qualifications.

(b) An applicant must provide documentation that the applicant has passed a surgical or first assistant examination required for certification by one of the following certifying boards:

(1) American Board of Surgical Assistants;
(2) National Board of Surgical Technology and Surgical Assisting (NBSTSA) formerly known as Liaison Council on Certification for the Surgical Technologist (LCC-ST); or
(3) the National Surgical Assistant Association provided that the exam was administered on or after March 29, 2003.

(c) Alternative License Procedure for Military Spouse.

(1) An applicant who is the spouse of a member of the armed forces of the United States assigned to a military unit headquartered in Texas may be eligible for alternative demonstrations of competency for certain licensure requirements. Unless specifically allowed in this subsection, an applicant must meet the requirements for licensure as specified in this chapter.

(2) To be eligible, an applicant must be the spouse of a person serving on active duty as a member of the armed forces of the United States and meet one of the following requirements:

(A) holds an active unrestricted surgical assistant license issued by another state that has licensing requirements that are substantially equivalent to the requirements for a Texas surgical assistant license; or
(B) within the five years preceding the application date held a surgical assistant license in this state that expired and was cancelled for nonpayment while the applicant lived in another state for at least six months.

(3) Applications for licensure from applicants qualifying under this section, shall be expedited by the board's licensure division. Such applicants shall be notified, in writing or by electronic means, as soon as practicable, of the requirements and process for renewal of the license.

(4) Alternative Demonstrations of Competency Allowed. Applicants qualifying under this section, notwithstanding:

(A) the one year expiration in §184.5(a)(2) of this title (relating to Procedural Rules for Licensure Applicants), are allowed an additional six months to complete the application prior to it becoming inactive; and

(B) the 20 day deadline in §184.5(a)(6) of this title, may be considered for permanent licensure up to five days prior to the board meeting; and

(C) the requirement to produce a copy of a valid and current certificate from a board approved national certifying organization in §184.6(b)(4) of this title (relating to Licensure Documentation), may substitute certification from a board approved national certifying organization if it is made on a valid examination transcript.

(d) Applicants with Military Experience.

(1) For applications filed on or after March 1, 2014, the Board shall, with respect to an applicant who is a military service member or military veteran as defined in §184.2 of this title (relating to Definitions), credit verified military service, training, or education toward the licensing requirements, other than an examination requirement, for a license issued by the Board.

(2) This section does not apply to an applicant who:

(A) has had a surgical assistant license suspended or revoked by another state or a Canadian province;

(B) holds a surgical assistant license issued by another state or a Canadian province that is subject to a restriction, disciplinary order, or probationary order; or

(C) has an unacceptable criminal history.
§187.5. National Practitioner Data Bank (NPDB).

In accordance with the Health Care Quality Improvement Act, 42 U.S.C. §11132, the board will report a public disciplinary board action [subject to reporting] to the NPDB according to applicable federal rules and statutes[,] including a revocation, suspension, restriction or limitation of a physician's license or public reprimand. The board will not report an action that includes only an administrative penalty, a requirement that a physician obtain additional education, training, or testing, a requirement that a physician's practice be retrospectively monitored (chart monitoring); and/or a requirement that a physician perform community service.] All disciplinary actions are public as set out in the Act.
§187.5. National Practitioner Data Bank (NPDB).

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§187.13 Informal Board Proceedings Relating to Licensure Eligibility
(a) An applicant who has either requested to appear before the licensure committee of the board or has elected to be referred to the licensure committee of the board due to a determination of ineligibility by the Executive Director in accordance with §163.4 (relating to Licensure), in lieu of withdrawing the application for licensure, may be subject to a Disciplinary Licensure Investigation.

(b) “Disciplinary Licensure Investigation” means an applicant’s licensure file that has been referred to the licensure committee for review.

[Recommendations by the Executive Director.
(1) The executive director shall review applications for licensure and may determine whether an applicant is eligible for licensure or refer an application to a committee of the board for review. If an applicant is determined to be ineligible for a license by the executive director pursuant to §§155.001—155.152 of the Act, Chapter 163 of this title (relating to Licensure), Chapter 171 of this title (relating to Postgraduate Training Permits), or Chapter 172 of this title (relating to Temporary and Limited Licenses) the applicant may request review of that determination by a committee of the board. The applicant must request the review not later than the 20th day after the date the applicant receives notice of the determination.

