

Texas PT Practice Act

**Texas Board of
Physical Therapy Examiners**

Title 3, Subtitle H, Chapter 453, Occupations Code



**Executive Council of
Physical Therapy and
Occupational Therapy Examiners**

Title 3, Subtitle H, Chapter 452, Occupations Code

Amended June 2011

Amended by the 81st Legislature, effective June 17, 2011

Printed September 2012

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OCCUPATIONS CODE
TITLE 3. HEALTH PROFESSIONS
SUBTITLE H. PROFESSIONS RELATED TO CERTAIN TYPES OF THERAPY

CHAPTER 453. PHYSICAL THERAPISTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 453.001. DEFINITIONS.

In this chapter:

- (1) "Board" means the Texas Board of Physical Therapy Examiners.
- (2) "Coordinator of physical therapy programs" is the person employed in that position under Section 452.101.
- (3) "Executive council" means the Executive Council of Physical Therapy and Occupational Therapy Examiners.
- (4) "Physical therapist" means a person who is licensed by the board as a physical therapist and practices physical therapy. The term includes a hydrotherapist, physiotherapist, mechano-therapist, functional therapist, physical therapy practitioner, physical therapist specialist, physical therapy specialist, physiotherapy practitioner, kinesiotherapist, physical rehabilitation specialist, and myofunctional therapist.
- (5) "Physical therapist assistant" means a person licensed by the board as a physical therapist assistant:
 - (A) who assists and is supervised by a physical therapist in the practice of physical therapy; and
 - (B) whose activities require an understanding of physical therapy.
- (6) "Physical therapy" means a form of health care that prevents, identifies, corrects, or alleviates acute or prolonged movement dysfunction or pain of anatomic or physiologic origin.
- (7) "Physical therapy aide" or "physical therapy technician" means a person:
 - (A) who aids in the practice of physical therapy under the on-site supervision of a physical therapist or a physical therapist assistant; and
 - (B) whose activities require on-the-job training.
- (8) "Physical therapy facility" means a physical site, including a building, office, or portable facility, where the practice of physical therapy takes place.
- (9) "Referring practitioner" means a qualified licensed health care professional who, within the scope of professional licensure, may refer a person for health care services. The term includes:
 - (A) a physician licensed to practice medicine by a state board of medical examiners;
 - (B) a dentist licensed by a state board of dental examiners;
 - (C) a chiropractor licensed by a state board of chiropractic examiners; and
 - (D) a podiatrist licensed by a state board of podiatric medical examiners.

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

Sec. 453.002. APPLICATION OF SUNSET ACT.

The Texas Board of Physical Therapy Examiners is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board is abolished and this chapter expires September 1, 2017.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 1112, Sec. 3.07, eff. Sept. 1, 2003. Amended by: Acts 2007, 80th Leg., R.S., Ch. 928, Sec. 4.06, eff. June 15, 2007. Acts 2011, 82nd Leg., R.S., Ch. 1232, Sec. 3.08, eff. June 17, 2011.

Sec. 453.003. CONFLICT WITH OTHER LAW.

To the extent of any conflict between this chapter and Chapter 452, Chapter 452 controls.

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

Sec. 453.004. EFFECT OF CHAPTER; APPLICABILITY.

(a) This chapter does not restrict the holder of a license issued by another state agency from performing health care services within the scope of the applicable licensing act if the license holder:

- (1) does not represent to another that the license holder is a physical therapist;
- (2) does not violate Sections 453.201(a) and (c) and 453.304; and
- (3) practices strictly in conformity with the statutes and rules relating to the license holder's license.

(b) This chapter does not apply to:

- (1) a physical therapy aide;
- (2) a physical therapy student or physical therapist assistant student:
 - (A) participating in an accredited physical therapy or physical therapist assistant educational program; and
 - (B) being supervised by a license holder under this chapter;
- (3) a student:
 - (A) participating in an accredited allied health science program leading to licensure by another state agency; and
 - (B) being supervised by properly licensed, certified, or registered personnel;
- (4) a physical therapist who is licensed in another jurisdiction of the United States if the person is engaging, for not more than 90 days in a 12-month period and under the supervision of a physical therapist licensed in this state, in a special project or clinic required for completion of a post-professional degree in physical therapy from an accredited college or university, and the person notifies the board of the person's intent to practice in this state; or
- (5) a person who practices physical therapy or as a physical therapy assistant and who is:
 - (A) practicing physical therapy in the United States armed services, United States Public Health Service, or Veterans Administration in compliance with federal regulations for licensure of health care providers;
 - (B) licensed in another jurisdiction of the United States or credentialed to practice physical therapy in another country if the person:
 - (i) is teaching, demonstrating, or practicing physical therapy in an educational seminar in this state for not more than 60 days in a 12-month period, and the person notifies the board of the person's intent to practice in this state; or
 - (ii) by contract or employment, is practicing physical therapy in this state for not more than 60 days in a 12-month period for an athletic team or organization or a performing arts company temporarily competing or performing in this state; or
 - (C) licensed in another jurisdiction of the United States, if the person notifies the board of the person's intent to practice in this state, and:
 - (i) is practicing physical therapy for not more than 60 days during a declared local, state, or national disaster or emergency; or
 - (ii) is displaced from the person's residence or place of employment due to a declared local, state, or national disaster and is practicing physical therapy in this state for not more than 60 days after the date the disaster is declared.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by: Acts 2009, 81st Leg., R.S., Ch. [1188](#), Sec. 1, eff. June 19, 2009.

Sec. 453.005. PRACTICE OF PHYSICAL THERAPY.

- (a) The practice of physical therapy requires that a person practicing have education, training, and experience in physical therapy.
- (b) The practice of physical therapy includes:
- (1) measurement or testing of the function of the musculoskeletal, neurological, pulmonary, or cardiovascular system;
 - (2) rehabilitative treatment concerned with restoring function or preventing disability caused by illness, injury, or birth defect;
 - (3) treatment, consultative, educational, or advisory services to reduce the incidence or severity of disability or pain to enable, train, or retrain a person to perform the independent skills and activities of daily living; and
 - (4) delegation of selective forms of treatment to support personnel while a physical therapist retains the responsibility for caring for the patient and directing and supervising the support personnel.

