

# TEXAS MEDICAL BOARD

## Issue 1

*Untargeted Inspections and Unclear Statutory Authority Limit the Effectiveness of Pain Management Clinic Regulation.*

### Change in Statute

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| <b>Rec. 1.1, Adopted</b>  | Authorize the Medical Board to seek court enforcement of its administrative subpoenas.  |
| <b>Rec. 1.2, Adopted</b>  | Amend the pain management clinic statute to clarify the definition of “inappropriate prescribing.”  |
| <b>Rec. 1.3, Modified</b> | Clarify statute to authorize the Medical Board to inspect an unregistered pain management clinic. Require the Medical Board’s rules regarding the grounds for inspecting a clinic not registered as a pain management clinic with the board to define the types of prescribing activity that would warrant a Medical Board inspection of the clinic. Specifically, the rules should establish the population of patients served at the clinic, the volume and combination of drugs prescribed to patients served at the clinic, and any other criteria the board deems necessary to require a medical board inspection of the clinic. |

### Management Action

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| <b>Rec. 1.4, Adopted</b> | Direct the Medical Board to use Prescription Monitoring Program data, along with other factors, to establish a risk-based approach to scheduling pain management clinic inspections. |
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## Issue 2

*Key Elements of the Texas Medical Board’s Licensing and Regulatory Functions Do Not Conform to Common Licensing Standards.*

### Change in Statute

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| <b>Rec. 2.1, Adopted</b> | Remove unnecessary provisions regarding good moral character.        |
| <b>Rec. 2.2, Adopted</b> | Remove affidavit requirement for individuals applying for licensure. |

<b>Rec. 2.3, Adopted</b>	Authorize the Medical Board to provide biennial license renewal for all license types.
<b>Rec. 2.4, Not Adopted</b>	Remove the statutory limitations on the Medical Board's authority to set fees.
<b>Rec. 2.5, Adopted</b>	Authorize the board to deny renewal applications from noncompliant applicants.
<b>Rec. 2.6, Adopted</b>	Remove the limitation on the number of times an applicant can take the board's jurisprudence exam.
<b>Rec. 2.7, Adopted</b>	Clarify statute to authorize the board to conduct fingerprint-based criminal background checks of all applicants.
<b>Rec. 2.8, Adopted</b>	Clarify statute and provide direction for the Medical Board to monitor physician and physician assistant prescribing of controlled substances.
<b>Rec. 2.9, Adopted</b>	Authorize the board to establish a risk-based approach to its office-based anesthesia inspection, focusing on the length of time since equipment and procedures were last inspected.
<b>Rec. 2.10, Adopted</b>	Remove the requirement that the Medical Board's formal complaints filed with the State Office of Administrative Hearings be sworn to.

#### Management Action

<b>Rec. 2.11, Adopted</b>	Direct the board to make consumer information available to the public on its website.
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## Issue 3

*Streamlining the Medical Radiologic Technology Program Would Increase Fairness to Licensees and Administrative Efficiency.*

#### Change in Statute

<b>Rec. 3.1, Not Adopted</b>	Abolish the limited medical radiologic technologist certification.
<b>Rec. 3.2, Adopted</b>	Eliminate duplication by removing dual-registry requirements for noncertified technicians.

## Issue 4

*The Current Process for Authorizing Qualified Physicians to Practice in Texas Does Not Maximize Mobility Within the Profession.*

### Change in Statute

**Rec. 4.1, Adopted**      Adopt the Interstate Medical Licensure Compact.

## Issue 5

*An Undefined Structure and Few Funding Sources Limit the Texas Physician Health Program's Success.*

### Change in Statute

**Rec. 5.1, Adopted**      Require the Texas Medical Board and Texas Physician Health Program to develop a memorandum of understanding covering services and operations, including performance measures and auditing requirements.

**Rec. 5.2, Adopted**      Authorize the Texas Physician Health Program to accept gifts, grants, and donations.

## Issue 6

*The State Has a Continuing Need to Regulate the Practice of Medicine and the Other Allied Health Professions at the Texas Medical Board.*

### Change in Statute

**Rec. 6.1, Adopted**      Continue the Texas Medical Board for 12 years.

**Rec. 6.2, Adopted**      Apply the standard Sunset across-the-board recommendations to the medical, physician assistant, acupuncture, respiratory care, and medical radiologic technology boards.

