

## RULE ANALYSIS

**Introduction:** THE AMENDMENTS ARE SUBMITTED TO THE BOARD FOR CONSIDERATION AS A PROPOSED RULE

**Short Title:** Release of Prescription Data~~[- Effective September 1, 2016].~~

**Rule Numbers:** §315.11

**Statutory Authority:** Texas Pharmacy Act, Chapter 551-569, Occupations Code:

- (1) Section 551.002 specifies that the purpose of the Act is to protect the public through the effective control and regulation of the practice of pharmacy; and
- (2) Section 554.051 gives the Board the authority to adopt rules for the proper administration and enforcement of the Act.

**Purpose:** The amendments, if adopted, remove the effective date from the section title and clarify that a pharmacist may delegate access to prescription data to a pharmacist-intern or pharmacy technician trainee under the direction of the pharmacist, in accordance with House Bill 2847.

1 TITLE 22 EXAMINING BOARDS  
2 PART 15 TEXAS STATE BOARD OF PHARMACY  
3 CHAPTER 315 CONTROLLED SUBSTANCES  
4

5 §315.11. Release of Prescription Data~~[- Effective September 1, 2016]~~.

6 (a) A person listed under §481.076(a) of the TCSA must show proper need for the information  
7 when requesting the release of prescription data. The showing of proper need is ongoing.

8 (b) A pharmacist may delegate access to prescription data to a pharmacist-intern, pharmacy  
9 technician, or pharmacy technician trainee, as defined by Texas Occupations Code,  
10 §551.003, employed at the pharmacy and acting under the direction of the pharmacist.

11 (c) A practitioner may delegate access to prescription data to an employee or other agent of the  
12 practitioner and acting at the direction of the practitioner.

1 AN ACT

2 relating to the licensing and regulation of certain occupations,  
3 activities, and agreements; providing a civil penalty; authorizing  
4 fees; requiring an occupational registration and an occupational  
5 license.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

7 ARTICLE 1. EXCESS WEAR AND USE WAIVERS FOR LEASES OF MOTOR VEHICLES

8 SECTION 1.001. Subtitle B, Title 5, Business & Commerce  
9 Code, is amended by adding Chapter 94 to read as follows:

10 CHAPTER 94. EXCESS WEAR AND USE WAIVERS FOR LEASES OF MOTOR

11 VEHICLES

12 Sec. 94.001. DEFINITIONS. In this chapter:

13 (1) "Excess wear and use waiver" means a provision of  
14 or addendum to a lease agreement under which the lessor agrees to  
15 not hold a lessee liable for all or part of the excess wear and use  
16 to a motor vehicle.

17 (2) "Lease agreement" means an agreement, including  
18 any addendum to the agreement, entered into in this state under  
19 which a lessee pays a fee or other consideration to a lessor for the  
20 right to possession and use of a motor vehicle for a term of more  
21 than 180 days, regardless of whether the agreement provides the  
22 lessee an option to purchase or otherwise become the owner of the  
23 motor vehicle upon the expiration of the term of the agreement.

24 (3) "Lessee" means an individual who acquires the

1 right to possession and use of a motor vehicle under a lease  
2 agreement primarily for personal, family, or household purposes.

3 (4) "Lessor" means a person who, in the ordinary  
4 course of business, regularly leases, offers to lease, or arranges  
5 for the lease of a motor vehicle under a lease agreement. Unless  
6 the context clearly indicates otherwise, the term includes an  
7 assignee of the lessor.

8 (5) "Motor vehicle" has the meaning assigned by  
9 Section 541.201, Transportation Code.

10 Sec. 94.002. CONTRACT FOR EXCESS WEAR AND USE WAIVER. A  
11 lessee may contract with a lessor for an excess wear and use waiver  
12 in connection with a lease agreement.

13 Sec. 94.003. RESTRICTIONS ON LESSOR CONCERNING EXCESS WEAR  
14 AND USE WAIVER. A lessor may not:

15 (1) sell an excess wear and use waiver, unless:

16 (A) the lease agreement containing the excess  
17 wear and use waiver complies with this chapter; and

18 (B) the lessee agrees to the excess wear and use  
19 waiver in writing; or

20 (2) impose or require the purchase of an excess wear  
21 and use waiver as a condition of entering into a lease agreement.

22 Sec. 94.004. REQUIRED NOTICE. An excess wear and use waiver  
23 must be in writing and include a notice substantially similar to the  
24 following:

25 "This excess wear and use waiver is optional, is not a  
26 condition of leasing the vehicle, and is being provided for an  
27 additional charge to cover your responsibility for any excess wear

1 and use to the leased vehicle."

2 Sec. 94.005. REQUIRED DISCLOSURES. A lease agreement that  
3 includes an excess wear and use waiver must disclose:

4 (1) the total charge for the excess wear and use  
5 waiver; and

6 (2) any exclusions or limitations on the amount of  
7 excess wear and use that may be waived under the excess wear and use  
8 waiver.

9 Sec. 94.006. RELATIONSHIP TO INSURANCE. An excess wear and  
10 use waiver is not insurance.

11 Sec. 94.007. CIVIL PENALTY. A lessor that violates this  
12 chapter is liable for a civil penalty in an amount of not less than  
13 \$500 or more than \$1,000 for each violation.

14 Sec. 94.008. INJUNCTIVE RELIEF. A person injured or  
15 threatened with injury by a violation of this chapter may seek  
16 injunctive relief against the person committing or threatening to  
17 commit the violation.

18 Sec. 94.009. SUIT FOR CIVIL PENALTY OR INJUNCTIVE RELIEF.  
19 The attorney general or a county or district attorney may bring an  
20 action in the name of the state for a civil penalty under Section  
21 94.007, injunctive relief under Section 94.008, or both.

22 SECTION 1.002. The change in law made by this article  
23 applies only to a lease agreement entered into on or after the  
24 effective date of this Act. A lease agreement entered into before  
25 the effective date of this Act is governed by the law in effect on  
26 the date the lease agreement was entered into, and the former law is  
27 continued in effect for that purpose.

ARTICLE 2. DRIVER EDUCATION

SECTION 2.001. Section 1001.001(7), Education Code, is amended to read as follows:

(7) "Driver education school" means an enterprise that:

(A) maintains a place of business or solicits business in this state; and

(B) is operated by an individual, association, partnership, or corporation for educating and training persons ~~at a primary or branch location~~ in driver education or driver education instructor development.

SECTION 2.002. Section 1001.151(e), Education Code, is amended to read as follows:

(e) The commission may establish a fee for an application for approval to offer a driver education course ~~by an alternative method of instruction under Section 1001.3541~~.

SECTION 2.003. Section 1001.204(b), Education Code, is amended to read as follows:

(b) The department shall approve an application for a driver education school license if the application is submitted on a form approved by the department ~~executive director~~, the application is accompanied by ~~includes~~ the fee, and the department determines ~~on inspection of the premises of the school, it is determined~~ that the school:

(1) has courses, curricula, and instruction of a quality, content, and length that reasonably and adequately achieve the stated objective for which the courses, curricula, and

1 instruction are offered;

2 (2) has adequate space, equipment, instructional  
3 material, and instructors to provide training of good quality in  
4 the classroom and behind the wheel, if applicable;

5 (3) has instructors who have adequate educational  
6 qualifications and experience;

7 (4) provides to each student before enrollment:

8 (A) a copy of:

9 (i) the refund policy;

10 (ii) the schedule of tuition, fees, and  
11 other charges; and

12 (iii) the regulations relating to absence,  
13 grading policy, and rules of operation and conduct; and

14 (B) the department's name, mailing address,  
15 telephone number, and Internet website address for the purpose of  
16 directing complaints to the department;

17 (5) maintains adequate records as prescribed by the  
18 department to show attendance and progress or grades and enforces  
19 satisfactory standards relating to attendance, progress, and  
20 conduct;