(2) To promote the expeditious resolution of any licensure matter, the executive director with the approval of the board, may recommend that an applicant be eligible for a license, but only under certain terms and conditions and present a proposed agreed order or remedial plan to the applicant.

(A) If the proposed agreed order or remedial plan is acceptable to the applicant, the applicant shall sign the order/remedial plan and the order/remedial plan shall be presented to the board for consideration and acceptance without conducting an informal board proceeding relating to licensure eligibility.

(B) If the proposed agreed order or remedial plan is not acceptable to the applicant, the applicant may request review of the executive director's recommendation by a committee of the board. The applicant must request review not later than the 20th day after the date the applicant receives notice of the executive director's recommendation.]

[(b)c) Determination by a Committee of the Board. Upon review of Disciplinary Licensure Investigation an application for licensure, a committee of the board may determine that the applicant is ineligible for licensure or is eligible for licensure with or without conditions or restrictions, eligible for licensure under a remedial plan, or defer its decision pending further information.

(1) An applicant subject to a Disciplinary Licensure Investigation who withdraws their request to appear before a committee of the Board, shall have such withdrawal submitted to the full board for ratification.
(2) An applicant, who fails to appear before the committee of the board, shall be deemed a withdrawal of such application, and such withdrawal shall be submitted to the full board for ratification.

([[3] Licensure with Terms and Conditions.

(A) If the committee determines that the applicant should be granted a license under certain terms and conditions, based on the applicant's commission of a prohibited act or failure to demonstrate compliance with provisions under the Act or board rules, the committee, as the board's representatives, shall propose an agreed order or a remedial plan. The terms and conditions of the proposed agreed order or remedial plan shall be submitted to the board for approval.

(B) Upon an affirmative majority vote of members present, the board may approve the agreed order or remedial plan as proposed by the committee with or without modifications, and direct staff to present the agreed order or remedial plan to the applicant.

(i) If the applicant agrees to the terms of the proposed agreed order or remedial plan, the applicant may be licensed upon the signing of the order or remedial plan by the applicant and the president of the board or the president's designee, and passage of the medical jurisprudence examination, if applicable.

(ii) If the applicant does not agree to the terms of the proposed agreed order or remedial plan, the applicant shall be determined ineligible for licensure.

(C) If the board does not approve the proposed agreed order or remedial plan and by majority vote determines the applicant ineligible for licensure, the applicant shall be so informed. The board must specify their rationale for the rejection of the proposed agreed order or remedial plan that shall be referenced in the minutes of the board.

([[4] Ineligibility Determination.

(A) If a committee of the board or the full board determines that an applicant is ineligible for licensure, either outright or including due to the applicant's failure to agree to the terms of the proposed order or remedial plan, the applicant shall be notified of the committee's determination and given the option to:

(i) appeal the determination of ineligibility to the State Office of Administrative Hearings (SOAH); or

(ii) accept the determination of ineligibility that will be reported to the appropriate entities and national databanks; or

(iii) withdraw the application.

(B) An applicant has 20 days from the date the applicant receives notice of the board's determination of ineligibility to submit a written response to the Board electing one of the three options listed in this paragraph (A)(i) -
Applicant’s failure to respond to the board’s notice of a determination of ineligibility within 20 days will be deemed acceptance by applicant of the board’s ineligibility determination.

(C) If the applicant timely notifies the board of applicant’s intent to appeal the board’s ineligibility determination to SOAH, a contested case before SOAH will be initiated only in accordance with §187.24 (Pleadings). Applicant shall comply with all other provisions relating to formal proceedings as set out in Subchapter C of this chapter (relating to Formal Board Proceedings at SOAH).

(D) An application for licensure shall not expire while the application is the subject of a contested case, however, applicants shall be required to update any information that is a part of their applications.

(E) If the applicant does not timely take action as required in sections (A) and (B) of this paragraph or, prior to the initiation of a contested case at SOAH, withdraws their intent to appeal the board’s ineligibility determination to SOAH, the committee's determination of ineligibility shall be submitted to the full board for ratification and shall become administratively final at the next scheduled board meeting.

