

Rule Changes Effective July 7, 2016

Click on the link below for access to the rule text in the Texas Administrative Code:

[http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=3&ti=22&pt=9](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=3&ti=22&pt=9)

RULE CHANGES ADOPTED

CHAPTER 160. MEDICAL PHYSICISTS

The adoption of §§160.1 - 160.5 and 160.7 - 160.30 is intended to achieve consistency with the amended provisions of the Occupations Code transferring the primary responsibility for licensing and regulation of medical physicists to the Texas Medical Board and converting the Texas Board of Licensure for Professional Medical Physicists to an advisory committee to the Texas Medical Board. The rules align the policies and procedures related to licensing and regulation of medical physicists with the Board's current policies and procedures. The rules also serve to ensure the safe practice of properly trained and qualified medical physicists. Additionally, the rules provide an avenue for licensees to obtain treatment through the Texas Physician Health Program for health conditions that have the potential of impairing their practice of medical physics.

CHAPTER 161. GENERAL PROVISIONS

The Texas Medical Board adopted the rule review of 22 TAC Chapter 161, pursuant to Texas Government Code §2001.039.

CHAPTER 163. LICENSURE

§163.2, Full Texas Medical License

The amendment to §163.2, concerning Full Texas Medical License, corrects a citation in subsection (d)(3) related to a reference to an applicant's eligibility requirements for alternative license procedures for military service members, veterans, and spouses. The correction clarifies that the eligibility requirements are listed in additional numbered paragraphs of subsection (d).

§163.5, Licensure Documentation

The amendment to §163.5, concerning Licensure Documentation, changes language under subsection (d)(4) and (5) by eliminating an applicant's requirement to report having been treated on an in- or outpatient basis for certain mental or physical illnesses that "could" have impaired the applicant's ability to practice medicine, and replacing same with language that requires an applicant to report those physical or mental illnesses that have impaired or currently impair the applicant's ability to practice medicine.

CHAPTER 170. PAIN MANAGEMENT

§170.3, Minimum Requirements for the Treatment of Chronic Pain

The amendments to §170.3, concerning Minimum Requirements for the Treatment of Chronic Pain, adds new language relating to limitations on the number of physicians who may prescribe to a patient dangerous and scheduled drugs for the treatment of chronic pain. The new language now allows a covering physician acting in compliance with Chapter 177, Subchapter E of this title (relating to Physician Call Coverage Medical Services) to prescribe dangerous and scheduled drugs for the treatment of chronic pain. New language also specifies that if a patient is treated for acute chronic pain by a physician other than the physician who is party to the pain management agreement or the covering physician,

that the patient must notify the primary or covering physician, at the next date of service, about the prescription. The rule sets out specific requirements for the content of this notification.

The amendments to paragraph (4)(D) modify the exception to the one pharmacy requirement of pain management agreements by eliminating the requirement that the designated pharmacy be out of stock of the drug prescribed, and substituting broader language involving "circumstances for which the patient has no control or responsibility, that prevent the patient from obtaining prescribed medications at the designated pharmacy under the agreement." The amendment includes the requirement that if such circumstances apply and a prescription is filled at a pharmacy other than the designated pharmacy, the patient inform the primary or covering physician of the circumstances and the name of the pharmacy that dispensed the medication.

CHAPTER 171. POSTGRADUATE TRAINING PERMITS

§171.3, Physician-in-Training Permits

The amendments to §171.3, concerning Physician-in-Training Permits, change language under subsection (c)(2)(D) and (E) by eliminating an applicant's requirement to report having been treated on an in- or outpatient basis for certain mental or physical illnesses that "could" have impaired the applicant's ability to practice medicine, and replacing same with language that requires an applicant to report those physical or mental illnesses that have impaired or currently impair the applicant's ability to practice medicine.

CHAPTER 183. ACUPUNCTURE

§183.2, Definitions

The amendment to §183.2, concerning Definitions, adds definitions for "Military service member," "Military spouse," "Military veteran," "Active duty," and "Armed forces of the United States." These amendments are in accordance with the passage of SB 1307 (84th Legislature, Regular Session) which amended Chapter 55 of the Texas Occupations Code.

§183.4, Licensure

The amendment to §183.4, concerning Licensure, adds language to subsection (a)(10), Alternative Licensing Procedure, expanding subsection (a)(10) to include military service members and military veterans. The amendment also includes language allowing the executive director to waive any prerequisite to obtaining a license for an applicant described in subsection (a)(10) after reviewing the applicant's credentials. These amendments are in accordance with the passage of SB 1307 (84th Legislature, Regular Session), which amended Chapter 55 of the Texas Occupations Code. Subsection (a)(10)(F) adds a provision for recognizing certain training for Applicants with military experience, based on the passage of SB 0162 (83rd Legislature, Regular Session). The change to subsection (c)(2)(A) deletes the word "either" to make the sentence grammatically correct.

§183.5, Annual Renewal of License

The amendment to §183.5, concerning Annual Renewal of License, adds new subsection (h) providing that military service members who hold a license to practice in Texas are entitled to two years of additional time to complete any other requirement related to the renewal of the military service member's license. This amendment is in accordance with the passage of SB 1307 (84th Legislature, Regular Session) which amended Chapter 55 of the Texas Occupations Code.

