

Rule Changes Effective January 20, 2014

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RULE CHANGES ADOPTED

CHAPTER 163. LICENSURE

22 TAC §163.1

The Amendments to §163.1, added definitions for “license holder,” “military service member,” “military spouse” and “military veteran” based on the passage of SB 162 and SB 949 (83rd Reg. Session) that amended Chapters 55 and 155 of the Tex. Occ. Code.

22 TAC §163.2

The Amendment to §163.2, related to Full Texas Medical License, deletes §163.2(d) of this rule related to the requirements for applicants who are not U.S. citizens or permanent residents, in accordance with SB 949 (83rd Reg. Session), which repealed Ch. 155.0045 of the Tex. Occ. Code, related to additional eligibility requirements for certain aliens. Also, the Amendment changes “163.2(e)” to “163.2(d),” in light of the previous deletion of “163.2(d).” The Amendment also adds language to §163.2(d), allowing for an expedited licensure process for military spouses, based on the passage of SB 162 (83rd Reg. Session). The New Rule §163.2(e), adds a provision for recognizing certain training for applicants with military experience, based on the passage of SB 162 (83rd Reg. Session).

22 TAC §163.5

The Amendment to §163.5(b)(12), relating to Licensure Documentation – Citizenship or Permanent Residence, is deleted as a result of §163.2(d) being deleted by virtue of Ch. 155.0045 of the Tex. Occ. Code being repealed by SB 949 (83rd Reg. Session).

22 TAC §163.6

The Amendment to §163.6, relating to Examinations Accepted for Licensure, amends the language in §163.6(b)(3), relating to the exemption from limits on exam attempts, in order to be consistent with the remainder of the rule. The New Rule §163.6(f), adds language which provides for an exemption from time frame in which an applicant must pass the examinations required for licensure, based on the passage of SB 949 (83rd Reg. Session).

22 TAC §163.13

The Amendment to §163.13, relating to Expedited Licensure Process, amends the language to include applicants who meet the criteria under §163.2(d), based on the passage of SB 162 (83rd Reg. Session).

CHAPTER 165. MEDICAL RECORDS

22 TAC §165.2

The amendments include language requiring a provider to provide copies of the requested patient records in electronic format, if such records are readily producible or other format as agreed to by the physician and the requestor, based on amendment of Health Insurance Portability and Accountability Act (HIPAA) 45 C.F.R. Part 164.524(c)(2)(i)-(ii). 165.2(c). The Amendment to 165.2(c) corrects a typographical error and references to the Board. The Amendment to 165.2(e), relating to allowable charges for providing copies of patient records, adds language to include the allowable charges for providing copies of patient records in electronic format, as well as a combination of paper and electronic format, based on the amendment of Health Insurance Portability and Accountability Act (HIPAA) 45 C.F.R. Part 164.524(c)(4)(i) from January 25, 2013.

22 TAC §165.5

The amendments add new subsection (f), which provides that a physician acting as a *locum tenens* is not required to provide notice of his or her discontinuation of practice to patients treated for no longer than six months at the location in which the physician acted as *locum tenens*, and defines “*locum tenens*” as a position in which a physician is employed or contracted on a temporary or substitute basis to provide physician services. Additionally, the amendments would revise subsection (c) so that a physician, physician group, or organization described in §165.1(b)(6) of Chapter 165 of 22 TAC Part 9 is prohibited from withholding information from a departing physician that is necessary for notification of patients about the physician’s departure, except where an exception applies under new subsection (f). Further, the amendments would revise subsection (c) so that where an exception applies under new subsection (f), other licensed physicians remaining in the practice may prevent the departing physician from posting notice and the sign about the physician’s departure.

CHAPTER 166. PHYSICIAN REGISTRATION

22 TAC §166.2

The Amendments to §166.2, relating to Continuing Medical Education, amends §166.2(a)(4) to include specific continuing medical education requirements for a physician who performs a forensic examination on a sexual assault survivor, based on the passage of SB 1191 (83rd Reg. Session). This Amendment further amends §166.2(n) to remedy incorrect citations.

22 TAC §166.3

The Amendment to §166.3, related to Retired Physician Exception, amends §166.3(4)(F) to correct a grammatical error. The New Rule §166.3(7) provides for emeritus status for retired physicians who meet specific criteria.

CHAPTER 167. REINSTATEMENT AND REISSUANCE

22 TAC §167.4

The amendment mandates that the underlying action leading to the revocation of a physician's license be considered in determining whether the reinstatement of the physician license would be in the best interests of the public.

22 TAC §167.6

The amendment mandates that the order revoking or suspending a physician's license be admissible in the contested case proceeding regarding a physician license reinstatement or reissuance request, and mandates that the basis for the Board's revocation must be considered and addressed by the ALJ as a factor in the best interest of the public determination in the Proposal for Decision.

