

OCCUPATIONS CODE

TITLE 2. GENERAL PROVISIONS RELATING TO LICENSING

CHAPTER 51. TEXAS DEPARTMENT OF LICENSING AND REGULATION

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 51.001. DEFINITIONS. In this chapter:

(1) "Advisory board" means a board, committee, council, or other entity with multiple members that has as its primary function advising the commission or department.

(1-a) "Commission" means the Texas Commission of Licensing and Regulation.

(2) "Department" means the Texas Department of Licensing and Regulation.

(3) "License" means a license, certificate, registration, title, or permit issued by the department.

(4) "License holder" means a person who holds a license issued by the department.

(5) "Respondent" means a person, regardless of whether the person is a license holder, who is charged with violating a law establishing a regulatory program administered by the department or a rule adopted or order issued by the commission or executive director.

(6) "Sanction" means an action by the executive director against a license holder or another person, including the denial, suspension, or revocation of a license, the reprimand of a license holder, or the placement of a license holder on probation.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 836, Sec. 6, eff. June 14, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 669 (H.B. [2310](#)), Sec. 1, eff. September 1, 2009.

Sec. 51.002. APPLICATION OF SUNSET ACT. (a) The Texas Commission of Licensing and Regulation and the Texas Department of Licensing and Regulation are subject to Chapter [325](#), Government Code (Texas Sunset Act). Unless continued in existence as provided

by that chapter, the commission and the department are abolished September 1, 2021.

(b) The review of the commission and department by the Sunset Advisory Commission under this section may not include a review of any program that was transferred to the department on or after September 1, 2016.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 816, Sec. 1.001, eff. Sept. 1, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1232 (S.B. 652), Sec. 4.05, eff. June 17, 2011.

Acts 2017, 85th Leg., R.S., Ch. 282 (H.B. 3078), Sec. 1, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 596 (S.B. 619), Sec. 1.03, eff. June 10, 2019.

For expiration of this section, see Subsection (b).

Sec. 51.0021. SUNSET REVIEW OF TRANSFERRED PROGRAMS. (a) Separate from the review of the commission and department required under Section 51.002, the commission and department are subject to a limited review under Chapter 325, Government Code (Texas Sunset Act), of the programs transferred to the department on or after September 1, 2016. The review shall be conducted during the period in which state agencies abolished in 2023 are reviewed.

(b) This section expires September 1, 2023.

Added by Acts 2019, 86th Leg., R.S., Ch. 596 (S.B. 619), Sec. 2.07, eff. June 10, 2019.

Sec. 51.003. APPLICABILITY. This chapter applies to each regulatory program administered by the department, including any program under which a license is issued by the department.

Added by Acts 2003, 78th Leg., ch. 816, Sec. 1.002, eff. Sept. 1, 2003.

#### SUBCHAPTER B. DEPARTMENT AND COMMISSION

Sec. 51.051. TEXAS DEPARTMENT OF LICENSING AND REGULATION.

(a) The Texas Department of Licensing and Regulation is the primary state agency responsible for the oversight of businesses, industries, general trades, and occupations that are regulated by the state and assigned to the department by the legislature.

(b) The department is governed by the commission.  
Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 836, Sec. 7, eff. June 14, 2001.

Sec. 51.052. APPOINTMENT OF COMMISSION. (a) The commission consists of seven members appointed by the governor with the advice and consent of the senate.

(b) Appointments to the commission shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 816, Sec. 1.003, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1170, Sec. 25.01, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 728 (H.B. [2018](#)), Sec. 15.001(b), eff. September 1, 2005.

Sec. 51.053. COMMISSION MEMBERSHIP; ELIGIBILITY. (a) Each member of the commission must be a representative of the general public.

(b) A person is not eligible for appointment as a member of the commission if the person or the person's spouse:

(1) is regulated by the department;

(2) is employed by or participates in the management of a business entity or other organization regulated by or receiving funds from the department;

(3) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by or receiving funds from the department;

(4) uses or receives a substantial amount of tangible goods, services, or funds from the department, other than compensation or reimbursement authorized by law for commission membership, attendance, or expenses; or

(5) is an employee of the department.

(c) Repealed by Acts 2003, 78th Leg., ch. 816, Sec. 1.026. Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 836, Sec. 8, eff. June 14, 2001; Acts 2003, 78th Leg., ch. 816, Sec. 1.004, 1.026, eff. Sept. 1, 2003.

Sec. 51.0535. CONFLICT OF INTEREST. (a) In this section, "Texas trade association" means a cooperative and voluntarily joined statewide association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(b) A person may not be a member of the commission and may not be a department employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), and its subsequent amendments, if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in a field regulated by the department; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in a field regulated by the department.

(c) A person may not be a member of the commission or act as the general counsel to the commission or the department if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the department.

Added by Acts 2003, 78th Leg., ch. 816, Sec. 1.005, eff. Sept. 1, 2003.

Sec. 51.054. TRAINING. (a) A person who is appointed to and qualifies for office as a member of the commission may not vote, deliberate, or be counted as a member in attendance at a meeting of the commission until the person completes a training program that

complies with this section.

(b) The training program must provide the person with information regarding:

(1) the legislation that created the department and the commission;

(2) the programs operated by the department;

(3) the role and functions of the department;

(4) the rules of the department, with an emphasis on the rules that relate to disciplinary and investigatory authority;

(5) the current budget for the department;

(6) the results of the most recent formal audit of the department;

(7) the requirements of:

(A) the open meetings law, Chapter 551, Government Code;

(B) the public information law, Chapter 552, Government Code;

(C) the administrative procedure law, Chapter 2001, Government Code; and

(D) other laws relating to public officials, including conflict-of-interest laws; and

(8) any applicable ethics policies adopted by the department or the Texas Ethics Commission.

(c) A person appointed to the commission is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

Added by Acts 2003, 78th Leg., ch. 816, Sec. 1.006, eff. Sept. 1, 2003.

Sec. 51.055. TERMS; VACANCY. (a) Members of the commission serve staggered six-year terms. The terms of two or three members expire on February 1 of each odd-numbered year.

(b) If a vacancy occurs during a member's term, the governor shall appoint a replacement to fill the unexpired term.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended

by Acts 2003, 78th Leg., ch. 816, Sec. 1.007, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1170, Sec. 25.02, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 15.001, eff. September 1, 2005.

Sec. 51.056. PRESIDING OFFICER. (a) The governor shall designate a member of the commission as the presiding officer of the commission to serve in that capacity at the pleasure of the governor.