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

Sec. 453.006. PRACTICE OF MEDICINE.

- (a) A person may not engage in diagnosing diseases or in practicing medicine as defined by law on the basis of a license issued under this chapter.
- (b) A person may not use an affix indicating or implying that the person is a physician on the basis of a license issued under this chapter.

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

SUBCHAPTER B. TEXAS BOARD OF PHYSICAL THERAPY EXAMINERS

Sec. 453.051. BOARD MEMBERSHIP.

- (a) The Texas Board of Physical Therapy Examiners consists of nine members appointed by the governor with the advice and consent of the senate as follows:
- (1) six physical therapist members; and
 - (2) three members who represent the public.
- (b) Appointments to the board shall be made without regard to the race, creed, sex, religion, disability, age, or national origin of the appointee.

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

Sec. 453.052. PURPOSE OF BOARD.

The board shall regulate the practice of physical therapy in this state to safeguard the public health and welfare.

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

Sec. 453.053. PUBLIC MEMBER ELIGIBILITY.

- A person is not eligible for appointment as a public member of the board if the person or the person's spouse:
- (1) is registered, certified, or licensed by an occupational regulatory agency in the field of health care;
 - (2) is employed by or participates in the management of a business entity or other organization regulated by the executive council or board or receiving funds from the executive council or board;
 - (3) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by the executive council or board or receiving funds from the executive council or board; or

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

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

Sec. 453.054. MEMBERSHIP RESTRICTIONS.

(a) In this section, "Texas trade association" means a nonprofit, cooperative, and voluntarily joined 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) An officer, employee, or paid consultant of a Texas trade association in the field of health care may not be a member of the board.

(c) A person who is the spouse of an officer, manager, or paid consultant of a Texas trade association in the field of health care may not be a member of the board.

(d) A person may not serve as a member of the board 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 board.

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

Sec. 453.055. TERMS; VACANCY.

(a) Members of the board serve staggered six-year terms with the terms of two physical therapist members and one public member expiring January 31 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 part of the term.

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

Sec. 453.056. GROUNDS FOR REMOVAL.

(a) It is a ground for removal from the board that a member:

(1) does not have at the time of appointment the qualifications required by Section 453.051(a);

(2) does not maintain during service on the board the qualifications required by Section 453.051(a);

(3) violates a prohibition established by Section 453.054;

(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 board meetings that the member is eligible to attend during a calendar year unless the absence is excused by majority vote of the board.

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

(c) If the coordinator of physical therapy programs has knowledge that a potential ground for removal exists, the coordinator shall notify the presiding officer of the board of the ground. The presiding officer shall then notify the governor that a potential ground for removal exists.

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

Sec. 453.057. PER DIEM REIMBURSEMENT.

(a) A member of the board is entitled to a per diem as set by the General Appropriations Act for each day the member engages in the business of the board.

(b) A member may receive reimbursement for meals, lodging, and transportation expenses as provided by the General Appropriations Act.

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

Sec. 453.058. OFFICERS.

After the appointment of members every two years, the members of the board shall elect from among its members a presiding officer, secretary, and other officers required to conduct the business of the board.

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

Sec. 453.059. MEETINGS.

(a) A special meeting of the board:

- (1) may be called jointly by the presiding officer and secretary; or
- (2) shall be called on the written request of any two members.

(b) The secretary shall keep a record of each meeting of the board. The record shall be open to public inspection at all times.

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

Sec. 453.060. TRAINING.

(a) Before a member of the board may assume the member's duties, the member must complete at least a course of the training program established by the board under this section.

(b) A training program shall provide information to a participant regarding:

- (1) this chapter;
- (2) the programs operated by the board;
- (3) the role and functions of the board;
- (4) the rules of the board, with an emphasis on the rules that relate to disciplinary and investigatory authority;
- (5) the current budget for the board;
- (6) the results of the most recent formal audit of the board;
- (7) the requirements of Chapters 551, 552, 2001, and 2002, Government Code;
- (8) the requirements of the conflict of interest laws and other laws relating to public officials; and
- (9) any applicable ethics policies adopted by the board or the Texas Ethics Commission.

(c) In developing the training requirements provided for by this section, the board shall consult with the governor's office, the attorney general's office, and the Texas Ethics Commission.

(d) If another state agency or entity is given the authority to establish the training requirements, the board shall allow that training instead of developing its own program.

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

Sec. 453.061. CIVIL LIABILITY.

A member of the board is not liable in a civil action for an act performed in good faith in executing duties as a board member.

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

SUBCHAPTER C. POWERS AND DUTIES

Sec. 453.101. GENERAL POWERS AND DUTIES.

Except as provided by Chapter 452, the board shall administer and enforce this chapter.

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

Sec. 453.102. RULES.

- (a) The board may adopt rules necessary to implement this chapter.
- (b) The board may adopt bylaws and rules necessary to govern its proceedings.

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

Sec. 453.103. RULES REGARDING ADVERTISING OR COMPETITIVE BIDDING.

- (a) The board may not adopt rules restricting advertising or competitive bidding by a person regulated by the board except to prohibit false, misleading, or deceptive practices by the person.
- (b) The board may not include in rules to prohibit false, misleading, or deceptive practices a rule that:
 - (1) restricts the person's use of any medium for advertising;
 - (2) restricts the person's personal appearance or use of the person's voice in an advertisement;
 - (3) relates to the size or duration of an advertisement by the person; or
 - (4) restricts the person's advertisement under a trade name.

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

Sec. 453.104. FEES.

- (a) The board may recommend to the executive council reasonable and necessary fees for licenses issued or services performed under this chapter that in the aggregate produce sufficient revenue to cover the cost of administering this chapter.
- (b) The board may not recommend to the executive council a fee that existed on September 1, 1993, for an amount less than the amount of that fee on that date.

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

Sec. 453.105. EMPLOYEES; DIVISION OF RESPONSIBILITIES.

- (a) The board may request the executive council to assign administrative and clerical employees as necessary to carry out the board's functions.
- (b) The board shall develop and implement policies that clearly define the respective responsibilities of the board and the staff of the executive council.