CHAPTER 170. PAIN MANAGEMENT

22 TAC §170.1

The amendment corrects a typographical error by inserting an apostrophe in the word "patients" in the second sentence of 170.1(8).

CHAPTER 172. TEMPORARY AND LIMITED LICENSES

22 TAC §172.1

The Amendments to §172.1, relating to Purpose, added a reference to newly created Chapter 155.103 of the Texas Occupations Code, based on the passage of SB 061 (83rd Reg. Session) which created Chapter 155.103 of the Tex. Occ. Code. This Amendment also added a reference to Chapter 155.101 of the Texas Occupations Code in order to correct the previously adopted version that omitted such reference.

22 TAC §172.4

The Amendment to §172.4, related to State Health Agency Temporary License, amends incorrect citations to other rules.

22 TAC §172.9

The Amendment to §172.9, related to Postgraduate Research Temporary License, is amended to provide that a postgraduate research temporary license may be issued to a medical school graduate who holds a research appointment at an institution, under certain terms and conditions.

22 TAC §172.13

The Amendment to §172.13, related to Conceded Eminence, amends §172.13(c), remedies incorrect citations to other rules.

22 TAC §172.18

The New Rule §172.18, relating to Military Limited Volunteer Licenses, sets forth the criteria under which an applicant may qualify for a military limited volunteer license, based on the passage of SB 061

(83rd Reg. Session) and the creation of Chapter 155.103 of the Texas Occupations Code, which provides a licensing mechanism for active and retired military physicians who do not hold a Texas medical license to provide charitable care in Texas.

CHAPTER 173. PHYSICIAN PROFILES

22 TAC §173.5

The Amendment to §173.5, relating to updates to a physician's profile due to information from a third party, amends an incorrect reference to rule "173.1(b)18" and replaces that reference with correct references to "173.1(b)(20) and (21)".

CHAPTER 177. BUSINESS ORGANIZATIONS

22 TAC §177.16

The amendment deletes the term "partnership" and substitutes the terms "professional association or professional limited liability company."

22 TAC §177.17

The amendment adds two new hospital districts to the list of entities allowed to employ physicians, consistent with amendments made by the passage of HB 3905 and HB 1247 (83rd Reg. Session) to the Texas Special District Code.

CHAPTER 184. SURGICAL ASSISTANTS

22 TAC §184.2

The amendments to 184.2, relating to Definitions, added definitions for "military service member," "military spouse" and "military veteran" based on the passage of SB 162 (83rd Reg. Session) that amended Chapter 55 of the Tex. Occ. Code.

22 TAC §184.4

The amendment to 184.4, related to Qualifications for Licensure for Surgical Assistants, adds language to 184.4(c)(3), allowing for an expedited licensure process for military spouses, based on the passage of SB 162 (83rd Reg. Session). The New Rule, 184.4(d), adds a provision for recognizing certain training for Applicants with military experience, based on the passage of SB 162 (83rd Reg. Session).

CHAPTER 187. PROCEDURAL RULES

22 TAC §187.18

The amendment deletes language that requires a licensee to pay for a recording of an informal settlement conference (ISC) at least fifteen days prior to the date of the ISC, as the requirement is inconsistent with the payment process required by the Board's recording and transcription vendor.

Additionally, the amendment adds language requiring the request be in writing and received by the Board no later than 15 days prior to the date of the ISC.

22 TAC §187.88

The amendment makes a correction to an incorrect citation to another Board rule.

CHAPTER 189. COMPLIANCE PROGRAM

22 TAC §189.2

The amendments add definitions for “Successful Completion” and “Toll”, relating to the Board’s compliance monitoring program.

22 TAC §189.15

The new rule provides how “successful completion” will be determined in regard to the determination of a probationer’s compliance with term of a board order, and describes the effect of tolling of a board order.

CHAPTER 192. OFFICE BASED ANESTHESIA

22 TAC §192.1

The amendment adds language providing that except as provided by §192.2(b)(9), the administration of certain local anesthesia, peripheral nerve blocks, or both in a total dosage amount that exceeds 50 percent of the recommended maximum safe dosage per outpatient visit is a level II service, in accordance with SB 978 (83rd Reg. Session).

CHAPTER 196. VOLUNTARY RELINQUISHMENT OR SURRENDER OF A MEDICAL LICENSE

22 TAC §196.2

The amendment corrects an incorrect citation to a Board rule.

CHAPTER 197. EMERGENCY MEDICAL SERVICES

22 TAC §197.5

The amendments make corrections to typographical errors in the heading and text of the rule.