

The Texas Medical Board (Board) proposes the repeal of current Chapter 183, concerning Acupuncture, §§183.1 – 183.27.

The Board also proposes new Chapter 183, concerning Physician Assistants. This includes new Subchapter A, concerning Physician Assistant Board, §§183.1 – 5; Subchapter B, concerning Licensing and Registration, §§183.10 – 183.17; Subchapter C, concerning Practice Requirements, §183.20, and §183.21; and Subchapter D, concerning Board Processes and Procedures, §183.25.

Also, the Board contemporaneously proposes the repeal of current Chapter 185, concerning Physician Assistants, §§185.1 – 185.33.

The Board has determined that due to the extensive reorganization of Chapters 160-200, repeal of Chapter 183 is more efficient than proposing multiple amendments to make the required changes.

The proposed new subchapters and sections are as follows:

SUBCHAPTER A. PHYSICIAN ASSISTANT BOARD.

New §183.1, Definitions, defines terms used in new Chapter 183.

New §183.2, Functions and Duties, explains the functions and duties of the Physician Assistant Board and its members.

New §183.3, Meetings, explains how often the board meets, how board and committee meetings are conducted, and the voting process at meetings.

New §183.4, Standing Committees, explains the function of the two Standing Committees, Disciplinary Committee and Licensure Committee of the board.

New §183.5, Officers of the Board, explains the duties of the presiding officer and secretary of the board, as well as appointment and succession of officers.

SUBCHAPTER B. LICENSING AND REGISTRATION.

New §183.10, General Requirements for Licensure, outlines the general standards for licensure for a Physicians Assistants license cited in §§204.152 and 204.153 of the Act and submission of relevant documentation.

New §183.11, Current Clinical Practice, outlines the requirements of a physician assistant relating to professional or work history evaluations and demonstration that the physician assistant has worked as a physician assistant in the preceding five years from the date of application. Alternatively, the section describes several options if an applicant cannot demonstrate current clinical practice as a physician assistant within the last three years from the date of application.

New §183.12, Temporary Licenses, explains the requirements and process for an applicant to obtain a temporary physician assistants license as cited in §205.155 of the Act.

New §183.13, Procedural Rules for Licensure Applicants, outlines the general requirements and processing of the application to obtain a physician assistants license. This section also describes the options offered by the Executive Director to the applicant if there is an issue with the application.

New §183.14, Relicensure, explains the requirements for a license holder who retired or surrendered their license and seek to be re-licensed.

New §183.15, License Registration and Renewal, outlines the general requirements for license registration and renewal for a Texas physician assistants license.

New §183.16, Biennial Continuing Medical Education (CME) Requirements, explains the registration renewal requirements regarding the Physicians Assistants biennial continuing medical education.

New §183.17, Inactive License, explains the number of years that the license is automatically canceled after being placed on inactive status for 3 years. This section also describes the process for relicensure, which is required for activation of a canceled license.

SUBCHAPTER C. PRACTICE REQUIREMENTS.

New §183.20, On-Going Reporting Requirements, states that a license holder must report any event listed in §162.2(b)(1) through (7) of this title to the board within 10 days after the event.

New §183.21, Training and Registration Requirements for Physician Assistants Performing Radiologic Procedures, outlines specific requirements for physician assistants in performing radiologic procedures when delegated in compliance with requirements of §157.001 of the Medical Practice Act.

SUBCHAPTER D. BOARD PROCESSES AND PROCEDURES.

New §183.25, Procedural Rules, explains the applicable rules applied to complaints and investigations, disciplinary guidelines and sanctions, and compliance in accordance with §204.312 of the Act for physician assistants.

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/KPT623ehXQ>. 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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- §183.1. Purpose.
- §183.2. Definitions.
- §183.3. Meetings.
- §183.4. Licensure.
- §183.5. Biennial Renewal of License.
- §183.6. Denial of License; Discipline of Licensee.
- §183.7. Scope of Practice.
- §183.8. Investigations.
- §183.9. Impaired Acupuncturists.
- §183.10. Patient Records.
- §183.11. Complaint Procedure Notification.
- §183.12. Medical Board Review and Approval.
- §183.13. Construction.
- §183.14. Acudetox Specialist.
- §183.15. Use of Professional Titles.
- §183.16. Texas Acupuncture Schools.
- §183.17. Compliance.
- §183.18. Administrative Penalties.
- §183.19. Acupuncture Advertising.
- §183.20. Continuing Acupuncture Education.
- §183.21. Continuing Auricular Acupuncture Education for Acudetox Specialists.
- §183.22. Language Requirements.
- §183.23. Voluntary Surrender of Acupuncture License.
- §183.24. Procedure.
- §183.25. Inactive Status License.
- §183.26. Retired License.
- §183.27. Exemption from Licensure for Certain Military Spouses.

