**ADOPTED RULES**

Adopted rules include new rules, amendments to existing rules, and repeals of existing rules. A rule adopted by a state agency takes effect 20 days after the date on which it is filed with the Secretary of State unless a later date is required by statute or specified in the rule (Government Code, §2001.036). If a rule is adopted without change to the text of the proposed rule, then the Texas Register does not republish the rule text here. If a rule is adopted with change to the text of the proposed rule, then the final rule text is included here. The final rule text will appear in the Texas Administrative Code on the effective date.

**TITLE 13. CULTURAL RESOURCES**

**PART 1. TEXAS STATE LIBRARY AND ARCHIVES COMMISSION**

**CHAPTER 6. STATE RECORDS**

**SUBCHAPTER A. RECORDS RETENTION SCHEDULING**

13 TAC §6.10

(Editor's note: In accordance with Texas Government Code, §2002.014, which permits the omission of material which is "cumbersome, expensive, or otherwise inexpedient," the figure in 13 TAC §6.10 is not included in the print version of the Texas Register. The figure is available in the on-line version of the December 6, 2019, issue of the Texas Register.)

The Texas State Library and Archives Commission (Commission) adopts amendments to 13 Texas Administrative Code (TAC) §6.10, with changes to the proposed text as published in the June 28, 2019, issue of the Texas Register (44 TexReg 3207).

REASONED JUSTIFICATION. The Commission finds that the adoption of these amendments is necessary to keep universities' records retention schedules up to date with current laws and administrative rules, and to improve the retention of public records by public universities and institutions of higher education in the State of Texas.

SUMMARY OF PUBLIC COMMENTS AND STAFF RECOMMENDATIONS: Public comments were accepted through July 27, 2019. Comments were received regarding the amendments during the comment period from University of Texas Medical Branch at Galveston.

Comment: University of Texas Medical Branch at Galveston, Records Management Compliance Office recommended that retention period for source data, Item No. 16.1.038, be reduced, as source data is not a part of the official medical record. The interpretation of source data is placed, by a professional, into the official medical record documenting an explanation of the source information. Retention should be revised to be based on the closure of treatment for which the source data was taken, not the date the patient is last seen. As an example, the commenter referred to the federal retention requirement for records of radiologic services, which is five years, with no connection to when the patient was last seen (42 CFR 482.26(d)(2)).

Response: The Commission agrees with recommendation that the retention period for source data be reduced and should not be based on when the patient is last seen, as source data is not part of the official medical record. In response to this comment, the Commission has revised the retention period to 5 years for consistency with the Federal regulation cited by the commenter for similar records.

Comment: University of Texas Medical Branch at Galveston, Office of Technology Transfer recommended reducing the retention period for Item No. 17.3.011, Patent and Invention Records - Patents, Licensing, and Disclosure Records. The commenter stated that patents expire and there is a 6-year statute of limitations for patent infringement claims after the patent expires. Recommend revising retention period.

Response: The Commission agrees with recommendation and revised retention period to AC + 6, AC=Expiration of the patent. Removed Archival Review requirement.

In addition to the changes from the above comments, agency identified and made non-substantive grammatical and typographical changes throughout the schedule. These changes do not impact the structure or retention of records series in the schedule.

STATUTORY AUTHORITY. The amendments are adopted under Texas Government Code, Section 441.185(f), which grants authority to the Texas State Library and Archives Commission to prescribe a minimum retention period for any state record unless a minimum retention period for the record is prescribed by another federal or state law, regulation, or rule of court.

§6.10. Texas State Records Retention Schedule.

(a) A record listed in the Texas State Records Retention Schedule (Revised 4th Edition) must be retained for the minimum retention period indicated by any state agency that maintains a record of the type described.

Figure: 13 TAC §6.10(a) (No change.)

(b) A record listed in the University Records Retention Schedule must be retained for the minimum retention period indicated by any university or institution of higher education.

Figure: 13 TAC §6.10(b)

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on November 20, 2019.

TRD-201904420

Megan Carey
Manager, Records Management Assistance
Texas State Library and Archives Commission
Effective date: December 10, 2019
Proposal publication date: June 28, 2019
For further information, please call: (512) 463-5449

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**ADOPTED RULES** December 6, 2019 44 TexReg 7533
Amendments to §12.808 incorporate changes made to 30 CFR §875.14 in 2009. If eligible coal problems are found or occur after certification, the amendments require the Commission to submit to OSMRE a plan that describes the approach and funds that will be used to address those problems in a timely manner rather than addressing the problem with state share funds no later than the next grant cycle, which was the former requirement. The amendments to §12.808 also include non-substantive updates and clarifications.

Amendments to §12.815 reflect the language of 30 CFR §882.12, which requires the appraisal of the private land to be reclaimed to state not only the estimated fair market value of the land as adversely affected by past mining, but also the estimated fair market value of the property as reclaimed. The amendments to §12.815 also include non-substantive updates and clarifications.

Amendments to §12.819 align the requirements for acquisition of coal refuse disposal sites with the requirements found in 30 CFR §879.11 such that acquisition of coal refuse disposal sites is permissible if approved in advance by OSMRE. The amendments to §12.819 also include non-substantive updates and clarifications.

Amendments to §12.823 incorporate a requirement from 30 CFR §879.15 that all moneys received from the disposal of reclaimed land shall be returned to OSMRE. The amendments to §12.823 also include non-substantive updates.

The Commission adopts the amendments under Texas Natural Resources Code, §134.013, which authorizes the Commission to promulgate rules pertaining to surface coal mining operations, and Texas Natural Resources Code §134.141, which allows the Commission to take any action necessary to ensure Texas’ participation to the fullest extent practicable in the abandoned mine reclamation fund established by the federal act. Section 134.141 also authorizes the Commission to adopt rules that (1) establish priorities that meet the terms of the federal act for the expenditure of money in the fund; (2) designate the land and water eligible for reclamation or abatement expenditures; (3) submit reclamation plans, annual projects, and applications to the appropriate authorities under that Act; and (4) administer money received for abandoned mine reclamation or related purposes.

Statutory authority: Texas Natural Resources Code, §134.013 and §134.141.

Cross-reference to statute: Texas Natural Resources Code, Chapter 134.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency’s legal authority.

Filed with the Office of the Secretary of State on November 19, 2019.

TRD-201904361
Haley Cochran
Rules Attorney, Office of General Counsel
Railroad Commission of Texas
Effective date: December 9, 2019
Proposal publication date: August 23, 2019
For further information, please call: (512) 475-1295

44 TexReg 7534  December 6, 2019  Texas Register
PART 3. TEXAS BOARD OF CHIROPRACTIC EXAMINERS

CHAPTER 80. COMPLAINTS

22 TAC §80.6

The Texas Board of Chiropractic Examiners (Board) adopts new 22 TAC §80.6, concerning Undercover Investigations, without changes to the proposed text as published in the July 12, 2019, issue of the Texas Register (44 TexReg 3513). The rule will not be republished.

The Board has repealed the previous 22 TAC §80.6 in a separate rulemaking action. The new rule makes non-substantive changes to the text for clarity.

The Board received no comments concerning the new rule.

The new rule is adopted under Texas Occupations Code §201.152, which authorizes the Board to adopt rules necessary to perform the Board’s duties and to regulate the practice of chiropractic.

No other statutes or rules are affected by this adopted new rule.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency’s legal authority.

Filed with the Office of the Secretary of State on November 19, 2019.

TRD-201904369
Joseph McLaughlin
Interim General Counsel
Texas Board of Chiropractic Examiners
Effective date: December 9, 2019
Proposal publication date: July 12, 2019
For further information, please call: (512) 305-6700

PART 8. TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD

CHAPTER 153. RULES RELATING TO PROVISIONS OF THE TEXAS APPRAISER LICENSING AND CERTIFICATION ACT

22 TAC §153.3

The Texas Appraiser Licensing and Certification Board (TALCB) adopts amendments to §153.3, The Board, without changes to the proposed text, as published in the September 27, 2019, issue of the Texas Register (44 TexReg 5481) and will not be republished.

The amendments to §153.3 implement statutory changes to Chapter 1103, Occupations Code, enacted by the 86th Legislature in SB 624 as part of TALCB’s Sunset Review process, requiring TALCB to develop a policy for allowing public comments at regular Board meetings. The amendments also clarify the consequences for submitting a payment that is dishonored.

No comments were received on the amendments as published.

The amendments are adopted under Occupations Code §1103.151, which authorizes TALCB to adopt rules for certifying or licensing an appraiser or appraiser trainee in this state that are in accordance with Chapter 1103 and consistent with applicable federal law.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency’s legal authority.

Filed with the Office of the Secretary of State on November 18, 2019.

