

The Texas Medical Board (Board) proposes the repeal of current Chapter 161, concerning General Provisions, §§161.1 – 161.7, §161.10 and §161.11.

The Board also proposes new Chapter 161, concerning Physician Licensure. This includes new Subchapter A, concerning Pre-Licensure Criminal History Evaluations, §161.1; Subchapter B, concerning General Licensure Requirements, §§161.5 – 161.7; Subchapter C, concerning U.S. and Canadian Medical Graduates, §161.10; Subchapter D, concerning Foreign Medical Graduates, §§161.15 - §161.17; Subchapter E, concerning Licensure For Military Service Members, Veterans, and Spouses, §161.20; Subchapter F, concerning Application Procedure, §161.25; Subchapter G, concerning Registration of License, §161.30 and §161.31; Subchapter H, concerning Continuing Medical Education Requirements for License Renewal, §161.35; Subchapter I, concerning Full Medical License, §161.40; Subchapter J, concerning Limited Licenses, §§161.45 – 161.47; Subchapter K, concerning Temporary Licenses, §§161.50 - 161.52; Subchapter L, concerning Physician-In-Training Permits, §§161.55 – 161.58; Subchapter M, concerning Fellowship Program Approval, §161.65; and Subchapter N, concerning Emergency Practice Authorization, §§161.70 – 161.73.

Also, the Board contemporaneously proposes the repeal of the following current chapters:

Chapter 163, concerning Licensure, §§163.1 – 163.6, §§163.8 – 163.11, and §163.13;

Chapter 166, concerning Physician Registration, §§166.1 – 166.7;

Chapter 167, concerning Reinstatement and Reissuance, §§167.1 – 167.8;

Chapter 168, concerning Criminal History Evaluation Letters, §168.1, and §168.2;

Chapter 171, concerning Postgraduate Training Permits, §§171.1 – 171.6;

Chapter 172, concerning Temporary And Limited Licenses. This includes Subchapter A, concerning General Provisions and Definitions, §172.1, and §172.2; Subchapter B, concerning Temporary Licenses, §§172.3 – 172.11; Subchapter C, concerning Limited Licenses, §172.12, §172.13, §§172.15 – 172.19; and Subchapter D, concerning Disaster Emergency Rule, §172.20 and §172.21; and

Chapter 175, concerning Fees and Penalties, §§175.1 – 175.5.

The Board has determined that due to the extensive reorganization of Chapters 160-200, repeal of Chapter 161 is more efficient than proposing multiple amendments to make the required changes.

The proposed new subchapters and sections are as follows:

SUBCHAPTER A. PRE-LICENSURE CRIMINAL HISTORY EVALUATIONS.

New §161.1, Pre-Licensure Criminal History Evaluation, describes the process for a potential applicant to obtain a criminal history evaluation letter to determine potential ineligibility for a license.

SUBCHAPTER B. GENERAL LICENSURE REQUIREMENTS.

New §161.5, Definitions, defines terms used throughout new Chapter 161.

New §161.6, General Requirements for Licensure, outlines the general requirements for licensure for a Texas medical license.

New §161.7, Examination Requirements, outlines the examinations required for licensure, in accordance with Sections 155.051, 155.0511 and 155.054 of the Medical Practice Act (“the Act”).

SUBCHAPTER C. U.S. AND CANADIAN MEDICAL GRADUATES.

New §161.10, Specific Requirements for U.S. and Canadian Medical School Graduates, explains that all U.S. and Canadian medical school graduates must the requirements set forth in Section 155.003 of the Act for licensure.

SUBCHAPTER D. FOREIGN MEDICAL GRADUATES.

New §161.15, Specific Requirements for Foreign Medical Graduates, sets forth specific licensure requirements for Foreign Medical Graduates from substantially equivalent medical schools.

New §161.16, Foreign Medical Graduates of a Medical School That Is Not Substantially Equivalent, sets forth specific licensure requirements for Foreign Medical Graduates from non-substantially equivalent medical schools.

New §161.17, Other Foreign Medical Graduates, explains how Foreign Medical Graduates of a medical school who are not substantially equivalent and do not meet the criteria in §161.15 and §161.16 of this chapter can

demonstrate substantial equivalence.

SUBCHAPTER E. LICENSURE FOR MILITARY SERVICE MEMBERS, VETERANS AND SPOUSES.

New §161.20, Alternative License Procedures for Military Service Members, Military Veterans, and Military Spouses, describes the licensure process for military service members, veterans, and spouses.

SUBCHAPTER F. APPLICATION PROCEDURE.

New §161.25, Procedural Rules for Licensure Applicants, explains the sections of the Act that apply to how licensure applications are processed.

SUBCHAPTER G. REGISTRATION OF LICENSE.

New §161.30, Registration and Renewal, explains the registration and renewal process for a physician license.

New §161.31, Exceptions from Certain Renewal Requirements, explains the exceptions from certain renewal requirements for Texas-licensed military service members, retired physicians, and voluntary charity care physicians.

SUBCHAPTER H. CONTINUING MEDICAL EDUCATION REQUIREMENTS FOR LICENSE RENEWAL.

New §161.35, Continuing Medical Education (CME) Requirements for License Renewal, explains the continuing medical education requirements physicians must meet for license renewal. It also explains how to correct any deficiencies in CME requirements and how CME may be carried forward between licensure renewals.

SUBCHAPTER I. FULL MEDICAL LICENSE.

New §161.40, Medical License, explains that all physicians practicing in Texas, with limited named exceptions, must hold a full Texas medical license.

SUBCHAPTER J. LIMITED LICENSES.