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

Sec. 453.106. LIST OF LICENSE HOLDERS.

- (a) The secretary shall maintain a list of the names of each physical therapist licensed under this chapter.
- (b) The list shall be open to public inspection at all times.
- (c) On March 1 of each year, the coordinator of physical therapy programs shall transmit an official copy of the list to the executive council.
- (d) A certified copy of the list of license holders is admissible as evidence in a court of this state.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.209(a), eff. Sept. 1, 2001.

Sec. 453.107. BOARD DUTIES REGARDING COMPLAINTS.

- (a) The board by rule shall:
 - (1) adopt a form to standardize information concerning complaints made to the board; and
 - (2) prescribe information to be provided to a person when the person files a complaint with the board.

(b) The board shall provide reasonable assistance to a person who wishes to file a complaint.

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

Sec. 453.108. PROSECUTING VIOLATIONS.

The board shall assist the proper legal authorities in prosecuting a person who violates this chapter.

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

Sec. 453.109. ANNUAL REPORT.

Not later than January 1 of each year, the board shall submit to the governor and the presiding officer of each house of the legislature a complete and detailed written report accounting for all funds received and disbursed by the board during the preceding year.

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

SUBCHAPTER D. PUBLIC INTEREST INFORMATION AND COMPLAINT PROCEDURES

Sec. 453.151. PUBLIC INTEREST INFORMATION.

- (a) The board shall prepare information of public interest describing the functions of the board and the procedures by which complaints are filed with and resolved by the board.
- (b) The board shall make the information available to the public and appropriate state agencies.

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

Sec. 453.152. COMPLAINTS.

A license holder shall at all times prominently display in the license holder's place of business a sign containing:

- (1) the board's name, mailing address, and telephone number; and
- (2) a statement informing consumers that a complaint against a license holder can be directed to the board.

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

Sec. 453.153. RECORD OF COMPLAINTS.

(a) The board shall keep an information file about each complaint filed with the executive council and referred to the board. The board's information file must be kept current and contain a record for each complaint of:

- (1) each person contacted in relation to the complaint;
- (2) a summary of findings made at each step of the complaint process;
- (3) an explanation of the legal basis and reason for a complaint that is dismissed;
- (4) the schedule required under Section 453.154 and a notation about a change in the schedule; and
- (5) other relevant information.

(b) If a written complaint is received by the board that the board has authority to resolve, the board, at least quarterly and until final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint unless notice would jeopardize an undercover investigation.

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

Sec. 453.154. GENERAL RULES INVOLVING COMPLAINT INVESTIGATION AND DISPOSITION.

- (a) The board shall adopt rules relating to the investigation of a complaint received by the board. The rules shall:
 - (1) distinguish between categories of complaints;

- (2) ensure that complaints are not dismissed without appropriate consideration;
 - (3) require that the board be advised of a complaint that is dismissed and that a letter be sent to the person who filed the complaint explaining the action taken on the dismissed complaint;
 - (4) ensure that the person who filed the complaint has an opportunity to explain the allegations made in the complaint;
 - (5) prescribe guidelines concerning the categories of complaints that require the use of a private investigator and the procedures for the board to obtain the services of a private investigator; and
 - (6) require the board to advise the executive council of complaints that have been disposed of.
- (b) The board shall:
- (1) dispose of each complaint in a timely manner; and
 - (2) establish a schedule for conducting each phase of the investigation of a complaint that is under the control of the board not later than the 30th day after the date the board receives the complaint.
- (c) Each party shall be notified of the projected time requirements for the complaint.
- (d) Each party to the complaint must be notified of a change in the schedule not later than the seventh day after the date the change is made.
- (e) The coordinator of physical therapy programs shall notify the board of a complaint that is unresolved after the time prescribed by the board for resolving the complaint so that the board may take necessary action on the complaint.

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

Sec. 453.155. PUBLIC PARTICIPATION.

- (a) The board shall develop and implement policies that provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the board's jurisdiction.
- (b) The board shall prepare and maintain a written plan that describes how a person who does not speak English can be provided reasonable access to the board's programs.

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

SUBCHAPTER E. LICENSE REQUIREMENTS; REGISTRATION OF FACILITIES

Sec. 453.201. LICENSE REQUIRED; USE OF TITLE.

- (a) A person may not practice physical therapy or practice as a physical therapist assistant, unless the person is an individual who holds a license issued by the board.
- (b) A person, including the person's employee or other agent or representative, may not extend or provide physical therapy services unless the services are provided by a physical therapist.
- (c) A person is considered to be practicing physical therapy if the person:
 - (1) performs, offers to perform, or attempts to perform physical therapy; or
 - (2) publicly professes to be or holds the person out to be a physical therapist or as providing physical therapy.
- (d) Unless the person is a physical therapist, a person, including the person's employee or other agent or representative, may not use in connection with the person's name or business activity:
 - (1) the words "physical therapy," "physical therapist," "physiotherapy," "physiotherapist," "licensed physical therapist," "registered physical therapist," or "physical therapist assistant";
 - (2) the letters "PT," "PhT," "LPT," "RPT," or "PTA"; or
 - (3) any other words, letters, abbreviations, or insignia indicating or implying, by any means or in any way, that physical therapy is provided or supplied.
- (e) A person may not use the title "Physical Therapist" unless the person is a physical therapist.

(f) A person may not use the title "Physical Therapist Assistant" unless the person is a physical therapist assistant.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.2095, eff. Sept. 1, 2001.

Sec. 453.202. LICENSE APPLICATION.

(a) An applicant for a physical therapist license or a physical therapist assistant license must submit to the board a written application on a form provided by the board.

(b) The application must be accompanied by:

- (1) an examination fee prescribed by the board; and
- (2) a nonrefundable application fee prescribed by the board.

(c) The examination fee under Subsection (b)(1) is refundable if the applicant does not take the examination.

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

Sec. 453.203. QUALIFICATIONS FOR PHYSICAL THERAPIST OR PHYSICAL THERAPIST ASSISTANT LICENSE.

