

## **Board Rule Changes - December 22 and 25, 2011**

The following is a summary of the changes effective December 22, 2011 and December 25, 2011. Click [here](#) for the complete board rules:

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### **Effective December 22, 2011:**

#### **CHAPTER 177. BUSINESS ORGANIZATIONS**

##### **22 TAC §177.12 and new §§177.14-177.17**

The amendment to §177.12, concerning Revocation and Certification, permits the Board to assess administrative penalties against nonprofit health organizations that operate in contravention to the law.

New §177.14, concerning Therapeutic Optometrists, provides that physicians and therapeutic optometrists may form jointly owned entities.

New §177.15, concerning Podiatrists, provides that physicians and podiatrists may form jointly owned entities.

New §177.16, concerning Physician Assistants, provides that physicians and physician assistants may form jointly owned entities.

New §177.17, concerning Exceptions to Corporate Practice of Medicine Doctrine, sets out exceptions to the corporate practice of medicine doctrine that prohibits physicians from being directly employed by nonphysicians.

<http://www.sos.state.tx.us/texreg/archive/December162011/adopted/22.EXAMINING%20BOARDS.html#204>

### **Effective December 25, 2011:**

#### **CHAPTER 187. PROCEDURAL RULES 22 TAC**

##### **§§187.2, 187.9, 187.13, 187.14, 187.16, 187.18 - 187.20, 187.24, 187.37, 187.38, 187.43, 187.55 - 187.58, 187.61, 187.62 and 187.83**

The amendment to §187.2, relating to Definitions, amends the definition of "petition" to include appeals by applicants for licensure and adds a definition for "remedial plan."

The amendment to §187.9, relating to Board Actions, adds a process for the Board to issue nondisciplinary remedial plans for licensees.

The amendment to §187.13, relating to Informal Board Proceedings Relating to Licensure Eligibility, adds a process for the Board to issue nondisciplinary remedial plans with applicants for licensure.

The amendment to §187.14, relating to Informal Resolution of Disciplinary Issues Against a Licensee, adds language on remedial plans and specifies that the Quality Assurance Committee may refer investigations to be heard at an informal settlement conference.

The amendment to §187.16, relating to Informal Show Compliance Proceedings (ISCs), provides that for complaints filed with the Board after September 1, 2011, and that are scheduled for ISCs, 45 days before the scheduled ISC, Respondents must be given 45 days notice and copies of the information to be presented.

The amendment to §187.18, relating to Informal Show Compliance Proceeding and Settlement Conference Based on Personal Appearance, provides that for complaints filed with the Board after September 1, 2011, and that are scheduled for informal settlement conferences (ISCs), Respondents must provide rebuttals 15 days before the scheduled ISCs. Also that upon request by a Respondent, the Board shall record an ISC and the Respondent shall be responsible for the cost. Also, ISC panels may recommend remedial plans in order to resolve complaints.

The amendment to §187.19, relating to Resolution by Agreed Order, includes references to remedial plans.

The amendment to §187.20, relating to Board Action on Agreed Orders, includes references to remedial plans.

The amendment to §187.24, relating to Pleadings, provides that in cases where applicants for licensure appeal ineligibility determinations, the applicants are responsible for filing petitions with the State Office of Administrative Hearings.

The amendment to §187.37, relating to Final Decisions and Orders, provides that the Board may not change findings of fact or conclusions of law as determined by administrative law judges, but the Board may seek judicial review. In addition, all sanction determinations are to be determined by the Board.

The amendment to §187.38, relating to Motions for Rehearing, establishes the process for the Board to seek judicial review of an ALJ determination by filing a motion for rehearing.

The amendment to §187.43, relating to Proceedings for the Modification/Termination of Agreed Orders and Disciplinary Orders, provides

that a licensee may not seek modification or termination of a remedial plan and an agreed order entered into by a licensee may not be subsequently converted into a remedial plan.

The amendment to §187.55, relating to Purpose, provides that the Board may temporarily restrict a license through a temporary restriction proceeding.

The amendment to §187.56, relating to Convening a Disciplinary Panel, provides that, prior to the scheduling of a temporary suspension or restricting hearing, the executive director shall provide names of board members to the board president for appointment to the disciplinary panel.

The amendment to §187.57, relating to Charge of the Disciplinary Panel, provides that the board may temporarily suspend or restrict the license of a licensee who has been arrested for a sexual assault crime against a child.

The amendment to §187.58, relating to Procedures Before the Disciplinary Panel, amends language to include language on temporary restrictions.

The amendment to §187.61, relating to Ancillary Proceeding, amends language to include provisions for temporary restrictions and establishes that temporary restrictions or suspensions based on arrests for sexual assault crimes against a child are to remain in effect until there is a final disposition of a criminal matter when the licensee is sentenced.

The amendment to §187.62, relating to Continuing Threat Constitutes a Danger to the Public, amends language to include provisions for temporary restrictions.

The amendment to §187.83, relating to Complaints, Investigations, and Proceedings for Cease and Desist Orders, establishes procedures for public cease and desist hearings.

<http://www.sos.state.tx.us/texreg/archive/December162011/adopted/22.EXAMINING%20BOARDS.html#212>