(a) In disciplinary matters, actions by the board as Petitioner against a licensee, the board's pleadings shall be styled "Complaint" or "Formal Complaint". Except in cases of temporary suspension, a Complaint shall be filed only after notice of the facts or conduct alleged to warrant the intended action has been sent to the licensee's address of record and the licensee has an opportunity to show compliance with the law for the retention of a license as provided in §2001.054 of the Administrative Procedure Act (APA), and §164.004(a) of the Act.

(b) Upon timely receipt, as set forth in §187.13(c)(4)(B), from a licensure applicant, of a request for an appeal [hearing] before SOAH of the board's determination of ineligibility, the board shall file a request to docket and a Statement of Issues with SOAH.[a request to docket such appeal, and the applicant shall then have the burden of filing the initial petition with SOAH. The Board may then file its responsive pleading in opposition to the petition filed by the Applicant.

(C) If the applicant timely notifies the board of applicant's intent to appeal the board's ineligibility determination to SOAH, a]

(1) Applicant must timely filing petition with SOAH in order to initiate a contested case at SOAH.[-contested case before SOAH shall not be initiated until the applicant timely files a petition with SOAH.] Such petition shall be filed by applicant no more than 30 days after receipt of the Board’s Statement of Issues filed with SOAH. Applicant shall comply with all other provisions relating to formal proceedings as set out in Subchapter C of this chapter (relating to Formal Board Proceedings at SOAH).

(2) An applicant who notifies the board of their intent to appeal the board’s determination of ineligibility to SOAH, as required under subparagraph (b)(1) of this section, and subsequently fails to timely file a petition with SOAH, shall be deemed to have withdrawn their intent to appeal the board’s ineligibility determination to SOAH.

(3) Prior to initiating a contested case at SOAH, an applicant may request to withdraw their intent to appeal the board’s ineligibility determination to SOAH by notifying the board in writing prior to filing a petition.

(4) If an applicant fails to timely notify the board of their intent to appeal the board’s determination of ineligibility, as described in paragraph (b) of this section, such failure to take timely action shall be deemed a withdrawal.
(5) A withdraw of intent to appeal the board’s determination of ineligibility to SOAH or a deemed withdrawal, due to failure to timely take appropriate action, shall be submitted to the full board for ratification.

(6) An application for licensure shall not expire while the application is the subject of a contested case, however, applicants shall be required to update any information that is a part of their applications.
### Ineligible for not meeting threshold criteria – gets a letter stating choice
- withdraw
- appeal determination to cmte;
- do nothing = deemed withdrawn

### Offer of Remedial or Order – gets a letter stating choice
- withdraw;
- sign the order/remedial;
- appeal to committee, but offer is no longer viable (ie may get a reportable order instead);
- do nothing = deemed withdrawn

### Issues and in order to resolve, must go to committee – gets a letter stating choice
- withdraw;
- appeal to cmte – outcome will likely be reportable
- do nothing = deemed withdrawn

All ineligibility determinations and withdrawals/deemed withdrawals at this level are NOT REPORTABLE
An Order that is reportable by NPDB standards will be REPORTED accordingly
Withdrawals/No shows

• REPORTABLE FOR INELIGIBILITY, *unless* referral to committee is based solely on ineligibility based on threshold criteria

Determinations of ineligibility

• REPORTABLE FOR INELIGIBILITY, *unless* ineligibility is based solely on threshold criteria

Order

• REPORTABLE *unless* Order is one of the non-reportable sanctions
  • convert to something reportable (i.e. AO with fine → AO with CME RP with CME → AO with CME)

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All ineligibility determinations based failure to meet threshold criteria = NOT REPORTABLE

An Order that is reportable pursuant to NPDB guidelines will be REPORTED accordingly

Offers of WARs are not Reportable

**AT THIS LEVEL, APPLICANTS WILL NO LONGER BE OFFERED AN OPPORTUNITY TO WITHDRAW THEIR APPLICATION (after the cmte mtg) TO AVOID A REPORT TO NPDB**