

## Rule Changes Effective March 27, 2018

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### RULE CHANGES ADOPTED

#### CHAPTER 163. LICENSURE

The amendments to **§163.11**, concerning Active Practice of Medicine, were adopted in accordance with Senate Bill 1148, adopted by the 85th Legislature, which prohibits the Board from requiring maintenance of certification by an applicant to be eligible for a medical license.

#### CHAPTER 166. PHYSICIAN REGISTRATION

The amendments to **§166.3**, concerning Retired Physician Exception, and **§166.6**, concerning Exemption From Registration Fee for Retired Physician Providing Voluntary Charity Care, were adopted in accordance with Senate Bill 1148, adopted by the 85th Legislature, which prohibits the Board from requiring maintenance of certification by an applicant to be eligible for initial or renewal registration permit for a medical license.

#### CHAPTER 172. TEMPORARY AND LIMITED LICENSES

The amendments to **§172.12**, concerning Out-of-State Telemedicine License, were adopted in accordance with Senate Bill 1148, adopted by the 85th Legislature, which prohibits the Board from requiring maintenance of certification by an applicant to be eligible for a medical license.

#### CHAPTER 175. FEES AND PENALTIES

The amendments to **§175.1**, concerning Application and Administrative Fees, corrects language in paragraph (1)(H)(i) so that fees related to physician-in-training permits are lowered to \$200. Further language is added outlining application and administrative fees for processing licenses for medical physicists, medical radiologic technologists, non-certified technicians, perfusionists, and respiratory care practitioners.

The amendments to **§175.2**, concerning Registration and Renewal Fees, adds language outlining renewal fees for continuing licenses, permits, and certificates for medical physicists, medical radiologic technologists, non-certified technicians, perfusionists, and respiratory care practitioners.

The amendments to **§175.3**, concerning Penalties, moves language providing an exemption for individuals serving as military members to new paragraph (11). The amendments further add language outlining penalty amounts for late renewals of licenses for perfusionists, respiratory care practitioners, medical physicists, and medical radiologic technologists.

The amendment to **§175.5**, concerning Payment of Fees or Penalties, amends language clarifying the rule's allowance for fee refunds applies to applicants who timely withdraw applications, in addition to other requirements. Further language is added clarifying that refunds of fees may be granted to licensees who retire or request cancellation of their licenses within 90 days of paying a renewal fee.

#### CHAPTER 177. BUSINESS ORGANIZATIONS AND AGREEMENTS

The amendments to **§177.18 (Subchapter E)**, concerning Purpose and Scope, and **§177.20**, concerning Call Coverage Minimum Requirements, and repeal of **§177.19**, concerning Definitions, provide a more

flexible framework for call coverage agreements between physicians practicing in Texas so as to provide continuity of care to patients during a regular treating physician's absence, while ensuring the covering physician's accountability for meeting the standard of care and documenting the care provided during the call coverage period. The amendments eliminate the two-model approach under §177.20(b), allow all call coverage agreements to be contracted orally or in writing, and eliminate the requirement that certain agreements require real-time access to a patient's medical records at the time of the call coverage period.

#### **CHAPTER 187. PROCEDURAL RULES**

The amendments to **§187.21(a)**, concerning Board and District Review Committee Members Participation, and **§187.44(3)**, concerning Probationer Show Compliance Proceedings, correct the title of the reference to §187.18 of this chapter, which was recently changed to "ISC Scheduling, Process, and Procedures."

The amendment to **§187.76(c)(3)**, concerning Notice of Intention to Impose Administrative Penalty; Response, removes the undefined term "informal meeting" and replaces it with "ISC," which is defined in §187.2 of this chapter (relating to Definitions).

The amendment to **§187.79**, concerning Personal Appearance at an Informal Meeting, changes the title to "Personal Appearance at an ISC," as "Informal Meeting" is not a defined term and "ISC" is a defined term and is the correct reference within the rule. The amendment in subsection (a) corrects the reference to "informal meeting" and replaces it with "ISC." The amendment in subsection (b) also corrects the reference to "informal meeting" and replaces it with "ISC" and corrects the title of the reference to §187.18 of this chapter, which was recently changed to "ISC Scheduling, Process, and Procedures."

The amendment to **§187.80(c)**, concerning Imposition of Administrative Penalty, removes the undefined term "informal meeting" and replaces it with "ISC," which is defined in §187.2 of this chapter.

#### **CHAPTER 189. COMPLIANCE PROGRAM**

The amendments to **§189.11**, concerning Process for Approval of Physicians, Other Professionals, Group Practices and Institutional Settings, eliminates the words "or remedial plan" from the provision describing the mechanism under which the Board may require a licensee to practice with an approved physician or other professional to serve as a proctor, monitor, or supervisor or in an approved group practice or institutional setting, as §164.0015 of the Texas Occupations Code states that Remedial Plans may not contain provisions that limit or restrict a licensee's practice.