(b) The presiding officer may vote on all matters before the commission as provided by Robert's Rules of Order.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 836, Sec. 9, eff. June 14, 2001; Acts 2003, 78th Leg., ch. 816, Sec. 1.008, eff. Sept. 1, 2003.

Sec. 51.057. GROUNDS FOR REMOVAL. (a) It is a ground for removal from the commission that a member:

(1) does not have at the time of taking office the qualifications required by Section 51.053;

(2) does not maintain during service on the commission the qualifications required by Section 51.053;

(3) is ineligible for membership under Section 51.0535;

(4) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term; or

(5) is absent from more than half of the regularly scheduled commission meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the commission.

(b) The validity of an action of the commission is not affected by the fact that it is taken when a ground for removal of a commission member exists.

(c) If the executive director has knowledge that a potential ground for removal exists, the executive director shall notify the presiding officer of the commission of the potential ground. The

presiding officer shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the executive director shall notify the next highest ranking officer of the commission, who shall then notify the governor and the attorney general that a potential ground for removal exists.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 836, Sec. 10, eff. June 14, 2001; Acts 2003, 78th Leg., ch. 816, Sec. 1.009, eff. Sept. 1, 2003.

Sec. 51.058. COMPENSATION; REIMBURSEMENT. (a) A commission member may not receive compensation for service on the commission.

(b) A commission member is entitled to reimbursement for actual and necessary expenses incurred in performing functions as a commission member, subject to any applicable limitation on reimbursement provided by the General Appropriations Act.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 51.059. MEETINGS. (a) The commission shall meet at least once in each quarter of the fiscal year.

(b) The commission may meet at other times at the call of the presiding officer or as provided by commission rules.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 836, Sec. 11, eff. June 14, 2001.

Sec. 51.060. CIVIL LIABILITY. A member of the commission is not liable in a civil action for an act performed in good faith while performing duties as a commission member.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

#### SUBCHAPTER C. EXECUTIVE DIRECTOR AND OTHER DEPARTMENT PERSONNEL

Sec. 51.101. EXECUTIVE DIRECTOR. The commission shall appoint the executive director of the department. The executive director serves at the will of the commission.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended

by Acts 2001, 77th Leg., ch. 836, Sec. 13, eff. June 14, 2001.

Sec. 51.103. EXECUTIVE DIRECTOR POWERS AND DUTIES. (a) The executive director shall:

(1) perform any duties assigned by the commission and other duties specified by law;

(2) administer and enforce the department's programs; and

(3) issue licenses authorized by the laws establishing programs regulated by the department.

(b) The executive director may delegate any power or duty assigned to the executive director unless prohibited by statute or rule.

(c) The executive director may:

(1) impose sanctions and issue orders relating to a sanction as provided by Section 51.353; and

(2) assess an administrative penalty or issue an order relating to an administrative penalty as authorized by a law establishing a program regulated by the department or as provided by Sections 51.301 and 51.302.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 836, Sec. 14, eff. June 14, 2001.

Sec. 51.104. PERSONNEL. The executive director may employ persons to perform the department's work and may prescribe their duties and compensation, subject to the personnel policies adopted by the commission and the commission's approval of the budget.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 836, Sec. 15, eff. June 14, 2001.

Sec. 51.105. DIVISION OF RESPONSIBILITIES. The commission shall develop and implement policies that clearly separate the policy-making responsibilities of the commission and the management responsibilities of the executive director and the staff of the department.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 836, Sec. 16, eff. June 14, 2001; Acts



2003, 78th Leg., ch. 816, Sec. 1.010, eff. Sept. 1, 2003.

Sec. 51.106. INFORMATION ON STANDARDS OF CONDUCT. The executive director or the executive director's designee shall provide to members of the commission and to department employees, as often as necessary, information regarding the requirements for office or employment under this chapter, including information regarding a person's responsibilities under applicable laws relating to standards of conduct for state officers or employees.

Added by Acts 2003, 78th Leg., ch. 816, Sec. 1.011, eff. Sept. 1, 2003.

Sec. 51.107. CAREER LADDER PROGRAM; PERFORMANCE EVALUATIONS. (a) The executive director shall develop a career ladder program. The program must require intra-agency postings of all nonentry level positions concurrently with any public posting.

(b) The executive director shall develop a system of employee performance evaluations. The system must require that evaluations be conducted at least annually. All merit pay for department employees must be based on the system established under this subsection.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 836, Sec. 17, eff. June 14, 2001.

Sec. 51.108. EQUAL EMPLOYMENT OPPORTUNITY POLICY. (a) The executive director or the executive director's designee shall prepare and maintain a written policy statement that implements a program of equal employment opportunity to ensure that all personnel decisions are made without regard to race, color, disability, sex, religion, age, or national origin.

(b) The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, training, and promotion of personnel, that show the intent of the department to avoid the unlawful employment practices described by Chapter 21, Labor Code; and

(2) an analysis of the extent to which the composition

of the department's personnel is in accordance with state and federal law and a description of reasonable methods to achieve compliance with state and federal law.

(c) The policy statement must:

(1) be updated annually;

(2) be reviewed by the state Commission on Human Rights for compliance with Subsection (b)(1); and

(3) be filed with the governor's office.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 836, Sec. 18, eff. June 14, 2001; Acts 2003, 78th Leg., ch. 816, Sec. 1.012, eff. Sept. 1, 2003.

#### SUBCHAPTER D. POWERS AND DUTIES

Sec. 51.201. GENERAL POWERS AND DUTIES OF COMMISSION. (a)

The commission shall:

(1) supervise the executive director's administration of the department;

(2) formulate the policy objectives for the department; and

(3) approve the department's operating budget and the department's requests for legislative appropriations.

(b) The commission:

(1) may adopt rules as necessary for its own procedures; and

(2) shall adopt rules as necessary to implement this chapter.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 836, Sec. 19, eff. June 14, 2001.

Sec. 51.202. FEES. (a) The commission shall set fees, in amounts reasonable and necessary to cover the costs of administering the programs or activities, for:

(1) licenses issued by the department;

(2) license renewals and late renewals;

(3) examinations; and

(4) any other program or activity administered by the

department for which a fee is authorized.

(b) The executive director by rule may provide for prorating fees for the issuance of a license, so that a person regulated by the department pays only that portion of the applicable fee that is allocable to the number of months during which the license is valid.

(c) The executive director shall develop cost management procedures that enable the commission to determine with reasonable accuracy the cost to the department of each program and activity for which a fee is charged.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 836, Sec. 20, eff. June 14, 2001.

