

BILL ANALYSIS

Senate Research Center

S.B. 317
By: Nichols et al.
Health & Human Services
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The purpose of this bill is to enact the recommendations of the Sunset Advisory Commission (Sunset) on the Executive Council of Physical Therapy and Occupational Therapy Examiners (ECPTOTE), the Texas Board of Physical Therapy Examiners (TBPTE), and the Texas Board of Occupational Therapy Examiners (TBOTE).

The legislature established TBPTE as an independent agency in 1971 and the Texas Advisory Board of Occupational Therapy in 1983 as a licensing board housed within the Texas Rehabilitation Commission. In 1993, the legislature created ECPTOTE to provide administrative support and executive oversight to TBPTE and the newly created TBOTE in their mission to protect public health and safety by licensing and regulating physical and occupational therapy professionals and registering physical and occupational therapy facilities. In addition, ECPTOTE investigates and enforces violations of the physical therapy and occupational therapy statutes and rules, establishes fees, and approves rule proposals from TBPTE and TBOTE.

ECPTOTE, TBPTE, and TBOTE are subject to abolishment under the Sunset Act on September 1, 2017, unless continued by the legislature. Sunset recommended continuing ECPTOTE, TBPTE, and TBOTE for 12 years.

ECPTOTE, TBPTE, and TBOTE are governed by Chapters 452, 453, and 454, Occupations Code, respectively.

The legislation addresses issues differently from current law by:

- Continuing ECPTOTE, TBPTE, and TBOTE for 12 years.
- Discontinuing the registration of physical and occupational therapy facilities and temporarily authorizing the boards to expunge facility-related administrative violations from a licensee's record.
- Adopting the Physical Therapy Licensure Compact.
- Providing clear statutory authority for licensure by endorsement.
- Clarifying that occupational therapy assistants licensed in other states may practice in this state temporarily under the same conditions as occupational therapists.
- Removing provisions prescribing educational requirements beyond completion of an accredited program or substantially equivalent to an accredited program.
- Clarifying statutes to reflect current standards and conditions.
- Requiring the boards to adopt rules relating to the approval of continuing competence or continuing education courses inclusive of a request for proposal and bid process and implement that process within 12 months, and no less than once every four years thereafter.

- Requiring the boards to conduct fingerprint-based criminal background checks of licensure applicants and licensees.
- Requiring the boards to develop a disciplinary matrix.
- Removing outdated, subjective standards as criteria for foreign-trained licensure applicants.
- Applying the standard Sunset across-the-board requirements to ECPTOTE, TBPTE, and TBOTE.
- Makes necessary changes to ensure two Sunset recommendations are fully reflected to remove outdated language relating to coursework, fieldwork, and examination requirements for TBPTE and TBOTE.
- Changes the effective date of facility deregulation to September 1, 2019.
- Corrects two technical errors in the designation of the chair of ECPTOTE and renumbers a subsection to reflect a repealer established elsewhere in the bill. (Original Author's / Sponsor's Statement of Intent)

S.B. 317 amends current law relating to the continuation and functions of the Executive Council of Physical Therapy and Occupational Therapy Examiners, the Texas Board of Physical Therapy Examiners, and the Texas Board of Occupational Therapy Examiners and authorizes a fee.

RULEMAKING AUTHORITY

Rulemaking is expressly granted to the Texas Board of Physical Therapy Examiners (TBPTE) in SECTION 2.16 (Section 453.214, Occupations Code), SECTION 2.20 (Section 453.254, Occupations Code), SECTION 2.22 (Sections 453.3525 and 453.357, Occupations Code), SECTION 2.29, and SECTION 3.01 (Section 453.503, Occupations Code) of this bill.

Rulemaking authority previously granted to TBPTE is modified in SECTION 2.25 (Section 453.403, Occupations Code) of this bill.

Rulemaking authority previously granted to TBPTE is rescinded in SECTION 2.14 (Section 453.205, Occupations Code) and SECTION 2.26 (Section 453.213, Occupations Code) of this bill.

Rulemaking authority is expressly granted to the Physical Therapy Compact Commission in SECTION 3.01 (Section 453.501, Occupations Code) of this bill.

Rulemaking authority is expressly granted to the Texas Board of Occupational Therapy Examiners (TBOTE) in SECTION 4.14 (Section 454.207, Occupations Code), SECTION 4.15 (Section 454.216, Occupations Code), SECTION 4.18 (Section 454.254, Occupations Code), and SECTION 4.20 (Sections 454.3025 and 454.307, Occupations Code) of this bill.

Rulemaking authority previously granted to TBOTE is rescinded in SECTION 4.22 (Section 454.215, Occupations Code) of this bill.

SECTION BY SECTION ANALYSIS

ARTICLE 1. EXECUTIVE COUNCIL OF PHYSICAL THERAPY AND OCCUPATIONAL THERAPY EXAMINERS

SECTION 1.01. Amends Section 452.002, Occupations Code, to provide that, unless continued in existence as provided by Chapter 325 (Sunset Law), Government Code, the Executive Council of Physical Therapy and Occupational Therapy Examiners (ECPTOTE) is abolished and Chapter 452 (Executive Council of Physical Therapy and Occupational Therapy Examiners), Chapter 453

(Physical Therapists), and Chapter 454 (Occupational Therapists) expire September 1, 2029, rather than September 1, 2017.

SECTION 1.02. Amends Section 452.053, Occupations Code, as follows:

Sec. 452.053. MEMBERSHIP AND EMPLOYEE RESTRICTIONS. (a) Redefines "Texas trade association."

(b) Changes reference to officer, employee, or paid consultant of a Texas trade association in the field of health care to person. Prohibits certain persons or those persons' spouses from being a member of ECPTOTE or from being an employee of ECPTOTE. Deletes existing designation of Subsection (c) and existing text relating to describing certain persons or their spouses.

(c) Redesignates existing Subsection (d) as Subsection (c) and makes no further changes to this subsection.

SECTION 1.03. Amends Sections 452.056(a) and (c), Occupations Code, as follows:

(a) Provides that it is a ground for removal from ECPTOTE that a member, among certain other issues, does not have at the time of taking office, rather than at the time of appointment, the qualifications required by Section 452.051 (Appointment of Executive Council); is ineligible for membership under Section 452.052 (Eligibility of Public Member Appointed by Governor) or 452.053, rather than violates a prohibition established by Section 452.053; or is absent from more than half of the regularly scheduled ECPTOTE meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of ECPTOTE. Makes nonsubstantive changes.

(c) Requires the presiding officer to notify the governor and the Texas attorney general (attorney general), rather than the authority that appointed the member, that a potential ground for removal exists. Requires the director of ECPTOTE (director), if the potential ground for removal involves the presiding officer, to notify the next highest ranking officer of ECPTOTE, who is required to then notify the governor and the attorney general that a potential ground for removal exists.