21 (6) on completion of training, issues each student a  
22 certificate indicating the course name and satisfactory  
23 completion;

24 (7) complies with all county, municipal, state, and  
25 federal regulations, including fire, building, and sanitation  
26 codes and assumed name registration, if applicable;

27 (8) is financially sound and capable of fulfilling its

1 commitments for training;

2 (9) maintains and publishes as part of its student  
3 enrollment contract the proper policy for the refund of the unused  
4 portion of tuition, fees, and other charges if a student fails to  
5 take the course or withdraws or is discontinued from the school at  
6 any time before completion;

7 (10) does not use erroneous or misleading advertising,  
8 either by actual statement, omission, or intimation, as determined  
9 by the department;

10 (11) does not use a name similar to the name of another  
11 existing school or tax-supported educational institution in this  
12 state, unless specifically approved in writing by the executive  
13 director;

14 (12) submits to the department for approval the  
15 applicable course hour lengths and curriculum content for each  
16 course offered by the school;

17 (13) does not owe an administrative penalty for a  
18 violation of this chapter; ~~and~~

19 (14) meets any additional criteria required by the  
20 department, including any applicable inspection requirements; and

21 (15) provides adequate testing and security measures  
22 for the school's method of instruction.

23 SECTION 2.004. Section [1001.2513](#), Education Code, is  
24 amended to read as follows:

25 Sec. 1001.2513. CONFIDENTIALITY OF INFORMATION. A social  
26 security number, driver's license number, other identification  
27 number, or fingerprint record ~~[Information]~~ collected for ~~[about]~~ a



1 person to comply with Section 1001.2511[, ~~including the person's~~  
2 ~~name, address, phone number, social security number, driver's~~  
3 ~~license number, other identification number, and fingerprint~~  
4 ~~records~~]:

5 (1) may not be released except:

6 (A) to provide relevant information to driver  
7 education schools or otherwise to comply with Section 1001.2511;

8 (B) by court order; or

9 (C) with the consent of the person who is the  
10 subject of the information;

11 (2) is not subject to disclosure as provided by  
12 Chapter 552, Government Code; and

13 (3) shall be destroyed by the requestor or any  
14 subsequent holder of the information not later than the first  
15 anniversary of the date the information is received.

16 SECTION 2.005. Subchapter F, Chapter 1001, Education Code,  
17 is amended by adding Sections 1001.2531, 1001.2532, 1001.2533,  
18 1001.2534, and 1001.2535 to read as follows:

19 Sec. 1001.2531. DRIVER EDUCATION INSTRUCTOR REQUIREMENTS.

20 (a) The commission by rule shall establish standards for a driver  
21 education instructor to be certified as a teaching assistant,  
22 driver education teacher, or supervising teacher.

23 (b) An applicant for a driver education instructor license  
24 under this section must:

25 (1) apply to the department on a form prescribed by the  
26 department and under rules adopted by the commission;

27 (2) submit with the application a nonrefundable

1 application fee in an amount set by commission rule; and

2 (3) present satisfactory evidence to the department  
3 that the applicant:

4 (A) is at least 21 years of age;

5 (B) holds a high school diploma or high school  
6 equivalency certificate; and

7 (C) meets any other requirement established by  
8 commission rule.

9 Sec. 1001.2532. TEACHING ASSISTANT. (a) A teaching  
10 assistant is a driver education instructor who is authorized to  
11 teach or provide only behind-the-wheel training.

12 (b) To be eligible to be certified as a teaching assistant,  
13 a driver education instructor must:

14 (1) have successfully completed:

15 (A) six semester hours of driver and traffic  
16 safety education from an accredited college or university; or

17 (B) a teaching assistant development course  
18 approved by the department; and

19 (2) pass any required examination.

20 Sec. 1001.2533. DRIVER EDUCATION TEACHER. (a) A driver  
21 education teacher is a driver education instructor who is  
22 authorized to teach or provide behind-the-wheel training and  
23 classroom training.

24 (b) To be eligible to be certified as a driver education  
25 teacher, a driver education instructor must:

26 (1) have successfully completed:

27 (A) nine semester hours of driver and traffic

1 safety education from an accredited college or university; or  
2 (B) a driver education teacher development  
3 course approved by the department; and

4 (2) pass any required examination.

5 Sec. 1001.2534. SUPERVISING TEACHER. (a) A supervising  
6 teacher is a driver education instructor who is authorized to teach  
7 instructor training classes.

8 (b) To be eligible to be certified as a supervising teacher,  
9 a driver education instructor must have:

10 (1) been certified as a driver education teacher for  
11 at least one year; and

12 (2) successfully completed:

13 (A) 15 semester hours of driver and traffic  
14 safety education from an accredited college or university; or

15 (B) a supervising teacher development course  
16 approved by the department.

17 (c) The commission, department, or executive director may  
18 adopt an alternative method to determine or verify an instructor's  
19 eligibility under Subsection (b).

20 Sec. 1001.2535. DEVELOPMENT COURSE FOR TEACHING ASSISTANT,  
21 DRIVER EDUCATION TEACHER, OR SUPERVISING TEACHER. The classroom  
22 portion of a development course required for certification as a  
23 teaching assistant, driver education teacher, or supervising  
24 teacher may be completed online.

25 SECTION 2.006. Subchapter H, Chapter 1001, Education Code,  
26 is amended by adding Section 1001.3542 to read as follows:

27 Sec. 1001.3542. METHOD OF INSTRUCTION FOR DRIVER EDUCATION

1 COURSE. A driver education school may teach a driver education  
2 course by any method approved by the department, including an  
3 alternative method under Section 1001.3541 or a traditional method  
4 under Subchapter C.

5 SECTION 2.007. The following provisions of the Education  
6 Code are repealed:

- 7 (1) Sections 1001.253, 1001.254, and 1001.256; and  
8 (2) Section 1001.3541(b).

9 SECTION 2.008. (a) As soon as practicable after the  
10 effective date of this Act, the Texas Commission of Licensing and  
11 Regulation shall adopt rules to implement Section 1001.204(b),  
12 Education Code, as amended by this article, and Section 1001.2531,  
13 Education Code, as added by this article.

14 (b) A driver education instructor license issued under  
15 Section 1001.253, Education Code, before the repeal of that section  
16 by this article, continues to be valid until the license expires,  
17 and former Section 1001.253, Education Code, is continued in effect  
18 for that purpose.

19 (c) A person who holds on the effective date of this Act a  
20 driver education instructor license described by former Section  
21 1001.253(b), Education Code, is entitled on expiration of that  
22 license to issuance of a driver education instructor license  
23 certified as a teaching assistant under Section 1001.2532,  
24 Education Code, as added by this article, if the person otherwise  
25 meets the requirements for renewal of a driver education instructor  
26 license certified as a teaching assistant.

27 (d) A person who holds on the effective date of this Act a

1 driver education instructor license described by former Section  
2 1001.253(c), Education Code, is entitled on expiration of that  
3 license to issuance of a driver education instructor license  
4 certified as a driver education teacher under Section 1001.2533,  
5 Education Code, as added by this article, if the person otherwise  
6 meets the requirements for renewal of a driver education instructor  
7 license certified as a driver education teacher.

8 (e) A person who holds on the effective date of this Act a  
9 driver education instructor license described by former Section  
10 1001.253(e), Education Code, is entitled on expiration of that  
11 license to issuance of a driver education instructor license  
12 certified as a supervising teacher under Section 1001.2534,  
13 Education Code, as added by this article, if the person otherwise  
14 meets the requirements for renewal of a driver education instructor  
15 license certified as a supervising teacher.

16 (f) The changes in law made by this article do not affect the  
17 validity of a disciplinary action or other proceeding that was  
18 initiated before the effective date of this Act and that is pending  
19 before a court or other governmental entity on the effective date of  
20 this Act.