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

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

- (1) the length of a license term, not to exceed two years;
- (2) a fee for the issuance or renewal of a license; and
- (3) any continuing education required to renew a license.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 836, Sec. 21, eff. June 14, 2001; Acts 2003, 78th Leg., ch. 816, Sec. 1.014, eff. Sept. 1, 2003.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1144 (H.B. [2847](#)), Sec. 7.001, eff. September 1, 2019.

Sec. 51.2031. RULES REGARDING HEALTH-RELATED PROGRAMS; PROVISION OF INFORMATION. (a) This section applies only to the regulation of the following professions by the department:

- (1) athletic trainers;
- (2) behavior analysts;

- (3) dietitians;
- (4) hearing instrument fitters and dispensers;
- (5) midwives;
- (6) orthotists and prosthetists; and
- (7) speech-language pathologists and audiologists.

(a-1) The commission may not adopt a new rule relating to the scope of practice of or a health-related standard of care for a profession to which this section applies unless the rule has been proposed by the advisory board established for that profession. The commission shall adopt rules prescribing the procedure by which an advisory board may propose rules described by this subsection.

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

(b) The commission shall adopt rules clearly specifying the manner in which the department and commission will solicit input from, and on request provide information to, an advisory board established for a profession to which this section applies regarding the general investigative, enforcement, or disciplinary procedures of the department or commission.

Added by Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. [202](#)), Sec. 1.001, eff. September 1, 2015.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 1156 (S.B. [589](#)), Sec. 1, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 1144 (H.B. [2847](#)), Sec. 7.002, eff. September 1, 2019.

Sec. 51.2032. RULES REGARDING PODIATRY; PROVISION OF INFORMATION. (a) In this section, "advisory board" means the Podiatric Medical Examiners Advisory Board.

(b) The commission may not adopt a new rule relating to the scope of practice of, a health-related standard of care for, or the ethical practice of the profession of podiatry unless the rule has

been proposed by the advisory board. The commission shall adopt rules prescribing the procedure by which the advisory board may propose rules described by this subsection.

(c) For each rule proposed under Subsection (b), the commission shall either adopt the rule as proposed or return the rule to the advisory board for revision. The commission retains authority for final adoption of all rules and is responsible for ensuring compliance with all laws regarding the rulemaking process.

(d) The commission shall adopt rules clearly specifying the manner in which the department and commission will solicit input from, and on request provide information to, the advisory board regarding:

(1) continuing education requirements; and

(2) the general investigative, enforcement, or disciplinary procedures of the department or commission.

Added by Acts 2017, 85th Leg., R.S., Ch. 282 (H.B. 3078), Sec. 2, eff. September 1, 2017.

Sec. 51.204. RULES RESTRICTING ADVERTISING OR COMPETITIVE BIDDING. (a) The commission may not adopt rules restricting advertising or competitive bidding by a license holder except to prohibit false, misleading, or deceptive practices.

(b) The commission may not include in rules to prohibit false, misleading, or deceptive practices by a license holder a rule that:

(1) restricts the use of any advertising medium;

(2) restricts the license holder's personal appearance or the use of the license holder's voice in an advertisement;

(3) relates to the size or duration of an advertisement; or

(4) restricts the use of a trade name in advertising.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 836, Sec. 22, eff. June 14, 2001; Acts 2003, 78th Leg., ch. 816, Sec. 1.014, eff. Sept. 1, 2003.

Sec. 51.207. USE OF TECHNOLOGY. (a) The commission shall develop and implement a policy requiring the executive director and

department employees to research and propose appropriate technological solutions to improve the department's ability to perform its functions. The technological solutions must:

(1) ensure that the public is able to easily find information about the department on the Internet;

(2) ensure that persons who want to use the department's services are able to:

(A) interact with the department through the Internet; and

(B) access any service that can be provided effectively through the Internet; and

(3) be cost-effective and developed through the department's planning processes.

(b) The department shall provide on its Internet website a link to an Internet website that allows the public to track legislation affecting the programs administered by the department, which may be a website that provides legislative information administered by the Texas Legislature.

(c) The department may satisfy any requirement under this chapter or another law governing a program subject to regulation by the department to provide notice by delivering the notice by e-mail to the recipient's last known e-mail address if the recipient has previously authorized the department to deliver the notice by e-mail. An e-mail address used under this subsection is confidential and is not subject to disclosure under Chapter 552, Government Code.

Added by Acts 2003, 78th Leg., ch. 816, Sec. 1.015, eff. Sept. 1, 2003.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 452 (S.B. 845), Sec. 1, eff. September 1, 2013.

Sec. 51.208. NEGOTIATED RULEMAKING AND ALTERNATIVE DISPUTE RESOLUTION PROCEDURES. (a) The commission shall develop and implement a policy to encourage the use of:

(1) negotiated rulemaking procedures under Chapter 2008, Government Code, for the adoption of department rules; and

(2) appropriate alternative dispute resolution procedures under Chapter 2009, Government Code, to assist in the resolution of internal and external disputes under the department's jurisdiction.

(b) The department's procedures relating to alternative dispute resolution must conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

(c) The commission shall designate a trained person to:

(1) coordinate the implementation of the policy adopted under Subsection (a);

(2) serve as a resource for any training needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and

(3) collect data concerning the effectiveness of those procedures, as implemented by the department.

Added by Acts 2003, 78th Leg., ch. 816, Sec. 1.015, eff. Sept. 1, 2003.

Sec. 51.209. ADVISORY BOARDS; REMOVAL OF ADVISORY BOARD MEMBER. (a) This section applies to any advisory board appointed to advise the commission or department regarding a program subject to regulation by the department.

(b) An advisory board member who was appointed by the presiding officer of the commission with the commission's approval may be removed from the advisory board by the presiding officer with the commission's approval on any of the following grounds:

(1) the member does not have at the time of becoming a member of the advisory board the qualifications required by the law or rule authorizing appointment of the member;

(2) the member does not maintain during service on the advisory board the qualifications required by the law or rule authorizing appointment of the member;

(3) the member cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term;

(4) the member is absent from more than half of the regularly scheduled advisory board meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the advisory board; or

(5) the member is unfit to continue serving on the advisory board.

(c) The validity of an action of an advisory board is not affected by the fact that it is taken when a ground for removal of a member exists.

Added by Acts 2009, 81st Leg., R.S., Ch. 669 (H.B. 2310), Sec. 2, eff. September 1, 2009.

Sec. 51.210. METHOD OF MAKING PAYMENTS. (a) The commission may authorize payment of regulatory fees, fines, penalties, and charges for goods and services through:

(1) an electronic payment method; or

(2) a credit card issued by a financial institution chartered by a state or the United States or issued by a nationally recognized credit organization approved by the commission.