SECTION 1.04. Amends Subchapter B, Chapter 452, Occupations Code, by adding Section 452.059, as follows:

Sec. 452.059. TRAINING. (a) Prohibits a person who is appointed to and qualifies for office as a member of ECPTOTE from voting, deliberating, or being counted as a member in attendance at a meeting of ECPTOTE until the person completes a training program that complies with this section.

(b) Requires that the required training program provide the person with certain information.

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

(d) Requires the director to create a training manual that includes the information required by Subsection (b). Requires the director to distribute a copy of the training manual annually to each member of ECPTOTE. Requires each member of ECPTOTE, on receipt of the training manual, to sign and submit to the director a statement acknowledging receipt of the training manual.

SECTION 1.05. Amends Section 452.102, Occupations Code, to require ECPTOTE to develop and implement policies that clearly separate the policymaking, rather than define the respective,

responsibilities of ECPTOTE and the management responsibilities of the director and the staff of ECPTOTE.

SECTION 1.06. Amends Section 452.152(b), Occupations Code, as follows:

(b) Deletes existing text including the administration of written examinations and collection of fees from a list of administrative functions ECPTOTE is required to perform. Makes a nonsubstantive change.

SECTION 1.07. Amends Subchapter D, Chapter 452, Occupations Code, by adding Section 452.160, as follows:

Sec. 452.160. NEGOTIATED RULEMAKING; ALTERNATIVE DISPUTE RESOLUTION. (a) Requires ECPTOTE to develop a policy to encourage the use of negotiated rulemaking under Chapter 2008 (Negotiated Rulemaking), Government Code, for the adoption of rules by ECPTOTE or the Texas Board of Occupational Therapy Examiners (TBOTE) or Texas Board of Physical Therapy Examiners (TBPTE), and appropriate alternative dispute resolution (ADR) procedures under Chapter 2009 (Alternative Dispute Resolution for Use by Governmental Bodies), Government Code, to assist in the resolution of internal and external disputes under ECPTOTE's jurisdiction.

(b) Requires ECPTOTE's procedures relating to ADR to conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings (SOAH) for the use of ADR by state agencies.

(c) Requires ECPTOTE to coordinate the implementation of the policy adopted under Subsection (a), to provide training as needed to implement the procedures for negotiated rulemaking or ADR, and collect data concerning the effectiveness of those procedures.

SECTION 1.08. Repealer: Section 452.153(b) (relating to the appropriate board's responsibility regarding the administration of practical and other examinations), Occupations Code.

SECTION 1.09. Requires the director, as soon as practicable after the effective date of this article, to create the training manual required by Section 452.059(d), Occupations Code, as added by this article; and requires ECPTOTE to develop and implement the policies required by Section 452.102, Occupations Code, as amended by this article; and develop the policy required by Section 452.160, Occupations Code, as added by this article.

SECTION 1.10. Authorizes a member of ECPTOTE who has not completed the training required by Section 452.059, Occupations Code, as added by this article, notwithstanding Section 452.059(a), Occupations Code, as added by this article, to vote, deliberate, and be counted as a member in attendance at a meeting of ECPTOTE until December 1, 2017.

ARTICLE 2. TEXAS BOARD OF PHYSICAL THERAPY EXAMINERS

SECTION 2.01. Amends Section 453.002, Occupations Code, to provide that, unless continued in existence as provided by Chapter 325, Government Code, TBPTE is abolished and this chapter expires September 1, 2029, rather than September 1, 2017.

SECTION 2.02. Amends Section 453.054, Occupations Code, as follows:

Sec. 453.054. MEMBERSHIP RESTRICTIONS. (a) Redefines "Texas trade association."

(b) Prohibits a person, rather than an officer, employee, or paid consultant of a Texas trade association in the field of health care, from being a member of TBPTE if the person is a certain person associated with a Texas trade association in the field of health care or the person's spouse has certain positions in a Texas trade association in the field of health care. Deletes existing designation of

Subsection (c) and existing text prohibiting an officer, employee, or paid consultant of a Texas trade association in the field of health care or their spouse from being a member of TBPTE.

(c) Redesignates existing Subsection (d) as Subsection (c) and makes a nonsubstantive change.

SECTION 2.03. Amends Sections 453.056(a) and (c), Occupations Code, as follows:

(a) Provides that it is a ground for removal from TBPTE that a member, among certain other issues, does not have at the time of taking office, rather than at the time of appointment, the qualifications required by Section 453.051(a) (relating to TBPTE's composition); is ineligible for membership under Section 453.053 (Public Member Eligibility) or 453.054 (Membership Restrictions), rather than violates a prohibition established by Section 453.054; or is absent from more than half of the regularly scheduled TBPTE meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the TBPTE. Makes nonsubstantive changes.

(c) Requires the coordinator of physical therapy programs (coordinator), if the coordinator has knowledge that a potential ground for removal exists, to notify the presiding officer of TBPTE of the potential ground. Requires the presiding officer to then notify the governor and the attorney general that a potential ground for removal exists. Requires the coordinator, if the potential ground for removal involves the presiding officer, to notify the next highest ranking officer of TBPTE, who is then required to notify the governor and the attorney general that a potential ground for removal exists.

SECTION 2.04. Amends Section 453.058, Occupations Code, as follows:

Sec. 453.058. OFFICERS. (a) Requires the governor to designate a member of TBPTE as the presiding officer of TBPTE to serve in that capacity at the pleasure of the governor.

(b) Creates this subsection from existing text. Deletes existing text including a presiding officer in a list of officers elected by members of TBPTE.

SECTION 2.05. Amends Section 453.060, Occupations Code, as follows:

Sec. 453.060. TRAINING. (a) Prohibits a person who is appointed to and qualifies for office as a member of TBPTE from voting, deliberating, or being counted as a member in attendance at a meeting of TBPTE until the person completes a training program that complies with this section. Deletes existing text requiring the member to complete at least a course of the training program established by TBPTE before the member is authorized to assume the member's duties. Makes nonsubstantive changes.

(b) Requires that the training program provide the person with information regarding:

- (1) the law governing TBPTE and ECPTOTE operations;
- (2) the programs, functions, rules, and budgets of TBPTE and ECPTOTE;
- (3) the scope of and limitations on TBPTE's and ECPTOTE's rulemaking authority;
- (4) the types of TBPTE and ECPTOTE rules, interpretations, and enforcement actions that may implicate federal antitrust law by limiting competition or impacting prices charged by persons engaged in a profession or business regulated by TBPTE, including certain rules, interpretations, and enforcement actions;

(5) the results of the most recent formal audit of TBPTE and ECPTOTE;

(6) the requirements of laws relating to open meetings, public information, administrative procedure, and disclosure of conflicts of interest and other laws applicable to TBPTE members in performing their duties; and

(7) any applicable ethics policies adopted by TBPTE or TEC.

Deletes existing text requiring that a training program provide information to a participant regarding this chapter; the programs operated by TBPTE; TBPTE's role and functions; TBPTE's rules, with an emphasis on certain rules; TBPTE's current budget; the results of the most recent formal audit of TBPTE; the requirements of Chapters 551 (Open Meetings), 552 (Public Information), 2001 (Administrative Procedure), and 2002 (Texas Register and Administrative Code), Government Code; and the requirements of conflict of interest laws and other laws relating to public officials. Redesignates existing Subdivisions (6), (7), and (9) as Subdivisions (5), (6), and (7). Makes conforming and nonsubstantive changes.