TRD-201904339
Kristen Worman
General Counsel
Texas Appraiser Licensing and Certification Board
Effective date: December 8, 2019
Proposal publication date: September 27, 2019
For further information, please call: (512) 936-3652

22 TAC §153.5

The Texas Appraiser Licensing and Certification Board (TALCB) adopts amendments to §153.5, Fees, without changes to the proposed text, as published in the September 27, 2019, issue of the Texas Register (44 TexReg 5482) and will not be republished.

The amendments to §153.5 increase appraiser license application and renewal fees and eliminate other license holder fees to implement statutory changes to Chapter 1103, Occupations Code, enacted by the 86th Legislature in SB 624 as part of TALCB’s Sunset Review process and management directives from the Sunset Advisory Commission requiring TALCB to improve customer service, reduce complaint resolution time frames, limit fund growth and provide straightforward fee setting for license holders. The amendments also clarify the consequences for submitting a payment that is dishonored.

No comments were received on the amendments as published.

The amendments are adopted under Occupations Code §1103.151, which authorizes TALCB to adopt rules for certifying or licensing an appraiser or appraiser trainee in this state that are in accordance with Chapter 1103 and consistent with applicable federal law.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency’s legal authority.

Filed with the Office of the Secretary of State on November 18, 2019.

TRD-201904338
The Texas Appraiser Licensing and Certification Board (TALCB) adopts amendments to §153.9. Applications, with changes to the proposed text, as published in the September 27, 2019, issue of the Texas Register (44 TexReg 5484) and will be republished.

The amendments to §153.9 provide clarity to applicants regarding licensing requirements related to military service members, veterans, and military spouses and implement statutory changes enacted by the 86th Legislature in SB 1200, which establish limited reciprocity for military spouses to practice in Texas, consistent with license reciprocity available under federal law.

No comments were received on the amendments as published.

The amendments are adopted under Occupations Code §1103.151, which authorizes TALCB to adopt rules for certifying or licensing an appraiser or appraiser trainee in this state that are in accordance with Chapter 1103 and consistent with applicable federal law.

§153.9. Applications.

(a) A person desiring to be licensed as an appraiser or appraiser trainee shall file an application using forms prescribed by the Board or the Board's online application system, if available. The Board may decline to accept for filing an application that is materially incomplete or that is not accompanied by the appropriate fee. Except as provided by the Act, the Board may not grant a license to an applicant who has not:

1. paid the required fees;
2. submitted a complete and legible set of fingerprints as required in §153.12 of this title (relating to Criminal History Checks);
3. satisfied any experience and education requirements established by the Act, Board rules, and the AQB;
4. successfully completed any qualifying examination prescribed by the Board;
5. provided all supporting documentation or information requested by the Board in connection with the application;
6. satisfied all unresolved enforcement matters and requirements with the Board; and
7. met any additional or superseding requirements established by the Appraisal Qualifications Board.

(b) Termination of application. An application is void and subject to no further evaluation or processing if within one year from the date an application is filed, an applicant fails to satisfy:

1. a current education, experience or exam requirement; or
2. the fingerprint and criminal history check requirements in §153.12 of this title.

(c) A license is valid for the term for which it is issued by the Board unless suspended or revoked for cause and unless revoked, may be renewed in accordance with the requirements of §153.17 of this title (relating to License Renewal).

(d) The Board may deny a license to an applicant who fails to satisfy the Board as to the applicant's honesty, trustworthiness, and integrity.

(e) The Board may deny a license to an applicant who submits incomplete, false, or misleading information on the application or supporting documentation.

(f) When an application is denied by the Board, no subsequent application will be accepted within two years after the date of the Board's notice of denial as required in §157.7 of this title (Denial of License, Renewal or Reinstatement; Adverse Action Against a License Holder).

(g) The following terms, when used in this section, have the following meanings, unless the context clearly indicates otherwise:

1. "Military service member" means a person who is on current full-time military service in the armed forces of the United States or active duty military service as a member of the Texas military forces, as defined by Section 437.001, Government Code, or similar military service of another state.

2. "Military spouse" means a person who is married to a military service member.

3. "Veteran" means a person who has served as a military service member and who was discharged or released from active duty.

(h) This subsection applies to an applicant who is a military service member, veteran, or military spouse.

1. The Board will process an application under this subsection on an expedited basis.

2. If an applicant under this subsection holds a current license issued by another state or jurisdiction that has licensing requirements that are substantially equivalent to the requirements for the license issued in this state, the Board will:

A. Waive the license application and examination fees; and
B. Issue the license as soon as practicable after receipt of the application.

3. The Board may reinstate a license previously held by an applicant, if the applicant satisfies the requirements in §153.16 of this chapter (relating to License Reinstatement).

4. The Board may allow an applicant to demonstrate competency by alternative methods in order to meet the requirements for obtaining a particular license issued by the Board. For purposes of this subsection, the standard method of demonstrating competency is the specific examination, education, and/or experience required to obtain a particular license.

5. In lieu of the standard method(s) of demonstrating competency for a particular license and based on the applicant's circumstances, the alternative methods for demonstrating competency may include any combination of the following as determined by the Board:

A. education;
B. continuing education;
C. examinations (written and/or practical);
D. letters of good standing;
E. letters of recommendation;
(F) work experience; or

(G) other methods required by the commissioner.

(i) This subsection applies to an applicant who is a military service member or veteran.

(1) The Board will waive the license application and examination fees for an applicant under this subsection whose military service, training or education substantially meets all of the requirements for a license.

(2) The Board will credit any verifiable military service, training or education obtained by an applicant that is relevant to a license toward the requirements of a license.

(3) This subsection does not apply to an applicant who holds a restricted license issued by another jurisdiction.

(4) The applicant must pass the qualifying examination, if any, for the type of license sought.

(5) The Board will evaluate applications filed under this subsection consistent with the criteria adopted by the AQB and any exceptions to those criteria as authorized by the AQB.

(j) This subsection applies to an applicant who is a military spouse. The Board will waive the license application fee and issue a license by reciprocity to an applicant who wants to practice in Texas in accordance with 55.0041, Occupations Code, if:

(1) the applicant submits:

(A) an application to practice in Texas on a form approved by the Board;

(B) proof of the applicant's Texas residency; and

(C) a copy of the applicant's military identification card; and

(2) the Board verifies that the military spouse is currently licensed and in good standing with the other state or jurisdiction.

(k) Except as otherwise provided in this section, a person applying for license under subsection (h), (i) or (j) of this section must also:

(1) submit the Board's approved application form for the type of license sought;

(2) pay the required fee for that application; and

(3) submit the supplemental form approved by the Board applicable to subsection (h), (i) or (j) of this section.

(l) The commissioner may waive any prerequisite to obtaining a license for an applicant as allowed by the AQB.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on November 18, 2019.

TRD-201904340
Kristen Worman
General Counsel
Texas Appraiser Licensing and Certification Board
Effective date: December 8, 2019
Proposal publication date: September 27, 2019
For further information, please call: (512) 936-3652

22 TAC §153.17

The Texas Appraiser Licensing and Certification Board (TALCB) adopts amendments to §153.17, License Renewal, without changes to the proposed text, as published in the September 27, 2019, issue of the Texas Register (44 TexReg 5486). The amended rules will not be republished.

The amendments to §153.17 implement statutory changes to Chapter 1103, Occupations Code, enacted by the 86th Legislature in SB 624 as part of TALCB’s Sunset Review process, allowing TALCB to deny a license renewal if a license holder is in violation of a TALCB Order.

No comments were received on the amendments as published.

The amendments are adopted under Occupations Code §1103.151, which authorizes TALCB to adopt rules for certifying or licensing an appraiser or appraiser trainee in this state that are in accordance with Chapter 1103 and consistent with applicable federal law.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on November 18, 2019.

TRD-201904341
Kristen Worman
General Counsel
Texas Appraiser Licensing and Certification Board
Effective date: December 8, 2019
Proposal publication date: September 27, 2019
For further information, please call: (512) 936-3652

22 TAC §153.19

The Texas Appraiser Licensing and Certification Board (TALCB) adopts amendments to §153.19, Licensing for Persons with Criminal History and Moral Character Determination, without changes to the proposed text as published in the September 27, 2019, issue of the Texas Register (44 TexReg 5488). The rule will not be republished.

The amendments to §153.19 implement statutory changes to Chapter 53, Occupations Code, enacted by the 86th Legislature in HB 1342 and SB 1217 regarding the requirements for evaluating criminal convictions and arrests of license applicants and license holders, and statutory changes to Chapter 1103, Occupations Code, enacted by the 86th Legislature in SB 624, as part of the Sunset Review process.