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The new rules are proposed under the authority of the Texas Occupations Code Annotated, §204.101, 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 under the authority of §153.0015(a); and 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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SUBCHAPTER A. PHYSICIAN ASSISTANT BOARD.

§183.1. Definitions.

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

- (1) Act -- The Physician Assistant Licensing Act, Texas Occupations Code, Chapter 204.
- (2) Board or the "Physician Assistant Board" -- The Texas Physician Assistant Board.
- (3) Medical Practice Act -- Texas Occupations Code, Title 3, Subtitle B, as amended.

§183.2. Functions and Duties.

(a) In accordance with §204.101 of the Act, board duties and functions include:

- (1) establishing standards for the practice of physician assistants;
- (2) regulating physician assistants through licensure and discipline;
- (3) receiving complaints and investigating possible violations of the Act and the board rules;
- (4) reviewing, modifying, proposing, and adopting rules;
- (5) considering, reviewing, and approving policy as necessary; and
- (6) acting as a resource concerning proposed legislative changes to reflect current medical and healthcare needs and practices.

(b) Individual board members are required to:

- (1) identify and disclose any conflicts of interest that may interfere with carrying out their duties and functions or that may impede their ability to be fair and impartial, and recuse from such matters;
- (2) comply with the Act;

(3) maintain the highest levels of professional and ethical conduct, including, but not limited to:

(A) A board member shall not appear as an expert witness in any case in which a licensee of the board is a party and in which the expert testimony relates to standard of care or professional malpractice;

(B) A board member shall not appear in any administrative proceeding involving the exercise of the board's licensing or disciplinary authority before the board or the State Office of Administrative Hearings (SOAH) in which proceeding a licensee of the board is a party;

(C) A board member should refrain from making any statement that implies that the board member is speaking for the board if the board has not voted on an issue or, unless the board has given the board member such authority; and

(4) A board member shall immediately disclose if they are subject to a non-disciplinary or disciplinary action by any health care facility or professional licensing entity.

(c) Failure to comply with any of the requirements set forth in the Act or this section will be reported to the Office of the Governor.

§183.3. Meetings.

(a) The board may meet up to four times a year, with a minimum of two times a year, to carry out the mandates of the Act.

(b) Board and Committee meetings shall be conducted in compliance with Texas Government Code, Chapter 551, and, to the extent possible, pursuant to the provisions of Robert's Rules of Order Newly Revised.

(c) Special meetings may be called by the presiding officer of the board or by resolution of the board.

(d) The board may act only by majority vote of its members present and voting. Proxy votes are not allowed.

§183.4. Standing Committees.

The Standing Committees of the board are as follows:

(1) Disciplinary Committee:

(A) reviews and makes recommendations to resolve complaints, close investigations, dismiss cases, and hears complainant appeals;

(B) recommends, reviews, and develops improvements of the disciplinary process, rules, policies, and other related matters; and

(C) receives reports on enforcement activities and statistical information.

(2) Licensure Committee:

(A) reviews applications and makes recommendations, based on eligibility criteria for licensure of physician assistants;

(B) recommends, reviews, and develops changes to the licensure process, rules, policies, and other related matters as necessary; and

(C) maintains communication with Texas physician assistant programs.

§183.5. Officers of the Board.

(a) In accordance with §204.055 of the Act, the officers of the board consist of a presiding officer and a secretary.

(b) The secretary of the board shall assume the duties of the presiding officer in the event of the presiding officer's absence or incapacity.

(c) The board, at a regular meeting or special meeting, upon majority vote of the members present, may remove the secretary from office.

(d) In the event of the absence or temporary incapacity of the presiding officer and the secretary, the members of the board may elect another physician assistant member to act as the presiding officer of a board meeting or as an interim acting presiding officer for the duration of the absences or incapacity or until another presiding officer is appointed by the governor.

(e) Upon the death, resignation, removal, or permanent incapacity of the presiding officer or the secretary, the board shall elect a secretary from its membership to fill the vacant position. The board may elect an interim acting presiding officer until another presiding officer is appointed by the governor. Such an election shall be conducted as soon as practicable at a regular or special meeting of the board.

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The new rules are proposed under the authority of the Texas Occupations Code Annotated, §204.101, 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 under the authority of §153.0015(a); and 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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SUBCHAPTER B. LICENSING AND REGISTRATION.

§183.10. General Requirements for Licensure.