New §161.45, Conceded Eminence License, explains the requirements and process for seeking a conceded eminence license.

New §161.46, Administrative Medicine License, explains the requirements and process for seeking an administrative medicine license. It also explains the limitations of that type of license.

New §161.47, Military Volunteer License, explains the requirements and process for seeking a military volunteer license.

SUBCHAPTER K. TEMPORARY LICENSES.

New §161.50, Regular Temporary License, explains the purpose of the regular temporary license.

New §161.51, Faculty Temporary License, explains the requirements and application process for a Faculty Temporary License.

New §161.52, Visiting Physician Temporary Permit, explains the purpose, requirements, and application process for a Visiting Physician Temporary Permit. It also explains the limitations of such a permit.

SUBCHAPTER L. PHYSICIAN-IN-TRAINING PERMITS.

New §161.55, Physician-In-Training Permit (PIT), explains the purpose, requirements, and application process for PIT permits. It also explains the limitations of such a permit.

New §161.56, Rotator PIT Permits, explains the purpose, requirements, and application process for Rotator PIT permits.

New §161.57, Duties of Permit Holders to Report, explains the reporting obligations of the permit holder to the board and the time period to make a required report.

New §161.58, Duties of Program Directors to Report, explains the reporting obligations of the training program directors to the board and the time period to make a required report.

SUBCHAPTER M. FELLOWSHIP PROGRAM APPROVAL.

New §161.65, Process for Board-Approval of Fellowships, explains the requirements and application process for board approval of fellowships.

SUBCHAPTER N. EMERGENCY PRACTICE AUTHORIZATION.

New §161.70, Emergency Practice Authorization (EPA), explains when certain licensure requirements can be waived by the board in event of a disaster or emergency.

New §161.71, Emergency Practice Authorization (EPA) Requirements and Procedures for Healthcare Professionals, explains the purpose, requirements, and authorization process for healthcare professionals not licensed in Texas to practice in Texas during a disaster or emergency.

New §161.72, Board Regulation of Emergency Practice Authorization, explains the board's authority and jurisdiction over individuals practicing under an Emergency Practice Authorization.

New §161.73, Confidentiality, explains that confidentiality under §164.007 (c) of the Act applies to all board files, information, or investigative materials for healthcare providers practicing in Texas under an Emergency Practice Authorization.

Scott Freshour, General Counsel for the Texas Medical Board, has determined that, for each year of the first five years the proposed repeals and new sections are in effect, the public benefit anticipated as a result of enforcing these proposed sections will be to remove redundant language from rules, simplify the rules, and make the rules easier to understand.

Mr. Freshour has also determined that for the first five-year period these proposed repeals and new sections are in effect, there will be no fiscal impact or effect on government growth as a result of enforcing the proposed sections.

Mr. Freshour has also determined that for the first five-year period these proposed repeals and new sections are in effect there will be no probable economic cost to individuals required to comply with these proposed sections.

Pursuant to Texas Government Code §2006.002, the agency provides the following economic impact statement for these proposed repeals and new sections and determined that for each year of the first five years these proposed repeals and new sections will be in effect there will be no effect on small businesses, micro businesses, or rural communities. The agency has considered alternative methods of achieving the purpose of these proposed repeals and new sections and found none.

Pursuant to Texas Government Code §2001.024(a)(4), Mr. Freshour certifies that this proposal has been reviewed and the agency has determined that for each year of the first five years these proposed repeals and new sections are in effect:

- (1) there is no additional estimated cost to the state or to local governments expected as a result of enforcing or administering these proposed repeals and new sections;
- (2) there are no estimated reductions in costs to the state or to local governments as a result of enforcing or administering these proposed repeals and new sections;
- (3) there is no estimated loss or increase in revenue to the state or to local governments as a result of enforcing or administering these proposed repeals and new sections; and
- (4) there are no foreseeable implications relating to cost or revenues of the state or local governments with regard to enforcing or administering these proposed repeals and new sections.

Pursuant to Texas Government Code §2001.024(a)(6) and §2001.022, the agency has determined that for each year of the first five years these proposed repeals and new sections will be in effect, there will be no effect on local economy and local employment.

Pursuant to Government Code §2001.0221, the agency provides the following Government Growth Impact Statement for these proposed repeals and new sections. For each year of the first five years these proposed repeals and new sections will be in effect, Mr. Freshour has determined the following:

- (1) These proposed repeals and new sections do not create or eliminate a government program.

- (2) Implementation of these proposed repeals and new sections does not require the creation of new employee positions or the elimination of existing employee positions.
- (3) Implementation of these proposed repeals and new sections does not require an increase or decrease in future legislative appropriations to the agency.
- (4) These proposed sections do not require an increase or decrease in fees paid to the agency.
- (5) These proposed repeals and new sections do not create new regulations.
- (6) These proposed repeals and new sections do repeal existing regulations as described above. These proposed new sections do not expand or limit an existing regulation.
- (7) These proposed repeals and new sections do not increase the number of individuals subject to the sections' applicability.
- (8) These proposed repeals and new sections do not positively or adversely affect this state's economy.

Comments on the proposal may be submitted using this link: <https://forms.office.com/g/7w0wqZgqvU>. A public hearing will be held at a later date. Comments on the proposal will be accepted for 30 days following publication.

The repeal of the rules is proposed under the authority of the Texas Occupations Code Annotated, §153.001, which provides authority for the Board to recommend and adopt rules and bylaws as necessary to: govern its own proceedings; perform its duties; regulate the practice of medicine; and enforce this subtitle. The repeal of the rules is also proposed in accordance with the requirements of Texas Government Code, §2001.039, which requires a state agency to review and consider its rules for readoption, readoption with amendments, or repeal every four years. No other statutes, articles or codes are affected by this proposal.