(b) A payment by a method under this section may be made in person, by telephone, or through the Internet.

(c) The commission may require a person who makes a payment to the department through an electronic payment method or credit card to pay a discount or service charge in an amount reasonable and necessary to reimburse the commission for the costs involved in processing the payment.

(d) The commission may adopt rules as necessary to implement this section.

Added by Acts 2009, 81st Leg., R.S., Ch. 669 (H.B. 2310), Sec. 2, eff. September 1, 2009.

#### SUBCHAPTER E. PUBLIC INTEREST INFORMATION AND COMPLAINT PROCEDURES

Sec. 51.251. PUBLIC INTEREST INFORMATION. (a) The department shall prepare information of public interest describing the functions of the commission and department and the procedures by which complaints are filed with and resolved by the commission or



executive director.

(b) The department shall make the information available to the public and appropriate state agencies.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 836, Sec. 24, eff. June 14, 2001.

Sec. 51.252. COMPLAINTS. (a) The executive director shall establish methods by which consumers and service recipients are notified of the name, mailing address, and telephone number of the department for the purpose of directing complaints to the department. The department shall provide to the person filing the complaint and to each person who is a subject of the complaint information about the department's policies and procedures relating to complaint investigation and resolution.

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

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

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

(3) the subject matter of the complaint;

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

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

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

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

(c) The department, at least quarterly and until final disposition of the complaint, shall notify the person filing the complaint and each person who is a subject of the complaint of the status of the investigation unless the notice would jeopardize an undercover investigation.

(d) The commission shall adopt a procedure for documenting complaints to the department from the time of the submission of the initial complaint to the final disposition of the complaint. The commission shall publish the procedure in the Texas Register.

Text of subsection as added by Acts 2019, 86th Leg., R.S., Ch. 289  
(H.B. 2452), Sec. 1

(e) The department may contract with a qualified individual to assist the department with reviewing or investigating complaints filed with the department. Except for an act of the individual involving fraud, conspiracy, or malice, an individual with whom the department contracts under this subsection is immune from liability and may not be subject to a suit for damages for any act arising from the performance of the individual's duties in:

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

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

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

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

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

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

Text of subsection as added by Acts 2019, 86th Leg., R.S., Ch. 1144  
(H.B. 2847), Sec. 7.003

(e) The department may contract with a qualified individual, including an advisory board member unless otherwise prohibited by law, to assist the department with reviewing or investigating complaints filed with the department. Except for an act of the individual involving fraud, conspiracy, or malice, an individual with whom the department contracts under this subsection is immune from liability and may not be subject to a suit for

damages for any act arising from the performance of the individual's duties in:

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

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

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

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

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

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

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 836, Sec. 25, eff. June 14, 2001; Acts 2003, 78th Leg., ch. 816, Sec. 1.016, eff. Jan. 1, 2004.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 289 (H.B. [2452](#)), Sec. 1, eff. May 29, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1144 (H.B. [2847](#)), Sec. 7.003, eff. September 1, 2019.

Sec. 51.253. PUBLIC PARTICIPATION. (a) The commission shall develop and implement policies that provide the public with a reasonable opportunity to appear before the commission and to speak on any issue under the commission's jurisdiction.

(b) The commission shall prepare and maintain a written plan that describes how a person who does not speak English or who has a physical, mental, or developmental disability may be provided reasonable access to the commission's programs.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

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

(1) "Disciplinary action" includes, with respect to any person subject to regulation by the department or the

commission:

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

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

(2) "Patient" includes:

(A) a patient;

(B) a client; and

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

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

(1) athletic trainers regulated under Chapter 451;

(2) behavior analysts regulated under Chapter 506;

(3) dietitians regulated under Chapter 701;

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

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

(6) massage therapists regulated under Chapter 455;

(7) midwives regulated under Chapter 203;

(8) orthotists and prosthetists regulated under Chapter 605;

(9) podiatrists regulated under Chapter 202; and

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

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

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

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

(d) A complaint or investigation subject to this section and all information and materials subpoenaed or compiled by the

department in connection with the complaint and investigation may be disclosed to:

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

(2) a respondent or the respondent's authorized representative;

(3) a governmental agency, if:

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

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

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

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

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

(7) a law enforcement agency; and

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

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

(f) The department may not be compelled to release or disclose complaint and investigation information or materials to a person listed in Subsection (d) if the department has not issued a notice of alleged violation related to the information or materials.

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

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

- (1) initiates the disciplinary action;
- (2) is a witness in the disciplinary action; or
- (3) has submitted a written consent to release the records.

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

Added by Acts 2019, 86th Leg., R.S., Ch. 1144 (H.B. 2847), Sec. 7.004, eff. September 1, 2019.

#### SUBCHAPTER F. ADMINISTRATIVE PENALTY

Sec. 51.301. IMPOSITION OF PENALTY. The executive director or commission may impose an administrative penalty against a person who violates:

- (1) a law establishing a regulatory program administered by the department; or
- (2) a rule adopted or order issued by the executive director or commission.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 836, Sec. 26, eff. June 14, 2001.

Sec. 51.302. AMOUNT OF PENALTY. (a) If the relevant law establishing a program regulated by the department does not state the maximum amount of an administrative penalty under that law, the amount of the penalty shall be assessed by the commission or executive director in an amount that may not exceed \$5,000 per day for each violation. Each day a violation continues or occurs is a separate violation for purposes of imposing a penalty.

(b) The amount of the penalty shall be based on:

- (1) the seriousness of the violation;

- (2) the respondent's history of previous violations;
- (3) the amount necessary to deter a future violation;
- (4) efforts made by the respondent to correct the violation; and

- (5) any other matter that justice may require.

(c) The commission shall by rule or by procedure published in the Texas Register establish a written enforcement plan that provides notice to license holders of the specific ranges of penalties that apply to specific alleged violations and the criteria by which the department determines the amount of a proposed administrative penalty.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 836, Sec. 27, eff. June 14, 2001; Acts 2003, 78th Leg., ch. 816, Sec. 1.017, eff. Sept. 1, 2003.

Sec. 51.3025. IMPOSITION OF SANCTION. A proceeding under this subchapter imposing an administrative penalty may be combined with a proceeding to impose an administrative sanction. If a sanction is imposed in a proceeding under this subchapter, the requirements of this subchapter apply to the imposition of the sanction.

Added by Acts 2001, 77th Leg., ch. 836, Sec. 28, eff. June 14, 2001.

