

# TEXAS MEDICAL BOARD

## Issue 2

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

### Change in Statute

#### **Rec. 2.1, Adopted**

Remove unnecessary provisions requiring surgical assistant applicants to be of good moral character.

#### **Rec. 2.7, Adopted**

Amend statute to clearly authorize the board's current practice to conduct fingerprint-based criminal background checks of acupuncture and surgical assistant applicants.

#### **Rec. 2.9, Adopted**

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.

#### **Rec. 2.10, Adopted**

Remove the requirement that the Medical Board's formal complaints filed with the State Office of Administrative Hearings (SOAH) be sworn to.

## 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 as Modified**

In lieu of staff Recommendation 4.1, the Sunset Commission decided to require the Texas Medical Board to adopt an expedited licensing process for qualified out-of-state physicians. As part of this modification and as a management action, the Commission directed the Texas Medical Board to review its current licensing practices for out-of-state physicians and identify any necessary changes to statute or rules that are required to implement a new expedited process. The

Commission directed the board to report on the results of this review to the Commission by no later than December 10, 2018.

## **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 relating to board member training and alternative rulemaking and dispute resolution to the medical, acupuncture, respiratory care, and medical radiologic technology boards.

## Readopted New Issues<sup>1</sup>

### ***Expand time frames for 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.

### ***Create a medical radiologic technology radiologist assistant certificate.***

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 Board of Medical Radiologic Technology, with approval of the Medical Board, to adopt rules for education and training, practice restrictions, and supervision levels required for radiologist assistants.

### ***Expand access to expert reviewer reports for informal settlement conferences.***

As part of an informal settlement conference for a case involving an allegation of a standard of care violation, require the 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.

### ***Expand consideration of complementary and alternative medicine in informal settlement conferences.***

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.

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<sup>1</sup> These four issues were previous recommendations of the Sunset Commission to the 85th Legislature.

# **Adopted New Recommendations**

## ***Removal of Certain Actions From Physician Public Profiles***

Allow the Texas Medical Board to remove certain actions that resulted in a remedial plan from a physician's public profile after a period of five years, provided these actions were not related to the delivery of care or in cases where two or more remedial plans have been issued for the same violations, including those not related to the delivery of healthcare.

## ***Removal of Certain Information During Update of Physician Public Profiles***

Require the Medical Board, in its annual update of a physician's profile on the board's website, to remove from the profile any record of a formal complaint if the complaint was dismissed as baseless, unfounded, or not supported by sufficient evidence that a violation occurred, or no action was taken against the physician's license. Also require the board, in the annual update of a physician's profile, to remove any record of the investigation of medical malpractice claims or complaints if no action was taken against the physician's license.

## ***Board Use of Law Enforcement as Security***

For a site visit the Texas Medical Board makes as part of an investigation or inspection, require the Medical Board to establish practices that preclude the use of DEA personnel, or any peace officer whose primary assignment is drug enforcement, as security personnel. (Management action – nonstatutory)

## ***Complaints About the Medical Board***

Direct internal staff to create a central location to receive and review complaints made about the Texas Medical Board, and report regularly to the board these complaints and their status. (Management action – nonstatutory)

## ***Notice of a SOAH Hearing***

Require notice of a SOAH hearing by the Medical Board to physicians to be sent by certified mail.