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§161.1. Introduction.

§161.2. Purpose and Functions.

§161.3. Organization and Structure.

§161.4. Officers of the Board.

§161.5. Meetings.

§161.6. Committees of the Board.

§161.7. Executive Director.

§161.10. General Counsel.

§161.11. Memorandum of Understanding between Texas Medical Board (TMB) and Texas Physician Health Program (TXPHP).

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The new rules are proposed under the authority of the Texas Occupations Code Annotated, §153.001, which provides authority for the Board to recommend and adopt rules and bylaws as necessary to: govern its own proceedings; perform its duties; regulate the practice of medicine; and enforce this subtitle and establish rules related to licensure and registration of the license. The new rules are also proposed in accordance with the requirements of Chapters 53, 155, and 156 of the Texas Occupations Code. The new rules are also proposed in accordance with the requirements of the Texas Government Code, §2001.039, which requires a state agency to review and consider its rules for readoption, readoption with amendments, or repeal every four years. No other statutes, articles or codes are affected by this proposal.

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SUBCHAPTER A. PRE-LICENSURE CRIMINAL HISTORY EVALUATIONS.

§161.1. Pre-Licensure Criminal History Evaluation.

(a) In accordance with §53.102 of the Texas Occupations Code, an individual may request a criminal history evaluation letter to determine potential ineligibility for a license based on the person's criminal history.

(1) Requestors must submit a completed board form along with a \$100 fee.

(2) Additional documentation, including a set of fingerprints, may be required.

(b) The board will notify the requestor of the determination.

(c) An individual may still apply for licensure regardless of the criminal history evaluation determination.

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The new rules are proposed under the authority of the Texas Occupations Code Annotated, §153.001, which provides authority for the Board to recommend and adopt rules and bylaws as necessary to: govern its own proceedings; perform its duties; regulate the practice of medicine; and enforce this subtitle and establish rules related to licensure and registration of the license. The new rules are also proposed in accordance with the requirements of Chapters 53, 155, and 156 of the Texas Occupations Code. The new rules are also proposed in accordance with the requirements of the Texas Government Code, §2001.039, which requires a state agency to review and consider its rules for readoption, readoption with amendments, or repeal every four years. No other statutes, articles or codes are affected by this proposal.

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SUBCHAPTER B. GENERAL LICENSURE REQUIREMENTS.

§161.5. Definitions.

The following words and terms when used in this chapter shall have the following meanings, unless the context clearly indicates otherwise.

(1) Acceptable approved medical school--A medical school or college located in the United States or Canada that has been accredited by the Liaison Committee on Medical Education or the American Osteopathic Association Bureau of Professional Education.

(2) Approved graduate medical training program--A program that is approved by the board and is:

(A) accepted for certification by a specialty board that is a member of the American Board of Medical Specialties or the Bureau of Osteopathic Specialists; or

(B) accredited by one of the following:

(i) the Accreditation Council for Graduate Medical Education, or its predecessor;

(ii) the American Osteopathic Association;

(iii) the Committee on Accreditation of Preregistration Physician Training Programs, Federation of Provincial Medical Licensing Authorities of Canada;

(iv) the Royal College of Physicians and Surgeons of Canada;

(v) the College of Family Physicians of Canada; or

(C) a board-approved fellowship performed in Texas; or

(D) a U.S. or Canadian graduate medical education training program, that subsequently received accreditation by the Accreditation Council for Graduate Medical Education (ACGME), American Osteopathic Association (AOA) or Royal College of Physicians, and was accepted by a specialty board that is a member of the American Board of Medical Specialties, the Bureau of Osteopathic Specialists, or the Royal College of Physicians for board certification purposes.

(3) Substantially equivalent medical school--A medical school or college that is accredited by an agency recognized by the World Federation of Medical Education (WFME) Recognition Programme, or that is recognized by the board.

§161.6 General Requirements for Licensure.

(a) All applicants for a Texas medical license must meet the general eligibility requirements set forth in §155.003 of the Act.

(b) All applicants must submit a completed application for licensure and all documents and information necessary to complete an applicant's request for licensure including, but not limited to:

(1) the required fee of \$817;

(2) additional fees and surcharges as applicable;

(3) Dean's Certification of Graduation form;

(4) certified transcript of Examination Scores;

(5) birth certificate or other similar proof of age;

(6) graduate training verification;

(7) Professional or Work History Evaluation forms demonstrating or relating to the practice of medicine for the preceding 5 years from the date of the application;

(8) FBI/DPS Fingerprint Report;

(9) documentation of alternate name or name change, if applicable;

(10) medical school transcript, if requested;

(11) specialty board certification, if applicable;

(12) arrest records, if applicable;

(13) malpractice records, if applicable;

(14) treatment records for alcohol or substance use disorder or any physical or mental illness impacting the ability to practice, if applicable;

(15) military orders or DD214, if applicable;

(16) evidence of passage of the Texas Jurisprudence examination with at least a score of 75; and

(17) any other documentation deemed necessary to process an application.

(c) Applications are valid for one year from the date of submission. The one-year period can be extended for the following reasons:

- (1) delay in processing application;
- (2) referral of the applicant to the Licensure Committee;
- (3) unanticipated military assignments, medical reasons, or catastrophic events; or
- (4) other extenuating circumstances.

§161.7. Examination Requirements.

(a) Applicants must take and pass examinations in accordance with §§155.051, 155.0511, and 155.054 of the Act.

