

2009 Board Rules Changes

The following is a summary of the changes effective on November 30, 2009. Click [here](#) for the complete board rules.

Chapter 163, Licensure, with proposed amendments to §163.1, relating to Definitions, deletes definition of "country of graduation" because the provision is no longer needed; §163.2, relating to Full Texas Medical License, is based on House Bill 3674 passed by the 81st Legislature to allow applicants for licensure to demonstrate board certification to satisfy requirements relating to substantial equivalence of medical education and permits applicants who are foreign graduates to apply one year of their postgraduate training obtained outside the U.S. or Canada for licensure requirements, if the training is approved by the American Board of Medical Specialties or the Bureau of Osteopathic Specialists. A change also includes deletion of language relating to sitting for monitored examinations and instead requires board certification in relation to fifth pathway applicants to be consistent with other provisions of the chapter; §163.4, relating to Procedural Rules for Licensure Applicants, removes reference to the current three-attempt limit on the jurisprudence examination; §163.5, relating to Licensure Documentation, deletes the requirement of presentation of a certificate of registration in relation to foreign medical school graduates since the Board obtains other documentation from applicants to demonstrate graduation from medical school; §163.6, relating to Examinations Accepted for Licensure, allows for more than three attempts on the jurisprudence examination if the applicant demonstrates good cause; §163.7, relating to the Ten-Year Rule, requires applicants for licensure who have not passed and taken an acceptable licensure examination in the ten years prior to the date of application to demonstrate board certification, rather than just passage of a monitored examination; and §163.11, relating to Active Practice of Medicine, clarifies that if an applicant for licensure is unable to demonstrate that the applicant has actively practiced medicine prior to the date of application, the applicant can present proof of board certification obtained within two years of date of application.

<http://www.sos.state.tx.us/texreg/archive/November272009/adopted/22.EXAMINING%20BOA RDS.html#276>

Chapter 166, Physician Registration, with proposed amendments to §166.1, relating to Physician Registration, adds new language to require licensees to submit emergency contact information, if available, pursuant to Senate Bill 292 passed by the 81st Legislature; §166.2, relating to Continuing Medical Education, deletes language relating to temporary continuing medical education licenses because these temporary licenses are no longer required since practicing with a delinquent license is not considered practicing without a license; §166.3, relating to Retired Physician Exception, deletes the requirement that a physician must have an active license and not be under investigation to qualify for the retired physician exception for continuing medical education (CME) requirements; §166.4, relating to Expired Registration Permits, adds language to require applicants for exceptions for CME requirements to pay delinquent fees in order to be eligible for an exception; and §166.6, relating to Voluntary Charity Care Exemption, deletes the requirement that a licensee must apply for the exemption while the licensee's license is active.

<http://www.sos.state.tx.us/texreg/archive/November272009/adopted/22.EXAMINING%20BOARD.RDS.html#278>

Chapter 168, Criminal History Evaluation Letters, with the proposed new rule §168.1 relating to Purpose, establishes the purpose of the chapter based on the passage of House Bill 963 during the 81st Legislative Session that allows potential applicants for licensure to obtain criminal history evaluation letters regarding potential eligibility for licensure and the proposed new rule §168.2, relating to Criminal History Evaluation Letters, establishes the process for potential licensure applicants for obtaining criminal history evaluation letters pursuant to House Bill 963 passed during the 81st Legislative Session.

<http://www.sos.state.tx.us/texreg/archive/November272009/adopted/22.EXAMINING%20BOARD.RDS.html#280>

Chapter 171, Postgraduate Training Permits, with proposed amendments to §171.3, relating to Physician-in-Training Permits, removes "board-approved fellowship" from the definition of "fellowship" to avoid misinterpretation that a board-approved fellowship may be obtained prior to completion of other residency training and adds a definition for "subspecialty training program."; §171.4, relating to Board-Approved Fellowships, clarifies provisions relating to board-approved fellowships consistent with changes proposed to Section 171.3; and §171.5, relating to Duties of PIT Holders to Report, requires PIT holders to report criminal fines of \$250 rather than \$100.