# Adopted New Issues

## ***Prescription Monitoring Program***

*Physician and Physician Assistant Requirements.* Beginning September 1, 2018, require physicians and physician assistants to search the Prescription Monitoring Program and review a patient's prescription history before prescribing opioids, benzodiazepines, barbiturates, or carisoprodol. A physician who does not check the program before prescribing these drugs would be subject to disciplinary action by the Texas Medical Board. A physician assistant who does not check the program before prescribing these drugs would be subject to disciplinary action by the Texas Physician Assistant Board.

*Exemptions.* If the Legislature requires a prescriber to search the Prescription Monitoring Program and review a patient's prescription history before prescribing opioids, benzodiazepines, barbiturates, or carisoprodol, exempt prescribers who prescribe such drugs to a cancer patient or a patient in a hospice setting only if the prescriber includes on the prescription for a cancer patient or a patient in a hospice setting the patient's diagnosis or the basis for the exemption. Including a patient's diagnosis on the prescription would assist with an investigation in the event that nontherapeutic prescribing is suspected.

## ***Physician Assistants***

*License issuance.* Require the Texas Medical Board to process and issue physician assistant licenses within the same amount of time that it takes to issue a physician license. (Management action – nonstatutory)

*Board meetings.* Authorize the Texas Physician Assistant Board, after hearing all evidence and arguments in an open meeting, to conduct deliberations relating to license applications and disciplinary actions in executive sessions. Under this provision, the board would still be required to vote and announce its decisions in open session.

*Informal settlement conferences.* Require at least one of the Texas Physician Assistant Board members participating in an informal settlement conference as a panelist to be a board member who is a licensed physician assistant.

## ***Temporary Licenses for Traveling Sports Physicians***

Direct the Board to develop rules that provide a concise application for a temporary license to a sports physician traveling to Texas with athletic competitors or a team of athletic competitors. These rules would apply to a physician licensed in another state who is treating a UIL, NCAA, or professional athlete or team while the athlete or team is in the state. (Management action – nonstatutory)

### ***Remedial Plans***

Authorize the Medical Board to offer a remedial plan — which is a nondisciplinary action for less serious violations — for a physician at most once every five years, instead of once per lifetime.

### ***Tick-Borne Diseases***

Direct the Texas Medical Board to dedicate one page of its quarterly newsletter bulletin to three topics in continuing medical education that the board considers relevant. The board may change the topics promoted in this portion of its quarterly newsletter bulletin, but at least one of the annual 12 continuing medical education topics must be related to tick-borne diseases, including Lyme disease. (Management action – nonstatutory)

### ***Medical Radiologic Technology***

Hardship exemption. For providers of medical radiologic services located in urban areas, remove the opportunity for an exemption to the requirement that they employ medical radiologic technologists, limited medical radiologic technologists, or non-certified technicians to perform radiologic procedures if unable to attract and retain such individuals for employment.

Radiologist Assistants. Establish in statute an advanced-level medical radiologic technologist (MRT) certificate and define the term “radiologist assistant” as an individual who holds an advanced-level MRT certificate. Require that radiologist assistants only practice under the supervision of a radiologist, and require the Texas Board of Medical Radiologic Technology, with approval of the Texas Medical Board, to adopt rules for education and training, practice restrictions, and supervision levels required for radiologist assistants.

### ***Informal Settlement Conferences***

Expert reviewer reports. As part of an informal settlement conference for a case involving an allegation of a standard of care violation, require the Texas Medical Board to share with the license holder who is the subject of the allegation a complete copy of each preliminary written report produced by each expert physician reviewer for the license holder’s case, not just the final report currently required by law. As part of this provision, require the Medical Board to redact all identifying information of each expert physician reviewer, except the reviewer’s specialty.

Complementary and alternative medicine. As part of their evaluation of whether a physician has committed a violation of the standard of care, require members of the informal settlement conference disciplinary panel to consider whether the physician was practicing complementary and alternative medicine.