(b) Required Examinations:

- (1) United States Medical Licensing Examination (USMLE), or its successor, with a score of 75 or better, or a passing grade if applicable, on each step;
- (2) COMLEX-USA, or its successor, with a score of 75 or better, or a passing grade if applicable, on each step;
- (3) Federation Licensing Examination (FLEX), on or after July 1, 1985, passage of both components with a score of 75 or better on each component;
- (4) Federation Licensing Examination (FLEX), before July 1, 1985, with a FLEX weighted average of 75 or better in one sitting;
- (5) National Board of Medical Examiners Examination (NBME) or its successor;
- (6) National Board of Osteopathic Medical Examiners Examination (NBOME) or its successor;
- (7) Medical Council of Canada Examination (LMCC) or its successor; or
- (8) state board licensing examination.

(c) The following examination combinations are acceptable with a score of 75 or better on each part, level, component, or step:

- (1) FLEX I plus USMLE 3;
- (2) USMLE 1 and USMLE 2, plus FLEX II;
- (3) NBME I or USMLE 1, plus NBME II or USMLE 2, plus NBME III or USMLE 3;
- (4) NBME I or USMLE 1, plus NBME II or USMLE 2, plus FLEX II;
- (5) The NBOME Part I or COMLEX Level I, plus NBOME Part II or COMLEX Level II, plus NBOME Part III or COMLEX Level III; or
- (6) other examination combination acceptable to the board.

(d) Examination Attempt Limits and Time Limits. Each part of an examination must be passed in accordance with §§155.051 and 155.056 of the Act, unless the applicant meets an exception described in §155.0561 of the

Act.

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The new rules are proposed under the authority of the Texas Occupations Code Annotated, §153.001, which provides authority for the Board to recommend and adopt rules and bylaws as necessary to: govern its own proceedings; perform its duties; regulate the practice of medicine; and enforce this subtitle and establish rules related to licensure and registration of the license. The new rules are also proposed in accordance with the requirements of Chapters 53, 155, and 156 of the Texas Occupations Code. The new rules are also proposed in accordance with the requirements of the Texas Government Code, §2001.039, which requires a state agency to review and consider its rules for re adoption, re adoption with amendments, or repeal every four years. No other statutes, articles or codes are affected by this proposal.

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SUBCHAPTER C. U.S. AND CANADIAN MEDICAL GRADUATES.

§161.10. Specific Requirements for U.S. and Canadian Medical School Graduates.

All U.S. and Canadian medical school graduates must meet the requirements set forth in §155.003 of the Act.

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The new rules are proposed under the authority of the Texas Occupations Code Annotated, §153.001, which provides authority for the Board to recommend and adopt rules and bylaws as necessary to: govern its own proceedings; perform its duties; regulate the practice of medicine; and enforce this subtitle and establish rules related to licensure and registration of the license. The new rules are also proposed in accordance with the requirements of Chapters 53, 155, and 156 of the Texas Occupations Code. The new rules are also proposed in accordance with the requirements of the Texas Government Code, §2001.039, which requires a state agency to review and consider its rules for re adoption, re adoption with amendments, or repeal every four years. No other statutes, articles or codes are affected by this proposal.

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SUBCHAPTER D. FOREIGN MEDICAL GRADUATES.

§161.15. Specific Requirements for Foreign Medical Graduates.

(a) Foreign Medical Graduates from substantially equivalent medical schools must provide:

(1) an Educational Commission for Foreign Medical Graduates (ECFMG) status report; and

(2) proof of one of the following:

(A) successful completion of two years of approved medical graduate training that is progressive in nature; or

(B) board certification from a member board of the American Board of Medical Specialties or the Bureau of Osteopathic Specialists.

(b) Alternative approved training may be demonstrated by practicing within the teaching confines of the applying institution under a Faculty Temporary License. Each year in a teaching faculty position under a Faculty Temporary License shall be considered the equivalent of one year of approved postgraduate training.

§161.16. Foreign Medical Graduates of a Medical School That Is Not Substantially Equivalent.

Foreign Medical Graduates of a medical school that is not substantially equivalent must provide:

(1) an Educational Commission for Foreign Medical Graduate (ECFMG) status report; and

(2) proof of one of the following:

(A) completion of at least two years of an approved medical graduate training program that is progressive in nature, along with an International Credential Evaluation from the Foreign Credential Service of America (FCSA) determining the foreign medical education program is equivalent to a U.S. medical education;

(B) successful completion of an approved medical graduate training program;

(C) board eligibility or certification by the American Board of Medical Specialties or the Bureau of Osteopathic Specialists; or

(D) practice under an unrestricted full license issued in the U.S. for at least five years, without any disciplinary action in any state.

§161.17. Other Foreign Medical Graduates.

Foreign Medical Graduates of a medical school that is not substantially equivalent and do not meet the criteria set forth in §161.15 and §161.16 of this chapter must demonstrate substantial equivalence through alternate means as set by the board.

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The new rules are proposed under the authority of the Texas Occupations Code Annotated, §153.001, which provides authority for the Board to recommend and adopt rules and bylaws as necessary to: govern its own proceedings; perform its duties; regulate the practice of medicine; and enforce this subtitle and establish rules related to licensure and registration of the license. The new rules are also proposed in accordance with the requirements of Chapters 53, 155, and 156 of the Texas Occupations Code. The new rules are also proposed in accordance with the requirements of the Texas Government Code, §2001.039, which requires a state agency to review and consider its rules for readoption, readoption with amendments, or repeal every four years. No other statutes, articles or codes are affected by this proposal.