21 (g) Sections 1001.2531, 1001.2532, 1001.2533, and  
22 1001.2534, Education Code, as added by this article, apply only to  
23 an application for, or renewal of, an instructor license submitted  
24 to the Texas Department of Licensing and Regulation on or after the  
25 effective date of this Act. An application submitted before that  
26 date is governed by the law in effect when the application was  
27 submitted, and the former law is continued in effect for that

1 purpose.

2 ARTICLE 3. LASER HAIR REMOVAL

3 SECTION 3.001. Subchapter M, Chapter 401, Health and Safety  
4 Code, is amended by adding Section 401.509 to read as follows:

5 Sec. 401.509. CONTINUING EDUCATION. The commission by rule  
6 shall establish continuing education requirements for renewal of a  
7 certificate under this subchapter.

8 SECTION 3.002. As soon as practicable after the effective  
9 date of this Act, the Texas Commission of Licensing and Regulation  
10 shall adopt the rules necessary to implement Section 401.509,  
11 Health and Safety Code, as added by this article.

12 ARTICLE 4. PHARMACISTS

13 SECTION 4.001. Section 481.075(i), Health and Safety Code,  
14 is amended to read as follows:

15 (i) Each dispensing pharmacist shall:

16 (1) fill in on the official prescription form or note  
17 in the electronic prescription record each item of information  
18 given orally to the dispensing pharmacy under Subsection (h) and  
19 the date the prescription is filled, and:

20 (A) for a written prescription, fill in the  
21 dispensing pharmacist's signature; or

22 (B) for an electronic prescription,  
23 appropriately record the identity of the dispensing pharmacist in  
24 the electronic prescription record;

25 (2) retain with the records of the pharmacy for at  
26 least two years:

27 (A) the official prescription form or the

1 electronic prescription record, as applicable; and

2 (B) the name or other patient identification  
3 required by Section 481.074(m) or (n); ~~and~~

4 (3) send all required information, including any  
5 information required to complete an official prescription form or  
6 electronic prescription record, to the board by electronic transfer  
7 or another form approved by the board not later than the next  
8 business day after the date the prescription is completely filled;  
9 and

10 (4) if the pharmacy does not dispense any controlled  
11 substance prescriptions during a period of seven consecutive days,  
12 send a report to the board indicating that the pharmacy did not  
13 dispense any controlled substance prescriptions during that  
14 period, unless the pharmacy has obtained a waiver or permission to  
15 delay reporting to the board.

16 SECTION 4.002. Sections 481.076(a) and (k), Health and  
17 Safety Code, are amended to read as follows:

18 (a) The board may not permit any person to have access to  
19 information submitted to the board under Section 481.074(q) or  
20 481.075 except:

21 (1) the board, the Texas Medical Board, the Texas  
22 Department of Licensing and Regulation, with respect to the  
23 regulation of podiatrists [~~State Board of Podiatric Medical~~  
24 ~~Examiners~~], the State Board of Dental Examiners, the State Board of  
25 Veterinary Medical Examiners, the Texas Board of Nursing, or the  
26 Texas Optometry Board for the purpose of:

27 (A) investigating a specific license holder; or

1 (B) monitoring for potentially harmful  
2 prescribing or dispensing patterns or practices under Section  
3 481.0762;

4 (2) an authorized officer or member of the department  
5 or authorized employee of the board engaged in the administration,  
6 investigation, or enforcement of this chapter or another law  
7 governing illicit drugs in this state or another state;

8 (3) the department on behalf of a law enforcement or  
9 prosecutorial official engaged in the administration,  
10 investigation, or enforcement of this chapter or another law  
11 governing illicit drugs in this state or another state;

12 (4) a medical examiner conducting an investigation;

13 (5) provided that accessing the information is  
14 authorized under the Health Insurance Portability and  
15 Accountability Act of 1996 (Pub. L. No. 104-191) and regulations  
16 adopted under that Act:

17 (A) a pharmacist or a pharmacist-intern,  
18 pharmacy technician, or pharmacy technician trainee, as defined by  
19 Section 551.003, Occupations Code, acting at the direction of a  
20 pharmacist, who is inquiring about a recent Schedule II, III, IV, or  
21 V prescription history of a particular patient of the pharmacist;

22 or

23 (B) a practitioner who:

24 (i) is a physician, dentist, veterinarian,  
25 podiatrist, optometrist, or advanced practice nurse or is a  
26 physician assistant described by Section 481.002(39)(D) or an  
27 employee or other agent of a practitioner acting at the direction of



1 a practitioner; and

2 (ii) is inquiring about a recent Schedule  
3 II, III, IV, or V prescription history of a particular patient of  
4 the practitioner;

5 (6) a pharmacist or practitioner who is inquiring  
6 about the person's own dispensing or prescribing activity or a  
7 practitioner who is inquiring about the prescribing activity of an  
8 individual to whom the practitioner has delegated prescribing  
9 authority; or

10 (7) one or more states or an association of states with  
11 which the board has an interoperability agreement, as provided by  
12 Subsection (j).

13 (k) A person authorized to access information under  
14 Subsection (a)(4) or (5) who is registered with the board for  
15 electronic access to the information is entitled to directly access  
16 the information available from other states pursuant to an  
17 interoperability agreement described by Subsection (j).

18 SECTION 4.003. Section [481.0766](#)(a), Health and Safety Code,  
19 is amended to read as follows:

20 (a) A wholesale distributor shall report to the board the  
21 distribution of all Schedules II, III, IV, and V controlled  
22 substances [~~information that the distributor is required to report~~  
23 ~~to the Automation of Reports and Consolidated Orders System (ARCOS)~~  
24 ~~of the Federal Drug Enforcement Administration for the distribution~~  
25 ~~of a controlled substance]~~ by the distributor to a person in this  
26 state. The distributor shall report the information to the board in  
27 the same format and with the same frequency as the information is

1 reported to the Federal Drug Enforcement Administration [ARCOS].

2 SECTION 4.004. Section 481.353(a), Health and Safety Code,  
3 is amended to read as follows:

4 (a) The work group shall meet when necessary as determined  
5 by the board [~~at least quarterly~~].

6 SECTION 4.005. Section 560.051(f), Occupations Code, is  
7 amended to read as follows:

8 (f) A Class E pharmacy license or nonresident pharmacy  
9 license may be issued to a pharmacy located in another state whose  
10 primary business is to:

11 (1) [~~(A)~~] dispense a prescription drug or device under  
12 a prescription drug order [~~+~~] and

13 [~~(B)~~] deliver the drug or device to a patient,  
14 including a patient in this state, by United States mail, common  
15 carrier, or delivery service;

16 (2) process a prescription drug order for a patient,  
17 including a patient in this state; or

18 (3) perform another pharmaceutical service, as  
19 defined by board rule.

20 SECTION 4.006. The following provisions of the Occupations  
21 Code are repealed:

22 (1) Sections 554.016, 556.0555, 560.001(c), 560.0525,  
23 561.003(f), 562.101(f-1), and 562.111; and

24 (2) Subchapter E, Chapter 562.

25 SECTION 4.007. To the extent of any conflict, Section  
26 481.076(a), Health and Safety Code, as amended by this article,  
27 prevails over another Act of the 86th Legislature, Regular Session,

1 2019, relating to nonsubstantive additions to and corrections in  
2 enacted codes.

3 ARTICLE 5. ELEVATORS, ESCALATORS, AND RELATED EQUIPMENT

4 SECTION 5.001. Chapter 754, Health and Safety Code, is  
5 amended by adding Section 754.026 to read as follows:

6 Sec. 754.026. DISCLOSURE OF E-MAIL ADDRESS.

7 Notwithstanding any other law, an e-mail address provided to the  
8 department relating to an inspection or review of plans under this  
9 chapter is not confidential and is subject to disclosure under  
10 Chapter 552, Government Code.