(a) An applicant for a physical therapist license must, in addition to other requirements and qualifications established by the board, present:

(1) evidence satisfactory to the board that the applicant has completed an accredited physical therapy educational program; or

(2) official documentation from an educational credentials review agency approved by the board certifying that the applicant has completed:

(A) a program equivalent to a Commission on Accreditation of Physical Therapy Education accredited program; and

(B) at least 60 academic semester credits or the equivalent from an accredited institution of higher education.

(b) An applicant for a physical therapist assistant license must, in addition to other requirements and qualifications established by the board, present evidence satisfactory to the board that the applicant has completed an accredited physical therapist assistant program or an accredited physical therapy educational program, including courses in the anatomical, biological, and physical sciences, and clinical procedures prescribed and approved by the board.

(c) A physical therapy educational program or physical therapist assistant program is an accredited program if the program is:

(1) accredited by the Commission on Accreditation in Physical Therapy Education; and

(2) associated with an institution of higher education.

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

Sec. 453.204. FOREIGN-TRAINED APPLICANTS.

(a) To obtain a license under this chapter, an applicant who is foreign-trained must satisfy the examination requirements of Section 453.208.

(b) Before allowing a foreign-trained applicant to take the examination, the board shall require the applicant to furnish proof of:

(1) good moral character; and

(2) completion of requirements substantially equal to those under Section 453.203.

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

Sec. 453.205. LICENSE EXAMINATION.

- (a) The board shall examine applicants for licenses at least once each year at a reasonable place and time designated by the board.
- (b) The examination must cover the subjects generally taught by an accredited physical therapy educational program or an accredited physical therapist assistant program and may include clinical decision-making and evaluation, treatment program planning and implementation, and administration, education, consultation, and research in physical therapy.
- (c) The board by rule may establish a procedure for administering the examination, including the conditions under which and the number of times an applicant may retake an examination.
- (d) The board shall have any written portion of the examination validated by an independent testing entity.

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

Sec. 453.206. EXAMINATION RESULTS.

- (a) The board shall notify each examinee of the results of the examination not later than the 30th day after the day on which the examination is administered. If an examination is graded or reviewed by a national testing service, the board shall notify each examinee of the results of the examination not later than the 14th day after the day on which the board receives the results from the testing service.
- (b) If the notice of the examination results graded or reviewed by a national testing service will be delayed for longer than 90 days after the examination date, the board shall notify each examinee of the reason for the delay before the 90th day.
- (c) If requested in writing by a person who fails a licensing examination, the board shall furnish the person with an analysis of the person's performance on the examination.

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

Sec. 453.207. REEXAMINATION.

- (a) An applicant who fails to pass a one-part examination or a part of a divided examination may take another one-part examination or the part of the divided examination that the applicant failed on payment of an additional examination fee.
- (b) If an applicant fails to pass a second or subsequent examination, the board shall require the applicant to complete an additional course of study designated by the board. Before taking a subsequent examination, the applicant must:
 - (1) present to the board satisfactory evidence that the applicant has completed the required course of study; and
 - (2) pay an additional fee equal to the amount of the fee required for filing the original application.

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

Sec. 453.208. ISSUANCE OF LICENSE.

- (a) The board shall issue a license to an applicant who:
 - (1) passes the examination under Section 453.205;
 - (2) meets the qualifications prescribed by Section 453.203; and
 - (3) has not committed an act that constitutes a ground for denial of a license under Section 453.351.
- (b) The board may issue a physical therapist assistant license to a person who has not completed an accredited physical therapist assistant program if the person:
 - (1) meets the requirements under Section 453.203(a); and
 - (2) has not been the subject of disciplinary action in another state or nation.

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

Sec. 453.209. PROVISIONAL LICENSE.

(a) The board may issue a provisional license to an applicant licensed in another state that maintains professional standards considered by the board to be equivalent to and has licensing requirements that are substantially equivalent to the requirements under this chapter. An applicant for a provisional license under this section must:

(1) present proof to the board that the applicant is licensed in good standing as a physical therapist or physical therapist assistant in that state;

(2) have passed a national examination or other examination recognized by the board relating to the practice of physical therapy; and

(3) be sponsored by a person licensed under this chapter with whom the provisional license holder may practice.

(b) The board may waive the requirement of Subsection (a)(3) for an applicant if the board determines that compliance with that requirement constitutes a hardship to the applicant.

(c) A provisional license is valid until the date the board approves or denies the provisional license holder's application for a physical therapist or physical therapist assistant license.

(d) The board shall issue a physical therapist or physical therapist assistant license to the provisional license holder if:

(1) the provisional license holder passes a jurisprudence examination, if required;

(2) the board verifies that the provisional license holder has the academic and experience requirements for a physical therapist or physical therapist assistant license; and

(3) the provisional license holder satisfies any other requirements for a physical therapist or physical therapist assistant license.

(e) The board must complete the processing of a provisional license holder's application for a license not later than the 180th day after the date the provisional license is issued. The board may extend that deadline if the results on an examination have not been received by the board.

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

Sec. 453.210. TEMPORARY LICENSE.

(a) The board by rule may provide for the issuance of a temporary license.

(b) The holder of a temporary license must practice under the supervision of a physical therapist.

(c) A rule adopted under this section must include a time limit for a person to hold a temporary license.

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

Sec. 453.211. INACTIVE STATUS.

(a) The board by rule may provide for a license holder to place the holder's license under this chapter on inactive status.

(b) A rule adopted under this section must include a time limit for a license holder's license to remain on inactive status.

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

Sec. 453.212. DISPLAY OF LICENSE AND RENEWAL CERTIFICATE.

A license holder under this chapter shall display the license holder's license and renewal certificate in a conspicuous place in the principal office in which the license holder practices physical therapy.

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

Sec. 453.213. PHYSICAL THERAPY FACILITY REGISTRATION.