Sec. 51.303. NOTICE OF VIOLATION AND PENALTY. If, after investigation of a possible violation and the facts surrounding the possible violation, the department determines that a violation occurred, the department shall issue to the respondent a notice of alleged violation stating:

- (1) a brief summary of the alleged violation;
- (2) the amount of the recommended administrative penalty; and

- (3) that the respondent has the right to a hearing to contest the alleged violation, the amount of the penalty, or both.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 836, Sec. 29, eff. June 14, 2001.

Sec. 51.304. PENALTY TO BE PAID OR HEARING REQUESTED. (a)

Not later than the 20th day after the date the respondent receives the notice, the respondent may:

(1) accept the department's determination and recommended administrative penalty; or

(2) make a written request for a hearing on that determination.

(b) If the respondent accepts the department's determination, the executive director by order shall approve the determination and require the person to pay the recommended penalty.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 836, Sec. 30, eff. June 14, 2001.

Sec. 51.305. HEARING ON RECOMMENDATIONS. (a) If the respondent requests a hearing, the hearing shall be conducted by the State Office of Administrative Hearings.

(b) The State Office of Administrative Hearings shall consider the department's applicable substantive rules and policies when conducting a hearing under this subchapter.

(c) An administrative law judge at the State Office of Administrative Hearings shall:

(1) make findings of fact and conclusions of law; and

(2) promptly issue to the commission a proposal for decision as to the occurrence of the violation and the amount of any proposed administrative penalty.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 836, Sec. 31, eff. June 14, 2001; Acts 2003, 78th Leg., ch. 1215, Sec. 11, eff. Sept. 1, 2003.

Sec. 51.306. DECISION BY COMMISSION. (a) Based on the findings of fact, conclusions of law, and proposal for decision, the commission by order may determine that:

(1) a violation occurred and impose an administrative penalty; or

(2) a violation did not occur.

(b) The department shall give notice of the order to the respondent.



(c) The order under this section must include:

- (1) separate statements of the findings of fact and conclusions of law;
- (2) the amount of any penalty imposed;
- (3) a statement of the right of the respondent to judicial review of the order; and
- (4) any other information required by law.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 836, Sec. 32, eff. June 14, 2001.

Sec. 51.307. OPTIONS FOLLOWING DECISION: PAY OR APPEAL.

(a) Not later than the 30th day after the date the commission's order becomes final, the respondent shall:

- (1) pay the penalty; or
- (2) file a petition for judicial review contesting the order and:

(A) forward the penalty to the department for deposit in an escrow account; or

(B) give the department a supersedeas bond in a form approved by the executive director that:

- (i) is for the amount of the penalty; and
- (ii) is effective until judicial review of the decision is final.

(b) A respondent who is financially unable to comply with Subsection (a)(2) is entitled to judicial review if the respondent files with the court, as part of the respondent's petition for judicial review, a sworn statement that the respondent is unable to meet the requirements of that subsection.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 836, Sec. 33, eff. June 14, 2001.

Sec. 51.308. COLLECTION OF PENALTY. If the person on whom the administrative penalty is imposed violates Section 51.307(a), the department or the attorney general may bring an action to collect the penalty.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 51.309. REMITTANCE OF PENALTY AND INTEREST. (a) If, after judicial review, the administrative penalty is reduced or not imposed, the executive director shall:

(1) remit to the person the appropriate amount, plus accrued interest, if the person paid the amount of the penalty; or

(2) execute a release of the bond, if the person posted a supersedeas bond.

(b) The interest paid under Subsection (a)(1) is accrued at the rate charged on loans to depository institutions by the New York Federal Reserve Bank. The interest shall be paid for the period beginning on the date the penalty is paid to the department and ending on the date the penalty is remitted.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 836, Sec. 34, eff. June 14, 2001.

Sec. 51.310. ADMINISTRATIVE PROCEDURE. (a) The executive director by rule shall prescribe procedures for the determination and appeal of a decision to impose an administrative penalty.

(b) A proceeding under this subchapter to impose an administrative penalty is considered to be a contested case under Chapter 2001, Government Code.

(c) The executive director by rule shall prescribe notice procedures for proceedings under this subchapter that provide for notice by certified mail with electronic return receipt.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 836, Sec. 35, eff. June 14, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 669 (H.B. 2310), Sec. 3, eff. September 1, 2009.

#### SUBCHAPTER G. OTHER PENALTIES AND ENFORCEMENT PROVISIONS

Sec. 51.351. INSPECTIONS AND INVESTIGATIONS. (a) The department may conduct inspections or investigations as necessary to enforce the laws administered by the department.

(b) The department, during reasonable business hours, may:

(1) enter the business premises of a person regulated

by the department or a person suspected of being in violation of or threatening to violate a law establishing a regulatory program administered by the department or a rule or order of the commission or executive director related to a regulatory program administered by the department; and

(2) examine and copy records pertinent to the inspection or investigation.

(c) A department employee may check the license, registration, or endorsement of a person regulated by the Texas State Board of Plumbing Examiners in accordance with the memorandum of understanding under Section [1301.259](#) and report any noncompliance to that agency.

(d) The department shall conduct joint investigations with the Texas State Board of Plumbing Examiners as circumstances require.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 836, Sec. 36, eff. June 14, 2001; Acts 2003, 78th Leg., ch. 819, Sec. 27, eff. Sept. 1, 2003.

Sec. 51.3511. ISSUANCE OF EMERGENCY ORDERS. (a) If the executive director determines that an emergency exists requiring immediate action to protect the public health and safety, the executive director may issue an emergency order to:

(1) suspend or revoke a license or other authorization issued under a program regulated by the department; or

(2) halt operation of an unsafe facility or unsafe equipment that is subject to regulation by the department.

(b) The executive director may issue an emergency order with or without notice and hearing as the executive director considers practicable under the circumstances.

(c) If an emergency order is issued under this section without a hearing, the executive director shall set the time and place for a hearing conducted by the State Office of Administrative Hearings to affirm, modify, or set aside the emergency order not later than the 10th day after the date the order was issued. The order shall be affirmed to the extent that reasonable cause existed to issue the order.

(d) The commission by rule may prescribe procedures for the determination and appeal of an emergency order issued under this section, including a rule allowing the commission to affirm, modify, or set aside a decision made by the State Office of Administrative Hearings under Subsection (c).

(e) A proceeding under this section is a contested case under Chapter 2001, Government Code.

Added by Acts 2009, 81st Leg., R.S., Ch. 669 (H.B. 2310), Sec. 4, eff. September 1, 2009.

Sec. 51.3512. SUBPOENAS. (a) The department may issue a subpoena as provided by this section.