11 ARTICLE 6. BOILERS

12 SECTION 6.001. Section 755.025, Health and Safety Code, is  
13 amended by adding Subsection (h) to read as follows:

14 (h) Notwithstanding any other law, an e-mail address  
15 provided to the department relating to an inspection under this  
16 chapter is not confidential and is subject to disclosure under  
17 Chapter 552, Government Code.

18 SECTION 6.002. Section 755.029(c), Health and Safety Code,  
19 is amended to read as follows:

20 (c) A certificate of operation must be posted [~~under glass~~]  
21 in a conspicuous place on or near the boiler for which it is issued.

22 ARTICLE 7. TEXAS DEPARTMENT OF LICENSING AND REGULATION

23 SECTION 7.001. Section 51.203, Occupations Code, is amended  
24 to read as follows:

25 Sec. 51.203. RULES REGARDING PROGRAMS REGULATED BY  
26 DEPARTMENT. (a) The commission shall adopt rules as necessary to  
27 implement each law establishing a program regulated by the

1 department.

2 (b) Notwithstanding any other law, for each program  
3 regulated by the department, including a program under which a  
4 license is issued by the department, the commission by rule may  
5 establish:

6 (1) the length of a license term, not to exceed two  
7 years;

8 (2) a fee for the issuance or renewal of a license; and

9 (3) any continuing education required to renew a  
10 license.

11 SECTION 7.002. Section 51.2031(a-2), Occupations Code, is  
12 amended to read as follows:

13 (a-2) For each rule proposed under Subsection (a-1), the  
14 commission shall either adopt the rule as proposed or return the  
15 rule to the advisory board for revision. The commission retains  
16 authority for final adoption of all rules and is responsible for  
17 ensuring compliance with all laws regarding the rulemaking process.

18 [~~This subsection and Subsection (a-1) expire September 1, 2019.~~]

19 SECTION 7.003. Section 51.252, Occupations Code, is amended  
20 by amending Subsection (b) and adding Subsections (b-1) and (e) to  
21 read as follows:

22 (b) The department shall maintain a file on each written  
23 complaint filed with the department. The file must include:

24 (1) except for a complaint described by Subsection  
25 (b-1), the name of the person who filed the complaint;

26 (2) the date the complaint is received by the  
27 department;

1 (3) the subject matter of the complaint;

2 (4) the name of each person contacted in relation to  
3 the complaint;

4 (5) a summary of the results of the review or  
5 investigation of the complaint; and

6 (6) an explanation of the reason the file was closed,  
7 if the department closed the file without taking action other than  
8 to investigate the complaint.

9 (b-1) The department may accept, but is not required to  
10 investigate, a complaint that lacks sufficient information to  
11 identify the source or the name of the person who filed the  
12 complaint.

13 (e) The department may contract with a qualified  
14 individual, including an advisory board member unless otherwise  
15 prohibited by law, to assist the department with reviewing or  
16 investigating complaints filed with the department. Except for an  
17 act of the individual involving fraud, conspiracy, or malice, an  
18 individual with whom the department contracts under this subsection  
19 is immune from liability and may not be subject to a suit for  
20 damages for any act arising from the performance of the  
21 individual's duties in:

22 (1) participating in an informal conference to  
23 determine the facts of a complaint;

24 (2) evaluating evidence in a complaint and offering an  
25 expert opinion or technical guidance on an alleged violation of:

26 (A) a law establishing a regulatory program  
27 administered by the department; or

1           (B) a rule adopted or order issued by the  
2 executive director or commission;

3           (3) testifying at a hearing regarding a complaint; or

4           (4) making an evaluation, report, or recommendation  
5 regarding a complaint.

6           SECTION 7.004. Subchapter E, Chapter 51, Occupations Code,  
7 is amended by adding Section 51.254 to read as follows:

8           Sec. 51.254. CONFIDENTIALITY OF COMPLAINT AND DISCIPLINARY  
9 INFORMATION. (a) In this section, unless the context requires  
10 otherwise:

11           (1) "Disciplinary action" includes, with respect to  
12 any person subject to regulation by the department or the  
13 commission:

14           (A) enforcement activity, prosecution,  
15 discipline, or penalization; and

16           (B) any related complaint, investigation, or  
17 resolution of a complaint or investigation.

18           (2) "Patient" includes:

19           (A) a patient;

20           (B) a client; and

21           (C) an authorized representative of a patient or  
22 client.

23           (b) This section applies to health-related professions  
24 regulated by this state the administration of which is assigned to  
25 the department by law, including the following professions:

26           (1) athletic trainers regulated under Chapter 451;

27           (2) behavior analysts regulated under Chapter 506;

1           (3) dietitians regulated under Chapter 701;

2           (4) dyslexia practitioners and dyslexia therapists  
3 regulated under Chapter 403;

4           (5) hearing instrument fitters and dispensers  
5 regulated under Chapter 402;

6           (6) massage therapists regulated under Chapter 455;

7           (7) midwives regulated under Chapter 203;

8           (8) orthotists and prosthetists regulated under  
9 Chapter 605;

10          (9) podiatrists regulated under Chapter 202; and

11          (10) speech-language pathologists and audiologists  
12 regulated under Chapter 401.

13          (c) Except as otherwise provided by this section, a  
14 complaint and investigation concerning a person to whom this  
15 section applies and all information and materials subpoenaed or  
16 compiled by the department in connection with the complaint and  
17 investigation are confidential and not subject to:

18           (1) disclosure under Chapter 552, Government Code; or

19           (2) disclosure, discovery, subpoena, or other means of  
20 legal compulsion for their release to any person.

21          (d) A complaint or investigation subject to this section and  
22 all information and materials subpoenaed or compiled by the  
23 department in connection with the complaint and investigation may  
24 be disclosed to:

25           (1) persons involved with the department in a  
26 disciplinary action;

27           (2) a respondent or the respondent's authorized

1 representative;

2 (3) a governmental agency, if:

3 (A) the disclosure is required or permitted by  
4 law; and

5 (B) the agency obtaining the disclosure protects  
6 the identity of any patient whose records are examined;

7 (4) a professional licensing, credentialing, or  
8 disciplinary entity in another jurisdiction;

9 (5) a peer assistance program approved by the  
10 commission under Chapter 467, Health and Safety Code, including a  
11 properly established peer assistance program in another  
12 jurisdiction;

13 (6) a peer review committee reviewing a license  
14 holder's application for privileges or the license holder's  
15 qualifications related to retaining the privileges;

16 (7) a law enforcement agency; and

17 (8) a person engaged in bona fide research, if all  
18 individual-identifying information has been deleted.

19 (e) Notwithstanding any other provision of this section, if  
20 a department investigation would be jeopardized by the release or  
21 disclosure, the department may temporarily withhold or otherwise  
22 refrain from releasing or disclosing to any person any information  
23 or materials that the department would otherwise be required to  
24 release or disclose.

25 (f) The department may not be compelled to release or  
26 disclose complaint and investigation information or materials to a  
27 person listed in Subsection (d) if the department has not issued a



1 notice of alleged violation related to the information or  
2 materials.

3 (g) The department may release or disclose complaint and  
4 investigation information or materials in accordance with  
5 Subsection (d) at any stage of a disciplinary action.

6 (h) The department shall protect the identity of any patient  
7 whose records are examined in connection with a disciplinary  
8 action, other than a patient who:

9 (1) initiates the disciplinary action;

10 (2) is a witness in the disciplinary action; or

11 (3) has submitted a written consent to release the  
12 records.

13 (i) Notices of alleged violation issued by the department  
14 against respondents, disciplinary proceedings of the department,  
15 commission, or executive director, and final disciplinary actions,  
16 including warnings and reprimands, by the department, commission,  
17 or executive director are not confidential and are subject to  
18 disclosure in accordance with Chapter 552, Government Code.