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SUBCHAPTER E. LICENSURE FOR MILITARY SERVICE MEMBERS, VETERANS AND SPOUSES.

§161.20. Alternative License Procedures for Military Service Members, Military Veterans, and Military Spouses.

In accordance with Chapter 55 of the Texas Occupations Code, military service members, veterans, and spouses must:

(1) meet the general requirements for licensure as set forth in §161.6 of this chapter; and

(2) submit a completed application on the board-approved form and all additional documentation as required, with the exception of application fee.

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The new rules are proposed under the authority of the Texas Occupations Code Annotated, §153.001, which

provides authority for the Board to recommend and adopt rules and bylaws as necessary to: govern its own proceedings; perform its duties; regulate the practice of medicine; and enforce this subtitle and establish rules related to licensure and registration of the license. The new rules are also proposed in accordance with the requirements of Chapters 53, 155, and 156 of the Texas Occupations Code. The new rules are also proposed in accordance with the requirements of the Texas Government Code, §2001.039, which requires a state agency to review and consider its rules for re-adoption, re-adoption with amendments, or repeal every four years. No other statutes, articles or codes are affected by this proposal.

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SUBCHAPTER F. APPLICATION PROCEDURE.

§161.25. Procedural Rules for Licensure Applicants.

(a) Applications will be processed in accordance with §155.007 of the Act.

(b) Applicants seeking reinstatement or reissuance of a license will be reviewed and processed in accordance with §§164.151 through 164.153 of the Act.

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The new rules are proposed under the authority of the Texas Occupations Code Annotated, §153.001, which provides authority for the Board to recommend and adopt rules and bylaws as necessary to: govern its own proceedings; perform its duties; regulate the practice of medicine; and enforce this subtitle and establish rules related to licensure and registration of the license. The new rules are also proposed in accordance with the requirements of Chapters 53, 155, and 156 of the Texas Occupations Code. The new rules are also proposed in accordance with the requirements of the Texas Government Code, §2001.039, which requires a state agency to review and consider its rules for re-adoption, re-adoption with amendments, or repeal every four years. No other statutes, articles or codes are affected by this proposal.

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SUBCHAPTER G. REGISTRATION OF LICENSE.

§161.30. Registration and Renewal.

(a) In accordance with Chapter 156 of the Act, a physician license must be registered with the board and renewed every two years after it is issued.

(b) A renewal notice will be sent to the physician's address of record at least 60 days prior to the expiration date of the registration.

(c) The physician must:

(1) complete the renewal form;

(2) pay the renewal fee and any additional fees, as applicable:

(A) initial biennial permit - \$456.00;

(B) subsequent biennial permit - \$452.00;

(3) verify and update their physician profile; and

(4) provide any other relevant information requested.

§161.31. Exceptions From Certain Renewal Requirements.

(a) Texas-licensed military service members are allowed two additional years to complete biennial continuing medical education requirements.

(b) Officially Retired Physicians are exempt from renewal registration fees and continuing medical education requirements upon the filing of a board-approved form certifying that they:

- (1) have ceased practicing medicine in Texas; and
- (2) are not under investigation or current board order.

(c) Voluntary Charity Care Physicians are exempt from the biennial registration fee upon the filing of a board-approved form certifying that they:

(1) provide medical care only:

- (A) to indigent populations;
- (B) in medically underserved areas; or
- (C) for a disaster relief organization;

(2) do not provide any medical services to family members: and

(3) receive no compensation for services rendered, with the exception of payment or reimbursement of reasonably necessary travel and related expenses.

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The new rules are proposed under the authority of the Texas Occupations Code Annotated, §153.001, which provides authority for the Board to recommend and adopt rules and bylaws as necessary to: govern its own proceedings; perform its duties; regulate the practice of medicine; and enforce this subtitle and establish rules related to licensure and registration of the license. The new rules are also proposed in accordance with the requirements of Chapters 53, 155, and 156 of the Texas Occupations Code. The new rules are also proposed in accordance with the requirements of the Texas Government Code, §2001.039, which requires a state agency to review and consider its rules for re adoption, re adoption with amendments, or repeal every four years. No other statutes, articles or codes are affected by this proposal.

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SUBCHAPTER H. CONTINUING MEDICAL EDUCATION REQUIREMENTS FOR LICENSE RENEWAL.

§161.35. Continuing Medical Education (CME) Requirements for License Renewal.

(a) Forty-eight total CME credits are required, biennially, as follows:

(1) Minimum of 24 formal credits of AMA/PRA Category 1 designated by:

(A) the Accreditation Council for Continuing Medical Education;

(B) a state medical society recognized by the Committee for Review and Recognition of the Accreditation Council for Continuing Medical Education;

(C) the American Academy of Family Physicians;

(D) the AOA Category 1-A;

(E) the Texas Medical Association;

(F) the board, but only as it applies to medical ethics and/or professional responsibility; or

(G) a board-appointed physician performing a competency evaluation or practice monitoring of another physician, which may receive one (1) formal CME credit for each hour of time spent on these duties up to 12 hours.

(2) As part of the 24 formal credits, the following are required:

(A) a human trafficking prevention course, in accordance with §156.060 of the Act;

(B) two credits in the topic of medical ethics and/or professional responsibility; and

(C) two credits in accordance with §156.055 of the Act.

(3) Informal CME credits may include:

(A) informal self-study; or

(B) attendance at hospital lectures, grand rounds, or case conferences.

(b) Alternate proof of CME compliance is presumed if the physician:

(1) meets the criteria set forth in §156.052 of the Act;

(2) is currently in a residency/fellowship training; or

(3) completed residency/fellowship training within six months prior to obtaining licensure.