- (a) The board by rule shall adopt requirements for the registration and renewal of a registration of a physical therapy facility. A facility licensed under Subtitle B, Title 4, Health and Safety Code, is exempt from the registration requirements under this section. The board by rule may exempt other facilities as appropriate.
- (b) If a person owns more than one physical therapy facility, the board may require the person to make only one application for the registration of all facilities.
- (c) In accordance with Section 453.004, a rule adopted under this section may not prohibit a license holder from practicing in a physical therapy facility within the scope of the license holder's license.
- (d) A physical therapy facility must be under the direction of a physical therapist and meet any other requirements established by the board.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by: Acts 2011, 82nd Leg., R.S., Ch. 833, Sec. 1, eff. September 1, 2011.

SUBCHAPTER F. LICENSE RENEWAL

Sec. 453.251. LICENSE EXPIRATION.

- (a) A physical therapist or physical therapist assistant license expires on the second anniversary of the date the license is issued.
- (b) The board may adopt a system under which licenses expire on various dates during the year. For the term in which the license expiration date is changed, license fees shall be prorated 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.

Sec. 453.252. RENEWAL OF LICENSE.

- (a) A person may renew an unexpired license by paying the required renewal fee to the executive council before the expiration date of the license.
- (b) A person whose license has been expired for 90 days or less may renew the license by paying to the executive council the renewal fee and a fee that is equal to half of the amount charged for examination for the license. If a person's license has been expired for more than 90 days but less than one year, the person may renew the license by paying to the executive council all unpaid renewal fees and a fee that is equal to the amount charged for examination for the license.
- (c) A person whose license has been expired for one year or longer may not renew the license. The person may obtain a new license by submitting to reexamination and complying with the requirements and procedures for obtaining an original license.
- (d) At least 30 days before the expiration of a person's license, the executive council shall send written notice of the impending license expiration to the person at the person's last known address according to the records of the executive council.

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

Sec. 453.253. RENEWAL OF EXPIRED LICENSE BY OUT-OF-STATE PRACTITIONER.

- (a) The board may renew without reexamination the license of a person who was licensed to practice as a physical therapist or physical therapist assistant 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 application.
- (b) The person must pay to the executive council a fee that is equal to the examination fee for the license.

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

Sec. 453.254. CONTINUING COMPETENCE.

(a) The board by rule shall:

(1) adopt requirements for continuing competence for license holders in subjects pertaining to the practice of physical therapy;

(2) establish a minimum number of continuing competence units required to renew a license; and

(3) develop a process to approve continuing competence activities.

(b) The board may require license holders to complete continuing competence activities specified by the board. The board shall adopt a procedure to assess a license holder's participation and performance in continuing competence activities.

(c) The board may identify the key factors for the competent performance by a license holder of the license holder's professional duties.

(d) In developing a process under Subsection (a) for the approval of continuing competence activities, the board may authorize appropriate organizations to approve the activities.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.210(a), eff. Sept. 1, 2001. Amended by: Acts 2009, 81st Leg., R.S., Ch. 1021, Sec. 1, eff. June 19, 2009.

SUBCHAPTER G. PRACTICE BY LICENSE HOLDER

Sec. 453.301. TREATING PATIENT UNDER PRIOR REFERRAL.

(a) A physical therapist may treat a patient for an injury or condition that was the subject of a prior referral if the physical therapist:

(1) has been licensed to practice physical therapy for at least one year;

(2) notifies the referring practitioner of the therapy not later than the fifth business day after the date therapy is begun;

(3) begins any episode of treatment before the first anniversary of the referral by the referring practitioner;

(4) for physical therapy episodes subsequent to the episode which was initiated by the referral, treats the patient for not more than 20 treatment sessions or 30 consecutive calendar days, whichever occurs first; and

(5) satisfies any other requirement set by the board.

(b) The physical therapist must confer with the referring practitioner before the physical therapist may continue treatment that exceeds treatment authorized under Subsection (a)(4).

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

Sec. 453.302. TREATING PATIENT WITHOUT REFERRAL.

(a) In this section:

(1) "Emergency circumstance" means an instance in which emergency medical care is necessary.

(2) "Emergency medical care" means a bona fide emergency service provided after the sudden onset of a medical condition manifesting itself by acute symptoms of sufficient severity, including severe pain, such that the absence of immediate medical attention could reasonably be expected to result in:

(A) serious jeopardy to the patient's health;

(B) serious dysfunction of any bodily organ or part; or

(C) serious impairment to bodily functions.

(b) In an emergency circumstance, including a minor emergency, a physical therapist may provide emergency medical care to a person to the best of the therapist's ability without a referral from a referring practitioner.

(c) A physical therapist may provide physical assessments or instructions to an asymptomatic person without a referral from a referring practitioner.

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

Sec. 453.303. PROHIBITED USE OF CERTAIN PROCEDURES.

In practicing physical therapy, a person may not use:

- (1) roentgen rays or radium for a diagnostic or therapeutic purpose; or
- (2) electricity for a surgical purpose, including cauterization.

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

Sec. 453.304. PROHIBITED PRACTICE.

It is a violation of this chapter for an individual licensed by the board to violate Section 102.001.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.826, eff. Sept. 1, 2001.

SUBCHAPTER H. DISCIPLINARY ACTION AND PROCEDURE

Sec. 453.351. GROUNDS FOR DENIAL OF LICENSE OR DISCIPLINE OF LICENSE HOLDER.

(a) The board may deny a license or suspend or revoke a license, place a license holder on probation, reprimand a license holder, impose an administrative penalty, or otherwise discipline a license holder if the applicant or license holder has:

- (1) except as provided by Section 453.301 or 453.302, provided physical therapy to a person without a referral from a referring practitioner;
- (2) used drugs or intoxicating liquors to an extent that affects the license holder's or applicant's professional competence;
- (3) been convicted of a felony, including a finding or verdict of guilty, an admission of guilt, or a plea of nolo contendere, in this state or in any other state or nation;
- (4) obtained or attempted to obtain a license by fraud or deception;
- (5) been grossly negligent in the practice of physical therapy or in acting as a physical therapist assistant;
- (6) been found to be mentally incompetent by a court;
- (7) practiced physical therapy in a manner detrimental to the public health and welfare;
- (8) had a license to practice physical therapy revoked or suspended or had other disciplinary action taken against the license holder or applicant;
- (9) had the license holder's or applicant's application for a license refused, revoked, or suspended by the proper licensing authority of another state or nation; or
- (10) in the case of a physical therapist assistant, treated a person other than under the direction of a physical therapist.