(c) Entitles a person appointed to TBPTE to reimbursement, as provided by the GAA, for the travel expenses incurred in attending the training program regardless of whether the person's attendance at the program occurs before or after the person qualifies for office. Deletes existing text requiring TBPTE to consult with the governor's office, the Office of the Attorney General (OAG), and the Texas Ethics Commission (TEC) in developing training requirements.

(d) Requires the director to create a training manual that includes the information required by Subsection (b). Requires the director to distribute a copy of the training manual annually to each TBPTE member. Requires each TBPTE member, on receipt of the training manual, to sign and submit to the director a statement acknowledging receipt of the training manual. Deletes existing text requiring TBPTE, if another state agency or entity is given the authority to establish the training requirements, to allow that training instead of developing its own program.

SECTION 2.06. Amends Section 453.105(b), Occupations Code, as follows:

(b) Requires TBPTE to develop and implement policies that clearly separate the policymaking, rather than define the respective, responsibilities of TBPTE and the management responsibilities of the director and staff of ECPTOTE. Makes nonsubstantive changes.

SECTION 2.07. Amends Subchapter C, Chapter 453, Occupations Code, by adding Sections 453.1061 and 453.109, as follows:

Sec. 453.1061. PLACE OF EMPLOYMENT. Authorizes TBPTE to require that a license holder provide current information in a readily accessible and usable format regarding the license holder's place of employment as a physical therapist or physical therapist assistant.

Sec. 453.109. NEGOTIATED RULEMAKING; ALTERNATIVE DISPUTE RESOLUTION. (a) Requires TBPTE to develop a policy to encourage the use of negotiated rulemaking under Chapter 2008, Government Code, for the adoption of TBPTE rules, and appropriate ADR procedures under Chapter 2009, Government Code, to assist in the resolution of internal and external disputes under TBPTE's jurisdiction.

(b) Requires that TBPTE's procedures relating to ADR conform, to the extent possible, to any model guidelines issued by SOAH for the use of ADR by state agencies.

(c) Requires TBPTE to coordinate the implementation of the policy adopted under Subsection (a), provide training as needed to implement the procedures for negotiated rulemaking or ADR, and collect data concerning the effectiveness of those procedures.

SECTION 2.08. Amends Section 453.151(c), Occupations Code, as follows:

(c) Provides that information maintained by ECPTOTE or TBPTE under this chapter regarding the home address or personal telephone number of a person licensed under this chapter, rather than a person licensed under this chapter or a person who is an owner or manager of a physical therapy facility registered under this chapter, is confidential and not subject to disclosure under Chapter 552, Government Code. Requires a person licensed under this chapter to provide TBPTE with a business address or address of record that will be subject to disclosure under Chapter 552, Government Code. Makes a conforming change.

SECTION 2.09. Amends Section 453.154(e), Occupations Code, to require the staff of ECPTOTE, rather than the coordinator, to notify TBPTE of certain unresolved complaints.

SECTION 2.10. Amends the heading to Subchapter E, Chapter 453, Occupations Code, to read as follows:

SUBCHAPTER E. LICENSE REQUIREMENTS

SECTION 2.11. Amends Section 453.202(b), Occupations Code, as follows:

(b) Requires that a license application be accompanied by a nonrefundable application fee prescribed by ECPTOTE, rather than TBPTE. Deletes existing text requiring that the application include an examination fee prescribed by TBPTE.

SECTION 2.12. Amends Section 453.203, Occupations Code, as follows:

Sec. 453.203. QUALIFICATIONS FOR PHYSICAL THERAPIST OR PHYSICAL THERAPIST ASSISTANT LICENSE. (a) Deletes existing text requiring an applicant for a physical therapist license to present certain official documentation certifying that the applicant has completed at least 60 academic semester credits or the equivalent from an accredited institution of higher education (IHE). Makes nonsubstantive changes.

(b) Deletes existing text including courses in the anatomical, biological, and physical sciences, and clinical procedures prescribed and approved by TBPTE from the description of certain programs required to be completed by an applicant for a physical therapist assistant license.

(c) Deletes existing text providing that a physical therapy educational program or physical therapist assistant program is an accredited program if the program is associated with an IHE.

SECTION 2.13. Amends Section 453.204(b), Occupations Code, to delete existing text requiring TBPTE, before allowing a foreign-trained applicant to take the examination, to require the applicant to furnish proof of good moral character and makes a nonsubstantive change.

SECTION 2.14. Amends Section 453.205, Occupations Code, as follows:

Sec. 453.205. LICENSE EXAMINATION. (a) Requires TBPTE, by rule, to recognize a national testing entity to administer the examination required to obtain a physical therapist or physical therapist assistant license, rather than requiring TBPTE to examine applicants for licenses at least once each year at a reasonable place and time designated by TBPTE.

(b) Provides that the physical therapist examination is a national examination that tests entry-level competence related to physical therapy theory, examination and evaluation, prognosis, treatment intervention, prevention, and consultation. Deletes existing text requiring that the examination cover the subjects generally taught by an accredited physical therapy educational program or an accredited physical therapist assistant program and authorizing inclusion of clinical decision-making and evaluation, treatment program planning and implementation, and administration, education, and research in physical therapy.

(c) Provides that the physical therapist assistant examination is a national examination that tests for required knowledge and skills in the technical application of physical therapy services. Deletes existing text authorizing TBPTE, by rule, to establish a procedure for administering the examination, including the conditions under which and the number of times an applicant may retake an examination.

(d) Requires an applicant for a license to agree to comply with the security and copyright provisions of the national examination. Requires TBPTE, if TBPTE has knowledge of a violation of the security or copyright provisions or a compromise or attempted compromise of the provisions, to report the matter to the testing entity. Deletes existing text requiring TBPTE to have any written portion of the examination validated by an independent testing entity.

(e) Authorizes TBPTE to disqualify an applicant from taking or retaking an examination for a period specified by TBPTE if TBPTE determines that the applicant engaged or attempted to engage in conduct that compromises or undermines the integrity of the examination process, including a violation of certain provisions.

(f) Requires that the contract, if TBPTE enters into a contract with a national testing entity under Subsection (a), include a provision requiring the national testing entity to provide to TBPTE an examination score report for each applicant for a license under this chapter who took the examination.

(g) Authorizes TBPTE to require an applicant for a physical therapist or physical therapist assistant license to pass a jurisprudence examination.

SECTION 2.15. Amends Section 453.207, Occupations Code, as follows:

Sec. 453.207. REEXAMINATION. (a) Authorizes an applicant who fails to pass an examination under Section 453.205 to retake the examination under the policies of the national testing entity. Deletes existing text authorizing a certain applicant to take another one-part examination or the part of the divided examination that the applicant failed on payment of an additional examination fee.