19 SECTION 7.005. Section 202.2032(c), Occupations Code, is  
20 amended to read as follows:

21 (c) Notwithstanding any confidentiality requirements under  
22 Chapter 552, Government Code, Chapter 51, or this chapter, a  
23 complaint filed with the department by an insurance agent, insurer,  
24 pharmaceutical company, or third-party administrator against a  
25 license holder must include the name and address of the insurance  
26 agent, insurer, pharmaceutical company, or third-party  
27 administrator filing the complaint.

1 SECTION 7.006. Section 202.404(e), Occupations Code, is  
2 amended to read as follows:

3 (e) The department shall protect the identity of a patient  
4 whose podiatric records are examined or provided under Subsection  
5 (c) [~~or (d)~~], other than a patient who:

6 (1) is covered under Subsection (a)(1); or

7 (2) has submitted written consent to the release of  
8 the patient's podiatric records as provided by Section 202.406.

9 SECTION 7.007. Section 202.509(g), Occupations Code, is  
10 amended to read as follows:

11 (g) The department's disclosure of information under  
12 Subsection [~~(b), (d), or~~] (f) of this section, Section 202.2031, or  
13 Section 202.2032 does not constitute a waiver of privilege or  
14 confidentiality under this chapter or any other law.

15 SECTION 7.008. The following provisions of the Occupations  
16 Code are repealed:

17 (1) Section 202.404(d);

18 (2) Sections 202.509(a), (b), (c), (d), and (h);

19 (3) Section 401.2535;

20 (4) Section 402.154;

21 (5) Section 451.110;

22 (6) Section 506.202;

23 (7) Subchapter E, Chapter 605; and

24 (8) Subchapter E, Chapter 701.

25 SECTION 7.009. The changes in law made by this article apply  
26 to a disciplinary action initiated before the effective date of  
27 this Act that has not resulted in a final order issued on or before

1 the effective date of this Act and to a disciplinary action  
2 initiated on or after the effective date of this Act.

3 ARTICLE 8. PODIATRISTS

4 SECTION 8.001. Section 202.2032(d), Occupations Code, is  
5 amended to read as follows:

6 (d) The [~~Not later than the 15th day after the date the~~  
7 ~~complaint is filed with the department, the~~] department shall  
8 notify the license holder who is the subject of the complaint of the  
9 name and address of the insurance agent, insurer, pharmaceutical  
10 company, or third-party administrator who filed the complaint,  
11 unless the notice would jeopardize an investigation.

12 SECTION 8.002. Subchapter E, Chapter 202, Occupations Code,  
13 is amended by adding Section 202.204 to read as follows:

14 Sec. 202.204. EXPERT WITNESS. (a) In this section, "expert  
15 witness" means a podiatrist or other qualified individual with whom  
16 the department contracts to assist the department with reviewing,  
17 investigating, or prosecuting complaints filed under this chapter.

18 (b) The department may contract with an expert witness,  
19 including an advisory board member under Section 202.051(a)(1), to  
20 assist the department with reviewing, investigating, or  
21 prosecuting a complaint filed under this chapter.

22 (c) Except for an act by an expert witness involving fraud,  
23 conspiracy, or malice, an expert witness is immune from liability  
24 and may not be subject to a suit for damages for any act arising from  
25 the performance of the expert witness's duties in:

26 (1) participating in an informal conference to  
27 determine the facts of a complaint;

1           (2) evaluating evidence in a complaint and offering an  
2 opinion or technical guidance on an alleged violation of this  
3 chapter or a rule adopted under this chapter;

4           (3) testifying at a hearing regarding a complaint; or

5           (4) making an evaluation, report, or recommendation  
6 regarding a complaint.

7           SECTION 8.003. Section 202.253(a-1), Occupations Code, is  
8 amended to read as follows:

9           (a-1) The commission or department may refuse to admit a  
10 person to an examination, and may refuse to issue a license to  
11 practice podiatry to a person, for:

12           (1) presenting a license, certificate, or diploma that  
13 was illegally or fraudulently obtained or engaging in fraud or  
14 deception in passing the examination;

15           (2) being convicted of ~~[+~~

16                   ~~[(A) a felony;~~

17                   ~~[(B) a crime that involves moral turpitude; or~~

18                   ~~[(C)]~~ an offense under Section 202.606;

19           (3) engaging in habits of intemperance or drug  
20 addiction that in the department's opinion would endanger the  
21 health, well-being, or welfare of patients;

22           (4) engaging in grossly unprofessional or  
23 dishonorable conduct of a character that in the department's  
24 opinion is likely to deceive or defraud the public;

25           (5) directly or indirectly violating or attempting to  
26 violate this chapter or a rule adopted under this chapter as a  
27 principal, accessory, or accomplice;

1           (6) using any advertising statement of a character  
2 tending to mislead or deceive the public;

3           (7) advertising professional superiority or the  
4 performance of professional service in a superior manner;

5           (8) purchasing, selling, bartering, or using or  
6 offering to purchase, sell, barter, or use a podiatry degree,  
7 license, certificate, diploma, or a transcript of a license,  
8 certificate, or diploma, in or incident to an application for a  
9 license to practice podiatry;

10          (9) altering, with fraudulent intent, a podiatry  
11 license, certificate, diploma, or a transcript of a podiatry  
12 license, certificate, or diploma;

13          (10) using a podiatry license, certificate, or  
14 diploma, or a transcript of a podiatry license, certificate, or  
15 diploma, that has been fraudulently purchased, issued,  
16 counterfeited, or materially altered;

17          (11) impersonating, or acting as proxy for, another  
18 person in a podiatry license examination;

19          (12) impersonating a license holder, or permitting  
20 another person to use the license holder's license to practice  
21 podiatry in this state, to treat or offer to treat, by any method,  
22 conditions and ailments of human feet;

23          (13) directly or indirectly employing a person whose  
24 license to practice podiatry has been suspended or associating in  
25 the practice of podiatry with a person whose license to practice  
26 podiatry has been suspended or who has been convicted of the  
27 unlawful practice of podiatry in this state or elsewhere;

1           (14) wilfully making in the application for a license  
2 to practice podiatry a material misrepresentation or material  
3 untrue statement;

4           (15) being unable to practice podiatry with reasonable  
5 skill and safety to a patient because of age, illness, drunkenness,  
6 or excessive use of drugs, narcotics, chemicals, or other  
7 substances or as a result of a mental or physical condition;

8           (16) failing to practice podiatry in an acceptable  
9 manner consistent with public health and welfare;

10          (17) being removed, suspended, or disciplined in  
11 another manner by the podiatrist's peers in a professional podiatry  
12 association or society, whether local, regional, state, or national  
13 in scope, or being disciplined by a licensed hospital or the medical  
14 staff of a hospital, including removal, suspension, limitation of  
15 hospital privileges, or other disciplinary action, if the  
16 commission or department determines that the action was:

17                 (A) based on unprofessional conduct or  
18 professional incompetence likely to harm the public; and

19                 (B) appropriate and reasonably supported by  
20 evidence submitted to the association, society, hospital, or  
21 medical staff; or

22          (18) having repeated or recurring meritorious health  
23 care liability claims filed against the podiatrist that in the  
24 commission's or department's opinion are evidence of professional  
25 incompetence likely to injure the public.

26          SECTION 8.004. Subchapter H, Chapter 202, Occupations Code,  
27 is amended by adding Section 202.354 to read as follows:

1       Sec. 202.354. DELEGATION OF CERTAIN ACTS. (a) A podiatrist  
2 may delegate to a qualified and properly trained podiatric medical  
3 assistant acting under the podiatrist's supervision any podiatric  
4 medical act that a reasonable and prudent podiatrist would find  
5 within the scope of sound medical judgment to delegate if:

6           (1) in the opinion of the delegating podiatrist, the  
7 medical act:

8                   (A) can be properly and safely performed by the  
9 podiatric medical assistant to whom the podiatric medical act is  
10 delegated; and

11                   (B) is performed in a customary manner and not in  
12 violation of any other statute; and

13           (2) the podiatric medical assistant to whom the  
14 podiatric medical act is delegated does not represent to the public  
15 that the medical assistant is authorized to practice podiatry.

