

The Texas Medical Board (Board) proposes the repeal of current Chapter 185, concerning Physician Assistants, §§185.1 – 185.33.

The Board also proposes new Chapter 185, concerning Surgical Assistants, §§185.1 – 185.11.

Also, the Board contemporaneously proposes the repeal of current Chapter 184, concerning Surgical Assistants, §§184.1 – 184.9, and §§184.12 – 184.26.

The Board has determined that due to the extensive reorganization of Chapters 160-200, repeal of Chapter 185 is more efficient than proposing multiple amendments to make the required changes.

The proposed new sections are as follows:

New §185.1, Definitions, defines terms used in new Chapter 185.

New §185.2, Meetings, explains how Advisory Committee meetings are conducted in compliance with §206.058 of the Act.

New §185.3, General Requirements for Licensure, outlines the general requirements for licensure for a Surgical Assistants license in accordance with §§206.202 and 206.203 of the Act including but not limited to, application form, and specific documentation.

New §185.4, Education Requirements, outlines the applicant's completion of specific education requirements for Surgical Assistants for licensure.

New §185.5, Examinations, describe the organizations that will accept a passing score for the purpose of obtaining a Surgical Assistants license.

New §185.6, Procedural Rules for Licensure Applicants, outlines the process of review of the licensee's application by the Executive Director and the options that may be offered in accordance with §206.209 of the Act.

New §185.7, Temporary Licenses, explains the requirements and process to obtain a temporary Surgical Assistants license in accordance with §206.206 of the Act.

New §185.8, License Registration and Renewal, outlines the general requirements for license registration and renewal of a Texas Surgical Assistants license.

New §185.9, Biennial Continuing Education (CE) Requirements, explains the requirements of a license holder, including their completion of formal course hours by an accredited organization or school and exemptions for CE requirements regarding the Surgical Assistants biennial continuing medical education.

New §185.10, Relicensure, describes the requirements by which a licensee who has retired or surrendered their license and seeks to be re-licensed.

New §185.11, Procedural Rules, explains the applicable rules applied to complaints and investigations, disciplinary guidelines and sanctions, and compliance in accordance with §206.313 of the Act.

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/xy7qvcnp08>. 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 chapter. 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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- §185.1. Purpose.
- §185.2. Definitions.
- §185.3. Meetings and Committees.
- §185.4. Procedural Rules for Licensure Applicants.
- §185.5. Relicensure.
- §185.6. Biennial Renewal of License.

- §185.7. Temporary License.
- §185.8. Inactive License.
- §185.9. Reissuance of License Following Revocation.
- §185.10. Physician Assistant Scope of Practice.
- §185.11. Tasks Not Permitted to be Delegated to a Physician Assistant.
- §185.12. Identification Requirements.
- §185.13. Notification of Intent to Practice and Supervise.
- §185.14. Physician Supervision.
- §185.15. Supervising Physician.
- §185.16. Employment Guidelines.
- §185.17. Grounds for Denial of Licensure and for Disciplinary Action.
- §185.18. Discipline of Physician Assistants.
- §185.19. Administrative Penalties.
- §185.20. Complaints.
- §185.21. Investigations.
- §185.22. Impaired Physician Assistants.
- §185.23. Third Party Reports to the Board.
- §185.24. Procedure.
- §185.25. Compliance.
- §185.26. Voluntary Relinquishment or Surrender of Physician Assistant License.
- §185.27. Duty to Report Certain Conduct to the Board.
- §185.28. Retired License.
- §185.29. Report of Impairment on Registration Form.
- §185.30. Prescriptive Authority Agreements Generally.
- §185.31. Prescriptive Authority Agreements: Minimum Requirements.
- §185.32. Training and Registration Requirements for Physician Assistants Performing Radiologic Procedures.
- §185.33. 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, §206.101, 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 Texas Occupations Code §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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#### §185.1. Definitions.

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

(1) Act -- Texas Occupations Code, Chapter 206.

(2) Advisory Committee -- the Surgical Assistant Advisory Committee to the Texas Medical Board

(3) Medical Practice Act -- Texas Occupations Code, Title 3, Subtitle B, as amended.

§185.2. Meetings.