(b) Requires the applicant, before retaking an examination, to submit to TBPTE a reexamination application prescribed by TBPTE, rather than present satisfactory evidence that the applicant has completed the required course of study, and pay a nonrefundable application fee prescribed by ECPTOTE, rather than pay a certain additional fee. Deletes existing text requiring TBPTE, if an applicant fails to pass a second or subsequent examination, to require the applicant to complete an additional course of study designated by TBPTE.

SECTION 2.16. Amends Subchapter E, Chapter 453, Occupations Code, by adding Sections 453.214 and 453.215, as follows:

Sec. 453.214. LICENSE BY ENDORSEMENT. (a) Requires TBPTE to issue a physical therapist license or a physical therapist assistant license, as applicable, to an applicant who holds a current, unrestricted license in another jurisdiction that maintains licensing requirements that are substantially equivalent to the requirements under this chapter.

Requires an applicant for a license under this section to present certain proof and meet certain qualifications.

(b) Requires TBPTE to adopt rules for issuing a provisional license under Section 453.209 (Provisional License) to an applicant for a license by endorsement who encounters a delay that is outside the applicant's control in submitting to TBPTE the documentation required by this section.

Sec. 453.215. CRIMINAL HISTORY RECORD INFORMATION FOR LICENSE ISSUANCE. (a) Requires TBPTE to require that an applicant for a license submit a complete and legible set of fingerprints, on a form prescribed by TBPTE, to TBPTE or to the Texas Department of Public Safety (DPS) for the purpose of obtaining criminal history record information from DPS and the Federal Bureau of Investigation (FBI).

(b) Prohibits TBPTE from issuing a license to a person who does not comply with the requirement of Subsection (a).

(c) Requires TBPTE to conduct a criminal history record information check of each applicant for a license using certain information.

(d) Authorizes TBPTE to enter into an agreement with DPS to administer a criminal history record information check required under this section and to authorize DPS to collect from each applicant the costs incurred by DPS in conducting the criminal history record information check.

SECTION 2.17. Amends Section 453.251(a), Occupations Code, to provide that a physical therapist or physical therapist assistant license expires on the later of the second anniversary of the date the license is issued, or another date determined by TBPTE.

SECTION 2.18. Amends Section 453.252(b), Occupations Code, to change references to examination for the license to renewal of the license.

SECTION 2.19. Amends Section 453.253(b), Occupations Code, to change a reference to examination fee to renewal fee and make a nonsubstantive change.

SECTION 2.20. Amends Section 453.254, Occupations Code, by adding Subsection (e), as follows:

(e) Requires TBPTE, by rule, to establish a process for selecting an appropriate organization to approve continuing competence activities under Subsection (d) (relating to authorizing TBPTE to authorize appropriate organizations to approve continuing competence activities). Requires that the selection process include a request for proposal and bidding process. Requires TBPTE, if TBPTE authorizes an organization to approve continuing competence activities under Subsection (d), to request bids and proposals from that organization and other organizations at least once every four years.

SECTION 2.21. Amends Subchapter F, Chapter 453, Occupations Code, by adding Section 453.255, as follows:

Sec. 453.255. CRIMINAL HISTORY RECORD INFORMATION REQUIREMENT FOR LICENSE RENEWAL. (a) Requires an applicant renewing a license issued under this chapter to submit a complete and legible set of fingerprints for purposes of performing a criminal history record information check of the applicant as provided by Section 453.215.

(b) Authorizes TBPTE to administratively suspend or refuse to renew the license of a person who does not comply with the requirement of Subsection (a).

(c) Exempts a license holder from being required to submit fingerprints under this section for the renewal of the license if the license holder has previously

submitted fingerprints under Section 453.215 for the initial issuance of the license or this section as part of a prior license renewal.

SECTION 2.22. Amends Subchapter H, Chapter 453, Occupations Code, by adding Sections 453.3525 and 453.357, as follows:

Sec. 453.3525. SCHEDULE OF SANCTIONS. (a) Requires TBPTE, by rule, to adopt a schedule of administrative penalties and other sanctions that TBPTE is authorized to impose under this chapter. Requires TBPTE, in adopting the schedule of sanctions, to ensure that the amount of the penalty or severity of the sanction imposed is appropriate to the type of violation or conduct that is the basis for disciplinary action. Requires TBPTE, in determining the appropriate disciplinary action, including the amount of any administrative penalty to assess, to consider certain factors.

(b) Requires TBPTE to make the schedule of sanctions adopted under Subsection (a) available to the public on request.

Sec. 453.357. RECORD OF DISCIPLINARY ACTION; EXPUNGEMENT. (a) Requires TBPTE, by rule, to establish a process to expunge any record of disciplinary action taken against a license holder before September 1, 2019, for practicing in a facility that failed to meet the registration requirements of Section 453.213, as that section existed on January 1, 2019. Requires that the rules provide that TBPTE is prohibited from expunging a record under this section after September 1, 2021.

(b) Provides that this section expires September 1, 2021.

SECTION 2.23. Amends Section 453.401, Occupations Code, to authorize TBPTE to impose an administrative penalty on a person licensed or regulated under this chapter, rather than under this chapter or a facility registered under this chapter, who violates this chapter or a rule or order adopted under this chapter.

SECTION 2.24. Amends Section 453.402(b), Occupations Code, as follows:

(b) Requires that the amount of the penalty be determined according to the sanctions schedule adopted under Section 453.3525. Deletes existing Subdivisions (1) through (5) stating certain factors that the determination of the penalty should be based on.

SECTION 2.25. Amends Section 453.403(a), Occupations Code, to delete existing text including a facility administrator as an individual for whom TBPTE is required to adopt rules for establishing procedures for assessing an administrative penalty and for providing notice and a hearing.

SECTION 2.26. Repealers: Sections 453.001(8) (relating to the definition of "physical therapy facility"), 453.202(c) (relating to a refundable examination fee), 453.206 (Examination Results), and 453.213 (Physical Therapy Facility Registration), Occupations Code.

SECTION 2.27. (a) Provides that, except as provided by Subsection (b) of this section, Section 453.060, Occupations Code, as amended by this article, applies to a member of TBPTE appointed before, on, or after the effective date of this article.

(b) Requires a member of TBPTE who, before the effective date of this article, completed the training program required by Section 453.060, Occupations Code, as that law existed before the effective date of this article, to complete additional training only on subjects added to the training program required by Section 453.060, Occupations Code, as amended by this article. Prohibits a TBPTE member described by this subsection from voting, deliberating, or being counted as a member in attendance at a meeting of TBPTE held on or after December 1, 2017, until the member completes the additional training.

SECTION 2.28. Requires the director, as soon as practicable after the effective date of this article, to create the training manual required by Section 453.060(d), Occupations Code, as amended by this article.

SECTION 2.29. Requires TBPTE, as soon as practicable after the effective date of this article, to develop and implement the policies required by Section 453.105(b), Occupations Code, as amended by this article, and Section 453.109, Occupations Code, as added by this article, and adopt any rules necessary to implement Chapter 453, Occupations Code, as amended by this article.

