

## Rule Changes Effective July 9, 2015

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### CHAPTER 163. LICENSURE

#### **§163.6, Examinations Accepted for Licensure**

The Amendment to §163.6, relating to Examinations Accepted for Licensure, revises the language in section 163.6(b)(3)(A) through (D) to clarify exemptions relating to Examination Attempt Limit as is relates to licenses held in other states. The purpose of the amendment is to have clear and more precise rules for applicants.

### CHAPTER 166. PHYSICIAN REGISTRATION

#### **§166.2, Continuing Medical Education**

The Amendments to §166.2, relating to Continuing Medical Education, amends 166.2(e) by adding the word “physician” to subsections (1)-(4) in order to clarify that the exemption reasons must be those of the “physician” and not anyone else, such as a family member. The rule is further amended in that all references to “licensee” are changed to “physician” in order to be consistent throughout the rule. The purpose of the amendment is to have clear rules that are consistent and unambiguous.

### CHAPTER 180. TEXAS PHYSICIAN HEALTH PROGRAM AND REHABILITATION ORDERS

#### **§180.4, Operation of Program**

The Amendments to §180.4, concerning Operation of Program, eliminate the prohibitions on eligibility for referrals made regarding individuals that have violated the standard of care as a result of the use or abuse of drugs or alcohol, committed a boundary violation with a patient or patient's family member(s), or been convicted of, or placed on deferred adjudication community supervision or deferred disposition for a felony. Further amendments add language providing that the Medical Board may refer such individuals publicly through the entry of an order that addresses the standard of care, boundary, and/or criminal law related violations. In the event of such a referral, the Medical Board retains the authority to discipline the individuals for the standard of care, boundary, and criminal law related violations.

### CHAPTER 183. ACUPUNCTURE

#### **§183.4, Licensure**

The Amendment to §183.4, concerning Licensure, pertains to the addition of subsection (a)(10), Alternative License Procedure for Military Spouse. The amendment is made to allow alternative demonstration of competency for certain licensing requirements for military spouses as required by Texas Occupations Code, §55.004.

#### **§183.6, Denial of License; Discipline of Licensee**

The Amendment to §183.6, concerning Denial of License; Discipline of Licensee, adds subsection (e), relating to Informal Board Proceedings Relating to Licensure Eligibility. The amendment is made to clarify the Acupuncture Board's authority to impose non-disciplinary remedial plans as a condition of licensure.

## **CHAPTER 187. PROCEDURAL RULES**

### **§187.13, Informal Board Proceedings Relating to Licensure Eligibility**

The Amendment to §187.13, relating to Informal Board Proceedings Relating to Licensure Eligibility, amends subsection (c)(1), (4)(A) and (B) by making a case change in the word “Board”. The rule is further amended in subsection (c)(3)(B)(ii) by adding a 20 day deadline for accepting offers of the committee and changing the word “determined” to “deemed”. The rule is also amended in subsection (c)(4)(A) by adding the words “deemed ineligibility” to further clarify what qualifies as “ineligible” and further describe the possible situations to which the subsection applies. Subsection (c)(4)(B) is further amended to change the word “will” to “shall” in order to be consistent with the remainder of the rules. Subsection (c)(4)(E) is amended by eliminating the words “submitted to the board for ratification” and adding language that the committee’s determination of ineligibility shall be deemed accepted by the applicant without the need for resubmitting such deemed acceptance to the full board for ratification. The purpose of the amendment is to have consistent wording throughout the rules in order to improve the clarity of the rules and ensure that the rules relating to licensure comport with the procedures.

### **§187.24, Pleadings**

The Amendments to §187.24, relating to Pleadings, amends subsection (b)(1) by making a case change in the word “Board”. The rule is further amended in subsection (b)(5) by eliminating the words “submitted to the board for ratification” and adding language that provides that the committee’s determination of ineligibility shall be deemed accepted by the applicant without the need for resubmitting such deemed acceptance to the full board for ratification. The purpose of the amendment is to have consistent wording throughout the rules in order to improve the clarity of the rules and ensure that the rules relating to licensure comport with the procedures.

### **§187.43, Proceedings for the Modification/Termination of Agreed Orders and Disciplinary Orders**

The Amendments to §187.43, concerning Proceedings for the Modification/Termination of Agreed Orders and Disciplinary Orders, clarify the requirements related to a probationer's eligibility for submitting a petition to the board requesting modification or termination of an order.

### **§187.61, Ancillary Proceeding**

The Amendments to §187.61, concerning Ancillary Proceeding, reorganizes language under subsection (b) so that certain language under subsection (b)(2) is moved to new subsection (c) and further modified to clarify that in cases of suspension based upon arrest for certain offenses listed under §164.1595 of the Texas Occupations Code and §187.57(d) of this title (relating to Charge of the Disciplinary Panel), final dispositions of criminal cases may include a deferred adjudication, acquittal, dismissal of the criminal case, or plea agreement, in addition to a court order of guilt and sentence.

### **§187.70, Purposes and Construction**

The Amendments to §187.70, concerning Purposes and Construction, add language clarifying that an adjudication of guilt of the offense charged includes but is not limited to a finding of guilt by a judge or jury. For purposes of §187.70, the Board interprets the term initial conviction, under Chapter 167 of the

Occupations Code, to mean an adjudication of guilt, and the suspension of the medical license is mandated upon an initial conviction of certain criminal offenses listed in §164.057.

**§187.72, Decision of the Panel**

The amendments to §187.72, concerning Decision of the Panel, delete language in subsection (a) providing that an order of suspension by operation of law represents an imminent peril to the public health, safety, or welfare and requires immediate effect and is considered administratively final for purposes of appealing the decision to district court. Further amendments to subsection (a) insert citations to the applicable sections of §164.057, which mandate suspension upon an initial conviction.

**CHAPTER 189. COMPLIANCE PROGRAM**

**§189.7, Modification/Termination Hearings**

The Amendments to §189.7, concerning Modification/Termination Hearings, clarify the requirements related to a probationer's eligibility for submitting a petition to the board requesting modification or termination of an order.