Meetings of the Advisory Committee shall be conducted in compliance with §206.058 of the Act; Texas Government Code, Chapter 551; and to the extent possible, pursuant to the provisions of Robert's Rules of Order Newly Revised.

§185.3. General Requirements for Licensure.

(a) All applicants for a license must meet the general standards in §§206.202 and 206.203 of the Act, and submit:

(1) the board required application form;

(2) payment of the required fee of \$351.00, and additional fees and surcharges as applicable; and

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

(A) certified transcript verifying at least an Associate's degree at a two or four year institution of higher education;

(B) certified transcript verifying completion of an education program set forth in §185.4 of this subtitle;

(C) Professional or Work History Evaluation forms verifying practice as a Surgical Assistant for at least 2000 hours within the last three years from the date of the application;

(D) current certification by a national certifying board approved by the board;

(E) certified transcript of a surgical or first assistant examination set forth in §185.5 of this title;

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

(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; and

(M) 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 may 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 an application fee.

#### §185.4. Education Requirements.

In addition to the education recognized in §206.203 of the Act, an applicant for licensure must complete:

(1) a Surgical Assistant program accredited by the Commission on Accreditation of Allied Health Education Programs (CAAHEP);

(2) basic and clinical sciences coursework at a medical school;

(3) a registered nurse first assistant program that is approved or recognized by the Texas Board of Nursing; or

(4) a post graduate clinical Physician Assistant program accredited by the Accreditation Review Commission on Education for the Physician Assistant, Inc. (ARC-PA), or by that Committee's predecessor or successor.

#### §185.5. Examinations.

The following examinations with a passing score are acceptable:

- (1) American Board of Surgical Assistants;
- (2) National Board of Surgical Technology and Surgical Assisting (NBSTSA) formerly known as Liaison Council on Certification for the Surgical Technologist (LCC-ST); or
- (3) the National Surgical Assistant Association provided that the exam was administered on or after March 29, 2003.

§185.6. Procedural Rules for Licensure Applicants.

- (a) Applications will be processed in accordance with §206.209 of the Act.
- (b) The Executive Director may offer to an applicant:
  - (1) the option to withdraw an application with missing items, defects, omission, or other errors and re-submitting 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 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).

§185.7. Temporary Licenses.

- (a) Temporary licenses will be issued in accordance with §206.206 of the Act.
- (b) Applicants must submit:
  - (1) a board required application form; and
  - (2) the required fee of \$50.00.

§185.8. License Registration and Renewal.

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

(1) completing a board registration form; and

(2) submitting payment of the initial registration fee of \$561.00, and additional fees and surcharges as applicable.

(b) Subsequent registration will be biennially by:

(1) completing the renewal form;

(2) submitting payment of a biennial registration fee of \$557.00, and additional fees and surcharges as applicable; and

(3) completing biennial continuing education (CE) required under §185.9 of this chapter.

(c) Failure to renew before the 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.

§185.9. Biennial Continuing Education (CE) Requirements.

(a) As part of registration renewal, a license holder must complete 36 hours of continuing education (CE) in surgical assisting or in courses that enhance the practice of surgical assisting as follows:

(b) 18 hours of formal courses that are:

(1) AMA/PRA Category I credited by an Accreditation Council for Continuing Medical Education;

(2) Association of Surgical Technologists/ Association of Surgical Assistants, the American Board of Surgical Assistants, or the National Surgical Assistants Association approved;

(3) AOA Category 1-A credit approved by the American Osteopathic Association; or

(4) Texas Medical Association approved.

(c) The formal hours of CE must:

(1) include 2 hours of medical ethics and/or professional responsibility; and

(2) a course in human trafficking prevention approved by the Texas Health and Human Services Commission must be completed. The course will be credited toward the required medical ethics or professional responsibility.

(d) The remaining hours may be composed of informal self-study, attendance at hospital lectures or grand rounds not approved for formal CE, or case conferences and must be recorded in a manner that can be easily transmitted to the board upon request.

(e) Exemptions for CE requirements.

(1) Requests must be made in writing at least 30 days prior to the 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.

#### §185.10. Relicensure.

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

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

(2) application must be submitted and the required fee of \$351.00, and additional fees and surcharges, as applicable, must be paid;

(3) the requirements of §185.3 must be met;

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

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

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

§185.11. Procedural Rules.

(a) In accordance with §206.313 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.