SECTION 2.30. Requires TBPTE, not later than September 1, 2018, to establish the request for proposal and bidding process required by Section 453.254(e), Occupations Code, as added by this article.

SECTION 2.31. Makes application of Sections 453.203, 453.204, 453.205, 453.207, 453.252, 453.253, 453.215, and 453.255, Occupations Code, as amended or as added by this article, prospective.

SECTION 2.32. Authorizes a person who holds a physical therapist or physical therapist assistant license issued before the effective date of this article to continue to renew that license without complying with the changes in law made by this article to Section 453.203, Occupations Code.

SECTION 2.33. (a) Requires TBPTE to dismiss the portion of any complaint, penalty, disciplinary action, or contested case pending on September 1, 2019, that is based on a violation of rules adopted under Section 453.213, Occupations Code, as repealed by this article.

(b) Provides that Section 453.357, Occupations Code, as added by this article, applies only to records of disciplinary action for conduct that occurred before September 1, 2019.

SECTION 2.34. Makes application of Section 453.3525, Occupations Code, as added by this article, and Section 453.402(b), Occupations Code, as amended by this article, prospective to the effective date of rules adopted under Section 453.3525.

ARTICLE 3. PHYSICAL THERAPY LICENSURE COMPACT

SECTION 3.01. Amends Chapter 453, Occupations Code, by adding Subchapter K, as follows:

SUBCHAPTER K. PHYSICAL THERAPY LICENSURE COMPACT

Sec. 453.501. PHYSICAL THERAPY LICENSURE COMPACT. Provides that the Physical Therapy Licensure Compact (compact) is enacted and entered into with all other jurisdictions that legally join in the compact, as follows:

SECTION 1. PURPOSE

Sets forth the purpose and objectives of the compact.

SECTION 2. DEFINITIONS

Defines "active duty military," "adverse action," "alternative program," "compact privilege," "continuing competence," "data system," "encumbered license," "executive board," "home state," "investigative information," "jurisprudence requirement," "licensee," "member state," "party state," "physical therapist," "physical therapist assistant," "physical therapy," "physical therapy practice," "the practice of physical therapy," "Physical Therapy Compact Commission," "commission," "physical therapy licensing board," "licensing board," "remote state," "rule," and "state."

SECTION 3. STATE PARTICIPATION IN THE COMPACT

A. Requires a state, to participate in the compact, to meet certain requirements.

B. Provides that a member state, upon adoption of this statute, shall have the authority to obtain biometric-based information from each physical therapy licensure applicant and submit this information to the FBI for a criminal background check in accordance with certain statutes.

C. Requires a member state to grant the compact privilege to a licensee holding a valid unencumbered license in another member state in accordance with the terms of the compact and rules.

D. Authorizes member states to charge a fee for granting a compact privilege.

SECTION 4. COMPACT PRIVILEGE

A. Requires the licensee, to exercise the compact privilege under the terms and provisions of the compact, to meet certain requirements.

B. Provides that the compact privilege is valid until the expiration date of the home license. Requires the licensee to comply with the requirements of Section 4.A. to maintain the compact privilege in the remote state.

C. Requires a licensee providing physical therapy in a remote state under the compact privilege to function within the laws and regulations of the remote state.

D. Provides that a licensee providing physical therapy in a remote state is subject to that state's regulatory authority. Authorizes a remote state to, in accordance with due process and that state's laws, take certain necessary actions to protect the health and safety of its citizens. Provides that the licensee is not eligible for a compact privilege in any state until the specific time for removal has passed and all fines are paid.

E. Requires the licensee, if a home state license is encumbered, to lose the compact privilege in any remote state until a certain time.

F. Requires the licensee, once an encumbered license in the home state is restored to good standing, to meet the requirements of Section 4A to obtain a compact privilege in any remote state.

G. Requires the individual, if a licensee's compact privilege in any remote state is removed, to lose the compact privilege in any remote state until certain actions occur.

H. Requires the license, once the requirements of Section 4G have been met, to meet the requirements in Section 4A to obtain a compact privilege in a remote state.

SECTION 5. ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

Authorizes a licensee who is active duty military or is the spouse of an individual who is active duty military to designate a home state of certain options.

SECTION 6. ADVERSE ACTIONS

A. Requires a home state to have exclusive power to impose adverse action against a license issued by the home state.

B. Authorizes a home state to take adverse action based on the investigative information of a remote state, so long as the home state follows its own procedures for imposing adverse action.

C. Provides that nothing in this compact shall override a member state's decision that participation in an alternative program is authorized to be

used in lieu of adverse action and that such participation is required to remain non-public if required by the member state's laws. Requires member states to require licensees who enter any alternative programs in lieu of discipline to agree not to practice in any other member state during the term of the alternative program without prior authorization from such other member state.

D. Authorizes any member state to investigate actual or alleged violations of the statutes and rules authorizing the practice of physical therapy in any other member state in which a physical therapist or physical therapist assistant holds a license or compact privilege.

E. Requires a remote state to have the authority to take certain actions.

F. Joint Investigations

1. Authorizes a member state, in addition to the authority granted to a member state by its respective physical therapy practice act or other applicable state law, to participate with other member states in joint investigations of licensees.

2. Requires member states to share any investigative, litigation, or compliance materials in furtherance of any joint or individual investigation initiated under the compact.

SECTION 7. ESTABLISHMENT OF THE PHYSICAL THERAPY COMPACT COMMISSION

A. Provides that the compact member states hereby create and establish a joint public agency known as the Physical Therapy Compact Commission (commission). Sets forth certain characteristics of the commission.

B. Membership, Voting, and Meetings

1. Requires each member state to have and be limited to one delegate selected by that member state's licensing board.

2. Requires the delegate to be a current member of the licensing board, who has a certain occupation.

3. Authorizes any delegate to be removed or suspended from office as provided by the law of the state from which the delegate is appointed.

4. Requires the member state board to fill any vacancy occurring in the commission.

5. Requires each delegate to be entitled to one vote with regard to the promulgation of rules and creation of bylaws and to otherwise have an opportunity to participate in the business and affairs of the commission.

6. Requires a delegate to vote in person or by such other means as provided in the bylaws. Authorizes the bylaws to provide for delegates' participation in meetings by telephone or other means of communication.

7. Requires the commission to meet at least once during each calendar year. Requires that additional meetings be held as set forth in the bylaws.

C. Requires the commission to have certain powers and duties, including promulgating binding uniform rules to facilitate and coordinate implementation and administration of this compact.

D. The Executive Board

Requires that the executive board have the power to act on behalf of the commission according to the terms of this compact.

1. and 2. Sets forth the composition of the executive board.
3. Authorizes the commission to remove any member of the executive board as provided in bylaws.
4. Requires the executive board to meet at least annually.
5. Requires that the executive board have certain duties and responsibilities.

E. Meetings of the Commission

1. Requires that all meetings be open to the public, and that public notice of meetings be given in the same manner as required under the rulemaking provisions in Section 9.