§183.18, Administrative Penalties

The amendment to §183.18, concerning Administrative Penalties, deletes subsection (g) due to redundancy, as Chapters 187 and 189 relating to Procedural Rules and Compliance already address Administrative Penalties.

§183.20, Continuing Acupuncture Education

The amendment to §183.20, concerning Continuing Acupuncture Education, adds new subsection (w) providing that an acupuncturist, who is a military service member, may request an extension of time, not to exceed two years, to complete any continuing education requirements. This amendment is in accordance with the passage of SB 1307 (84th Legislature, Regular Session) which amended Chapter 55 of the Texas Occupations Code.

CHAPTER 184. SURGICAL ASSISTANTS

§184.4, Qualifications for Licensure

The amendment to §184.4, concerning Qualifications for Licensure, corrects a citation in subsection (c)(3) related to a reference to an applicant's eligibility requirements for alternative license procedures for military service members, veterans, and spouses. The correction clarifies that the eligibility requirements are listed in additional numbered paragraphs of subsection (c).

§184.5, Procedural Rules for Licensure Applicants

The amendment to §184.5, concerning Procedural Rules for Licensure Applicants, amends subsection (b), clarifying the determination of licensure eligibility process related to an application for surgical assistant licensure. The amendments further clarify that the procedures outlined under Chapter 187 of this title (relating to Procedural Rules) concerning determinations of licensure ineligibility apply to applications for surgical assistant licensure.

§184.6, Licensure Documentation

The amendment to §184.6, concerning Licensure Documentation, deletes the word "medical" to correct a reference to the category of surgical assistant licensure.

§184.8, License Renewal

The amendment to §184.8, concerning License Renewal, deletes the word "residence", as such information is not collected by the Medical Board in the process of renewing a surgical assistant's license.

§184.18, Administrative Penalties

The amendment to §184.18, concerning Administrative Penalties, eliminates subsection (f) due to the language's redundancy with Chapters 187 and 189 of this title (relating to Procedural Rules and Compliance Program) which sufficiently address the process related to imposition of administrative penalties.

§184.25, Continuing Education

The amendment to §184.25, concerning Continuing Education, deletes subsection (k), due to the language's redundancy with §184.18 of this title (relating to Administrative Penalties) and Chapter 187 of this title (relating to Procedural Rules) which sufficiently address the process related to imposition of administrative penalties.

CHAPTER 187. PROCEDURAL RULES

§187.16, Informal Show Compliance Proceedings (ISCs)

The amendment to §187.16, concerning Informal Show Compliance Proceedings (ISCs), adds clarifying language to the notice provision in order to clearly state that the notice provided to complainants differs from the notice provided to licensees, in that the latter contains the ISC evidence, which is confidential by statute and cannot legally be disclosed to the complainant.

§187.19, Resolution by Agreed Order

The amendment to §187.19, concerning Resolution by Agreed Order, eliminates subsection (e) relating to post-ISC negotiations, via telephone or in person, between panel members, Respondents and board staff, as this provision does not comport with our current process relating to post-ISC negotiations between board members and Respondents. Additionally, such negotiation between board members (directly) and Respondents is specifically reserved and provided for during the mediation process.

CHAPTER 188. PERFUSIONISTS

The adoption of §§188.1 - 188.15, 188.17 - 188.24, 188.26, 188.28 and 188.29, are adopted in accordance with the changes to Chapter 603 of the Texas Occupations Code, as enacted by S.B. 202, and are necessary to enable the Board to regulate the practice of perfusion and perform the various functions, including licensing, compliance, and enforcement relating the practice of perfusion.

CHAPTER 190. DISCIPLINARY GUIDELINES

§190.8, Violation Guidelines

The amendment to §190.8, concerning Violation Guidelines, adds the phrase "post-exposure prophylaxis" to language related to the type of treatment that may be provided by physicians for infectious diseases located under paragraph (1)(L)(iii)(II), so as to improve consistency and mirror other language under paragraph (1)(L)(iii)(I), pertaining to sexually transmitted diseases. The added phrase "post-exposure prophylaxis" (PEP) is intended to further clarify that the purpose of the exception is to potentially prevent infection and the furtherance of an outbreak. The amendments change the definition of a patient's "close contacts" so that the definition better reflects guidance published by the Centers for Disease Control and Prevention and local Texas health authority, so that the specific circumstances of a local communicable disease outbreak and possible drug shortages might be better addressed by physicians. Language under paragraph (1)(L)(iii)(II)(-a-), relating to Chicken Pox, and paragraph (1)(L)(iii)(II)(-f-), stating shingles, is deleted, and replaced with the addition of the term Varicella zoster, for the purpose of reorganizing the list and using scientific names. New language is added to paragraph (1)(L)(iii)(II) and (1)(L)(iii)(II)(-g-) providing language that would allow PEP to be administered by physicians providing public health medical services pursuant to a memorandum of understanding between the Department of State Health Services and the Texas Medical Board, and for any new or emergent communicable diseases not specifically listed under the rule that are determined to be a public health threat by state health authorities, thereby improving the state's ability to provide a quick public health response to communicable diseases affecting the health of Texans. The terms "infectious disease" and "communicable disease" are intended to be interchangeable.