No comments were received on the amendments as published.

The amendments are adopted under Occupations Code §1103.151, which authorizes TALCB to adopt rules for certifying or licensing an appraiser or appraiser trainee in this state that are in accordance with Chapter 1103 and consistent with applicable federal law.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.
The Texas Appraiser Licensing and Certification Board (TALCB) adopts new §157.50, Negotiated Rulemaking, without changes to the proposed text, as published in the September 27, 2019, issue of the Texas Register (44 TexReg 5494) and will not be republished.

The new rule implements statutory changes to Chapter 1103, Occupations Code, enacted by the 86th Legislature in SB 624 as part of TALCB's Sunset Review process, requiring TALCB to develop a policy to encourage the use of negotiated rulemaking. The new rule sets forth TALCB's policy for negotiated rulemaking.

No comments were received on the new rule as published.

The new rule is adopted under Occupations Code §1103.151, which authorizes TALCB to adopt rules for certifying or licensing an appraiser or appraiser trainee in this state that are in accordance with Chapter 1103 and consistent with applicable federal law.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on November 18, 2019.

TRD-201904336
Kristen Worman
General Counsel
Texas Appraiser Licensing and Certification Board
Effective date: December 8, 2019
Proposal publication date: September 27, 2019
For further information, please call: (512) 936-3652

CHAPTER 159. RULES RELATING TO THE PROVISIONS OF THE TEXAS APPRAISAL MANAGEMENT COMPANY REGISTRATION AND REGULATION ACT

22 TAC §159.52

The Texas Appraiser Licensing and Certification Board (TALCB) adopts amendments to §159.52, Fees, without changes to the proposed text, as published in the September 27, 2019, issue of the Texas Register (44 TexReg 5494) and will not be republished.

The amendments to §159.52 eliminate certain fees to license holders to implement statutory changes enacted by the 86th Legislature in SB 624 as part of TALCB's Sunset Review process and management directives from the Sunset Advisory Commission to limit fund growth and provide straightforward fee setting for license holders. The amendments also implement a fee for untimely payment of AMC National Registry Fees to support collection and enforcement of AMC National Registry fees as required under federal law and conform the language in this section regarding deposit of the AMC Registry Fees to the language in Chapter 1104, Occupations Code. The amendments also clarify the consequences for providing a dishonored form of payment.

No comments were received on the amendments as published.
The amendments are adopted under Occupations Code §1104.151, which authorizes TALCB to adopt rules necessary to administer Chapter 1104, Texas Occupations Code.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on November 18, 2019.

TRD-201904346
Kristen Worman
General Counsel
Texas Appraiser Licensing and Certification Board
Effective date: January 1, 2020
Proposal publication date: September 27, 2019
For further information, please call: (512) 936-3652

22 TAC §159.108
The Texas Appraiser Licensing and Certification Board (TALCB) adopts amendments to §159.108, Renewal, without changes to the proposed text, as published in the September 27, 2019, issue of the Texas Register (44 TexReg 5496) and will not be republished.

The amendments to §159.108 implement statutory changes to Chapter 1104, Occupations Code, enacted by the 86th Legislature in SB 624 as part of TALCB's Sunset Review process, allowing TALCB to deny a license renewal if a license holder is in violation of a TALCB Order. The amendments also reorganize this section to provide clarity to members of the public and license holders.

No comments were received on the amendments as published.

The amendments are adopted under Occupations Code §1104.151, which authorizes TALCB to adopt rules necessary to administer Chapter 1104, Texas Occupations Code.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on November 18, 2019.

TRD-201904344
Kristen Worman
General Counsel
Texas Appraiser Licensing and Certification Board
Effective date: December 8, 2019
Proposal publication date: September 27, 2019
For further information, please call: (512) 936-3652

22 TAC §159.110
The Texas Appraiser Licensing and Certification Board (TALCB) adopts new §159.110, concerning AMC National Registry Fees as required under federal law and provides clarity to members of the public and license holders about the procedural requirements for collecting these fees.

No comments were received on the new section as published.

The new section is adopted under Occupations Code §1104.151, which authorizes TALCB to adopt rules necessary to administer Chapter 1104, Texas Occupations Code.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on November 18, 2019.

TRD-201904347
Kristen Worman
General Counsel
Texas Appraiser Licensing and Certification Board
Effective date: January 1, 2020
Proposal publication date: September 27, 2019
For further information, please call: (512) 936-3652

22 TAC §159.204
The Texas Appraiser Licensing and Certification Board (TALCB) adopts amendments to §159.204, Complaint Processing, without changes to the proposed text, as published in the September 27, 2019, issue of the Texas Register (44 TexReg 5498) and will not be republished.

The amendments to §159.204 require TALCB to protect a complainant's identity to the extent possible by excluding the complainant's identifying information when sending a complaint notice to a respondent; require TALCB to send periodic written notice of the status of a complaint to the complainant and each respondent until final resolution of the complaint; and authorize TALCB to order refunds to consumers of appraisal services in certain limited circumstances.

No comments were received on the amendments as published.

The amendments are adopted under Occupations Code §1104.151, which authorizes TALCB to adopt rules necessary to administer Chapter 1104, Texas Occupations Code.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on November 18, 2019.

TRD-201904345
Kristen Worman
General Counsel
Texas Appraiser Licensing and Certification Board
Effective date: December 8, 2019
Proposal publication date: September 27, 2019
For further information, please call: (512) 936-3652

ADOPTED RULES   December 6, 2019   44 TexReg 7539
PART 14. TEXAS OPTOMETRY BOARD

CHAPTER 273. GENERAL RULES

22 TAC §§273.4, 273.8, 273.14

The Texas Optometry Board adopts amendments to §§273.4, 273.8, and 273.14 of Chapter 273, Title 22, with changes to the proposed text as published in the September 27, 2019, issue of the Texas Register (44 TexReg 5505); therefore, these rules will be republished. The amendments primarily set license renewal fees and implement Senate Bill 314, Regular Session, 85th Legislature, which authorized the Board to renew licenses for a two-year period instead of the current one-year period. Section 273.4 amendments set fees for license renewal. The amendments to the fees will fund the agency’s required contribution to the costs of the Prescription Monitoring Program as required by House Bill 1, Regular Session, 86th Legislature, Article VIII, §7 and Article IX, §§18.30 and 18.36. License fees are amended to correspond to the two-year period without an increase year-to-year. Late renewal fees are also adjusted according to statute. The retired license for charity work renewal fee has been reduced under the authority of Texas Occupations Code §112.051. The included fee for lists of optometrists is unchanged from the normal charge and the fee for official verifications has been increased to offset increased costs. Language regarding fees for FBI criminal history requests is unnecessary and has been removed. Section 273.8 amendments also clarify that written notice of the impending license expiration may be “sent” rather than the current language of “mailed." Section 273.14 amendments also implement Senate Bill 1200, 86th Legislature, which provides an alternative process for licensing a military spouse.

No comments were received.

The amendments to §273.4 are adopted under the Texas Optometry Act, Texas Occupations Code, §§351.151, 351.152, 351.154, 351.304, and 351.308; House Bill 1, Regular Session, 86th Legislature, Article VIII, §7 and Article IX, §§18.30 and 18.36; Senate Bill 314, Regular Session, 85th Legislature (Texas Optometry Act, Texas Occupations Code, §§351.151, 351.163, 351.301, 351.302, 351.304, and 351.309); and Texas Occupations Code §112.051. No other sections are affected by the amendments. The amendments to §273.8 are adopted under the Texas Optometry Act, Texas Occupations Code, §§351.151 and Senate Bill 314, Regular Session, 85th Legislature (Texas Optometry Act, Texas Occupations Code, §§351.151, 351.163, 351.301, 351.302, 351.304, and 351.309). No other sections are affected by the amendments. The amendments to §273.14 are adopted under the Texas Optometry Act, Texas Occupations Code, §§351.151 and Senate Bill 314, Regular Session, 85th Legislature (Texas Optometry Act, Texas Occupations Code, §351.302); Texas Occupations Code §55.006 and Senate Bill 1200, 86th Legislature. No other sections are affected by the amendments.

The Texas Optometry Board interprets §351.151 as authorizing the adoption of procedural and substantive rules for the regulation of the optometric profession. The agency interprets §§351.152, 351.154, 351.304, and 351.308 as authorizing the agency to set license renewal and late renewal fees and requiring a deposit to the University of Houston of a percentage of the renewal fee. The agency interprets House Bill 1, Regular Session, 86th Legislature, Article VIII, §7 and Article IX, §§18.30 and 18.36, to require the agency to set fees to fund the Prescription Monitoring Program. Section 112.051 authorizes a fee reduction for the volunteer charity license. The agency interprets §§351.154, 351.163, 351.301, 351.302, and 351.309 to authorize a two-year renewal period. The agency interprets §55.006 as setting the period of the military service member, military veteran or military spouses license as the period of other licenses issued by the agency; and Senate Bill 1200, 86th Legislature, as setting a licensing procedure for certain spouses of military service members.