#### **CHAPTER 183. ACUPUNCTURE**

The amendments to **§183.4**, concerning Licensure, add new language under subsection (a)(5) that allows an applicant for licensure to appear before the licensure committee of the Board to request reconsideration of the applicant's ineligibility based on their failure to pass the NCCAOM examination within five attempts. Such amendment allows the Board discretion to reconsider such ineligibility determination. The proposed amendments delete obsolete language from subsection (a)(7). The proposed amendments to subsection (a)(9) provide an alternate mechanism to cure active practice issues faced by some licensure applicants. The remainder of the changes are corrections to punctuation and grammar.

The amendments to **§183.19**, concerning Acupuncture Advertising, remove language requiring that an acupuncturist include their license number on print advertising.

The amendments to **§183.20**, concerning Continuing Acupuncture Education, add language to subsection (b)(1) to clarify the criteria for the courses from which the requisite CAE hours are taken. The

proposed amendment adds new subsection (b)(2) to specify the number of CAE hours and specific topics which must be taken each year. New subsection (b)(3) is added to clarify the number of CAE hours from courses approved under each category delineated under subsection (b)(1). Spelling corrections were made in subsections (h) and (o).

#### **CHAPTER 194. MEDICAL RADIOLOGIC TECHNOLOGY**

The amendment to **§194.3**, concerning Meetings and Committees, deletes subsection (f) and language providing that the board may at a regular or special meeting remove the secretary from office upon a majority vote, with other amendments re-lettering the remaining subsections. Language related to licensure and disciplinary committee functions is revised to clarify that the committees do not draft rules, but rather review draft language prepared by staff. Amendments further add a new paragraph (4) to subsection (f), setting forth new rules related to the creation of a new Education Committee. The proposed committee's functions include recommending rules to the full board regarding education and training requirements certification as a radiologic technologist or registration as a non-certified technician (NCT), continuing education requirements for renewal of a Texas MRT certificate or NCT registration, and standards for the approval or rescinding approval of radiologic technologist certificate education program curricular and instructors.

The amendments to **§194.5**, concerning Applicability of Chapter; Exemptions, delete language referring to §194.14 of this title (relating to Alternate Training Requirements for Podiatric Medical Assistants), reflecting the repeal of §194.14.

The amendments to **§194.6**, concerning Procedural Rules and Minimum Eligibility Requirements for Applicants for a Certificate or Placement on the Board's Non-Certified Technician General Registry, amend language so that an applicant is not deemed per se ineligible for a certificate or registration, based upon action taken against another license issued by a licensing authority in this or another state that is subject to probation or other disciplinary action not involving revocation or suspension. The board will continue to have the authority to deny a certificate or placement on the general registry based upon all such action, regardless if it is an action not involving revocation or suspension, but the amendments will allow the board more discretion in certain cases. The amendments further delete language under subsection (c)(8) and move it to a new paragraph (2), maintaining the board's discretion to consider the nature of any final disciplinary action, other than suspension or revocation, when determining whether to issue the certificate or other authorization. Amendments to subsection (f)(3) and subsection (i), with language referring to §194.14 of this title, are deleted, to reflect the repeal of §194.14. Amendments to subsection (j) adding clarifying language to make it clearer that non-certified technicians must comply with the active practice requirements under the rules in order to show eligibility for placement on the general registry. Amendment to subsection (l) make corrections to typographical errors.

The repeal of **§194.14**, concerning Alternate Training Requirements for Podiatric Medical Assistants, was adopted to comport with S.B. 674, which amended Texas Occupations Code, Chapter 601, and eliminated dual registration for non-certified technicians by certain state licensing boards, including the Podiatry Board. The MRT Board will maintain a single set of minimum training requirements in order to obtain eligibility for placement on a general registry for non-certified technicians (NCT).

The amendment to **§194.16**, concerning Hardship Exemptions, amends language in order to comport with S.B. 674, which amended Texas Occupations Code, §601.203, so that in order to show that an applicant faces a hardship in hiring a certificate holder or NCT due to an inability to attract and retain medical radiologic technologists, the applicant must also show evidence that the location for which the hardship exemption is sought must be located in a county with a population of less than 50,000. Amendments further delete subsection (b)(4)(B)(vi), so that the use of only a hand-held fluoroscope with a maximum operating capability of 65 kilovolts and 1 milliampere, or similar type of x-ray unit for

upper extremities only, with the radiation produced by the radiographic equipment representing a minimal threat to the patient and the operator of the equipment, no longer qualifies for a hardship exemption. The basis for the repeal is that the use of such equipment should be performed by individuals who have completed minimum training and obtained registration as a NCT or certification as a MRT or LMRT.

The amendment to **§194.17**, concerning Dangerous or Hazardous Procedures, removes language referring to §194.14 of this title, reflecting the repeal of §194.14.