16       (b) A delegating podiatrist is responsible for a podiatric  
17 medical act performed by the podiatric medical assistant to whom  
18 the podiatrist delegates the act.

19       (c) The department may determine whether:

20           (1) an act constitutes the practice of podiatric  
21 medicine; and

22           (2) a podiatric medical act may be properly or safely  
23 delegated by podiatrists.

24       SECTION 8.005. Section 202.602(a), Occupations Code, is  
25 amended to read as follows:

26       (a) The department [~~commission by rule~~] shall develop a  
27 system to identify and monitor a podiatrist's compliance with this

1 chapter and any [~~. The system must include:~~

2 [~~(1) procedures for determining whether a podiatrist~~  
3 ~~is in compliance with an]~~ order issued by the commission or  
4 executive director under this chapter [~~, and~~

5 [~~(2) a method of identifying and monitoring each~~  
6 ~~podiatrist who represents a risk to the public]~~.

7 SECTION 8.006. Subchapter D, Chapter 601, Occupations Code,  
8 is amended by adding Section 601.157 to read as follows:

9 Sec. 601.157. PERSON SUPERVISED BY PODIATRIST. A person is  
10 not required to hold a certificate issued under this chapter to  
11 perform a radiologic procedure if:

12 (1) the procedure is performed under the supervision  
13 of a podiatrist; and

14 (2) the person:

15 (A) is registered with the Texas Department of  
16 Licensing and Regulation to assist a podiatrist; and

17 (B) complies with rules adopted under Section  
18 601.252(e).

19 SECTION 8.007. Section 601.251, Occupations Code, is  
20 amended to read as follows:

21 Sec. 601.251. APPLICABILITY. This subchapter applies to  
22 the:

23 (1) Texas Board of Nursing;

24 (2) Texas Board of Chiropractic Examiners;

25 (3) State Board of Dental Examiners;

26 (4) Texas Medical Board;

27 (5) Texas Department of Licensing and Regulation, with



1 respect to the department's authority to regulate podiatrists  
2 [State Board of Podiatric Medical Examiners]; and

3 (6) Texas Physician Assistant Board.

4 SECTION 8.008. Section 601.252, Occupations Code, is  
5 amended by adding Subsections (e) and (f) to read as follows:

6 (e) Rules adopted under this section by the Texas Commission  
7 of Licensing and Regulation must:

8 (1) require an authorized person who performs  
9 radiologic procedures under the delegation of a podiatrist, other  
10 than a registered nurse, to register with the Texas Department of  
11 Licensing and Regulation;

12 (2) establish reasonable and necessary fees to cover  
13 the administrative costs incurred by the Texas Department of  
14 Licensing and Regulation in administering a registration program  
15 created under this subsection;

16 (3) establish grounds for the suspension, revocation,  
17 or nonrenewal of a registration issued under this subsection; and

18 (4) establish standards for training and supervising  
19 the operators of podiatric equipment, including standards for  
20 curricula and instructors.

21 (f) In adopting rules under Subsection (e), the Texas  
22 Commission of Licensing and Regulation may take into account  
23 whether the radiologic procedure will be performed by a registered  
24 nurse.

25 SECTION 8.009. Sections 202.2025 and 202.6011, Occupations  
26 Code, are repealed.

27 SECTION 8.010. Section 202.2032, Occupations Code, as

1 amended by this article, applies only to a complaint filed under  
2 Chapter 202, Occupations Code, on or after the effective date of  
3 this Act. A complaint filed before the effective date of this Act  
4 is governed by the law in effect on the date the complaint was  
5 filed, and the former law is continued in effect for that purpose.

6 SECTION 8.011. Section 202.253(a-1), Occupations Code, as  
7 amended by this article, applies only to a conviction that occurs on  
8 or after the effective date of this Act. A conviction that occurs  
9 before the effective date of this Act is governed by the law in  
10 effect on the date the conviction occurred, and the former law is  
11 continued in effect for that purpose.

12 SECTION 8.012. To the extent of any conflict, Section  
13 601.251, Occupations Code, as amended by this article, prevails  
14 over another Act of the 86th Legislature, Regular Session, 2019,  
15 relating to nonsubstantive additions to and corrections in enacted  
16 codes.

17 ARTICLE 9. MIDWIVES

18 SECTION 9.001. Section 203.056, Occupations Code, is  
19 amended to read as follows:

20 Sec. 203.056. PRESIDING OFFICER. The presiding officer of  
21 the commission shall designate a [~~public~~] member of the advisory  
22 board to serve as the presiding officer of the advisory board to  
23 serve for a term of one year. The presiding officer of the advisory  
24 board may vote on any matter before the advisory board.

25 SECTION 9.002. Section 203.152, Occupations Code, is  
26 repealed.

27 SECTION 9.003. Section 203.056, Occupations Code, as

1 amended by this article, does not affect the entitlement of a member  
2 of the Midwives Advisory Board who is serving as the presiding  
3 officer of the advisory board immediately before the effective date  
4 of this Act to continue to serve in that capacity for the remainder  
5 of the member's term as presiding officer.

6 ARTICLE 10. AUDIOLOGISTS

7 SECTION 10.001. Section 401.403(b), Occupations Code, is  
8 amended to read as follows:

9 (b) A person who holds a license [~~meets the requirements of~~  
10 ~~this chapter for licensing~~] as an audiologist or audiologist intern  
11 and who fits and dispenses hearing instruments must:

12 (1) [~~register with the department the person's~~  
13 ~~intention to fit and dispense hearing instruments;~~

14 [~~(2)~~] comply with rules adopted under this chapter  
15 related to fitting and dispensing hearing instruments [~~the~~  
16 ~~profession's code of ethics~~];

17 (2) [~~(3)~~] comply with the federal Food and Drug  
18 Administration guidelines for fitting and dispensing hearing  
19 instruments;

20 (3) [~~(4)~~] when providing services in this state, use a  
21 written contract that contains the department's name, mailing  
22 address, [~~and~~] telephone number, and Internet website address; and

23 (4) [~~(5)~~] follow the guidelines adopted by commission  
24 rule for a 30-day trial period on every hearing instrument  
25 purchased.

26 ARTICLE 11. ORTHOTIC AND PROSTHETIC TECHNICIANS

27 SECTION 11.001. The following provisions of the Occupations

1 Code are repealed:

2 (1) Sections 605.002(19), (20), and (21); and

3 (2) Section 605.259.

4 SECTION 11.002. (a) On the effective date of this Act, a  
5 registered orthotic technician or registered prosthetic technician  
6 certificate issued under former Section 605.259, Occupations Code,  
7 expires.

8 (b) As soon as practicable after the effective date of this  
9 Act, the Texas Commission of Licensing and Regulation shall repeal  
10 all rules regarding the regulation of orthotic and prosthetic  
11 technicians adopted under Chapter 605, Occupations Code.

12 SECTION 11.003. The change in law made by this article does  
13 not affect the validity of a proceeding pending before a court or  
14 other governmental entity on the effective date of this Act.

15 ARTICLE 12. DIETITIANS

16 SECTION 12.001. Section 701.151(b), Occupations Code, is  
17 amended to read as follows:

18 (b) The commission or the department, as appropriate,  
19 shall:

20 (1) ~~[adopt an official seal,~~

21 ~~[(2)]~~ adopt and publish a code of ethics;

22 (2) ~~[(3)]~~ establish the qualifications and fitness of  
23 applicants for licenses, including renewed and reciprocal  
24 licenses;

25 ~~[(4) revoke, suspend, or deny a license, probate a~~  
26 ~~license suspension, or reprimand a license holder for a violation~~  
27 ~~of this chapter, a rule adopted under this chapter, or the code of~~

1 ~~ethics,~~] and

2           (3) [~~4~~] request and receive any necessary  
3 assistance from state educational institutions or other state  
4 agencies.