<http://www.sos.state.tx.us/texreg/archive/November272009/adopted/22.EXAMINING%20BOARD.RDS.html#282>

Chapter 172. Temporary and Limited Licenses, with proposed amendments to §172.8, relating to Faculty Temporary License, allows applicants for faculty temporary licenses (FTLs) to be given additional attempts on the jurisprudence examination if good cause is shown; requires sponsoring institutions to affirm that the institutions have reviewed the physician's professional and criminal background; and, pursuant to Senate Bill 1225 passed by the 81st Legislature, allows nonprofit corporations that are affiliated with programs accredited by the Accreditation Council for Graduate Medical Education to sponsor physicians for FTLs and the proposed new rule §172.16, relating to Provisional Licenses for Medically Underserved Areas, is based on adoption of Senate Bill 202 by the 81st legislature to allow applicants for full licensure to obtain provisional licenses under certain conditions to work in medically underserved areas prior to having a determination made on the applicants' applications for full licensure.

<http://www.sos.state.tx.us/texreg/archive/November272009/adopted/22.EXAMINING%20BOARD.RDS.html#285>

<http://www.sos.state.tx.us/texreg/archive/November272009/adopted/22.EXAMINING%20BOARD.RDS.html#287>

Chapter 173, Physician Profiles, with proposed amendments to §173.1, relating to Profile Contents, clarifies that a licensee's mailing address will be posted on the licensee's profile only if the licensee does not provide a practice address to the board and requires the removal of

references to medical malpractice investigations if closed by the Board for over five years and no disciplinary action was ever taken and §173.4, relating to Updates to the Physician's Profile Due to Board Action, requires the removal of references on a licensee's profile of complaints filed at the State Office of Administrative Hearings when the complaint has been dismissed for over five years and was determined to be baseless or no action was ever taken on the complaint.

<http://www.sos.state.tx.us/texreg/archive/November272009/adopted/22.EXAMINING%20BOARD.RDS.html#289>

Chapter 175, Fees, Penalties, and Forms, with proposed amendments to §175.1, relating to Application Fees, deletes references to temporary licenses for medically underserved areas, establishes fees for physician-in-training permits for physicians who perform rotations in Texas, and sets fees for criminal history evaluation letters; with the proposed repeal to §175.4, relating to Application Form, repeals section based on the determination that it was no longer needed and created confusion when forms became obsolete or required name changes.

<http://www.sos.state.tx.us/texreg/archive/November272009/adopted/22.EXAMINING%20BOARD.RDS.html#291>

<http://www.sos.state.tx.us/texreg/archive/November272009/adopted/22.EXAMINING%20BOARD.RDS.html#292>

Chapter 179, Investigations, with proposed amendment to §179.4, relating to Request for Information and Records from Physicians, sets out the procedure for requiring that, based on probable cause, an applicant or licensee submit to a physical or mental examination based on an order of the Board issued by the Executive Director.

<http://www.sos.state.tx.us/texreg/archive/November272009/adopted/22.EXAMINING%20BOARD.RDS.html#294>

Chapter 180, Texas Physician Health Program and Rehabilitation Orders, with the proposed repeal of §180.1, relating to Rehabilitation Orders, and the proposed new rule §180.1, relating to Purpose, establishes the statutory authority and the purpose for the Texas Physician Health Program and the use of rehabilitation orders; §180.2, relating to Definitions, establish definitions that pertain to the Texas Physician Health Program; §180.3, relating to Texas Physician Health Program, establishes the qualifications and responsibilities for the governing board, physician health advisory committee, and medical director of the Texas Physician Health Program; and the proposed new rule §180.7, relating to Rehabilitation Orders, provides that rehabilitation orders entered into on or before January 1, 2010 shall be subject to all laws that existed immediately before that date as they relate to rehabilitation orders..

