

The Texas Medical Board (Board) proposes the repeal of current Chapter 187, concerning Procedural Rules. This includes Subchapter A, concerning General Provisions and Definitions, §§187.1 – 187.9; Subchapter B, concerning Informal Board Proceedings, 187.10, 187.11, 187.13 – 187.16, 187.18 – 21; Subchapter C, concerning Formal Board Proceedings at SOAH, §§187.22 – 187.31, and §187.33; Subchapter D, concerning Formal Board Proceedings, §§187.35 – 187.37, 187.39 and §187.42; Subchapter E, concerning Proceedings Relating to Probationers, §§187.43 – 187.45; Subchapter F, concerning Temporary Suspension and Restriction Proceedings, §§187.55 – 187.62; Subchapter G, concerning Suspension by Operation Of Law, §§187.70 – 187.72; Subchapter H, concerning Imposition of Administrative Penalty, §§187.75 – 187.82; Subchapter I, concerning Proceedings for Cease and Desist Orders, §187.83 and §187.84; and Subchapter J, concerning Procedures Related to Out-Of-Network Health Benefit Claim Dispute Resolution, §§187.85 – 187.89.

The Board also proposes new Chapter 187, concerning Respiratory Care Practitioners. This includes Subchapter A, concerning Texas Board of Respiratory Care, §§187.1 – 187.4; Subchapter B, concerning Certification and Registration, §§187.10 – 187.17; Subchapter C, concerning Practice Requirements, §187.20; Subchapter D, concerning Board Processes and Procedures, §187.25 and §187.26.

Also, the Board contemporaneously proposes the repeal of current Chapter 186, concerning Respiratory Care Practitioners, §§186.1 – 186.14 and §§186.16 – 186.30.

The Board has determined that due to the extensive reorganization of Chapters 160-200, the repeal of Chapter 187 is more efficient than proposing multiple amendments to make the required changes.

The proposed new subchapters and sections are as follows:

#### **SUBCHAPTER A. TEXAS BOARD OF RESPIRATORY CARE.**

New §187.1, Definitions, defines terms used in new Chapter 187.

New §187.2, Functions and Duties, explains the functions and duties of the Board and its members.

New §187.3, Meetings, explains how Board meetings are conducted.

New §187.4, Standing Committees, identifies and describes the function of the 2 Standing Committees of the Advisory Board, the Discipline and Ethics Committee and Licensure Committee.

#### **SUBCHAPTER B. CERTIFICATION AND REGISTRATION.**

New §187.10, General Requirements for Certification, outlines the general requirements for licensure for a Respiratory Care Practitioners certification.

New §187.11, Current Clinical Practice, outlines the submission of an applicants professional or work history information for board review when seeking certification.

New §187.12, Temporary Permits, explains the requirements and process for a temporary Respiratory Care Practitioners permit.

New §187.13, Procedural Rules for Certificate Applicants, outlines the general requirements for applicants to obtain a Respiratory Care Practitioners certification.

New §187.14, Recertification, outlines the requirements for a certificate holder who has retired or who has surrendered their certificate and is seeking reissuance of a certificate.

New §187.15, Certificate Registration and Renewal, outlines the general requirements of certificate registration and renewal.

New §187.16, Biennial Continuing Education (CE) Requirements, explains the requirements regarding the Respiratory Care Practitioners biennial continuing education.

New §187.17, Inactive Certificate, describes the status of being placed on inactive status in accordance with §604.156 of the Act and the requirements to obtain recertification under §187.14 of this subchapter.

#### SUBCHAPTER C. PRACTICE REQUIREMENTS.

New §187.20, On-Going Reporting Requirements, explains the requirements related to a Respiratory Care Practitioner licensed by the Advisory Board to report any event listed in §162.2(b)(1) through (7) of this title within 10 days after the event.

#### SUBCHAPTER D. BOARD PROCESSES AND PROCEDURES.

New §187.25, Procedural Rules, explains the applicable rules applied to complaints and investigations, disciplinary guidelines and sanctions, and compliance in accordance with §604.209 of the Act.

New §187.26, Consequences of Criminal Conviction, states that licensing and disciplinary matters or arrest and criminal history will be evaluated consistent with Chapter 53 of the Texas Occupations Code.

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/cqenXh72VF>. 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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#### SUBCHAPTER A. GENERAL PROVISIONS AND DEFINITIONS.