§273.4 Fees (Not Refundable).

(a) Examination Application Fee $150.00.
(b) License Without Examination Application Fee $300.00.
(c) Therapeutic Certification Application Fee $80.00.
(d) Optometric Glaucoma Specialist License Application Fee $50.00.
(e) Initial Therapeutic License Fee: $50.00 plus $5.00 fee required by House Bill 2985, 78th Legislature. Total fee: $55.00. Beginning January 1, 2021, a fee of $260.36 plus $6.00 fee required by House Bill 2985, 78th Legislature. Total fee for biennial renewal: $266.36
(f) License Renewal.

(1) Fee for licenses renewed on or before the January 1 expiration date:
(A) Optometrist, Therapeutic Optometrist and inactive Optometric Glaucoma Specialist: $210.36 plus $1.00 fee required by House Bill 2985, 78th Legislature. Total fee: $211.36.
(B) Active Optometric Glaucoma Specialist: $220.00 plus $1.00 fee required by House Bill 2985, 78th Legislature. Total fee: $221.00.
(C) Beginning January 1, 2021, the renewal fee for biennial renewal is:

(i) Optometrist, Therapeutic Optometrist and inactive Optometric Glaucoma Specialist: $420.72 plus $2.00 fee required by House Bill 2985, 78th Legislature. Total fee: $422.72.
(ii) Active Optometric Glaucoma Specialist: $440.00 plus $2.00 fee required by House Bill 2985, 78th Legislature. Total fee: $442.00.
(iii) Licenses renewed for the one year for 2021: the fee will be prorated for the one-year period.

(2) License fee for late renewal, one to 90 days late.

(A) Optometrist, Therapeutic Optometrist and inactive Optometric Glaucoma Specialist: $315.54 plus $1.00 fee required by House Bill 2985, 78th Legislature. Total late license fee: $316.54.
(B) Active Optometric Glaucoma Specialist: $330.00 plus $1.00 fee required by House Bill 2985, 78th Legislature. Total fee: $331.00.
(C) Beginning January 1, 2021, the renewal fee for biennial renewal, one to 90 days late is:

(i) Optometrist, Therapeutic Optometrist and inactive Optometric Glaucoma Specialist: $631.08 plus $2.00 fee required by House Bill 2985, 78th Legislature. Total fee: $633.08.
(ii) Active Optometric Glaucoma Specialist: $660.00 plus $2.00 fee required by House Bill 2985, 78th Legislature. Total fee: $662.00.
(iii) Licenses renewed for the one year for 2021: the one to 90 days late fee will be prorated for the one-year period.
(3) License fee for late renewal, 91 days to one year late.
   (A) Optometrist, Therapeutic Optometrist and inactive
       Optometric Glaucoma Specialist: $420.72 plus $1.00 fee required by
       House Bill 2985, 78th Legislature. Total late license fee: $421.72.
   (B) Optometric Glaucoma Specialist: $440.00 plus
       $1.00 fee required by House Bill 2985, 78th Legislature. Total fee:
       $441.00.

(C) Beginning January 1, 2021, the renewal fee for biennial renewal 91 days to one year late is:

   (i) Optometrist, Therapeutic Optometrist and inactive
       Optometric Glaucoma Specialist: $841.44 plus $2.00 fee required by
       House Bill 2985, 78th Legislature. Total fee: $843.44.

   (ii) Active Optometric Glaucoma Specialist:
        $880.00 plus $2.00 fee required by House Bill 2985, 78th Legislature.
        Total fee: $882.00.

   (iii) Licenses renewed for the one year for 2021: the
        91 days to one-year late fee will be prorated for the one-year period.

(4) Late fees (for all renewals with delayed continuing education) $420.72.

(g) Provisional License $75.00.

(h) Initial Limited Faculty License $50.00.

(i) Duplicate License, Renewal Certificate, Therapeutic Certificate
    or Optometric Glaucoma Specialist Certificate (lost, destroyed,
    or name change) $25.00.

(j) Retired License.

   (1) Optometrist and Therapeutic Optometrist: $210.36
       plus $1.00 fee required by House Bill 2985, 78th Legislature. Total
       fee: $211.36.

   (2) Optometric Glaucoma Specialist: $220.00 plus $1.00
       fee required by House Bill 2985, 78th Legislature. Total fee: $221.00.

   (3) Beginning January 1, 2021, the renewal fee for biennial
       renewal is:

       (A) Optometrist, Therapeutic Optometrist and inactive
           Optometric Glaucoma Specialist: $210.36 plus $2.00 fee required by
           House Bill 2985, 78th Legislature. Total fee: $212.36.

       (B) Active Optometric Glaucoma Specialist: $220.00
           plus $2.00 fee required by House Bill 2985, 78th Legislature. Total
           fee: $222.00

   (k) Retired License to Active License Application Fee. For
       individuals holding Retired License making application for active li-
       cense. $25.00.

(l) Request for Criminal History Evaluation Letters $125.00.

(m) Fee for official license verification: $40.00.

(n) Fee for list of optometrists: $65.00.

§273.8. Renewal of License.

(a) Expired license.

   (1) If a license is not renewed on or before the expiration
       date, it becomes expired. Beginning January 1, 2021, one-half of li-
       censes must be renewed on a biennial basis. Beginning January 1,
       2022, all licenses must be renewed on a biennial basis. Beginning Janu-
       ary 1, 2021, initial licenses expire on the second January 1 after the
       date the license is first issued, except for licenses issued pursuant to

§273.14 of this title (relating to License Applications for Military Ser-
vice Member, Military Veteran, and Military Spouse.

(2) If a person's license has been expired for 90 days or less,
    the person may renew the license by paying to the board the amount of
    one and one-half times the renewal fee.

(3) If a person's license has been expired for longer than 90
    days but less than one year, the person may renew the license by paying
    to the board the amount of two times the renewal fee.

(4) If a person's license has been expired for one year or
    longer, the person may not renew the license but may obtain a new
    license by taking and passing the jurisprudence exam and complying
    with the requirements and procedures for obtaining an initial license.
    If the person was not licensed as a therapeutic optometrist when the
    license expired, the person must also complete the requirements for
    therapeutic license in §280.1 - 280.3 of this title (relating to Applica-
    tion for Certification Required; Education; Certified Therapeutic Op-
    tometrist Examination, respectively) prior to obtaining a new license.

(5) The board, however, may renew without examination an
    expired license of a person who was previously licensed in Texas,
    is currently licensed in another state, and has been in practice for two
    years immediately preceding application for renewal. The person shall
    be required to furnish documentation of continuous practice for the
    two-year period, pay the renewal fee as established by subsection (a)(3)
    of this section. The person must furnish license verifications from each
    state in which the person is currently or previously licensed. A li-
    cense renewal under this section is subject to the same requirements
    of §351.501 of the Act as a license applicant.

(6) Written notice of the impending license expiration will
    be sent to the licensee at the licensee's last known address, according
    to the records of the board.

(7) A licensee receiving a felony or misdemeanor crimi-
    nal conviction, including deferred adjudication or court ordered com-
    munity or mandatory supervision, with or without an adjudication of
    guilt, or revocation of parole, probation or court ordered supervision,
    other than a Class C Misdemeanor traffic violation, shall report the or-
    der of conviction, deferred adjudication or court ordered community or
    mandatory supervision, or revocation of parole, probation, or supervi-
    sion on the next license renewal. This requirement is in addition to the
    30 day reporting requirement in §277.5 of this title (relating to Convic-
    tions). This paragraph does not require the reporting of a Class C Misd-
    eaner traffic violation. The failure of a licensee to report a criminal
    conviction is deceit, dishonesty and misrepresentation in the practice
    of optometry and authorizes the board to take disciplinary action under
    §351.501 of the Act. The licensee shall furnish any document relating to
    the criminal conviction as requested by the Board.

(8) Only an active licensee who has provided a complete
    fingerprint criminal history report to the Board is eligible to renew a
    license. During the period 2018 to 2022, one-fifth of current active
    licensees who have not submitted the report will be notified each year
    by the Board to provide the report. Licensees so notified shall submit
    fingerprints to the authority authorized by the Department of Public
    Safety to take the fingerprints in the form required by that authority.
    A license will not be renewed unless the notified licensee has complied
    with the requirement to submit fingerprints.

(b) Mandatory Continuing Education for Renewal of License.