(b) The board shall revoke or suspend a license, place on probation a person whose license has been suspended, or reprimand a license holder for a violation of this chapter or a rule adopted by the board.

(c) If a license suspension is probated, the board may require the license holder to:

- (1) report regularly to the board on matters that are the basis of the probation;
- (2) limit practice to the areas prescribed by the board; or
- (3) continue or review continuing professional education until the license holder attains a degree of skill satisfactory to the board in those areas that are the basis of the probation.

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

Sec. 453.352. PROCEDURE FOR LICENSE DENIAL OR DISCIPLINARY ACTION; SCHEDULE OF SANCTIONS.

(a) A person whose application for a license is denied is entitled to a hearing before the State Office of Administrative Hearings if the applicant submits a written request for a hearing to the board.

- (b) A proceeding to take action under Section 453.351 or an appeal from the proceeding is a contested case for the purposes of Chapter 2001, Government Code.
- (c) The State Office of Administrative Hearings shall use the schedule of sanctions adopted by the board by rule for a sanction imposed as the result of a hearing conducted by the office.

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

Sec. 453.353. SUBPOENAS.

- (a) The board may request or compel by subpoena:
 - (1) the attendance of a witness for examination under oath; and
 - (2) the production for inspection or copying of evidence relevant to an investigation of an alleged violation of this chapter.
- (b) If a person fails to comply with the subpoena, the board, acting through the attorney general, may file suit to enforce the subpoena in a district court in Travis County or in the county in which a hearing conducted by the board may be held.
- (c) If the court determines that good cause exists for issuing the subpoena, the court shall order the person to comply with the subpoena. The court may punish for contempt a person who fails to obey the court order.

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

Sec. 453.354. TEMPORARY LICENSE SUSPENSION.

- (a) The board may temporarily suspend a license issued under this chapter on an emergency basis if the board, by at least a two-thirds vote, determines from the evidence or information presented to the board that the continued practice by the license holder constitutes a continuing or imminent threat to the public health or welfare.
- (b) The board may suspend a license under this section without notice or a hearing if, at the time the suspension is ordered, a hearing on whether to institute disciplinary proceedings against the license holder is scheduled to be held not later than the 14th day after the date of the temporary suspension.
- (c) The board shall hold a second hearing on the license suspension not later than the 60th day after the date the temporary suspension was ordered. If the second hearing is not held within the required time, the suspended license is automatically reinstated.
- (d) The board shall adopt rules that establish procedures and standards for the temporary suspension of a license under this section.

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

Sec. 453.355. REISSUANCE OF LICENSE; ISSUANCE OF LICENSE AFTER DENIAL.

- (a) On application by the person, the board may reissue a license to a person whose license has been revoked.
- (b) An application to reinstate a revoked license:
 - (1) may not be made before the 180th day after the date the revocation order became final; and
 - (2) must be made in the manner and form the board requires.
- (c) On application by the person, the board may issue a license to a person whose license application has been denied. The application may not be made before the first anniversary of the date of the denial.

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

Sec. 453.356. INFORMAL PROCEEDINGS.

- (a) The board by rule shall adopt procedures governing:
 - (1) informal disposition of a contested case under Section 2001.056, Government Code; and
 - (2) informal proceedings held in compliance with Section 2001.054, Government Code.

(b) A rule adopted under this section must:

- (1) provide the complainant and the license holder an opportunity to be heard; and
- (2) require the presence of the board's legal counsel or a representative of the attorney general to advise the board or the board's employees.

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

SUBCHAPTER I. ADMINISTRATIVE PENALTY

Sec. 453.401. IMPOSITION OF PENALTY.

The board may impose an administrative penalty on a person licensed or regulated under this chapter or a facility registered under this chapter who violates this chapter or a rule or order adopted under this chapter.

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

Sec. 453.402. AMOUNT OF PENALTY.

(a) The amount of an administrative penalty may not exceed \$200 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, including:
 - (A) the nature, circumstances, extent, and gravity of a prohibited act; and
 - (B) the hazard or potential hazard created to the health, safety, or economic welfare of the public;
- (2) the history of previous violations;
- (3) the amount necessary to deter future violations;
- (4) efforts to correct the violation; and
- (5) any other matter that justice may require.

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

Sec. 453.403. ADMINISTRATIVE PROCEDURE.

(a) The board shall adopt rules that establish procedures for assessing an administrative penalty and that provide for notice and a hearing for a license holder or facility administrator that may be subject to a penalty under this subchapter.

(b) A proceeding under this subchapter is subject to Chapter 2001, Government Code.

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

SUBCHAPTER J. OTHER PENALTIES AND ENFORCEMENT PROCEDURES

Sec. 453.451. INJUNCTIVE RELIEF.

The attorney general, a district attorney, a county attorney, or any other person may institute a proceeding to enforce this chapter, including a suit to enjoin or restrain a person from practicing physical therapy without complying with this chapter.

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

Sec. 453.452. MONITORING OF LICENSE HOLDER.

The board by rule shall develop a system for monitoring a license holder's compliance with this chapter. The rules must include procedures for:

- (1) monitoring for compliance a license holder who is ordered by the board to perform a certain act; and
- (2) identifying and monitoring each license holder who represents a risk to the public.

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

Sec. 453.453. CIVIL PENALTY.

- (a) A person found by a court to have violated this chapter is liable to the state for a civil penalty of \$200 for each day the violation continues.
- (b) A civil penalty may be recovered in a suit brought by the attorney general, a district attorney, a county attorney, or any other person.

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

Sec. 453.454. RECOVERY OF COSTS AND FEES.

A person other than the attorney general, a district attorney, or a county attorney who brings an action to enforce this chapter or for injunctive relief may recover the person's court costs and attorney's fees.

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

Sec. 453.455. CRIMINAL OFFENSE.

- (a) A person commits an offense if the person knowingly violates this chapter.
- (b) An offense under this section is a Class A misdemeanor.
- (c) Each day of violation constitutes a separate offense.