- 187.1. Purpose and Scope.
- 187.2. Definitions.
- 187.3. Computation of Time.
- 187.4. Agreement to be in Writing.
- 187.5. National Practitioner Data Bank (NPDB).
- 187.6. Appearances.
- 187.7. Conduct and Decorum.
- 187.8. Subpoenas.
- 187.9. Board Actions.

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#### SUBCHAPTER B. INFORMAL BOARD PROCEEDINGS.

- 187.10. Purpose.
- 187.11. Transfer to Legal Division.
- 187.13. Informal Board Proceedings Relating to Licensure Eligibility.
- 187.14. Informal Resolution of Disciplinary Issues Against a Licensee
- 187.15. Investigation and Collection of Information.
- 187.16. Informal Show Compliance (ISC) Information and Notices.
- 187.18. ISC Scheduling, Process and Procedures.
- 187.19. Resolution by Agreed Order.
- 187.20. Board Action on Agreed Orders.

187.21. Board and District Review Committee Members Participation.

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SUBCHAPTER C. FORMAL BOARD PROCEEDINGS AT SOAH.

187.22. Purpose.

187.23. General Provisions.

187.24. Pleadings.

187.25. Notice of Adjudicative Hearing.

187.26. Service in SOAH Proceedings.

187.27. Written Answers in SOAH Proceedings and Default Orders.

187.28. Discovery.

187.29. Mediated Settlement Conferences.

187.30. Reporter and Transcripts.

187.31. Evidence.

187.33. Proposals for Decision.

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SUBCHAPTER D. FORMAL BOARD PROCEEDINGS.

187.35. Presentation of Proposal for Decision.

187.36. Interlocutory Appeals for Certification of Questions.

187.37. Board Action on Proposal for Decision.

187.39. Costs of Administrative Hearings.

187.42. Recusals.

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#### SUBCHAPTER E. PROCEEDINGS RELATING TO PROBATIONERS.

187.43. Proceedings for the Modification/Termination of Agreed Orders and Disciplinary Orders.

187.44. Probationer Show Compliance Proceedings.

187.45. Probationer Appearances.

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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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#### SUBCHAPTER F. TEMPORARY SUSPENSION AND RESTRICTION PROCEEDINGS.

187.55. Purpose.

187.56. Convening a Disciplinary Panel.

187.57. Charge of the Disciplinary Panel.

187.58. Procedures before the Disciplinary Panel.

187.59. Evidence.

187.60. Temporary Suspension or Restriction Without Notice or Hearing.

187.61. Ancillary Proceeding.

187.62. Continuing Threat Constitutes A Danger to the Public.

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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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#### SUBCHAPTER G. SUSPENSION BY OPERATION OF LAW.

187.70. Purposes and Construction.

187.71. Hearing before a Panel of Board Representatives.

187.72. Decision of the Panel.

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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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#### SUBCHAPTER H. IMPOSITION OF ADMINISTRATIVE PENALTY.

187.75. Purposes and Construction.

187.76. Notice of Intention to Impose Administrative Penalty; Response.

187.77. Payment of the Administrative Penalty.

187.78. Written Response.

187.79. Personal Appearance at an ISC.

187.80. Imposition of Administrative Penalty.

187.81. Reports of Imposition of Administrative Penalty.

187.82. Unpaid Administrative Penalties.

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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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#### SUBCHAPTER I. PROCEEDINGS FOR CEASE AND DESIST ORDERS.

187.83. Proceedings for Cease and Desist Orders.

187.84. Violation of Cease and Desist Orders.

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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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#### SUBCHAPTER J. PROCEDURES RELATED TO OUT-OF-NETWORK HEALTH BENEFIT CLAIM DISPUTE RESOLUTION.

187.85. Purpose and Construction.

187.86. Scope.

187.87. Definitions.

187.88. Complaint Process and Resolution.

187.89. Notice of Availability of Mandatory Mediation.

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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. The new rules are also proposed in accordance with the requirements §604.0522 and §604.052(a). No other statutes, articles or codes are affected by this proposal.

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#### SUBCHAPTER A. TEXAS BOARD OF RESPIRATORY CARE.

§187.1. Definitions.