(c) CME Deficiencies and Carry Forward Procedures:

(1) Any CME deficiency can be remedied within 30 days after registration renewal due.

(2) A maximum of 48 total excess credits may be carried forward only to the next registration period; and

(3) Required formal credits described in subsection (a)(2) of this section cannot be carried forward.

(d) In accordance with §156.053 of the Act, exemptions from CME may be allowed upon a written request at least 30 days before renewal is due.

(e) Voluntary Charity Care CME requirements are reduced to twelve informal CME credits per biennium.

(f) In accordance with §323.0045 of the Health and Safety Code, recognized forensic examination CME must be:

(1) a formal category 1 course; or

(2) approved or recognized by the Texas Board of Nursing.

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The new rules are proposed under the authority of the Texas Occupations Code Annotated, §153.001, which provides authority for the Board to recommend and adopt rules and bylaws as necessary to: govern its own

proceedings; perform its duties; regulate the practice of medicine; and enforce this subtitle and establish rules related to licensure and registration of the license. The new rules are also proposed in accordance with the requirements of Chapters 53, 155, and 156 of the Texas Occupations Code. The new rules are also proposed in accordance with the requirements of the Texas Government Code, §2001.039, which requires a state agency to review and consider its rules for readoption, readoption with amendments, or repeal every four years. No other statutes, articles or codes are affected by this proposal.

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SUBCHAPTER I. FULL MEDICAL LICENSE.

§161.40. Medical License.

(a) In accordance with §§155.001 and 151.056 of the Act, all physicians must hold a full Texas medical license to practice in Texas, including physicians practicing telemedicine.

(b) Subsection (a) of this section does not apply to the following:

- (1) physicians who meet the exceptions set forth in §151.056(b) of the Act;
- (2) physicians who are exempt pursuant to §151.0521 of the Act; and
- (3) physicians who hold a temporary or limited license issued under Chapter 155 of the Act.

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The new rules are proposed under the authority of the Texas Occupations Code Annotated, §153.001, which provides authority for the Board to recommend and adopt rules and bylaws as necessary to: govern its own proceedings; perform its duties; regulate the practice of medicine; and enforce this subtitle and establish rules related to licensure and registration of the license. The new rules are also proposed in accordance with the requirements of Chapters 53, 155, and 156 of the Texas Occupations Code. The new rules are also proposed in accordance with the requirements of the Texas Government Code, §2001.039, which requires a state agency to review and consider its rules for readoption, readoption with amendments, or repeal every four years. No other statutes, articles or codes are affected by this proposal.

<rule>

SUBCHAPTER J. LIMITED LICENSES.

§161.45. Conceded Eminence License.

All applicants for a conceded eminence license must meet the requirements of §155.006 of the Act, and submit:

- (1) a completed board-required application form;
- (2) the required fee of \$817.00;
- (3) additional fees and surcharges as applicable; and
- (4) the following documentation:
 - (A) proof of conceded eminence and authority in the applicant's specialty including, but not limited to:
 - (i) a high level of academic or professional recognition, domestically or internationally, for excellence in research, teaching, or the practice of medicine within the applicant's specialty;

(ii) professional honors, awards, and recognition in the international or domestic medical community for achievements, contributions, or advancements in the field of medicine, or medical research publications in recognized scientific, medical, or medical research journals;

(iii) acknowledgement of expertise from recognized U.S. authorities in the applicant's field of medical specialty; and

(iv) other meritorious considerations.

(B) letters of recommendation from five renowned specialists including three Texas-licensed physicians who practice in the same specialty;

(C) proof of successful completion of an acceptable licensing examination as set forth in §161.7 of this chapter;

(D) evidence of the practice of medicine for at least 10 years, 5 years of which occurred immediately preceding the date of application; and

(E) an acceptable disciplinary and criminal history.

§161.46. Administrative Medicine License.

(a) All applicants for an administrative medicine license must meet the requirements of §155.009 of the Act, and must:

(1) meet the general requirements set forth in §161.6 of this chapter;

(2) submit a completed application on the board-approved form;

(3) pay the required fee of \$817.00 and any additional fees and surcharges, as applicable; and

(4) submit any additional documentation as requested.

(b) An administrative medicine license:

(1) is limited to administration or management that utilizes the medical and clinical knowledge, skill, and judgment of a licensed physician and is capable of affecting the health and safety of the public or any person; and

(2) does not grant authority to do the following:

(A) the practice of clinical medicine;

(B) direct patient care, treatment, or diagnosis;

(C) the prescribing of dangerous drugs or controlled substances; and

(D) supervision and delegation.

§161.47. Military Volunteer License.

(a) All applicants for a Military Volunteer License must meet the requirements of §155.103 of the Act, and must submit:

(1) proof of active or retired military status; and

(2) a completed board required application form.

(b) A Military Volunteer License is valid for two years.

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<rule>

SUBCHAPTER K. TEMPORARY LICENSES.

§161.50. Regular Temporary License.

In accordance with §155.104 (a) of the Act, temporary licenses may be issued to applicants approved for full licensure pending final board approval.

§161.51. Faculty Temporary License.

(a) All applicants for a Faculty Temporary License must meet the requirements of §§155.104(b) and (c) of the Act, as applicable, and must submit:

(1) a completed board-required application form at least 45 days prior to the effective date of the appointment of the physician, in accordance with §155.104(h) of the Act;

(2) the required fee of \$552.00;

(3) any additional fees and surcharges, as applicable; and

(4) documentation of:

(A) an acceptable disciplinary and criminal history; and

(B) required statements and affidavits from the applying institution, in accordance with §§155.104(d) and (e) of the Act.