   (1) The board may not issue a renewal license to a licensee
       who has not complied with the mandatory continuing education re-
       quirements unless an exemption provided by §275.1 of this title (re-
       lating to General Requirements) is applicable.

(a) Definitions.

(1) "Military service member" means a person who is on active duty.

(2) "Military spouse" means a person who is married to a military service member.

(3) "Military veteran" means a person who has served on active duty, who was discharged or released from active duty, and who was not dishonorably discharged.

(4) "Active duty" means current full-time military service in the armed forces of the United States or active duty military service as a member of the Texas military forces, as defined by §437.001, Government Code, or similar military service of another state.

(5) "Armed forces of the United States" means the army, navy, air force, coast guard, or marine corps of the United States or a reserve unit of one of those branches of the armed forces.

(b) License eligibility requirements for applicants with military experience.

(1) Verified military service, training, or education will be credited toward the licensing requirements, other than an examination requirement, of an applicant who is a military service member or military veteran.

(2) This subsection does not apply if the applicant holds a restricted license issued by another jurisdiction or has an unacceptable criminal history.

(c) Alternate licensing procedure authorized by Texas Occupations Code §§55.004 and 55.005.

(1) Applicants currently licensed in another state.

(A) Application.

(i) The military service member, military veteran or military spouse applicant must be licensed in good standing as a therapeutic optometrist or the equivalent in another state, the District of Columbia, or a territory of the United States that has licensing requirements that are substantially equivalent to the requirements of the Texas Optometry Act.

(ii) The military service member, military veteran or military spouse applicant shall submit a completed Military application, including the submission of a completed Federal Bureau of Investigation fingerprint card provided by the Board, official license verifications from each state in which the applicant is or was licensed, a certified copy of the applicant's birth certificate, a certified copy of the optometry school transcript granting the applicant a doctor of optometry degree, and proof of the applicant's status as a military service member, military veteran or military spouse.

(iii) A military service member, military veteran, or military spouse licensed in another state is exempt from the application fee in §273.4 of this title (relating to Fees (Not Refundable)). Such an applicant is not exempt from examination fees charged for an exam administered by an organization or person other than the Board.

(iv) A license issued under this subsection shall be a license to practice therapeutic optometry with the same obligations and duties required of a licensed therapeutic optometrist and subject to the same disciplinary requirements for that license.

(B) License Renewal.

(i) A license issued under this subsection shall expire twelve months subsequent to the date the license is issued. If the license is timely renewed, the licensee may thereafter renew the license by paying the renewal fee not later than January 1 of each year. Beginning 2021, a license issued under this subsection shall expire 24 months subsequent to the date the license is issued. If the initial license is timely renewed, the licensee may thereafter renew the license by paying the renewal fee prior to the expiration date set in §273.8 of this title (relating to Renewal of License).

(ii) Prior to renewing the license for the first time, the military service member, military veteran or military spouse licensee shall take and pass the Texas Jurisprudence Examination.

(iii) With the exception of clause (ii) of this subparagraph, the requirements for renewing the license are the same as the requirements for renewing an active license.

(2) Requirements for license for military service member, military veteran or military spouse applicant not currently licensed to practice optometry who was licensed in Texas within five years of the application submission.

(A) Application.

(i) The military service member, military veteran or military spouse applicant shall submit a completed Military application, including the submission of a completed Federal Bureau of In-
vestigation fingerprint card provided by the Board, official license verifications from each state in which the applicant is or was licensed, a certified copy of the applicant's birth certificate, a certified copy of the optometry school transcript granting the applicant a doctor of optometry degree, and proof of the applicant's status as a military service member, military veteran or military spouse.

(ii) An application fee in the same amount as the application fee set out in §273.4 of this title must be submitted with the application.

(iii) A license issued under this subsection shall be a license to practice therapeutic optometry with the same obligations and duties required of a licensed therapeutic optometrist and subject to the same disciplinary requirements for that license.

(B) License Renewal.

(i) A license issued under this subsection shall expire twelve months subsequent to the date the license is issued. If the license is timely renewed, the licensee may thereafter renew the license by paying the renewal fee not later than January 1 of each year. Beginning 2021, a license issued under this subsection shall expire 24 months subsequent to the date the license is issued. If the initial license is timely renewed, the licensee may thereafter renew the license by paying the renewal fee prior to the expiration date set in §273.8 of this title (relating to Renewal of License).

(ii) Prior to renewing the license for the first time, the military service member, military veteran or military spouse licensee shall take and pass the Texas Jurisprudence Examination.

(iii) With the exception of clause (ii) of this subparagraph, the requirements for renewing the license are the same as the requirements for renewing an active license.

(d) Alternative method to demonstrate competency. To protect the health and safety of the citizens of this state, a license to practice optometry requires the licensee to obtain a doctorate degree in optometry and passing scores on lengthy and complex nationally accepted examinations. An alternative method to demonstrate competency is not available at this time.

(e) Alternate licensing procedure for military spouse authorized by Texas Occupations Code §55.0041.

(1) Application.

(A) The military spouse applicant must be licensed in good standing as a therapeutic optometrist or the equivalent in another state, the District of Columbia, or a territory of the United States that has licensing requirements that are substantially equivalent to the requirements of the Texas Optometry Act. For purposes of this subsection, the Board finds that every state and territory that issues a therapeutic license to a graduate of an accredited optometry school has licensing requirements that are substantially equivalent to the requirements of the Texas Optometry Act.

(B) The military spouse applicant shall submit:

(i) proof of the spouse's residency in this state and a copy of the spouse's military identification card;

(ii) a completed Federal Bureau of Investigation fingerprint card provided by the Board;

(iii) an official license verification from the state in which the applicant is licensed that has licensing requirements substantially equivalent to the Texas Optometry Act; and

(iv) application form with proof of identity.

(2) License

(A) A license issued under this subsection:

(i) shall be a license to practice therapeutic optometry with the same obligations and duties required of a licensed therapeutic optometrist and subject to the same disciplinary requirements for that license,

(ii) will expire three years after the license is issued, or if occurring prior to the expiration of the three-year period, the date when the military spouse is no longer stationed at a military installation in this state, and

(iii) may not be renewed.

(B) The application and license is exempt from the Texas Jurisprudence Examination and the application fee and initial license fee in §273.4 of this title.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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Chris Kloeris

Executive Director

Texas Optometry Board

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For further information, please call: (512) 305-8500

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CHAPTER 275. CONTINUING EDUCATION

22 TAC §275.1, §275.2

The Texas Optometry Board adopts amendments to §§275.1 and 275.2 of Chapter 275, Title 22, with changes to the proposed text as published in the September 27, 2019, issue of the Texas Register (44 TexReg 5510); therefore, the rules will be republished. The amendments implement Senate Bill 314, Regular Session, 85th Legislature, which authorized the Board to renew licenses for a two-year period instead of the current one-year period. The amendments modify the continuing education requirements to fit the new license period.

No comments were received.

The amendments are adopted under the Texas Optometry Act, Texas Occupations Code, §§351.151 and 351.308, and Senate Bill 314, Regular Session, 85th Legislature (Texas Optometry Act, Texas Occupations Code, §§351.154, 351.163, 351.301, 351.302, 351.304, and 351.309). No other sections are affected by the amendments.

The Texas Optometry Board interprets §351.151 as authorizing the adoption of procedural and substantive rules for the regulation of the optometric profession and §351.308 as setting continuing education requirements. The agency interprets §§351.154, 351.163, 351.301, 351.302, 351.304, and 351.309 as authorizing a two-year license renewal period and appropriate changes to the timing of continuing education requirements.


(a) Number of hours required to renew.
(1) The Texas Optometry Act requires each optometrist licensed in this state to take 16 hours of continuing education per calendar year with at least six hours in the diagnosis or treatment of ocular disease. Beginning with the 2021 license renewal, at least 12 hours of the required 16 hours shall be in the diagnosis or treatment of ocular disease. The subject of at least one hour of the required 16 hours shall be professional responsibility. The calendar year is considered to begin January 1 and run through December 31.

(2) Hours required beginning with the 2023 license renewal.

(A) 32 hours of continuing education taken during the two-year period preceding license renewal.

(B) 24 hours of the required 32 hours shall be in the diagnosis or treatment of ocular disease.

(C) Two hours of the required 32 hours shall be in professional responsibility as defined in subsection (b)(9) of this section.