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

- (1) AARC -- The American Association for Respiratory Care.
- (2) Act -- The Respiratory Care Practitioners Act, Texas Occupations Code, Chapter 604.
- (3) Advisory Board -- Texas Board of Respiratory Care.
- (4) Directing physician -- A physician including a qualified medical director licensed by the Medical Board that directs a Texas state-certified respiratory care practitioner in the practice of respiratory care.
- (5) Educational accrediting body -- Commission on Accreditation for Respiratory Care (CoARC), or other such organization approved by the Advisory Board in accordance with §604.054 of the Act.
- (6) Formal training -- Completion of an organized educational activity in respiratory care procedures recognized by the Advisory Board.
- (7) Medical Practice Act -- Texas Occupations Code, Title 3, Subtitle B, as amended.
- (8) NBRC -- National Board for Respiratory Care, Inc.
- (9) Respiratory care -- The treatment, management, control, diagnostic evaluation, and or care of patients who have deficiencies and abnormalities associated with the cardiorespiratory system, in conjunction with the provisions of §604.003 of the Act. Respiratory care does not include the delivery, assembly, set up, testing, and demonstration of respiratory care equipment upon the order of a licensed physician. Demonstration is not to be interpreted as the actual patient assessment and education, administration, or performance of the respiratory care procedure(s).

§187.2. Functions and Duties.

- (a) In accordance with §604.052 of the Act, Advisory Board duties and functions include:
- (1) establishing standards for the practice of respiratory care;
  - (2) regulating respiratory care practitioners through certification and discipline;
  - (3) receiving complaints and investigating possible violations of the Act and the Advisory Board rules;
  - (4) reviewing, modifying, proposing, and adopting rules;
  - (5) considering, reviewing, and approving policy and changes as necessary; and

(6) acting as resource concerning proposed legislative changes to reflect current medical and healthcare needs and practices.

(b) Individual Advisory Board members are required to:

(1) identify and disclose any conflicts of interest that may interfere with ~~in~~ 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.

(4) 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.

#### §187.3. Meetings.

(a) Advisory Board meetings are conducted in accordance with the Texas Government Code, Chapter 551, and, to the extent possible, pursuant to the provisions of Robert's Rules of Order Newly Revised.

(b) Special meetings may be called by the presiding officer or resolution of the Advisory Board.

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

#### §187.4. Standing Committees.

The Standing Committees of the Advisory Board are as follows:

(1) Discipline and Ethics Committee:

(A) reviews and makes recommendations to resolve complaints, close investigations, and 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 certification of respiratory care practitioners;

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

(C) maintains communication with Texas respiratory care programs.

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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. The new rules are also proposed in accordance with the requirements §604.0522 and §604.052(a). No other statutes, articles or codes are affected by this proposal.

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SUBCHAPTER B. CERTIFICATION AND REGISTRATION.

§187.10. General Requirements for Certification.

(a) All applicants for a certificate must meet the requirements in §604.104 of the Act, and submit:

(1) the board required application form;

(2) payment of the required fee, and additional fees and surcharges, as applicable:

(A) Respiratory care practitioner fee of \$125.00; and

(B) Temporary respiratory care practitioner fee of \$55.00;

(3) required documentation including, but not limited to:

(A) Certification of Graduation form;

(B) certified transcript of examination scores;

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

(D) current NBRC verification;

(E) Professional or Work History Evaluation forms demonstrating or relating to the practice of respiratory care for the preceding five years from the date of the application;

(F) National Practitioner Data Bank/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) arrest records, if applicable;

(J) malpractice records, if applicable.

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

(L) military orders or DD214, if applicable;

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

(N) 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.

§187.11. Current Clinical Practice.

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

- (1) currently practicing as a respiratory care practitioner involving treatment of persons;
- (2) enrollment as a student in an acceptable approved respiratory care program; or
- (3) appointment as an active teaching faculty member in an acceptable approved respiratory care program.

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

- (1) a supervised temporary permit as set forth in §187.12 of this chapter;
- (2) remedial clinical education including, but not limited to, enrollment as a student at an acceptable respiratory care program approved by the Advisory Board; or
- (3) other remedial measures necessary to ensure protection of the public and minimal competency of the applicant to safely practice.

§187.12. Temporary Permits.

(a) Applicants for a temporary permit must meet the requirements in §§604.107 and 604.108 of the Act.

(b) Temporary permits may be issued to an applicant:

- (1) who is qualified for a full certificate, subject to the terms and conditions that require Advisory Board approval;
- (2) who has completed the requirements of §187.10 of this chapter, with the exception of the national certification examination; or
- (3) who must remedy current clinical practice issues set forth in §187.11 of this chapter.

(c) In order to be determined eligible for a temporary permit to remedy a current clinical practice issue under §187.11 of this chapter, an applicant must be supervised by a licensed physician or respiratory care practitioner 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 Advisory Board.
- (d) The duration of a temporary permit is no longer than 12 months from the date of issuance.
- (e) Temporary permits will be terminated upon:
- (1) issuance of a certificate; or
  - (2) violation of conditions of a temporary permit.