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

CHAPTER 452.
EXECUTIVE COUNCIL OF PHYSICAL THERAPY AND OCCUPATIONAL THERAPY EXAMINERS
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 452.001. DEFINITIONS.

In this chapter:

- (1) "Executive council" means the Executive Council of Physical Therapy and Occupational Therapy Examiners.
- (2) "Occupational therapy board" means the Texas Board of Occupational Therapy Examiners.
- (3) "Physical therapy board" means the Texas Board of Physical Therapy Examiners.

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

Sec. 452.002. APPLICATION OF SUNSET ACT.

The Executive Council of Physical Therapy and Occupational Therapy Examiners is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the executive council is abolished and the following laws expire September 1, 2009:

- (1) this chapter;
- (2) Chapter 453; and
- (3) Chapter 454.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 1112, Sec. 3.06, eff. Sept. 1, 2003.

SUBCHAPTER B.
EXECUTIVE COUNCIL OF PHYSICAL THERAPY AND OCCUPATIONAL THERAPY EXAMINERS

Sec. 452.051. APPOINTMENT OF EXECUTIVE COUNCIL.

- (a) The Executive Council of Physical Therapy and Occupational Therapy Examiners consists of:
- (1) an occupational therapist member of the occupational therapy board appointed by that board;
 - (2) a public member of the occupational therapy board appointed by that board;
 - (3) a physical therapist member of the physical therapy board appointed by that board;
 - (4) a public member of the physical therapy board appointed by that board; and
 - (5) a public member appointed by the governor.
- (b) The occupational therapy board and the physical therapy board may designate an alternate to attend an executive council meeting if a member appointed by that board cannot attend. The alternate has the same powers and duties and is subject to the same qualifications as the appointed member.
- (c) Appointments to the executive council 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.

Sec. 452.052. ELIGIBILITY OF PUBLIC MEMBER APPOINTED BY GOVERNOR.

A person is not eligible for appointment by the governor as a public member of the executive council if the person or the person's spouse:

- (1) is registered, certified, or licensed by an occupational regulatory agency in the field of health care;

(2) is employed by or participates in the management of a business entity or other organization regulated by or receiving funds from the executive council, the occupational therapy board, or the physical therapy board;

(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 executive council, the occupational therapy board, or the physical therapy board; or

(4) uses or receives a substantial amount of tangible goods, services, or funds from the executive council, the occupational therapy board, or the physical therapy board, other than compensation or reimbursement authorized by law for executive council, occupational therapy board, or physical therapy board membership, attendance, or expenses.

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

Sec. 452.053. MEMBERSHIP AND EMPLOYEE RESTRICTIONS.

(a) In this section, "Texas trade association" means a nonprofit, cooperative, and voluntarily joined 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) An officer, employee, or paid consultant of a Texas trade association in the field of health care may not be a member of the executive council and may not be an employee of the executive council who is exempt from the state's position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group A17, of the position classification salary schedule.

(c) A person who is the spouse of an officer, manager, or paid consultant of a Texas trade association in the field of health care may not be a member of the executive council and may not be an employee of the executive council who is exempt from the state's position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group A17, of the position classification salary schedule.

(d) A person may not serve as a member of the executive council or act as the general counsel to the executive council 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 executive council, the occupational therapy board, or the physical therapy board.

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

Sec. 452.054. TERMS; VACANCY.

(a) Members of the executive council are appointed for two-year terms that expire on February 1 of each odd-numbered year.

(b) A member appointed to fill a vacancy holds office for the unexpired portion of the term.

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

Sec. 452.055. PRESIDING OFFICER.

The member appointed by the governor is the presiding officer of the executive council.

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

Sec. 452.056. GROUNDS FOR REMOVAL.

(a) It is a ground for removal from the executive council that a member:

(1) does not have at the time of appointment the qualifications required by Section 452.051;

(2) does not maintain during service on the executive council the qualifications required by Section 452.051;

(3) violates a prohibition established by Section 452.053;

(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 executive council meetings that the member is eligible to attend during a calendar year unless the absence is excused by majority vote of the executive council.
- (b) The validity of an action of the executive council is not affected by the fact that it is taken when a ground for removal of an executive council member exists.
- (c) If the director has knowledge that a potential ground for removal exists, the director shall notify the presiding officer of the executive council of the potential ground. The presiding officer shall then notify the authority that appointed the member that a potential ground for removal exists.

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

Sec. 452.057. COMPENSATION; REIMBURSEMENT.

- (a) The presiding officer of the executive council is entitled to a per diem as provided by the General Appropriations Act for each day that the presiding officer engages in the business of the executive council.
- (b) A member of the executive council, other than the presiding officer, may not receive compensation for service on the executive council. A member may receive reimbursement for transportation expenses as provided by the General Appropriations Act. A member may not receive reimbursement for any other travel expenses, including expenses for meals and lodging.

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

Sec. 452.058. MEETINGS; QUORUM.

- (a) The executive council shall hold at least two regular meetings each year.
- (b) The executive council may hold additional meetings on the request of the presiding officer or on the written request of three members of the executive council.
- (c) A quorum of the executive council exists if both therapist members and one public member are present.

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

SUBCHAPTER C. DIRECTOR AND OTHER EXECUTIVE COUNCIL PERSONNEL

Sec. 452.101. DIRECTOR; PERSONNEL.

- (a) The executive council shall employ a director and administrative and clerical employees as necessary to carry out the functions of the executive council, the occupational therapy board, and the physical therapy board.
- (b) The director shall employ a coordinator of occupational therapy programs and a coordinator of physical therapy programs to carry out the functions of the respective boards. The coordinators may request the executive council to assign additional employees to carry out the duties of the coordinators.

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

Sec. 452.102. DIVISION OF RESPONSIBILITIES.

The executive council shall develop and implement policies that clearly define the respective responsibilities of the executive council and the staff of the executive council.

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

Sec. 452.103. CAREER LADDER PROGRAM; PERFORMANCE EVALUATIONS.

- (a) The director or the director's designee shall develop an intra-agency career ladder program. The program must require intra-agency postings of all nonentry level positions concurrently with any public posting.