(b) A Faculty Temporary License is valid for one year.

(c) Each year practicing under a Faculty Temporary License may be treated as equivalent to one year of approved postgraduate training for purposes of license eligibility.

§161.52. Visiting Physician Temporary Permit.

(a) In accordance with §155.104(a) of the Act, the Executive Director may issue a Visiting Physician Temporary Permit (VPTP) for the following:

(1) educational purposes, including short-term medical faculty teaching positions not to exceed 6 months;

(2) to practice charity care for underserved populations in Texas;

- (3) in cases of declared emergency disasters;
 - (4) for the provision of forensic psychiatric examinations related to criminal matters; or
 - (5) for the provision of specialized medical care for which the applying physician has demonstrated good cause for the issuance of the permit.
- (b) A VPTP cannot be used for training in a postgraduate medical training program or fellowship.
- (c) Applicants for a VPTP must submit:
- (1) a completed board-required application form at least 30 days prior to the effective date of the appointment of the physician;
 - (2) documentation of:
 - (A) a current and unrestricted medical license in another state, territory, Canadian province, or country;
 - (B) an acceptable disciplinary and criminal history, and no current or pending complaints, investigations, or disciplinary actions; and
 - (C) supervision by a physician who has:
 - (i) a current and unrestricted medical license in Texas; and
 - (ii) an acceptable disciplinary and criminal history, and no current or pending complaints, investigations, or disciplinary actions in any jurisdiction.
 - (d) Texas supervising physicians must provide written verification:
 - (1) agreeing to supervise the applicant; and
 - (2) listing the specified location and purpose requiring the VPTP.
- (e) A VPTP is valid for ten working days, unless otherwise approved by the Executive Director, except as provided in subsection (a)(1) of this section.
- (f) A VPTP necessary to participate in the Texas A&M KSTAR program will be issued for the length of the program upon receipt of written verification from the KSTAR program of acceptance into the program and the dates of the program.

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<rule>

SUBCHAPTER L. PHYSICIAN-IN-TRAINING PERMITS.

§161.55. Physician-in-Training Permits.

(a) In accordance with §155.105 of the Act, the Executive Director or board may issue a Physician-in-Training (PIT) permit.

(b) A PIT permit may be issued only after receipt of certification from an approved graduate medical training program that:

- (1) the program is an approved program;
- (2) the applicant has been accepted into the program; and
- (3) the applicant is graduating from medical school prior to the start of the training program.

(c) Applicants for a PIT permit must submit:

- (1) a board-required application form;
- (2) the required fee of \$200.00;
- (3) additional fees and surcharges as applicable; and
- (4) documentation of the following:
 - (A) all US or Canadian approved graduate medical training programs attended;
 - (B) documentation of alternate name or name change, if applicable;
 - (C) arrest records, if applicable;
 - (D) malpractice records, if applicable;
 - (E) treatment records for alcohol or substance use disorder or any physical or mental illness impacting the ability to practice, if applicable; and
 - (F) other documentation deemed necessary to process an application.

(d) PIT permit applications should be submitted at least 60 days prior to the start of the training program and no more than 120 days before training begins.

(e) A PIT permit is valid for participation in an approved graduate medical training program for the duration of the training program.

(f) PIT permits expire upon any of the following, whichever occurs first:

- (1) the end date of the approved graduate medical training program;
- (2) the permit holder's termination or release from the approved graduate medical training program; or
- (3) on the date a full, limited, or temporary physician license is issued.

(g) PIT permit holders are limited to the practice of medicine within the training program for which it was approved.

(h) A PIT permit holder is restricted to the supervised practice of medicine that is part of and approved by the training program and does not allow for the practice of medicine outside of the approved program.

(i) A transfer to a new approved graduate medical training program requires the applicant to submit a new PIT permit application, required documentation, and the following fees, as applicable:

- (1) \$141.00, if transferring to a program not within same institution; and
- (2) \$200.00, if transfer application is made after current PIT permit is expired.

(j) The board may allow substitute documents where exhaustive efforts on the applicant's part to secure the required documents are presented.

§161.56. Rotator PIT Permits.

Out-of-state or military PIT applicants completing a rotation in Texas of less than 60 consecutive days as part of an approved graduate medical training program must:

- (1) submit an application and required documentation described in §161.55 of this title;
- (2) pay a required fee of \$131.00; and
- (3) have the Texas Licensed physician supervising the Texas rotations submit certification of the following:
 - (A) the facility at which the rotation will be completed;
 - (B) the dates the rotations will be completed in Texas; and
 - (C) that the Texas on-site preceptor physician will supervise and be responsible for the applicant during the rotations.

§161.57. Duties of Permit Holders to Report.

PIT permit holders must report the following to the board within 30 days:

- (1) an investigation or disciplinary action by any licensing entity other than the board;
- (2) an arrest (excluding traffic tickets, unless drugs or alcohol were involved);
- (3) any criminal charge or conviction, including disposition;
- (4) any indictment;
- (5) imprisonment; and
- (6) any diagnosis or treatment of a physical, mental, or emotional condition that affects the ability to practice medicine.

§161.58. Duties of Program Directors to Report.

In accordance with §§160.002 and 160.003 of the Act, Program Directors must report the following to the board within 30 days:

- (1) a PIT permit holder who did not begin the training program for any reason, including failure to graduate from medical school;

- (2) a PIT permit holder who is absent from the program for more than 21 consecutive days (excluding vacation, military, or family leave not related to the participant's medical condition) and the reason(s) why;
- (3) a PIT permit holder who has been arrested;
- (4) a PIT permit holder who poses a continuing threat to the public welfare, as defined by §151.002(a)(2) of the Act;
- (5) any final action against a PIT permit holder that adversely affects the permit holder's status or privileges for a period longer than 30 days;
- (6) a PIT permit holder who is suspended from the program; or
- (7) a PIT permit holder who is released, terminated, withdraws, or resigns from the program.