(b) The board accepts for continuing education credit all courses sponsored by any board-accredited college or schools of optometry and such other programs or courses of other organizations as are approved by the board upon recommendation from the Continuing Education Committee, appointed by the Board Chair. The Continuing Education Committee will consider, among other things in its discretion, the following criteria in approving courses and classifying the hours as general, diagnosis or treatment of ocular disease, and professional responsibility:

(1) all subjects of education must be directly related to optometry;

(2) courses sponsored by or given by accredited optometry schools will be granted automatic approval as limited by paragraph (9) of this subsection;

(3) courses meeting evaluation standards and receiving approval of the Association of Regulatory Boards of Optometry will be granted automatic approval as limited by paragraph (9) of this subsection;

(4) courses sponsored by optometric organizations may be given approval;

(5) courses sponsored by universities or accredited nonoptometric schools may be given approval if the subject matter is directly related to optometry;

(6) correspondence courses sponsored and graded by accredited optometry schools may be given approval. The maximum number of hours allowed for these courses is set out in §275.2(f) of this title (relating to Required Education);

(7) courses sponsored by individual providers may be approved but providers must supply the committee with a synopsis of the lecture material to be presented, itinerary including time in the class, and resumes of the lecturers;

(8) on-line computer courses with post-course testing sponsored by the Association of Regulatory Boards of Optometry or by accredited optometry schools. The maximum number of hours allowed for these courses is set out in §275.2(f) of this title;

(9) courses in professional responsibility given by a board accredited instate college or school of optometry may be given approval if the course:

(A) is made available as a live course in this state and on the internet; and

(B) includes the study of professional ethics, the Texas Optometry Act and Board Rules, judicious prescribing of dangerous drugs, pain management, or drug abuse by professionals.

(c) Licensees who have not complied with the education requirements may not be issued a renewal license unless such person is entitled to an exemption under Section 351.309 of the Act. The following persons are exempt:

(1) a licensee who holds a Texas license, but does not practice optometry in Texas; provided, however, that if at any time during the calendar year for which such exemption has been obtained such person desires to practice optometry, such person shall not be entitled to practice optometry in Texas until the hours of continuing education credits set out in subsection (a) of this section are obtained and the board has been notified of the completion of such continuing education requirements;

(2) a licensee who served in the regular armed forces of the United States during part of the period immediately preceding the license renewal date;

(3) a licensee who submits proof satisfactory to the board that the licensee suffered a serious or disabling illness or physical disability which prevented the licensee from complying with the requirements of this section during the period immediately preceding the annual license renewal date; provided, however, that in lieu of claiming the exemption, a licensee who has submitted the requisite proof of illness or disability may elect to obtain the education requirement by correspondence or multi-media courses sponsored, monitored, or graded by colleges of optometry; or

(4) a licensee who was first licensed within the period immediately preceding the first renewal date.

(d) Approved courses must be available to all Texas licensed optometrists at a fee considered reasonable and nondiscriminatory.

(e) Summaries of the courses and resumes of those teaching must be submitted to the board's Continuing Education Committee for approval or disapproval. This information should be received 60 days prior to the date the course is to take place.

(f) Written proof of attendance and completion of approved courses must be supplied by the licensed optometrist to the board in conjunction with the renewal application for an optometry license. If the licensed optometrist is practicing in Texas, the licensee should submit the original proof of attendance or the approved sponsors of continuing education may submit to the board written proof of attendance and completion of approved courses on behalf of the licensed optometrist. Information such as the following will be required: sponsoring organizations; location and dates; course names; instructors; names of attendees; number of education hours completed; and any other information deemed necessary by the board. Proof of attendance supplied by the sponsor should contain at least one signature of the sponsor's designee.

(g) Retired License Continuing Education.

(1) An applicant with a current license applying for the Retired License shall obtain eight hours of Board approved continuing education during the calendar year preceding the date of application. All of the hours may be obtained on the Internet or by correspondence. At least one half of these hours must be diagnostic/therapeutic as approved by the Board and one hour must be professional responsibility.

(2) An applicant whose license has expired for one year or more shall obtain 16 hours of Board approved continuing education during the calendar year preceding the date of application. All of the hours may be obtained on the Internet or by correspondence. At least
eight of these hours must be diagnostic/therapeutic as approved by the Board and one hour must be professional responsibility.

(3) The holder of a retired license shall obtain eight hours of Board approved continuing education during the calendar year prior to renewing the license. All of the hours may be obtained on the Internet or by correspondence. At least one half of these hours must be diagnostic/therapeutic as approved by the Board and one hour must be professional responsibility.

(4) Beginning with the 2023 license renewal, the holder of a retired license shall obtain 16 hours of Board approved continuing education prior to renewing the license. All of the hours may be obtained on the Internet or by correspondence. At least one half of these hours must be diagnostic/therapeutic as approved by the Board and one hour must be professional responsibility.

§275.2. Required Education.
(a) Education for an advanced degree in optometric field or optometrically related field. One-hour credit will be given for each semester hour earned, and a total of 16 credit hours will be allowed for each full academic year of study.

(b) Research in lieu of training. Credit will be given only for full-time research. Sixteen credit hours will be given for each full year of research.

(c) Teaching. One credit hour is allowed for each education hour of teaching of board-approved continuing education courses.

(d) Continuing education courses. See §275.1(b) of this title.

(e) Clinical rotations or rounds. One hour of continuing education credit will be given for each two clock hours spent on clinical rounds, for a maximum of four hours per calendar year. Beginning with the 2023 license renewal, credit will be given for a maximum of eight hours of clinical rotations or rounds hours taken during the two-year period preceding license renewal. Sponsoring organizations and universities must submit information regarding scheduled rounds and certify to the board at least on a quarterly basis the number of continuing education hours obtained.

(f) Credit will be given for a maximum of eight hours of the combined total of correspondence course hours and on-line computer course hours per calendar year. Beginning with the 2023 license renewal, credit will be given for a maximum of 16 hours of the combined total of correspondence course hours and on-line computer course hours taken during the two-year period preceding license renewal. On-line computer courses are those courses described in §275.1(b)(8) of this title (relating to General Requirements). Correspondence courses must be sponsored and graded by accredited optometry colleges.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency’s legal authority.

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Executive Director
Texas State Board of Pharmacy
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For further information, please call: (512) 305-8010

CHAPTER 291. PHARMACIES
SUBCHAPTER G SERVICES PROVIDED BY PHARMACIES
22 TAC §291.121
The Texas State Board of Pharmacy adopts amendments to §291.121, concerning Remote Pharmacy Services. These amendments are adopted without changes to the proposed text as published in the September 27, 2019, issue of the Texas Register (44 TexReg 5514). The rule will not be republished.

The amendments clarify that a telepharmacy system located at a federally qualified health center may be located in a community in which a Class A or Class C pharmacy is located, in accordance with Senate Bill 670.
The Board received comments from Cardinal Health supporting the amendments.

The amendments are adopted under §§551.002 and 554.051 of the Texas Pharmacy Act (Chapters 551 - 569, Texas Occupations Code). The Board interprets §551.002 as authorizing the agency to protect the public through the effective control and regulation of the practice of pharmacy. The Board interprets §554.051(a) as authorizing the agency to adopt rules for the proper administration and enforcement of the Act.

The statutes affected by these amendments: Texas Pharmacy Act, Chapters 551 - 569, Texas Occupations Code.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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CHAPTER 295. PHARMACISTS

22 TAC §295.8

The Texas State Board of Pharmacy adopts amendments to §295.8, concerning Continuing Education Requirements. These amendments are adopted without changes to the proposed text as published in the September 27, 2019, issue of the Texas Register (44 TexReg 5525), and will not be republished.

The amendments add requirements for two hours of continuing education on pain management as specified in House Bill 3285, two hours of continuing education on prescribing and monitoring controlled substances as specified in House Bill 2174, and a human trafficking prevention course as specified in House Bill 2059, and remove a requirement for one hour of continuing education on opioid abuse.

No comments were received.

The amendments are adopted under §§551.002 and 554.051 of the Texas Pharmacy Act (Chapters 551 - 569, Texas Occupations Code). The Board interprets §551.002 as authorizing the agency to protect the public through the effective control and regulation of the practice of pharmacy. The Board interprets §554.051(a) as authorizing the agency to adopt rules for the proper administration and enforcement of the Act.

The statutes affected by these amendments: Texas Pharmacy Act, Chapters 551 - 569, Texas Occupations Code.

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CHAPTER 297. PHARMACY TECHNICIANS

AND PHARMACY TECHNICIAN TRAINEES

22 TAC §297.8

The Texas State Board of Pharmacy adopts amendments to §297.8, concerning Continuing Education Requirements. These amendments are adopted without changes to the proposed text as published in the September 27, 2019, issue of the Texas Register (44 TexReg 5531).

The amendments add a requirement for a human trafficking prevention course as specified in House Bill 2059 and correct grammatical errors.
No comments were received.