(b) The department may request and, if necessary, compel by subpoena:

(1) the production for inspection and copying of records, documents, and other evidence relevant to the investigation of an alleged violation of this chapter, a law establishing a regulatory program administered by the department, or a rule adopted or order issued by the commission or executive director; and

(2) the attendance of a witness for examination under oath.

(c) A subpoena under this section may be issued throughout this state and may be served by any person designated by the commission or the executive director.

(d) The department, acting through the attorney general, may bring an action to enforce a subpoena issued under this section against a person who fails to comply with the subpoena.

(e) Venue for an action brought under this section is in a district court in:

(1) Travis County; or

(2) any county in which the department may hold a hearing.

(f) The court shall order compliance with the subpoena if the court finds that good cause exists to issue the subpoena.

Added by Acts 2009, 81st Leg., R.S., Ch. 669 (H.B. 2310), Sec. 4, eff. September 1, 2009.

Sec. 51.3513. CEASE AND DESIST ORDER. The executive director may issue a cease and desist order if the executive director determines that the action is necessary to prevent a violation of:

- (1) this chapter;
- (2) a law establishing a regulatory program administered by the department; or
- (3) a rule adopted or order issued by the commission or the executive director.

Added by Acts 2009, 81st Leg., R.S., Ch. 669 (H.B. 2310), Sec. 4, eff. September 1, 2009.

Sec. 51.352. INJUNCTIVE RELIEF; CIVIL PENALTY. (a) The attorney general or the executive director may institute an action for injunctive relief to restrain a violation by and to collect a civil penalty from a person that appears to be in violation of or threatening to violate a law establishing a regulatory program administered by the department or a rule or order of the commission or executive director related to the regulatory program. A civil penalty assessed under this subsection may not exceed \$5,000 per day for each violation.

(b) An action filed under this section must be filed in a district court in Travis County.

(c) The attorney general and the department may recover reasonable expenses incurred in obtaining injunctive relief under this section, including court costs, reasonable attorney's fees, investigative costs, witness fees, and deposition expenses.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 836, Sec. 37, eff. June 14, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 669 (H.B. 2310), Sec. 5, eff. September 1, 2009.

Sec. 51.353. LICENSE DENIAL; ADMINISTRATIVE SANCTIONS. (a) The commission may deny, revoke, suspend, or refuse to renew a license or may reprimand a license holder for a violation of this

chapter, a law establishing a regulatory program administered by the department, or a rule or order of the commission or the executive director.

(b) The commission may place on probation a person whose license is suspended. If a license suspension is probated, the commission may require the person to:

(1) report regularly to the department on matters that are the basis of the probation;

(2) limit practice to the areas prescribed by the commission; or

(3) continue or renew professional education until the person attains a degree of skill satisfactory to the commission in those areas that are the basis for the probation.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 836, Sec. 38, eff. June 14, 2001; Acts 2003, 78th Leg., ch. 816, Sec. 1.018, eff. Sept. 1, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 669 (H.B. [2310](#)), Sec. 6, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 669 (H.B. [2310](#)), Sec. 7, eff. September 1, 2009.

Sec. 51.354. RIGHT TO HEARING; ADMINISTRATIVE PROCEDURE.

(a) A respondent is entitled to a hearing conducted by the State Office of Administrative Hearings if the executive director proposes to deny, suspend, or revoke a license.

(b) A proceeding under this chapter to deny, suspend, or revoke a license is considered to be a contested case under Chapter [2001](#), Government Code.

(c) The executive director by rule shall prescribe notice procedures for a contested case under this chapter that provide for notice by certified mail with electronic return receipt.

(d) Expired.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 836, Sec. 39, eff. June 14, 2001; Acts 2003, 78th Leg., ch. 1215, Sec. 12, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1215, Sec. 16, eff. Sept. 1, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 669 (H.B. [2310](#)), Sec. 8, eff. September 1, 2009.

Sec. 51.355. LICENSE ELIGIBILITY OF PERSON WHOSE LICENSE HAS BEEN REVOKED. (a) Except as otherwise provided by this section, a person whose license has been revoked by order of the commission or executive director is not eligible for a new license until the first anniversary of the date of the revocation.

(b) Notwithstanding Subsection (a), a person whose license has been revoked by order of the commission or executive director is eligible to apply for a new license before the first anniversary of the date of the revocation if:

(1) the revocation was based solely on the person's failure to pay an administrative penalty; and

(2) the person:

(A) has paid the administrative penalty in full;

or

(B) is paying the administrative penalty under a payment plan with the department and is in good standing with respect to that plan.

Added by Acts 2009, 81st Leg., R.S., Ch. 669 (H.B. [2310](#)), Sec. 9, eff. September 1, 2009.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 765 (H.B. [1342](#)), Sec. 1, eff. September 1, 2019.

Sec. 51.356. DEFERRED ADJUDICATION; LICENSE SUSPENSION, LICENSE REVOCATION, OR DENIAL OR REFUSAL TO RENEW LICENSE. (a) The commission may deny, suspend, revoke, or refuse to renew a license or other authorization issued by a program regulated by the department if:

(1) the person holding or seeking the license received deferred adjudication for:

(A) any offense described by Article [62.001\(5\)](#), Code of Criminal Procedure; or

(B) an offense other than an offense described by

Paragraph (A) if:

(i) the person has not completed the period of deferred adjudication or the person completed the period of deferred adjudication less than five years before the date the person applied for the license; or

(ii) a conviction for the offense would make the person ineligible for the license by operation of law; and

(2) the commission determines that the deferred adjudication makes the person unfit for the license.

(b) In making a determination under Subsection (a)(2), the commission shall consider the factors set forth in Sections 53.022 and 53.023 and the guidelines issued by the department under Section 53.025.

Added by Acts 2009, 81st Leg., R.S., Ch. 669 (H.B. 2310), Sec. 9, eff. September 1, 2009.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 938 (H.B. 1659), Sec. 1, eff. September 1, 2013.

Sec. 51.357. RESTRICTED LICENSES FOR CERTAIN OCCUPATIONS.

(a) As an alternative to denying, revoking, suspending, or refusing to issue or renew a license under Section 51.356 or 51.4012(a) or Chapter 53, the commission or executive director may issue a restricted license to an applicant for a license under:

(1) Chapter 1302; or

(2) Chapter 1305.

(b) The department may impose reasonable conditions on a holder of a restricted license, including requiring the license holder to:

(1) limit the scope or location of the license holder's practice;

(2) be supervised; and

(3) report to the department, including notifying the department promptly of any change in the license holder's supervision.