2. Authorizes the commission or the executive board or other committees of the commission to convene in a closed, non-public meeting if one of these entities is discussing certain matters.

3. Requires the commission's legal counsel or designee, if a meeting, or portion of a meeting, is closed, to certify that the meeting is authorized to be closed and to reference each relevant exempting provision.

4. Requires the commission to keep minutes that fully and clearly describe all matters discussed in a meeting and to provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed. Requires that all documents considered in connection with an action be identified in such minutes. Requires that all minutes and documents of a closed meeting remain under seal, subject to release by a majority vote of the commission or order of a court of competent jurisdiction.

F. Financing of the Commission

1. Requires the commission to pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

2. Authorizes the commission to accept any and all appropriate revenue sources, donations, and grants of money, equipment, supplies, materials, and services.

3. Authorizes the commission to levy on and collect an annual assessment from each member state or impose fees on other parties to cover the cost of the operations and activities of the commission and its staff, which are required be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. Requires that the aggregate annual assessment amount be allocated based upon a formula to be determined by the commission, which requires the commission to promulgate a rule binding upon all member states.

4. Prohibits the commission from incurring obligations of any kind prior to securing the funds adequate to meet the same and prohibits the commission from pledging the credit of any of the member states, except by and with the authority of the member state.

5. Requires the commission to keep accurate accounts of all receipts and disbursements. Requires that the commission's receipts and disbursements be subject to the audit and accounting procedures established under its bylaws. Requires that all receipts and disbursements of funds handled by the commission be audited yearly by a certified or licensed public accountant, and requires that the report of the audit be included in and become part of the commission's annual report.

G. Qualified Immunity, Defense, and Indemnification

1. Requires certain persons of the commission to be immune from suit and liability, either personally or in their official capacity, for certain claims for damage to or loss of property or personal injury or other civil liability; provided that nothing in this paragraph is required to be construed to protect any such person from suit and/or liability for any damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct of that person.

2. Requires the commission to defend any member, officer, executive director, employee or representative of the commission in any civil action seeking to impose certain liabilities; provided that nothing herein is required to be construed to prohibit that person from retaining his or her own counsel; and provided further, that the actual or alleged act, error, or omission did not result from that person's intentional or willful or wanton misconduct.

3. Requires the commission to indemnify and hold harmless certain persons of the commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error or omission that occurred within the scope of commission employment, duties, or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of the same, provided that the actual or alleged act, error, or omission did not result from the intentional or willful or wanton misconduct of that person.

SECTION 8. DATA SYSTEM

A. Requires the commission to provide for the development, maintenance, and utilization of a coordinated database and reporting system containing licensure, adverse action, and investigative information on all licensed individuals in member states.

B. Requires a member state, notwithstanding any other provision of state law to the contrary, to submit a uniform data set to the data system on all individuals to whom this compact is applicable as required by the rules of the commission, including certain information.

C. Provides that investigative information pertaining to a licensee in any member state will only be available to other party states.

D. Requires the commission to promptly notify all member states of any adverse action taken against a licensee or an individual applying for a license. Provides that adverse action information pertaining to a licensee in any member state will be available to any other member state.

E. Authorizes member states contributing information to the data system to designate information that is prohibited from being shared with the public without the express permission of the contributing state.

F. Requires that any information submitted to the data system that is subsequently required to be expunged by the laws of the member state contributing the information be removed from the data system.

SECTION 9. RULEMAKING

A. Requires the commission to exercise its rulemaking powers pursuant to the criteria set forth in this section and the rules adopted thereunder. Requires that rules and amendments become binding as of the date specified in each rule or amendment.

B. Requires that a rule, if a majority of the legislatures of the member states rejects a rule, by enactment of a statute or resolution in the same manner used to adopt the compact within four years of the date of adoption of the rule, then have no further force and effect in any member state.

C. Requires that rules or amendments to the rules be adopted at a regular or special meeting of the commission.

D. Requires the commission, prior to promulgation and adoption of a final rule or rules by the commission, and at least 30 days in advance of the meeting at which the rule will be considered and voted upon, to file a notice of proposed rulemaking on certain websites.

E. Requires that the notice of proposed rulemaking include certain information.

F. Requires the commission, prior to adoption of a proposed rule, to allow persons to submit written data, facts, opinions, and arguments, which are required to be made available to the public.

G. Requires the commission to grant an opportunity for a public hearing before it adopts a rule or amendment if a hearing is requested by a certain group or entity.

H. Requires the commission, if a hearing is held on the proposed rule or amendment, to publish the place, time, and date of the scheduled public hearing. Requires the commission, if the hearing is held via electronic means, to publish the mechanism for access to the electronic hearing.

1. Requires all persons wishing to be heard at the hearing to notify the executive director of the commission or other designated member in writing of their desire to appear and testify at the hearing not less than five business days before the scheduled date of the hearing.

2. Requires that hearings be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing.

3. Provides that all hearings will be recorded and a copy of the recording made available on request.

4. Provides that nothing in this section is required to be construed as requiring a separate hearing on each rule. Authorizes rules to be grouped for the convenience of the commission at required hearings.

I. Requires the commission, following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, to consider all written and oral comments received.

J. Authorizes the commission, if no written notice of intent to attend the public hearing by interested parties is received, to proceed with promulgation of the proposed rule without a public hearing.

K. Requires the commission to, by majority vote of all members, take final action on the proposed rule and to determine the effective date of the rule, if any, based on the rulemaking record and the rule's full text.

L. Authorizes the commission, upon determination that an emergency exists, to consider and adopt an emergency rule without prior notice, opportunity for comment, or hearing, provided that the usual rulemaking procedures provided in the compact and in this section are required to be retroactively applied to the rule as soon as reasonably possible, in no event later than 90 days after the effective date of the rule. Provides that, for the purposes of this provision, an emergency rule is one that is required to be adopted immediately for certain purposes.

M. Authorizes the commission or an authorized committee of the commission to direct revisions to a previously adopted rule or amendment for purposes of correcting certain errors. Requires that public notice of any revisions be posted on the commission's website. Requires that the revision be subject to challenge by any person for a period of 30 days after posting. Authorizes the revision to be challenged only on grounds that the revision results in a material change to a rule. Requires that a challenge be made in writing, and delivered to the chair of the commission prior to the end of the notice period. Provides that, if no challenge is made, the revision will take effect without further action. Prohibits the revision, if the revision is challenged, from taking effect without the commission's approval.

SECTION 10. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

A. Oversight

1. Requires the executive, legislative, and judicial branches of state government in each member state to enforce this compact and take all actions necessary and appropriate to effectuate the compact's purposes and intent. Requires that the provisions of this compact and the rules promulgated hereunder have standing as statutory law.

2. Requires all courts to take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact which may affect the powers, responsibilities or actions of the commission.

3. Entitles the commission to receive service of process in any such proceeding, and grants standing to intervene in such a proceeding for all purposes. Requires that failure to provide service of process to the commission render a judgment or order void as to the commission, this compact, or promulgated rules.