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<rule>

SUBCHAPTER M. FELLOWSHIP PROGRAM APPROVAL.

§161.65. Process for Board-Approval of Fellowships.

(a) To obtain board approval of a fellowship, the institution, through its designated institutional official (DIO) and chair of the Graduate Medical Education Committee (GMEC), must submit:

- (1) a completed board application form;
- (2) required fee of \$250.00; and
- (3) documentation demonstrating:
 - (A) goals and objectives;
 - (B) documented curriculum;
 - (C) qualifications of the program director and program faculty including, but not limited to, current Texas medical license, certification by the appropriate specialty board, and/or appropriate educational qualifications;
 - (D) candidate selection process including prerequisite requirements;
 - (E) duties and responsibilities of the fellows in the program;
 - (F) supervision of the fellows;
 - (G) progressive nature of the training program;

(H) evaluation of the fellows;

(I) duration of the fellowship training program for fellows; and

(J) other information as requested by the board.

(b) The application must be submitted a minimum of 120 days prior to the beginning date of the program.

(c) Renewals for fellowship approval must be submitted at least 120 days before the expiration of the approval.

(d) The approval period of the fellowship program may not exceed five years.

(e) If the program subsequently becomes approved by the ACGME, AOA, ABMS, or BOS, the program must notify the board within 30 days of approval, as fellowship programs may not be dually approved.

(f) Changes to a board-approved program may require submission of a new application.

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The new rules are proposed under the authority of the Texas Occupations Code Annotated, §153.001, which provides authority for the Board to recommend and adopt rules and bylaws as necessary to: govern its own proceedings; perform its duties; regulate the practice of medicine; and enforce this subtitle and establish rules related to licensure and registration of the license. The new rules are also proposed in accordance with the requirements of Chapters 53, 155, and 156 of the Texas Occupations Code. The new rules are also proposed in accordance with the requirements of the Texas Government Code, §2001.039, which requires a state agency to review and consider its rules for re adoption, re adoption with amendments, or repeal every four years. No other statutes, articles or codes are affected by this proposal.

<rule>

SUBCHAPTER N. EMERGENCY PRACTICE AUTHORIZATION.

§161.70. Emergency Practice Authorization (EPA).

(a) The board may waive requirements for licensure for the board and its advisory boards and committees and issue an Emergency Practice Authorization (EPA):

(1) pursuant to a lawful emergency or disaster for which the Governor of the State of Texas has declared a state of emergency or state of disaster, in accordance with the Texas Government Code;

(2) in the event of an occurrence for which a county or municipality has declared a state of emergency or state of disaster; or

(3) to protect the public health, safety, or welfare of the citizens of Texas.

(b) For the purposes of this subchapter, “healthcare professional” means an out-of-state individual that holds a valid and current license, permit, or certificate type that is issued by a state licensing board.

§161.71. Emergency Practice Authorization (EPA) Requirements and Procedures for Healthcare Professionals.

(a) Hospital-to-Hospital Practice Authorization: A healthcare professional may practice within the scope of their license, permit, or certificate at a Texas hospital upon demonstration of the following:

(1) The healthcare professional:

(A) holds a full, unlimited, and unrestricted license, certificate, or permit to practice in another U.S. state, territory, or district; and

(B) has unrestricted hospital credentials and privileges in any U.S. state, territory, or district.

(2) The licensed Texas hospital:

(A) shall verify each healthcare professional's credentials and privileges;

(B) shall keep a list of all healthcare professionals coming to practice at that facility;

(C) must provide this list to the board within ten days of each healthcare professional starting practice at the facility; and

(D) must provide the board a list of when each healthcare professional has stopped practicing in Texas under this section within ten days after each healthcare professional has stopped practicing under this section.

(b) Non-Hospital Practice Authorization:

(1) The sponsored healthcare professional must:

(A) hold a full, unlimited, and unrestricted license, certificate, or permit to practice in another U.S. state, territory, or district;

(B) have no disciplinary actions in any jurisdiction; and

(C) be sponsored by a Texas-licensed physician.

(2) The Texas-licensed sponsoring physician:

(A) must hold a full unrestricted Texas medical license;

(B) must provide a written statement describing how the sponsored healthcare professional will assist directly in response to the declared emergency or disaster; and

(C) shall be considered the supervising physician for the sponsored healthcare professional.

(3) The board may limit the sponsored healthcare professional's practice locale and scope of practice.

§161.72. Board Regulation of Emergency Practice Authorization (EPA).

(a) The board shall have jurisdiction over healthcare professionals practicing under this subchapter.

(b) Each healthcare professional must comply with all applicable provisions of the Texas Occupations Code and all other applicable state and federal laws.

(c) The board's jurisdiction over the healthcare professional and the care provided in Texas during the emergency continues even after the healthcare professional ceases practicing in Texas.

(d) An EPA is valid for no more than thirty (30) days unless otherwise indicated by the continued emergency or disaster, as determined by the board.

(e) Healthcare professionals practicing under this subchapter shall not receive any compensation outside of their

usual compensation for the provision of healthcare services during a disaster or emergency.

§161.73. Confidentiality.

In accordance with §164.007(c) of the Act, all board files, information, or investigative materials regarding healthcare professionals practicing under this chapter are confidential.