§187.13 Procedural Rules for Certificate Applicants.

- (a) Applications will be processed in accordance with §604.105 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 certification 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 certification shall be deemed withdrawn regardless of the Advisory Board's action.
  - (2) The applicant shall be notified of the Advisory Board's final determination.

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

§187.14. Recertification.

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

- (1) all statutory requirements for licensure must be met;
- (2) the application must be submitted and the required fee of \$125.00, and additional fees and surcharges, as applicable, must be paid;
- (3) the requirements of §187.10 of this chapter must be met;
- (4) competency to resume practice must be demonstrated; and
- (5) other remediation required by the Advisory Board must be completed.

(b) In accordance with §604.2011 of the Act, applicants seeking recertification under this section will be reviewed and processed in accordance with §§164.151 and 164.152 of the Medical Practice Act.

§187.15. Certificate Registration and Renewal.

(a) Certificate holders must renew the registration of their certificate on a biennial basis by:

- (1) completing a board renewal form;
- (2) submitting payment of a biennial registration fee of \$106.00, and additional fees and surcharges, as applicable;
- (3) verifying and updating information related to their online verification;
- (4) completing biennial Continuing Education (CE) required under §187.16 of this chapter; and
- (5) providing other relevant information requested by board staff.

(b) Failure to renew before a certificate'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.

(c) Failure to renew within one year after the expiration date of the certificate will result in cancellation of the certificate.

§187.16. Biennial Continuing Education (CE) Requirements.

(a) As part of registration renewal, a certificate holder must complete 24 contact hours of Continuing Education (CE) during the biennial renewal period.

(1) Of the 24 hours, at least 12 contact hours of traditional courses must be completed. For purposes of this rule:

(A) "Traditional CE" is defined in accordance with the AARC and must be approved, recognized, accepted, or assigned as CE credit by a professional organization or association (such as TSRC, NBRC or AARC) or offered by a federal, state, or local government entity.

(B) "Non-traditional CE" is defined in accordance with the AARC and must be approved, recognized, accepted, or assigned as CE credit by a professional organization or association (such as TSRC, NBRC or AARC) or offered by a federal, state, or local government entity.

(2) Of the required contact hours, a course in human trafficking prevention approved by the Executive Commissioner of the Texas Health and Human Services Commission must be completed. The course may satisfy the required two contact hours on the topic of ethics.

(3) Passage of NBRC, BRPT, NAECB or ACLS credentialing or proctored examination can be used as CE but only once every three renewal periods.

(4) At least two contact hours must be on the topic of ethics. The ethics hours may be completed via traditional courses or non-traditional courses.

(5) All CE courses must be relevant to the practice of respiratory care and be approved, recognized, or assigned credit by a professional organization or governmental entity.

(6) A respiratory care practitioner who teaches or instructs a CE course or a course in a respiratory care educational program accredited by COARC or another accrediting body approved by the Advisory Board shall be credited one contact hour in non-traditional CE for each contact hour actually taught. CE credit will be given only once for teaching a particular course.

(b) Military service members have the same CE requirements but are allowed extensions in accordance with Chapter 55.003 of the Texas Occupations Code, as applicable.

(c) 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.

§187.17. Inactive Certificate.

- (a) In accordance with §604.156 of the Act, a certificate may be placed on inactive status.
- (b) Inactive status cannot exceed three years, after which the certificate will be automatically canceled.
- (c) To reactivate within three years, an applicant must meet all the requirements of §604.156(b) of the Act and §187.10 of this subtitle.
- (d) After a certificate has been cancelled, an applicant must meet all requirements under §187.14 of this subtitle to obtain recertification.

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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. The new rules are also proposed in accordance with the requirements §604.0522 and §604.052(a). No other statutes, articles or codes are affected by this proposal.

<rule>

**SUBCHAPTER C. PRACTICE REQUIREMENTS.**

§187.20. On-Going Reporting Requirements.

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

\*n

The new rule 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, and establish rules related to licensure. The new rules are also proposed in accordance with the requirements §604.0522 and §604.052(a). No other statutes, articles or codes are affected by this proposal.

<rule>

#### SUBCHAPTER D. BOARD PROCESSES AND PROCEDURES.

##### §187.25. Procedural Rules.

(a) In accordance with §604.209 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.

##### §187.26. Consequences of Criminal Conviction.

In accordance with §604.058 of the Act, licensing and disciplinary matters or arrest and criminal history will be evaluated consistent with Chapter 53 of the Texas Occupations Code.