B. Default, Technical Assistance, and Termination

1. Requires the commission, if the commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact or the promulgated rules, to take certain actions.

2. Authorizes the defaulting state, if a state in default fails to cure the default, to be terminated from the compact upon an affirmative vote of a majority of the member states, and all rights, privileges and benefits conferred by this compact are authorized to be terminated on the effective date of termination. Provides that a cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.

3. Requires that termination of membership in the compact be imposed only after all other means of securing compliance have been exhausted. Requires that notice of intent to suspend or terminate be given by the commission to the governor, the majority and minority leaders of the defaulting state's legislature, and each of the member states.

4. Provides that a state that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

5. Prohibits the commission from bearing any costs related to a state that is found to be in default or that has been terminated from the compact, unless agreed upon in writing between the commission and the defaulting state.

6. Authorizes the defaulting state to appeal the action of the commission by petitioning certain courts. Requires that the prevailing member be awarded all costs of such litigation, including reasonable attorney's fees.

C. Dispute Resolution

1. Requires the commission, upon request by a member state, to attempt to resolve disputes related to the compact that arise among member states and between member and non-member states.

2. Requires the commission to promulgate a rule providing for both mediation and binding dispute resolution for disputes, as appropriate.

D. Enforcement

1. Requires the commission, in the reasonable exercise of its discretion, to enforce the provisions and rules of this compact.

2. Authorizes the commission, by majority vote, to initiate legal action in certain courts against a member state in default to enforce compliance with the provisions of the compact and its promulgated rules and bylaws. Authorizes the relief sought to include both injunctive relief and damages. Requires that the prevailing member, in the event judicial enforcement is necessary, be awarded all costs of such litigation, including reasonable attorney's fees.

3. Prohibits the remedies herein from being the exclusive remedies of the commission. Authorizes the commission to pursue any other remedies available under federal or state law.

SECTION 11. DATE OF IMPLEMENTATION OF THE INTERSTATE COMMISSION FOR PHYSICAL THERAPY PRACTICE AND ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENT

A. Requires that the compact come into effect on the date on which the compact statute is enacted into law in the 10th member state. Requires that the provisions, which become effective at that time, be limited to the powers granted to the commission relating to assembly and the promulgation of rules. Requires the commission, thereafter, to meet and exercise rulemaking powers necessary to the compact's implementation and administration.

B. Requires any state that joins the compact subsequent to the commission's initial adoption of the rules to be subject to the rules as they exist on the date on which the compact becomes law in that state. Requires any rule that has been previously adopted by the commission to have the full force and effect of law on the day the compact becomes law in that state.

C. Authorizes any member state to withdraw from this compact by enacting a statute repealing the same. Sets forth the standards for and effects of withdrawal.

D. Prohibits anything contained in this compact from being construed to invalidate or prevent any physical therapy licensure agreement or other cooperative arrangement between a member state and a non-member state that does not conflict with the compact's provisions.

E. Authorizes this compact to be amended by the member states. Prohibits any amendment to this compact from becoming effective and binding upon any member state until it is enacted into the laws of all member states.

SECTION 12. CONSTRUCTION AND SEVERABILITY

Requires that this compact be liberally construed so as to effectuate the purposes thereof. Severability Clause.

Sec. 453.502. ADMINISTRATION OF COMPACT. Provides that TBPTE is the compact administrator for this state.

Sec. 453.503. RULES. Authorizes TBPTE to adopt rules necessary to implement this subchapter.

Sec. 453.504. PHYSICAL THERAPY LICENSURE COMPACT; DISCLOSURE OF PERSONAL INFORMATION. (a) Authorizes TBPTE, in reporting information to the coordinated database and reporting system under Section 8 of the compact, to disclose personally identifiable information about a physical therapist or a physical therapist assistant, including the person's social security number.

(b) Prohibits the coordinated database and reporting system from sharing personally identifiable information with a state that is not a party to the compact unless the state agrees to not disclose that information to any other person.

ARTICLE 4. TEXAS BOARD OF OCCUPATIONAL THERAPY EXAMINERS

SECTION 4.01. Amends Section 454.003, Occupations Code, to provide that unless continued in existence as provided by Chapter 325, Government Code, TBOTE is abolished and this chapter expires September 1, 2029, rather than September 1, 2017.

SECTION 4.02. Amends Section 454.005(b), Occupations Code, to provide that this chapter's licensing provisions do not apply to, among certain other persons, an occupational therapist or occupational therapy assistant who does not live in this state and to change a reference to the American Occupational Therapy Association to the National Board for Certification in Occupational Therapy.

SECTION 4.03. Amends Section 454.053, Occupations Code, as follows:

Sec. 454.053. MEMBERSHIP RESTRICTIONS. (a) Redefines "Texas trade association."

(b) Prohibits a person from being a member of TBOTE if the person is an officer, employee, or paid consultant of a Texas trade association in the field of health care or the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of health care. Makes nonsubstantive changes.

(c) Redesignates existing Subsection (d) as Subsection (c) and makes a nonsubstantive change.

SECTION 4.04. Amends Sections 454.055(a) and (c), Occupations Code, as follows:

(a) Provides that it is a ground for removal from TBOTE that a member:

(1) does not have at the time of taking office, rather than at the time of appointment, the qualifications required by Section 454.051(a) (relating to qualifications for membership on TBOTE);

(2) makes no changes to this subdivision;

(3) is ineligible for membership under Section 454.052 (Public Member Eligibility) or 454.053 (Membership Restrictions), rather than violates a prohibition established by Section 454.053;

(4) makes no changes to this subdivision; or

(5) makes nonsubstantive changes.

(c) Requires the presiding officer of TBOTE to notify the governor and the attorney general that a potential ground for removal exists. Requires the coordinator, if the potential ground for removal involves the presiding officer of TBOTE, to notify the next highest ranking officer of TBOTE who is required to then notify the governor and the attorney general that a potential ground for removal exists. Makes a nonsubstantive change.

SECTION 4.05. Amends Section 454.057, Occupations Code, as follows:

Sec. 454.057. OFFICERS. (a) Requires the governor to designate a TBOTE member as the presiding officer of TBOTE to serve in that capacity at the pleasure of the governor.

(b) Creates this subsection from existing text. Deletes the presiding officer from the list of certain officers TBOTE members are required to elect.

SECTION 4.06. Amends Section 454.059, Occupations Code, as follows:

Sec. 454.059. TRAINING. (a) Prohibits a person who is appointed to and qualifies for office as a member of TBOTE from voting, deliberating, or being counted as a member in attendance at a meeting of TBOTE until the person completes a training program that complies with this section. Deletes existing text requiring a member to complete at least a certain course before assuming the member's duties.

(b) Requires that the training program provide the person with information regarding:

(1) the law governing TBOTE and ECPTOTE operations;

(2) the programs, functions, rules, and budgets of TBOTE and ECPTOTE;

(3) the scope of and limitations on TBOTE's and ECPTOTE's rulemaking authority;

(4) the types of TBOTE and ECPTOTE rules, interpretations, and enforcement actions that may implicate federal antitrust law by limiting competition or impacting prices charged by persons engaged in a profession or business regulated by TBOTE, including certain rules, interpretations, and enforcement actions.