(a) All applicants for a license must meet the general standards in §§204.152 and 204.153 of the Act and submit:

- (1) the board required application form;
- (2) payment of the required fee of \$220.00, and additional fees and surcharges as applicable; and
- (3) required documentation including, but not limited to:
 - (A) a Dean's Certification of Graduation form;
 - (B) evidence of passage of the national licensing examination required for NCCPA certification with no more than six attempts;
 - (C) a current NCCPA verification;
 - (D) a birth certificate or other similar proof of age;
 - (E) Professional or Work History Evaluation forms demonstrating or relating to the practice as a physician assistant for the preceding five years from the date of the application;
 - (F) the National Practitioner Data Bank and Health Integrity and Protection Data Bank report (NPDB-HIPDB);
 - (G) FBI/DPS Fingerprint Report;
 - (H) documentation of alternate name or name change, if applicable;
 - (I) a physician assistant school transcript, if requested;
 - (J) arrest records, if applicable;
 - (K) malpractice records, if applicable;
 - (L) treatment records for alcohol or substance use disorder or any physical or mental illness impacting the ability to practice, if applicable;

(M) military orders or DD214, if applicable;

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

(O) any other documentation deemed necessary by the board to process an application.

(b) 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 an application;

(2) referral to the Licensure Committee;

(3) unanticipated military assignments, medical reasons, or catastrophic events; or

(4) other extenuating circumstances.

(c) In accordance with Texas Occupations Code, Chapter 55, military service members, veterans, and spouses must:

(1) meet the general requirements as set forth in subsection (a); and

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

§183.11. Current Clinical Practice.

(a) All applicants must submit professional or work history evaluations demonstrating or relating to the practice as a physician assistant in the preceding five years from the date of application. "Current clinical practice" may be demonstrated by:

(1) currently practicing as a physician assistant involving treatment of persons;

(2) enrollment as a student in an acceptable approved physician assistant program; or

(3) appointment as an active teaching faculty member in an acceptable approved physician assistant program.

(b) The Executive Director may offer to an applicant that cannot demonstrate current clinical practice as a physician assistant within the last three years from the date of application:

(1) a Supervised Temporary License as set forth in §183.12 of this subtitle;

(2) remedial clinical education including, but not limited to, enrollment as a student at an acceptable physician assistant program approved by the board; or

(3) other remedial measures necessary to ensure protection of the public and minimal competency of the applicant to safely practice.

§183.12. Temporary Licenses.

(a) Applicants for a temporary license must meet the requirements in §204.155 of the Act.

(b) Temporary licenses may be issued to:

(1) an applicant who is qualified for a full license, subject to the terms and conditions that require board approval; or

(2) remedy current clinical practice issues set forth in §183.11 of this subtitle.

(c) In order to be determined eligible for a temporary license to remedy a current clinical practice issue under §183.11 of this subtitle, an applicant must be supervised by a licensed physician who:

(1) has an unrestricted license in Texas;

(2) has no pending investigation;

(3) is not a relative or family member;

(4) has never had a license revoked, suspended, restricted, or cancelled for cause; and

(5) meets any other eligibility criteria established by the board.

(d) Applicants for a temporary license must submit:

(1) a board required application form; and

(2) the required fee of \$107.00.

(e) Temporary licenses will be terminated upon:

(1) issuance of a full license; or

(2) violation of conditions of a temporary license.

§183.13. Procedural Rules for Licensure Applicants.

(a) Applications will be processed in accordance with §204.152 of the Act.

(b) The Executive Director may offer to an applicant:

(1) the option to withdraw an application with missing items, defects, omissions, or other errors and resubmit a corrected application;

(2) a Remedial Plan;

(3) an Agreed Order; or

(4) other recommendations considered appropriate by the board.

(c) Applicants not approved for licensure by the Executive Director may, within 20 days of notice of non-approval, request to appear before the Licensure Committee.

(1) If the applicant fails to take timely action, the application for licensure shall be deemed withdrawn regardless of the board's action.

(2) The applicant shall be notified of the board's final determination.

(3) An applicant has 20 days from the date of the notice of the board's final decision to either accept the determination or request an appeal to the State Office of Administrative Hearings (SOAH).

§183.14. Relicensure.

(a) For a license holder who retired or surrendered their license (including cancellation for non-payment) and who is seeking to be relicensed, the following is required:

(1) all statutory requirements for licensure must be met;

(2) application must be submitted and the required fee of \$220.00, and additional fees and surcharges, as applicable, must be paid;

(3) the requirements of §183.10 of this title must be met;

(4) competency to resume practice must be demonstrated; and

(5) other remediation required by the board must be completed.

(b) In accordance with §204.315 of the Act, applicants seeking relicensure under this section will be reviewed and processed in accordance with §§164.151 and 164.152 of the Medical Practice Act.

§183.15. License Registration and Renewal.