(b) The director or the director's designee shall develop a system of annual performance evaluations that are based on documented employee performance. All merit pay for executive council employees must be based on the system established under this subsection.

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

Sec. 452.104. EQUAL EMPLOYMENT OPPORTUNITY POLICY; REPORT.

(a) The director or the director's designee shall prepare and maintain a written policy statement to ensure implementation of an equal employment opportunity program under which all personnel transactions are made without regard to race, color, disability, sex, religion, age, or national origin. The policy statement must include:

- (1) personnel policies, including policies relating to recruitment, evaluation, selection, application, training, and promotion of personnel that are in compliance with the requirements of Chapter 21, Labor Code;
- (2) a comprehensive analysis of the executive council workforce that meets federal and state guidelines;
- (3) procedures by which a determination can be made of significant underuse in the executive council workforce of all persons for whom federal or state guidelines encourage a more equitable balance; and
- (4) reasonable methods to appropriately address those areas of underuse.

(b) A policy statement prepared under Subsection (a) must:

- (1) cover an annual period;
- (2) be updated annually;
- (3) be reviewed by the Texas Commission on Human Rights for compliance with Subsection (a)(1); and
- (4) be filed with the governor.

(c) The governor shall deliver a biennial report to the legislature based on the information received under Subsection (b). The report may be made separately or as part of other biennial reports to the legislature.

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

SUBCHAPTER D. POWERS AND DUTIES

Sec. 452.151. GENERAL POWERS AND DUTIES.

(a) Except as otherwise provided by this chapter, the executive council shall administer and enforce Chapters 453 and 454.

(b) The executive council shall:

- (1) develop and prepare a budget for the executive council, the occupational therapy board, and the physical therapy board; and
- (2) manage all physical property used by the executive council, the occupational therapy board, or the physical therapy board.

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

Sec. 452.152. ADMINISTRATIVE FUNCTIONS.

(a) In administering Chapters 453 and 454, the executive council shall:

- (1) perform data processing functions; and
- (2) administer records relating to payroll, personnel files, and employee leave, benefits, and applications.

(b) The executive council shall perform the administrative functions relating to issuing and renewing licenses, including:

- (1) the administration of written examinations and collection of fees; and

(2) the ministerial functions of preparing and delivering licenses, obtaining material and information in connection with the renewal of a license, and receiving and forwarding complaints to the appropriate board.

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

Sec. 452.153. LIMITATION ON EXECUTIVE COUNCIL AUTHORITY.

(a) The executive council may not exercise discretionary authority in the review of an applicant's qualifications for a license.

(b) The administration of practical examinations and other examinations requiring skill or expertise in a particular area on the part of the person administering the examination is the responsibility of the appropriate board. The selection of standardized national or generally accepted examinations for a profession or the design of individual examinations is the responsibility of the appropriate board.

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

Sec. 452.154. FEES.

The executive council shall set all fees for a license issued or service performed by a board represented on the executive council.

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

Sec. 452.155. RULES.

Subject to Section 452.156, the appropriate professional board shall adopt rules concerning the qualifications, licensing, regulation, or practice of a profession.

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

Sec. 452.156. REVIEW OF RULES.

(a) Before submitting a rule for publication in the Texas Register, a board represented on the executive council shall forward the proposed rule to the executive council for review.

(b) The executive council may review the rule and shall approve the rule for submission for publication unless the rule exceeds the rulemaking authority of the board.

(c) If the executive council fails to approve a rule, it shall return the rule to the board with an explanation of the reasons for the denial.

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

Sec. 452.157. REVIEW OF BOARDS.

(a) The executive council shall routinely examine and evaluate the operations of the boards represented on the executive council.

(b) The executive council may structure the examination in a manner that the executive council considers appropriate to produce an efficient and thorough review.

(c) Each board represented on the executive council shall cooperate with the examination conducted by the executive council under this section.

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

Sec. 452.158. DISBURSEMENT OF FUNDS.

The executive council may authorize from its appropriated funds all necessary disbursements to carry out:

- (1) this chapter;

- (2) Chapter 453; and
- (3) Chapter 454.

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

Sec. 452.159. ANNUAL REPORTS.

- (a) The executive council shall file annually with the governor and the presiding officer of each house of the legislature a complete and detailed written report accounting for all funds received and disbursed by the executive council during the preceding fiscal year. The report must be in the form and reported in the time provided by the General Appropriations Act.
- (b) The executive council shall prepare a report of its activities and file the report before January 1 of each odd-numbered year with the presiding officer of each house of the legislature, the governor, and the Legislative Budget Board.

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

SUBCHAPTER E. PUBLIC INTEREST INFORMATION AND COMPLAINT PROCEDURES

Sec. 452.201. PUBLIC INTEREST INFORMATION.

- (a) The executive council shall prepare information of public interest describing the functions of the executive council and the procedures by which complaints are filed with and resolved by the executive council, the occupational therapy board, or the physical therapy board.
- (b) The executive council shall make the information available to the public and appropriate state agencies.

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

Sec. 452.202. COMPLAINTS.

- (a) The executive council by rule shall establish methods by which consumers and service recipients are notified of the name, mailing address, and telephone number of the executive council for the purpose of directing complaints to the executive council. The executive council may provide for that notice:
 - (1) on each registration form, application, or written contract for services of a person regulated by the executive council, the occupational therapy board, or the physical therapy board;
 - (2) on a sign prominently displayed in the place of business of each person regulated by the executive council, the occupational therapy board, or the physical therapy board; or
 - (3) in a bill for service provided by a person regulated by the executive council, the occupational therapy board, or the physical therapy board.
- (b) The executive council shall list with its regular telephone number any toll-free telephone number established under other state law for presenting a complaint about a health professional.

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

Sec. 452.203. PUBLIC PARTICIPATION.

- (a) The executive council shall develop and implement policies that provide the public with a reasonable opportunity to appear before the executive council and to speak on any issue under the jurisdiction of the executive council.
- (b) The executive council shall prepare and maintain a written plan that describes how a person who does not speak English can be provided reasonable access to the executive council's programs and services.

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