(c) The department may:

(1) include on the face of a license and in the



department's records a statement:

- (A) that the license is restricted; and
- (B) of any condition of the restricted license;

and

(2) use a distinctive design for a restricted license.

(d) A license holder who supervises the holder of a restricted license shall use reasonable care to ensure that the license holder complies with any condition imposed under this section.

(e) The commission or executive director may impose an administrative penalty or other sanction on the holder of a restricted license or on a license holder who supervises the person for a violation of this section.

Added by Acts 2019, 86th Leg., R.S., Ch. 765 (H.B. 1342), Sec. 2, eff. September 1, 2019.

Sec. 51.358. RESTRICTED LICENSE TERM. (a) A restricted license issued under Section 51.357 is valid for the term provided for an unrestricted license of the same type.

(b) A restricted license may be renewed by complying with the requirements for the renewal of an unrestricted license of the same type.

(c) On the expiration of the term of a restricted license and the receipt by the department of a license renewal application, there is a rebuttable presumption that the applicant is entitled to issuance by the department of an unrestricted license.

(d) The presumption under Subsection (c) may be rebutted by the department's determination that:

(1) the applicant failed to comply with any condition imposed under Section 51.357;

(2) the applicant is not in good standing with the department; or

(3) issuing an unrestricted license to the applicant would result in an increased risk of harm to any person or property.

Added by Acts 2019, 86th Leg., R.S., Ch. 765 (H.B. 1342), Sec. 2, eff. September 1, 2019.

## SUBCHAPTER H. LICENSE REQUIREMENTS

Sec. 51.401. LICENSE EXPIRATION AND RENEWAL. (a) A person who is otherwise eligible to renew a license may renew an unexpired license by paying the required renewal fee to the department before the expiration date of the license. A person whose license has expired may not engage in activities that require a license until the license has been renewed.

(b) A person whose license has been expired for 90 days or less may renew the license by paying to the department a renewal fee that is equal to 1-1/2 times the normally required renewal fee.

(c) A person whose license has been expired for more than 90 days but less than 18 months may renew the license by paying to the department a renewal fee that is equal to two times the normally required renewal fee. On approval by the executive director, a person whose license has been expired for at least 18 months but less than three years may renew the license by paying to the department a renewal fee equal to two times the normally required renewal fee.

(d) Except as provided by Subsection (c), a person whose license has been expired for 18 months or more may not renew the license. The person may obtain a new license by complying with the requirements and procedures, including the examination requirements, for obtaining an original license.

(e) A person who was licensed in this state, moved to another state, and is currently licensed and has been in practice in the other state for the two years preceding the date of application may obtain a new license without reexamination. The person must pay to the department a fee that is equal to two times the normally required renewal fee for the license.

(f) Not later than the 30th day before the date a person's license is scheduled to expire, the department shall send written notice of the impending expiration to the person at the person's last known address according to the records of the department.

Added by Acts 2003, 78th Leg., ch. 816, Sec. 1.019, eff. Sept. 1, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 133 (H.B. 3287), Sec. 1, eff. September 1, 2011.

Sec. 51.4011. INACTIVE STATUS. (a) The commission may adopt rules to allow a license holder to place a license issued by the department on inactive status by:

(1) submitting, on a form prescribed by the department, an application for inactive status to the department not later than the expiration date of the license; and

(2) paying the required fee.

(b) Except as provided by Subsection (f), a person whose license is on inactive status is not required to complete continuing education required under this chapter, a law establishing a program regulated by the department, or a rule adopted by the commission.

(c) A person whose license is on inactive status may reapply for inactive status before the expiration date of the license. The person must pay the required fee.

(d) A person whose license is on inactive status may not engage in any activity for which the license is required.

(e) A license holder may not employ a person for an activity for which a license is required if the person's license is on inactive status.

(f) A person whose license is on inactive status may return the license to active status by:

(1) applying to the department for active status on a form prescribed by the department;

(2) paying the required fee; and

(3) providing evidence satisfactory to the department that the person has completed the number of hours of continuing education that would otherwise have been required for a renewal of an active license for the preceding license period.

(g) The commission may set fees and adopt rules as necessary to implement this section.

Added by Acts 2009, 81st Leg., R.S., Ch. 669 (H.B. 2310), Sec. 10, eff. May 1, 2010.

Sec. 51.4012. LICENSE ELIGIBILITY REQUIREMENTS REGARDING APPLICANT'S BACKGROUND; DETERMINATION LETTER. (a)

Notwithstanding any other law, the commission may determine that a person is not eligible for a license based on the person's criminal history or other information that indicates that the person lacks the honesty, trustworthiness, and integrity to hold a license issued by the department.

(b) Before applying for a license from the department, a person may request that the department issue a letter determining whether the person would be eligible for a license under Subsection (a) of this section, Section 51.356, or Chapter 53. To obtain a determination letter, a person must file a request on a form prescribed by the department and pay the required fee.

(c) Not later than the 30th day after the date the department makes its determination, the department shall issue the determination letter to the person.

(d) The department has the same powers to investigate a request filed under this section as the department has to investigate a person applying for a license.

(e) A determination letter issued under this section that is adverse to a person does not prevent the person from subsequently applying for a license.

(f) The department is not bound by its determination that the person would be eligible if, after the issuance of the determination letter, the department determines there has been a change in a person's circumstances or discovers a previously undiscovered fact.

(g) A determination under this section is not a contested case under Chapter 2001, Government Code.

Added by Acts 2009, 81st Leg., R.S., Ch. 669 (H.B. 2310), Sec. 10, eff. May 1, 2010.

Sec. 51.4013. LICENSE ELIGIBILITY REQUIREMENTS FOR APPLICANTS WITH MILITARY EXPERIENCE. (a) Notwithstanding any other law, the department shall credit verified military service, training, or education toward the licensing requirements, other than examination requirements, for a license issued by the

department.

(b) The commission shall adopt rules necessary to implement this section.

Added by Acts 2013, 83rd Leg., R.S., Ch. 738 (S.B. 242), Sec. 1, eff. June 14, 2013.

For expiration of this section, see Subsection (e).

Sec. 51.40135. REPORT CONCERNING LICENSE APPLICANTS WHO ARE MILITARY SERVICE MEMBERS, MILITARY VETERANS, OR MILITARY SPOUSES.

(a) In this section, "military service member," "military veteran," and "military spouse" have the meanings assigned by Section 55.001.

(b) The department shall review each type of license issued by the department to an individual to identify the types for which a significant number of military service members, military veterans, or military spouses submit applications.