(a) Within 90 days of a license being issued, it must be registered by:

(1) completing a board registration form;

- (2) submitting payment of the initial registration fee of \$541.00, and additional fees and surcharges, as applicable;
 - (3) providing requested information related to their online verification; and
 - (4) providing other relevant information requested by the board staff.
- (b) Subsequent registration will be biennially by:
- (1) completing a board renewal form;
 - (2) submitting payment of a biennial registration fee of \$537.00, and additional fees and surcharges, as applicable;
 - (3) verifying and updating information related to their online verification;
 - (4) completing biennial continuing medical education (CME) required under §183.16 of this subtitle; and
 - (5) providing other relevant information requested by board staff.
- (c) Failure to renew before a license's expiration date will result in increased charges as follows:
- (1) 1-90 days late -- renewal fee plus one half of the renewal fee; and
 - (2) 91 days-1 year late -- double the renewal fee.
- (d) Failure to renew within one year after the expiration date of the license will result in cancellation of the license.

§183.16. Biennial Continuing Medical Education (CME) Requirements.

- (a) As part of registration renewal, a license holder must complete 40 hours of continuing medical education (CME) during the biennial renewal period.
- (1) At least 20 hours must be from formal courses:
 - (A) designated for Category I credit by a CME sponsor approved by the American Academy of Physician Assistants; or
 - (B) approved by the board for course credit, including a human trafficking prevention course approved by the Executive Commissioner of the Texas Health and Human Services Commission.

(2) The remaining hours may be designated for Category II credit, composed of informal self-study, attendance at hospital lectures, grand rounds, case conferences, or by providing volunteer medical services at a site serving a medically underserved population.

(b) Formal CME credit is allowed at the rate of 1 credit for each hour of time acting on behalf of the physician assistant board for evaluation of a physician assistant's competency or practice monitoring, up to a maximum of 6 hours per year, as part of the required formal hours.

(c) Military service members are subject to the same CME requirements but are allowed extensions in accordance with §55.003 of the Texas Occupations Code, if applicable.

(d) Carry forward of CME credit is allowed as follows:

(1) A maximum of 80 total excess credit hours may be carried forward and shall be reported according to whether the hours are Category I and/or Category II.

(2) Excess CME credit hours may not be carried forward or applied to a report of CME more than two years beyond the date of the biennial registration following the period during which the hours were earned. No hours may be carried forward past a single renewal period.

(e) Exemptions for CME requirements.

(1) Requests must be made in writing at least 30 days prior to expiration of the biennial renewal period for the following reasons:

(A) catastrophic illness;

(B) military service of longer than one year's duration outside the United States;

(C) licensee's residence of longer than one year's duration outside the United States; or

(D) other good cause.

(2) Exemptions are subject to the approval of the Executive Director of the board and may not exceed two years.

§183.17. Inactive License.

(a) In accordance with §204.157 of the Act, a license may be placed on inactive status.

(b) Inactive status cannot exceed three years, after which the license will be automatically canceled.

(c) To reactivate within three years, an applicant must meet all the requirements of §204.157(c) of the Act and §183.10 of this subtitle.

(d) After a license has been cancelled, an applicant must meet all requirements under §183.14 of this subtitle to obtain relicensure.

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The new rules are proposed under the authority of the Texas Occupations Code Annotated, §204.101, 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 under the authority of §153.0015(a); and 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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SUBCHAPTER C. PRACTICE REQUIREMENTS.

§183.20. On-Going Reporting Requirements.

A license holder must report any event listed in §162.2(b)(1) through (7) of this title to the board within 10 days after the event.

§183.21. Training and Registration Requirements for Physician Assistants Performing Radiologic Procedures.

In accordance with §601.254 of the Texas Occupations Code, a physician assistant may perform a radiologic procedure, including a dangerous or hazardous procedure, when delegated in compliance with requirements of §157.001 of the Medical Practice Act.

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The new rules are proposed under the authority of the Texas Occupations Code Annotated, §204.101, 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 under the authority of §153.0015(a); and 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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SUBCHAPTER D. BOARD PROCESSES AND PROCEDURES.

§183.25. Procedural Rules.

(a) In accordance with §204.312 of the Act, the Procedural Rules in Chapter 179 of this title shall apply, except to the extent those rules conflict with the Act, in which case the Act controls.

(b) The rules related to Complaints and Investigations in Chapter 177 of this title shall apply, except to the extent those rules conflict with the Act, in which case the Act controls.

(c) The rules related to Disciplinary Guidelines and Sanctions in Chapter 180 of this title shall apply, except to the extent those rules conflict with the Act, in which case the Act controls. Applicable rules for purposes of this subsection include, but are not limited to:

(1) practice inconsistent with public health and welfare;

(2) unprofessional or dishonorable conduct;

(3) disciplinary actions by state boards and peer groups;

(4) aggravating and mitigating factors; and

(5) criminal convictions.

(d) The rules related to Compliance in Chapter 181 of this title shall apply, except to the extent those rules conflict with the Act, in which case the Act controls.