5           SECTION 12.002. Sections 701.155 and 701.353, Occupations  
6 Code, are repealed.

7                           ARTICLE 13. INTERIOR DESIGNERS

8           SECTION 13.001. Section 1051.451, Occupations Code, is  
9 amended to read as follows:

10           Sec. 1051.451. IMPOSITION OF ADMINISTRATIVE PENALTY. (a)  
11 Except as provided by Subsection (b), the [~~The~~] board may impose an  
12 administrative penalty on a person who engages in conduct for which  
13 the person is subject to disciplinary action under this subtitle,  
14 regardless of whether the person holds a certificate of  
15 registration issued under this subtitle.

16           (b) The board may not impose an administrative penalty under  
17 this subtitle on a person for conduct related to the practice of  
18 interior design unless the person holds a certificate of  
19 registration as an interior designer.

20           SECTION 13.002. Section 1053.251(a), Occupations Code, is  
21 amended to read as follows:

22           (a) On a determination that a ground for disciplinary action  
23 exists under Section 1053.252, the board shall:

24                   (1) revoke, suspend, or refuse to renew a  
25 certification of registration;

26                   (2) reprimand a certificate holder; or

27                   (3) impose an administrative penalty on a certificate

1 holder [~~person~~] under Subchapter I, Chapter 1051.

2 SECTION 13.003. Subchapter H, Chapter 1053, Occupations  
3 Code, is repealed.

4 SECTION 13.004. Sections 1051.451 and 1053.251(a),  
5 Occupations Code, as amended by this article, apply only to the  
6 imposition of an administrative penalty for a violation that occurs  
7 on or after the effective date of this Act. The imposition of an  
8 administrative penalty for a violation that occurs before the  
9 effective date of this Act is governed by the law in effect on the  
10 date the violation occurred, and the former law is continued in  
11 effect for that purpose.

12 SECTION 13.005. The repeal by this article of Subchapter H,  
13 Chapter 1053, Occupations Code, does not apply to an offense  
14 committed under that subchapter before the effective date of the  
15 repeal. An offense committed before the effective date of the  
16 repeal is governed by the law as it existed on the date the offense  
17 was committed, and the former law is continued in effect for that  
18 purpose. For purposes of this section, an offense was committed  
19 before the effective date of the repeal if any element of the  
20 offense occurred before that date.

21 ARTICLE 14. BARBERS AND COSMETOLOGISTS

22 SECTION 14.001. Section 1602.254(b), Occupations Code, is  
23 amended to read as follows:

24 (b) To be eligible for an operator license, an applicant  
25 must meet the requirements of Subsection (c) or:

- 26 (1) be at least 17 years of age;
- 27 (2) have obtained a high school diploma or the

1 equivalent of a high school diploma or have passed a valid  
2 examination administered by a certified testing agency that  
3 measures the person's ability to benefit from training; and

4 (3) have completed:

5 (A) 1,000 [~~1,500~~] hours of instruction in a  
6 licensed beauty culture school; or

7 (B) 1,000 hours of instruction in beauty culture  
8 courses and 500 hours of related high school courses prescribed by  
9 the commission in a vocational cosmetology program in a public  
10 school.

11 SECTION 14.002. Section 1602.255(c), Occupations Code, is  
12 amended to read as follows:

13 (c) The commission shall adopt rules for the licensing of  
14 specialty instructors to teach specialty courses in the practice of  
15 cosmetology defined in Sections 1602.002(a)(2), (4), (5), (6)  
16 [~~1602.002(a)(5)~~], (7), (8), (9), [~~and~~] (10), and (11).

17 SECTION 14.003. Section 1602.261(a), Occupations Code, is  
18 amended to read as follows:

19 (a) A person holding a manicurist/esthetician specialty  
20 license may perform only the practice of cosmetology defined in  
21 Sections 1602.002(a)(4) through (10) [~~(9)~~].

22 SECTION 14.004. Section 1602.305(a), Occupations Code, is  
23 amended to read as follows:

24 (a) A person holding a specialty shop license may maintain  
25 an establishment in which only the practice of cosmetology as  
26 defined in Section 1602.002(a)(2), (4), (5), (6), (7), (8), (9),  
27 [~~or~~] (10), or (11) is performed.

1 SECTION 14.005. Section 1602.451(a), Occupations Code, is  
2 amended to read as follows:

3 (a) The holder of a private beauty culture school license  
4 shall:

5 (1) maintain a sanitary establishment;

6 (2) maintain on duty one licensed instructor for each  
7 25 students in attendance;

8 (3) maintain a daily record of students' attendance;

9 (4) establish regular class and instruction hours and  
10 grades;

11 (5) require a school term of not less than six [~~nine~~]  
12 months and not less than 1,000 [~~1,500~~] hours instruction for a  
13 complete course in cosmetology;

14 (6) require a school term of not less than 600 hours  
15 instruction for a complete course in manicuring;

16 (7) hold examinations before issuing diplomas;

17 (8) maintain a copy of the school's curriculum in a  
18 conspicuous place and verify that the curriculum is being followed;

19 (9) publish in the school's catalogue and enrollment  
20 contract a description of the refund policy required under Section  
21 1602.458; and

22 (10) provide the department with information on:

23 (A) the current course completion rates of  
24 students who attend a course of instruction offered by the school;  
25 and

26 (B) job placement rates and employment rates of  
27 students who complete the course of instruction.



1 SECTION 14.006. Section 1603.104, Occupations Code, is  
2 amended by amending Subsection (b) and adding Subsections (c) and  
3 (c-1) to read as follows:

4 (b) Except as otherwise provided by this section, at [At]  
5 least once every four [~~two~~] years, the department shall inspect  
6 each shop or other facility that holds a license, certificate, or  
7 permit in which the practice of barbering or cosmetology is  
8 performed under this chapter, Chapter 1601, or Chapter 1602.

9 (c) At [~~, and at~~] least twice per year, the department shall  
10 inspect each school in which barbering or cosmetology is taught  
11 under this chapter, Chapter 1601, or Chapter 1602.

12 (c-1) At least once every two years, the department shall  
13 inspect each specialty shop that holds a license, certificate, or  
14 permit issued under this chapter, Chapter 1601, or Chapter 1602 and  
15 at which the practices described by Section 1601.002(1)(E) or (F)  
16 or 1602.002(a)(8) or (9) are performed.

17 SECTION 14.007. Subchapter E, Chapter 1603, Occupations  
18 Code, is amended by adding Section 1603.208 to read as follows:

19 Sec. 1603.208. DIGITALLY PREARRANGED REMOTE SERVICES.

20 (a) In this section:

21 (1) "Digital network" means any online-enabled  
22 application, Internet website, or system offered or used by a  
23 remote service business that allows a client to arrange for a  
24 digitally prearranged remote service.

25 (2) "Digitally prearranged remote service" means a  
26 barbering or cosmetology service performed for compensation by a  
27 person holding a license, certificate of registration, or permit

1 under Chapter 1601 or 1602 or this chapter that is:

2 (A) prearranged through a digital network; and

3 (B) performed at a location other than a place of  
4 business that is licensed or permitted under Chapter 1601 or 1602 or  
5 this chapter.

6 (3) "Remote service business" means a corporation,  
7 partnership, sole proprietorship, or other entity that, for  
8 compensation, enables a client to schedule a digitally prearranged  
9 remote service with a person holding a license, certificate of  
10 registration, or permit under Chapter 1601 or 1602 or this chapter.

11 (b) The commission shall adopt rules to administer this  
12 section, including rules that:

13 (1) set minimum standards for:

14 (A) the operation of a remote service business;  
15 and

16 (B) the sanitation requirements for performing a  
17 digitally prearranged remote service;

18 (2) determine activities within the scope of barbering  
19 and cosmetology that may be performed as a digitally prearranged  
20 remote service; and

21 (3) establish procedures for inspecting and auditing  
22 the records of a remote service business and of a person who  
23 performs a digitally prearranged remote service.