<http://www.sos.state.tx.us/texreg/archive/November272009/adopted/22.EXAMINING%20BOARD.RDS.html#296>

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Chapter 187. Procedural Rules, with proposed amendments to §187.25, relating to Notice of Adjudicative Hearing, modifies the required content of notice of adjudicative hearings to be consistent with State Office of Administrative Hearings(SOAH) rules and establishes that default judgments may be granted due to a party's failure to appear at a hearing upon a remand of the case at SOAH back to the Board and §187.26, relating to Service in SOAH Proceedings, establishes the distinction between notices of adjudicative hearings and notice of complaints at the State Office of Administrative Hearings and that remand to the Board of a SOAH case prevents conflicting jurisdiction; §187.27, relating to Written Answers in Proceedings and Default Orders, provide that a written answer to a complaint filed at SOAH is to be in response to service of the complaint and not to the Notice of Adjudicative Hearings, and clarify the process for obtaining Determinations of Defaults; and §187.37, relating to Final Decisions and Orders, clarify that sanctions are determined and issued by the Board.

<http://www.sos.state.tx.us/texreg/archive/November272009/adopted/22.EXAMINING%20BOARDS.html#302>

<http://www.sos.state.tx.us/texreg/archive/November272009/adopted/22.EXAMINING%20BOARDS.html#304>

Chapter 190, Disciplinary Guidelines, with proposed amendments to §190.2, relating to Board's Role, removes language that invites recommendations from administrative law judges regarding sanctions on cases held at the State Office of Administrative Hearings and the proposed new rule §190.14, relating to Disciplinary Sanction Guidelines, corrects a citation relating to violations of Board rules.

<http://www.sos.state.tx.us/texreg/archive/November272009/adopted/22.EXAMINING%20BOARDS.html#307>

<http://www.sos.state.tx.us/texreg/archive/November272009/adopted/22.EXAMINING%20BOARDS.html#309>

Chapter 192, Office Based Anesthesia Services, with proposed amendments to §192.1, relating to Definitions, amends the definition of "anesthesia services" so that it is consistent with Section 162.102 of the Tex. Occ. Code and defines "pain management clinic" pursuant to Senate Bill 911 passed by the 81st Legislature; .§192.4, relating to Registration, establishes requirements for the certification of pain management clinics starting on September 1, 2010; §192.5, relating to Inspections, establishes the grounds on which the Texas Medical Board will inspect pain management clinics; §192.6, relating to Request for Inspection and Advisory Opinions, clarifies that advisory opinions may be given in relation to office-based anesthesia services; and the proposed new rule §192.7, relating to Operation of Pain Management Clinics, sets out the requirements for the operation, staffing of personnel, standards of care, and patient billing procedures for pain management clinics that are subject to the Board's authority.

<http://www.sos.state.tx.us/texreg/archive/November272009/adopted/22.EXAMINING%20BOARDS.html#312>

Chapter 193, Standing Delegation Orders, with proposed amendments to §193.6, relating to Delegation of the Carrying Out or Signing of Prescription Drug, reflects changes passed during

the 81st Legislative Session under Senate Bill No. 532. Specifically, the amendments change requirements relating to primary, alternate and facility-based practice sites; the number of nurse midwives and physician assistants to whom delegation in relation to obstetrical services is appropriate; registration requirements related to prescriptive delegation; and grounds for obtaining waivers regarding supervision and prescription delegation and §193.7, relating to Delegated Drug Therapy Management, based on Senate Bill No. 381 passed by the 81st Legislature, permits physicians to delegate to pharmacists at hospitals, hospital-based clinics, and academic institutions the management of a patient's drug therapy treatment under certain conditions.

<http://www.sos.state.tx.us/texreg/archive/November272009/adopted/22.EXAMINING%20BOARDS.html#314>

Chapter 194. Non-Certified Radiologic Technicians, with proposed amendments to §194.2, relating to Definitions, updates citations for rules adopted by the Texas Department of State Health Services (DSHS) that relate to non-certified technicians; §194.3, relating to Registration, updates citations for rules adopted by DSHS that relate to non-certified technicians and provides that a person who operates a bone densitometry unit(s) which utilizes x-radiation is not required to obtain a hardship exemption as long as the person is not performing radiologic procedures other than bone densitometry; and §194.5, relating to Non-Certified Technician's Scope of Practice, updates citations for rules adopted by DSHS that relate to non-certified technicians.

<http://www.sos.state.tx.us/texreg/archive/November272009/adopted/22.EXAMINING%20BOARDS.html#316>