The amendments are adopted under §§551.002 and 554.051 of the Texas Pharmacy Act (Chapters 551 - 569, Texas Occupations Code). The Board interprets §551.002 as authorizing the agency to protect the public through the effective control and regulation of the practice of pharmacy. The Board interprets §554.051(a) as authorizing the agency to adopt rules for the proper administration and enforcement of the Act.

The statutes affected by these amendments: Texas Pharmacy Act, Chapters 551 - 569, Texas Occupations Code.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency’s legal authority.

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CHAPrER 309. SUBSTITUTION OF DRUG PRODUCTS

22 TAC §309.5

The Texas State Board of Pharmacy adopts amendments to §309.5, concerning Communication with Prescriber. These amendments are adopted without changes to the proposed text as published in the September 27, 2019, issue of the Texas Register (44 TexReg 5536).

The amendments remove the section’s expiration date, in accordance with House Bill 1264.

The Board received comments from The National Association of Chain Drug Stores suggesting a modification regarding presumed notice to prescribers. The Board declines to make the change because the suggested language conflicts with §562.0051 of the Texas Pharmacy Act.

The amendments are adopted under §§551.002 and 554.051 of the Texas Pharmacy Act (Chapters 551 - 569, Texas Occupations Code). The Board interprets §551.002 as authorizing the agency to protect the public through the effective control and regulation of the practice of pharmacy. The Board interprets §554.051(a) as authorizing the agency to adopt rules for the proper administration and enforcement of the Act.

The statutes affected by these amendments: Texas Pharmacy Act, Chapters 551 - 569, Texas Occupations Code.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency’s legal authority.

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CHAPrER 315. CONTROLLED SUBSTANCES

22 TAC §315.3

The Texas State Board of Pharmacy adopts amendments to §315.3, concerning Prescriptions. These amendments are adopted without changes to the proposed text as published in the September 27, 2019, issue of the Texas Register (44 TexReg 5537). The rules will not be republished.
The amendments specify that opioid prescriptions for the treatment of pain may not exceed a 10-day supply or provide for a refill, in accordance with House Bill 2174, remove the expiration date from the section's title, and correct grammatical errors.

No comments were received.

The amendments are adopted under §551.002 and §554.051 of the Texas Pharmacy Act (Chapters 551 - 569, Texas Occupations Code). The Board interprets §551.002 as authorizing the agency to protect the public through the effective control and regulation of the practice of pharmacy. The Board interprets §554.051(a) as authorizing the agency to adopt rules for the proper administration and enforcement of the Act.

The statutes affected by these amendments: Texas Pharmacy Act, Chapters 551 - 569, Texas Occupations Code.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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For further information, please call: (512) 305-8010

22 TAC §315.11

The Texas State Board of Pharmacy adopts amendments to §315.11, concerning Release of Prescription Data. These amendments are adopted without changes to the proposed text as published in the September 27, 2019, issue of the Texas Register (44 TexReg 5539). The rules will not be republished.

The amendments 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.

No comments were received.

The amendments are adopted under §§551.002 and 554.051 of the Texas Pharmacy Act (Chapters 551 - 569, Texas Occupations Code). The Board interprets §551.002 as authorizing the agency to protect the public through the effective control and regulation of the practice of pharmacy. The Board interprets §554.051(a) as authorizing the agency to adopt rules for the proper administration and enforcement of the Act.

The statutes affected by these amendments: Texas Pharmacy Act, Chapters 551 - 569, Texas Occupations Code.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on November 19, 2019.

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Allison Vordenbaumen Benz, R.Ph., M.S.
Executive Director
Texas State Board of Pharmacy
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Proposal publication date: September 27, 2019
For further information, please call: (512) 305-8010

22 TAC §315.15

The Texas State Board of Pharmacy adopts amendments to §315.15, concerning Access Requirements. These amendments are adopted without changes to the proposed text as published in the September 27, 2019, issue of the Texas Register (44 TexReg 5540). The rules will not be republished.

The amendments change the effective date of mandatory Prescription Monitoring Program (PMP) database review before dispensing an opioid, benzodiazepine, barbiturate, or carisoprodol, in accordance with House Bill 3284, and clarify that the duty to consult the PMP database does not apply if the patient has a documented diagnosis of sickle cell disease, in accordance with Senate Bill 1564.
No comments were received.

The amendments are adopted under §§551.002 and 554.051 of the Texas Pharmacy Act (Chapters 551 - 569, Texas Occupations Code). The Board interprets §551.002 as authorizing the agency to protect the public through the effective control and regulation of the practice of pharmacy. The Board interprets §554.051(a) as authorizing the agency to adopt rules for the proper administration and enforcement of the Act.

The statutes affected by these amendments: Texas Pharmacy Act, Chapters 551 - 569, Texas Occupations Code.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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Executive Director
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TITLE 25. HEALTH SERVICES

PART 11. CANCER PREVENTION AND RESEARCH INSTITUTE OF TEXAS

CHAPTER 703. GRANTS FOR CANCER PREVENTION AND RESEARCH

25 TAC §703.14, §703.24

The Cancer Prevention and Research Institute of Texas ("CPRIT" or "the Institute") adopts the amendments to 25 TAC §703.14 (Termination, Extension, Close Out of Grant Contracts, and De-Obligation of Grant Award Funds) and §703.24 (Financial Status Reports), without changes to the proposed amendments as published in the September 27, 2019, issue of the Texas Register (44 TexReg 5544); therefore, the rules will not be republished. The amendments are related to the Institute's consideration and approval of a grant recipient's request to extend its grant contract and the process for a grant recipient to report and receive reimbursement for expenses the grant recipient paid prior to the current financial status reporting period.

Reasoned Justification

The change to §703.14(c) provides a process for the Institute to review and approve a grant recipient's no cost extension request to extend the grant recipient's grant contract termination date even if the grant recipient has fiscal or programmatic reports pending approval by the Institute. Approval of a no cost extension remains at the discretion of the Institute, which will retain documentation of the request and approval as part of the grant record. The change to §703.24(a) clarifies the process for the Institute to consider and approve a grant recipient's reimbursement request, accompanied with a justification, for an otherwise allowable cost paid by the grant recipient prior to the current reporting period.

Summary of Public Comments and Staff Recommendation

CPRIT received no public comments regarding the proposed amendments to §703.14 and §703.24.

The rule changes are adopted under the authority of the Texas Health and Safety Code Annotated, §102.108, which provides the Institute with broad rule-making authority to administer the chapter, including rules for awarding grants.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on November 21, 2019.

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Chief Operating Officer
Cancer Prevention and Research Institute of Texas
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TITLE 28. INSURANCE

PART 2. TEXAS DEPARTMENT OF INSURANCE, DIVISION OF WORKERS' COMPENSATION

CHAPTER 134. BENEFITS--GUIDELINES FOR MEDICAL SERVICES, CHARGES, AND PAYMENTS

SUBCHAPTER B. MISCELLANEOUS REIMBURSEMENT

28 TAC §134.150, §134.155

The Texas Department of Insurance, Division of Workers' Compensation (DWC) adopts new §134.150 (concerning Reimbursement of Services Provided by a Federal Military Treatment Facility (FMTF)) and §134.155 (concerning FMTF Disputes). The proposed rules were published in the August 30, 2019, issue of the Texas Register (44 TexReg 4659). Both rules are adopted with changes and will be republished.

REASONED JUSTIFICATION

These rules are adopted as required under Senate Bill (SB) 935, 86th Legislature (2019). Senate Bill 935 establishes distinct payment and bill processing obligations to address the balance billing of injured employees, covered by a workers' compensation insurance plan, who have received treatment at an FMTF. Additionally, SB 935 directs DWC to develop a medical dispute resolution process for FMTF-related disputes.

Brooke Army Medical Center (BAMC), an FMTF in San Antonio, is a Level 1 trauma center and part of the State of Texas trauma plan. Civilians, including injured employees, may be transported to BAMC to receive emergency treatment for serious injuries.

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The admission of an injured employee to an FMTF may involve unique challenges for all parties. In most instances, an injured employee is neither a member of a uniformed service nor a covered beneficiary and, as such, is designated a "civilian." When care is provided to civilians, FMTFs may pursue full reimbursement of all billed charges and may not recognize state statutory or regulatory requirements for workers' compensation or group health insurance, such as certain billing and utilization review requirements and limits on reimbursement under medical fee schedules. When bills are not paid in full, FMTFs are required under federal law to initiate debt collection actions against a "civilian" patient. These federal debts may be sent to the U.S. Treasury and can result in garnishment of wages, tax refunds, and social security benefits, as well as adverse actions on credit reports.