24 (c) Sections 1601.453, 1601.455, 1602.251(c), and 1602.407  
25 do not apply to a digitally prearranged remote service scheduled  
26 through a remote service business.

27 (d) A person who holds a license, certificate of

1 registration, or permit to practice barbering or cosmetology and  
2 who performs a digitally prearranged remote service shall:

3 (1) comply with this section and the rules adopted  
4 under this section; and

5 (2) practice within the scope of the person's license,  
6 certificate of registration, or permit.

7 (e) A remote service business may not offer a barbering or  
8 cosmetology service that requires treating or removing a person's  
9 hair by:

10 (1) coloring;

11 (2) processing;

12 (3) bleaching;

13 (4) dyeing;

14 (5) tinting; or

15 (6) using a cosmetic preparation.

16 (f) Before a person licensed, registered, or permitted to  
17 practice barbering or cosmetology performs a digitally prearranged  
18 remote service for a client requesting the service, a remote  
19 service business shall provide through the entity's digital  
20 network:

21 (1) the following information regarding the person who  
22 will perform the service:

23 (A) the person's first and last name;

24 (B) the number of the person's license,  
25 certificate of registration, or permit, as applicable; and

26 (C) a photograph of the person;

27 (2) the following information regarding the business:

1           (A) Internet website address; and

2           (B) telephone number; and

3           (3) the department's Internet website address and  
4 telephone number and notice that the client may contact the  
5 department to file a complaint against the business or person.

6           (g) Within a reasonable time after completion of a digitally  
7 prearranged remote service, the remote service business shall issue  
8 to the client who requested the service a receipt that includes:

9           (1) the date the service was provided;

10          (2) a description of the service;

11          (3) the first and last name of the person who performed  
12 the service;

13          (4) the number of the person's license, certificate of  
14 registration, or permit, as applicable;

15          (5) the following information regarding the business:

16           (A) Internet website address; and

17           (B) telephone number; and

18          (6) the department's Internet website address and  
19 telephone number and notice that the client may contact the  
20 department to file a complaint against the business or person.

21          (h) A remote service business shall maintain each record  
22 showing compliance with this section and the rules adopted under  
23 this section until at least the fifth anniversary of the date the  
24 record was generated.

25          (i) A remote service business shall terminate a person's  
26 access to the business's digital network if the business or  
27 department determines the person violated:

- 1           (1) this chapter;
- 2           (2) a rule adopted under this chapter;
- 3           (3) Chapter 1601 or 1602; or
- 4           (4) a rule adopted under Chapter 1601 or 1602.

5           SECTION 14.008. Section 1603.255, Occupations Code, is  
6 amended to read as follows:

7           Sec. 1603.255. EARLY EXAMINATION. The department may allow  
8 for the early written examination of a student who has completed the  
9 following number of hours of instruction in a department-approved  
10 training program:

11           (1) 1,000 hours for a student seeking a Class A barber  
12 certificate [~~or operator license~~] in a private barber [~~or~~  
13 ~~cosmetology~~] school; [~~or~~]

14           (2) 900 hours for a student seeking an operator  
15 license in a private cosmetology school; or

16           (3) 900 hours for a student seeking a Class A barber  
17 certificate or operator license in a publicly funded barber or  
18 cosmetology school.

19           SECTION 14.009. Section 1603.256(c), Occupations Code, is  
20 amended to read as follows:

21           (c) The following persons may administer a practical  
22 examination required under this subchapter:

23           (1) the department; [~~or~~]  
24           (2) a person with whom the department contracts under  
25 Section 1603.252;

26           (3) a barber school, private beauty culture school, or  
27 public secondary or postsecondary beauty culture school that is

1 approved by the department to administer the examination under  
2 Section 1603.252; or

3 (4) the Windham School District.

4 SECTION 14.010. As soon as practicable after the effective  
5 date of this Act, the Texas Commission of Licensing and Regulation  
6 shall adopt rules implementing Chapters 1602 and 1603, Occupations  
7 Code, as amended by this article.

8 SECTION 14.011. The change in law made by this article to  
9 Section 1602.254(b), Occupations Code, applies only to an  
10 application for an operator license submitted on or after September  
11 1, 2020. An application for an operator license submitted before  
12 that date is governed by the law in effect immediately before the  
13 effective date of this Act, and the former law is continued in  
14 effect for that purpose.

15 SECTION 14.012. The changes in law made by this article to  
16 Section 1603.255, Occupations Code, apply only to a person who  
17 applies to take an early examination for a barbering or cosmetology  
18 license on or after the effective date of this Act. A person who  
19 applies to take an early examination before the effective date of  
20 this Act is governed by the law in effect on the date the person  
21 applies, and the former law is continued in effect for that purpose.

22 ARTICLE 15. USED AUTOMOTIVE PARTS RECYCLERS

23 SECTION 15.001. Section 2309.102(a), Occupations Code, is  
24 amended to read as follows:

25 (a) The commission shall adopt rules for licensing used  
26 automotive parts recyclers [~~and used automotive parts employees~~].

27 SECTION 15.002. The heading to Section 2309.106,

1 Occupations Code, is amended to read as follows:

2 Sec. 2309.106. PERIODIC [~~AND RISK-BASED~~] INSPECTIONS.

3 SECTION 15.003. Section 2309.106(a), Occupations Code, is  
4 amended to read as follows:

5 (a) The department shall inspect each used automotive parts  
6 recycling facility at least once every four [~~two~~] years.

7 SECTION 15.004. The following provisions of the Occupations  
8 Code are repealed:

9 (1) Sections 2309.106(c) and (d); and

10 (2) Section 2309.154.

11 SECTION 15.005. (a) On the effective date of this Act, a  
12 used automotive parts employee license issued under former Section  
13 2309.154, Occupations Code, expires.

14 (b) As soon as practicable after the effective date of this  
15 Act, the Texas Commission of Licensing and Regulation shall repeal  
16 all rules regarding the regulation of used automotive parts  
17 employees adopted under Chapter 2309, Occupations Code.

18 SECTION 15.006. (a) The change in law made by this article  
19 to Chapter 2309, Occupations Code, does not affect the validity of a  
20 proceeding pending before a court or other governmental entity on  
21 the effective date of this Act.

22 (b) An offense or other violation of law committed before  
23 the effective date of this Act is governed by the law in effect when  
24 the offense or violation was committed, and the former law is  
25 continued in effect for that purpose. For purposes of this  
26 subsection, an offense or violation was committed before the  
27 effective date of this Act if any element of the offense or

1 violation occurred before that date.

2 ARTICLE 16. IMPLEMENTATION; EFFECTIVE DATE

3 SECTION 16.001. The Texas Commission of Licensing and  
4 Regulation and the Texas Department of Licensing and Regulation are  
5 required to implement a provision of this Act only if the  
6 legislature appropriates money specifically for that purpose. If  
7 the legislature does not appropriate money specifically for that  
8 purpose, the commission and the department may, but are not  
9 required to, implement a provision of this Act using other  
10 appropriations available for that purpose.

11 SECTION 16.002. This Act takes effect September 1, 2019.



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President of the Senate

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Speaker of the House

I certify that H.B. No. 2847 was passed by the House on April 25, 2019, by the following vote: Yeas 130, Nays 5, 2 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 2847 on May 23, 2019, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 2847 on May 26, 2019, by the following vote: Yeas 100, Nays 42, 1 present, not voting.

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Chief Clerk of the House

H.B. No. 2847

I certify that H.B. No. 2847 was passed by the Senate, with amendments, on May 21, 2019, by the following vote: Yeas 30, Nays 1; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 2847 on May 26, 2019, by the following vote: Yeas 29, Nays 2.

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Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

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Governor