(c) Not later than December 1, 2020, the department shall submit to the governor, the lieutenant governor, the speaker of the house of representatives, and each legislative standing committee with primary jurisdiction over the department a report on the results of the review and any recommendations related to the efficient issuance of licenses to qualified military service members, military veterans, and military spouses.

(d) The department shall make the report available on the department's Internet website.

(e) This section expires September 1, 2021.

Added by Acts 2019, 86th Leg., R.S., Ch. 1110 (H.B. 2214), Sec. 1, eff. September 1, 2019.

Sec. 51.402. EXAMINATIONS. (a) Not later than the 30th day after the date a person takes a license examination, the department shall notify the person of the results of the examination.

(b) If the examination is graded or reviewed by a testing service:

(1) the department shall notify the person of the results of the examination not later than the 14th day after the date the department receives the results from the testing service;

and

(2) if notice of the examination results will be delayed for longer than 90 days after the examination date, the department shall notify the person of the reason for the delay before the 90th day.

(c) The department may require a testing service to:

(1) notify a person of the results of the person's examination; or

(2) collect a fee for administering a license examination from a person taking the examination.

(d) If requested in writing by a person who fails a license examination, the department shall furnish the person with an analysis of the person's performance on the examination.

Added by Acts 2003, 78th Leg., ch. 816, Sec. 1.019, eff. Sept. 1, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 669 (H.B. 2310), Sec. 11, eff. September 1, 2009.

Sec. 51.403. EXAMINATION FEE REFUND. (a) The department may refund a license examination fee to a person who is unable to take the examination if the person:

(1) provides reasonable advance notice to the department; or

(2) cannot take the examination because of an emergency.

(b) The commission by rule shall define what constitutes reasonable notice and an emergency under this section.

Added by Acts 2003, 78th Leg., ch. 816, Sec. 1.019, eff. Sept. 1, 2003.

Sec. 51.4041. ALTERNATIVE QUALIFICATIONS FOR LICENSE.

(a) The commission, department, or executive director may adopt alternative means of determining or verifying a person's eligibility for a license issued by the department, including evaluating the person's education, training, experience, and military service.

(a-1) Notwithstanding any other law, the alternative means adopted under Subsection (a) may include accepting as sufficient evidence of a person's eligibility for a license relevant education, training, or experience obtained while the person was imprisoned if the person:

(1) previously held a license of the same type for which the person is applying and the license was revoked under Section 53.021(b);

(2) has not been convicted of, placed on deferred adjudication for, or entered a plea of guilty or nolo contendere to:

(A) an offense listed in Article 42A.054, Code of Criminal Procedure;

(B) a sexually violent offense, as defined by Article 62.001, Code of Criminal Procedure; or

(C) an offense under Chapter 21 or 43, Penal Code; and

(3) while imprisoned, maintained a record of good behavior and:

(A) successfully participated in a program acceptable to the department to prepare the person for reentry into the workforce in the occupation for which the person seeks a license; or

(B) performed work on a regular basis in the occupation for which the person seeks a license.

(b) Notwithstanding any other law, the commission or the executive director may waive any prerequisite for obtaining a license if the applicant currently holds a similar license issued by another jurisdiction that:

(1) has requirements for the license that are substantially equivalent to those of this state; or

(2) has a reciprocity agreement with this state for the license.

(c) The department, with approval of the governor, may enter into an agreement with another state to allow for licensing by reciprocity.

Added by Acts 2015, 84th Leg., R.S., Ch. 586 (H.B. 3742), Sec. 1, eff. September 1, 2015.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 765 (H.B. 1342), Sec. 3, eff. September 1, 2019.

Sec. 51.405. CONTINUING EDUCATION. The commission shall recognize, prepare, or administer continuing education programs for license holders. A license holder must participate in the programs to the extent required by the commission to keep the person's license.

Added by Acts 2003, 78th Leg., ch. 816, Sec. 1.019, eff. Sept. 1, 2003.

Sec. 51.406. STAGGERED RENEWAL OF LICENSES. The commission by rule may adopt a system under which licenses expire on various dates during the year. For the year in which the license expiration date is changed, the department shall prorate license fees on a monthly basis so that each license holder pays only that portion of the license fee that is allocable to the number of months during which the license is valid. On renewal of the license on the new expiration date, the total license renewal fee is payable.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Renumbered from Occupations Code, Sec. 51.205 and amended by Acts 2003, 78th Leg., ch. 816, Sec. 1.020, eff. Sept. 1, 2003.

Sec. 51.407. TEMPORARY LICENSE. (a) The commission by rule may provide for the issuance of a temporary license to an applicant who:

(1) submits to the executive director an application on a form prescribed by the executive director;

(2) meets preliminary qualifications established by commission rule; and

(3) pays any required fees.

(b) A temporary license issued under this section expires on the 21st day after the date of issuance and may not be renewed.

(c) A temporary license holder is subject to:

(1) this chapter;

(2) any law applicable to the activity for which the



license is required; and

(3) any rule of the commission or the executive director applicable to the license.

Added by Acts 2009, 81st Leg., R.S., Ch. 669 (H.B. 2310), Sec. 12, eff. September 1, 2009.

Sec. 51.408. EMERGENCY LICENSE. (a) The executive director may issue an emergency license to a person who meets eligibility requirements provided by:

(1) a law establishing a regulatory program administered by the department; or

(2) a rule adopted to implement this section.

(b) An emergency license issued under this section expires on the date indicated by the executive director, but not later than the 90th day after the date the license is issued. If the governor declares an extended state of disaster under Section 418.014, Government Code, the executive director may extend the term of an emergency license to an expiration date after the 90th day after the date the license was issued.

(c) The emergency license holder may engage in the activities authorized by the type of license only:

(1) during a period in which a state of disaster has been declared and the following recovery period; and

(2) in an area designated as a disaster area under Chapter 418, Government Code.

Added by Acts 2009, 81st Leg., R.S., Ch. 669 (H.B. 2310), Sec. 12, eff. September 1, 2009.

#### SUBCHAPTER I. TELEPHONE INFORMATION SYSTEM

Sec. 51.451. DEFINITION. In this subchapter, "licensing entity" means a department, commission, board, office, authority, or other agency or governmental entity of this state that issues an occupational license.

Added by Acts 2003, 78th Leg., ch. 816, Sec. 1.021, eff. Sept. 1, 2003.

Sec. 51.452. TELEPHONE INFORMATION SYSTEM. The department shall establish and operate a toll-free telephone information system to provide assistance and referral services for persons who inquire about a program regulated by a licensing entity.

Added by Acts 2003, 78th Leg., ch. 816, Sec. 1.021, eff. Sept. 1, 2003.