Under the Texas workers' compensation system, "an employee who sustains a compensable injury is entitled to all health care reasonably required by the nature of the injury." Texas Labor Code §408.021(a). Injured employees who receive medical services at an FMTF rely on their workers' compensation coverage to reimburse them from the cost of treatment for work-related injuries. In Texas' workers' compensation system, injured employees do not pay the cost of medical services related to a compensable injury. The costs for a compensable injury are the responsibility of an employer's workers' compensation insurance carrier. Consequently, workers' compensation benefits are the exclusive remedy for injured employees or their legal beneficiaries.

Injured employees who have received bills from an FMTF, the U.S. Treasury, or federally contracted collection agencies have sought guidance from DWC. Often, injured employees do not seek assistance until they receive payment demands from collection agencies. Injured employees with bills from an FMTF may see their wages and federal benefits garnished. Data available to DWC shows that approximately 666 injured employees received health care services at BAMC between January 1, 2015, and July 31, 2016, resulting in approximately $25.3 million in charges to the insurer. About $13.3 million has been paid and reported by insurance carriers for these services, leaving an unpaid balance of about $12 million.

Senate Bill 935 provides a definition for "federal military treatment facility" and clarifies that medical care provided in these facilities is exempt from certain workers' compensation-specific statutory requirements. Significantly, SB 935 stipulates that, "[t]he reimbursement rates for medical services provided to an injured employee by a federal military treatment facility must be the amount charged by the facility as determined under 32 C.F.R. Part 220." Labor Code §413.0112(b). Title 32, Part 220 of the Code of Federal Regulations concerns the collection from third party payers of reasonable charges for health care services by FMTFs.

Senate Bill 935 also exempts the following statutes from applying to the reimbursement of charges from an FMTF: Insurance Code Chapter 1305 (relating to Workers' Compensation Health Care Networks); Labor Code §408.0271 (relating to Reimbursement by Health Care Provider); Labor Code §408.0272 (relating to Certain Exceptions for Untimely Submission of a Claim); Labor Code §408.028 (relating to Pharmaceutical Services); Labor Code §408.0281 (relating to Reimbursement for Pharmaceutical Services); Labor Code §413.011 (relating to Reimbursement Policies and Guidelines); Labor Code §413.014 (relating to Preauthorization Requirements); Labor Code §413.041 (relating to Health Care Provider Disclosure); and Labor Code §504.053 (relating to Election by a Political Subdivision to Participate in a Workers' Compensation Health Care Network).

In addition, SB 935 exempts subsection (a) of §408.027 which requires that health care providers submit a claim to an insurance carrier within 95 days of service and subsection (f) which requires that payments made by an insurance carrier must comply with DWC's fee guidelines if the service provided was out-of-network or must be at a contracted rate if in-network. Insurance carriers are still required to comply with the remaining medical bill processing requirements described in §408.027. Section 413.031 is exempted as it relates to medical fee disputes.

Finally, SB 935 requires that DWC adopt rules necessary to implement §413.0112, including rules establishing requirements for processing bills from FMTFs and "a separate medical dispute resolution process to resolve disputes over charges billed directly to an injured employee by [an FMTF]." DWC adopts these rules to implement SB 935.

**SUMMARY OF COMMENTS AND AGENCY RESPONSE**

DWC received two comments on the proposed rules. The Insurance Council of Texas and the Office of Injured Employee Counsel both commented in support.

A commenter suggested that §134.150(e) be amended to avoid confusion by using "extent of injury" in place of "extent." DWC agrees with the suggestion, and the rule has been amended as suggested.

One commenter requested that §134.155 be amended to specifically provide an injured employee with an opportunity to request an expedited contested case hearing. Currently, parties to a dispute, including injured employees, are entitled to request an expedited benefit review conference or contested case hearing under §140.3 (concerning Expedited Proceedings). This provision will also apply to FMTF disputes. Section 134.155(b) specifically provides that Chapter 140 applies to FMTF disputes. No change was made in response to this comment.

A commenter requested that DWC clarify whether an injured employee, who may be a requestor in a medical necessity dispute, needs to request reconsideration in order to pursue independent review of an adverse medical necessity determination. In response to this comment, §134.155(a)(1) has been amended to provide that, notwithstanding Chapter 133, Subchapter D (concerning Dispute of Medical Bills), an injured employee is not required to request reconsideration prior to requesting medical dispute resolution.

**STATUTORY AUTHORITY**

The new rule is adopted as authorized by Texas Labor Code §§402.0011, 402.00116, 402.021, 402.061, 408.021, and 413.0112. Section 402.0011 provides that the commissioner of workers' compensation shall exercise all executive authority under Title 5 of the Labor Code. Section 402.00116 provides that the commissioner is the chief executive and administrative officer of the agency with all of the powers and duties vested under the Workers' Compensation Act. Section 402.021 provides that two basic goals of the Texas workers' compensation system are to ensure that each employee has access to prompt, high-quality medical care and to establish a fair and accessible dispute resolution process. Section 402.061 provides that the commissioner shall adopt rules as necessary for the implementation and enforcement of the Act. Section 408.021 provides
that an injured employee who sustains a compensable injury is entitled to all health care reasonably required by the nature of the injury. Section 413.0112 provides that the reimbursement rates for medical services provided to an injured employee by an FMTF must be the amount charged and requires that the commissioner adopt rules necessary to implement this section. The adopted rules support the implementation of the Workers' Compensation Act, Texas Labor Code Title 5, Subtitle A.

§134.150. Reimbursement of Services Provided by a Federal Military Treatment Facility.

(a) This section applies, regardless of the date of injury, to medical services provided to an injured employee by an FMTF as defined in Labor Code §413.0112(a) (related to Reimbursement of Federal Military Treatment Facility).

(b) Reimbursement for medical services provided to an injured employee shall be the amount of the FMTF's charges as determined under Title 32, Code of Federal Regulations, Part 220 (concerning Collection of Reasonable Charges for Healthcare Services). Additionally, charges may include interest, administrative penalties, or collection fees related to medical benefits.

(c) An FMTF is not required to comply with health care provider billing or preauthorization requirements in Chapters 133 (concerning General Medical Provisions) and 134 (concerning Benefits--Guidelines for Medical Services, Charges, and Payments) of this title. An insurance carrier shall process a medical bill from an FMTF and make payment in accordance with Chapters 133 and 134, except as provided in Labor Code §413.0112. The insurance carrier shall contact the FMTF to obtain any information necessary to process a medical bill and document the name and telephone number of the person who supplied the information.

(d) Notwithstanding the requirements of Chapter 133, an insurance carrier shall process professional and institutional medical services submitted on a single bill by an FMTF. An insurance carrier shall independently determine that a medical bill is eligible for payment based on the explanation of benefits form.

(e) The insurance carrier may only deny payment of medical services provided by an FMTF for reasons of medical necessity, compensability, extent of injury, or liability.

(f) An insurance carrier shall forward to the division, within 14 calendar days of receipt, in the form and manner prescribed by the division, the first medical bill for an injured employee that it receives from an FMTF.

(g) An insurance carrier shall report FMTF medical bills in accordance with Chapter 134, Subchapter 1 of this title. FMTF medical bills are subject to §102.9 of this title (concerning Submission of Information Requested by the Commission) including medical bills not reported in accordance with §134.806(a)(3) (concerning Records Excluded from Reporting).

§134.155. Federal Military Treatment Facility Disputes.

(a) Disputes over charges billed by a federal military treatment facility (FMTF):

(1) If an insurance carrier denies payment of a medical bill based on medical necessity, the medical necessity dispute shall be initiated under §133.308 of this title (concerning MDR of Medical Necessity Disputes):

(A) Notwithstanding Chapter 133, Subchapter D, of this title (concerning Dispute of Medical Bills), an injured employee is not required to request reconsideration prior to requesting medical dispute resolution;

(B) Notwithstanding §133.308(f)(2)(B), an injured employee may be a requestor in a medical necessity dispute, and

(C) Notwithstanding §133.308(q), the insurance carrier shall pay all independent review organization fees.

(2) For all other disputes, a party may request a benefit review conference as described under Chapter 141 of this title (concerning Dispute Resolution--Benefit Review Conference).

(b) Except as provided in this section, an FMTF dispute will be conducted in accordance with the division's rules for dispute resolution in §133.308 or Chapters 140 - 147 of this title.

(c) In accordance with Labor Code §504.055 (relating to Expedited Provision of Medical Benefits for Certain Injuries Sustained by First Responders in Course and Scope of Employment) a request for an FMTF dispute that involves a first responder's request for payment of medical expenses will be accelerated by the division and given priority. A first responder shall provide notice to the division that the request involves a first responder.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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Texas Department of Insurance, Division of Workers' Compensation
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