(5) the results of the most recent formal audit of TBOTE and ECPTOTE;

(6) the requirements of laws relating to open meetings, public information, administrative procedure, and disclosure of conflicts of interest, and other laws applicable to TBOTE members in performing their duties; and

(7) any applicable ethics policies adopted by TBOTE or TEC.

Deletes existing text requiring that the training program provide information regarding this chapter; the programs operated by TBOTE; TBOTE's role and functions; TBOTE's rules, with an emphasis on certain rules; TBOTE's current budget; the requirements of Chapters 551, 552, 2001, and 2002, Government Code; and the requirements of the conflict of interest laws and other laws relating to public officials. Makes nonsubstantive changes.

(c) Entitles a person appointed to TBOTE to reimbursement, as provided by the GAA, for the travel expenses incurred in attending the training program regardless of whether the person's attendance at the program occurs before or after the person qualifies for office. Deletes existing text requiring TBOTE, in developing the training requirements provided for by this section, to consult with the governor's office, OAG, and TEC.

(d) Requires the director to create a training manual that includes the information required by Subsection (b). Requires the director to distribute a copy of the training manual annually to each TBOTE member. Requires each TBOTE member, on receipt of the training manual, to sign and submit to the director a statement acknowledging receipt of the training manual. Deletes existing text requiring TBOTE, if another state agency or entity is given the authority to establish the training requirements, to allow that training instead of developing its own program.

SECTION 4.07. Amends Section 454.105(b), Occupations Code, to require TBOTE to develop and implement policies that clearly separate the policymaking, rather than define the respective, responsibilities of TBOTE and the management responsibilities of the director and staff of ECPTOTE. Makes a nonsubstantive change.

SECTION 4.08. Amends Subchapter C, Chapter 454, Occupations Code, by adding Sections 454.1061 and 454.108, as follows:

Sec. 454.1061. PLACE OF EMPLOYMENT. Authorizes TBOTE to require that a license holder provide current information in a readily accessible and usable format regarding the license holder's current place of employment as an occupational therapist or occupational therapy assistant.

Sec. 454.108. NEGOTIATED RULEMAKING; ALTERNATIVE DISPUTE RESOLUTION. (a) Requires TBOTE to develop a policy to encourage the use of negotiated rulemaking under Chapter 2008, Government Code, for the adoption of TBOTE rules and appropriate ADR procedures under Chapter 2009, Government Code, to assist in the resolution of internal and external disputes under TBOTE's jurisdiction.

(b) Requires that TBOTE's procedures relating to ADR conform, to the extent possible, to any model guidelines issued by SOAH for the use of ADR by state agencies.

(c) Requires TBOTE to coordinate the implementation of the policy adopted under Subsection (a), provide training as needed to implement the procedures for negotiated rulemaking or ADR, and collect data concerning the effectiveness of those procedures.

SECTION 4.09. Amends Section 454.153(e), Occupations Code, to replace a reference to the coordinator of occupational therapy programs with a reference to the staff of ECPTOTE.

SECTION 4.10. Amends the heading to Subchapter E, Chapter 454, Occupations Code, to read as follows:

SUBCHAPTER E. LICENSE REQUIREMENTS

SECTION 4.11. Amends Section 454.203, Occupations Code, as follows:

Sec. 454.203. QUALIFICATIONS FOR OCCUPATIONAL THERAPIST OR OCCUPATIONAL THERAPY ASSISTANT LICENSE. Deletes designation of Subsection (a). Requires an applicant for an occupational therapist license or an occupational therapy assistant license to present evidence satisfactory to TBOTE that the applicant has successfully completed the academic and supervised field work experience requirements of a certain educational program and passed an examination. Deletes existing text requiring an applicant to present evidence that the applicant has successfully completed a period of supervised field work experience arranged by the recognized educational institution at which the applicant met the academic requirements. Redesignates existing Subdivision (3) as Subdivision (2) and makes no further changes to this subdivision. Deletes existing Subsection (b) providing that a certain amount of supervised field work experience is required of an occupational therapist or occupational therapy assistant.

SECTION 4.12. Amends Section 454.204, Occupations Code, as follows:

Sec. 454.204. EDUCATIONAL REQUIREMENTS. Provides that, to satisfy Section 454.203(1) (relating to an applicant completing academic and supervised field work experience requirement), rather than Section 454.203(a)(1):

(1) an applicant applying for an occupational therapist license is required to have, from an educational program with certain approvals, an entry-level degree in occupational therapy, or a degree that exceeds the requirements for an entry-level degree, from an educational program that prepares a person for entry into the field as an occupational therapist, or a certain certificate, rather than a baccalaureate degree in occupational therapy if the applicant graduated before January 1, 2007. Deletes existing text relating to a requirement of a post-baccalaureate degree in occupational therapy; and

(2) an applicant applying for an occupational therapy assistant license is required to have, from an educational program approved by certain entities, an entry-level degree in occupational therapy, or a degree that exceeds the requirements for an entry-level degree, from an educational program that prepares a person for entry into the field as an occupational therapy assistant, or an entry-level certificate in occupational therapy, or a certificate that exceeds the requirements of an entry-level certificate, from an educational program that prepares a person for entry into the field as an occupational therapy assistant, rather than an associate degree in occupational therapy or an occupational therapy assistant certificate.

SECTION 4.13. Amends Section 454.205(a), Occupations Code, to require an applicant who is foreign-trained, to obtain a license under this chapter, to satisfy the examination requirements and complete academic and supervised field work requirements substantially equivalent to those under Section 454.203, rather than examination requirements of Section 454.203(a)(3).

SECTION 4.14. Amends Section 454.207, Occupations Code, as follows:

Sec. 454.207. LICENSE EXAMINATION. (a) Requires TBOTE, by rule, to recognize a national testing entity to administer the examinations required to obtain an occupational therapist or occupational therapy assistant license.

(b) Creates this subsection from existing text. Requires that the examination test the applicant's knowledge of certain subjects TBOTE may require to determine the applicant's fitness to practice. Deletes existing text requiring TBOTE to examine each applicant for a license by written examination and requiring TBOTE to examine applicants for licenses at least twice each year at TBOTE's regular meetings and under the supervision required by TBOTE.

(c) Requires that the contract, if TBOTE enters into a contract with a national testing entity under Subsection (a), include a provision requiring that the national testing entity be responsible for overseeing the examination process, including certain responsibilities. Deletes existing text requiring TBOTE to approve certain examinations, establish standards for acceptable performance, and have the exam's written portion validated by an independent testing entity.

(d) Authorizes the rules adopted under this section to require that an applicant authorize the national testing entity to directly provide to TBOTE the applicant's examination results. Deletes existing text requiring TBOTE to give reasonable public notice of the examination in accordance with its rules.

(e) Authorizes TBOTE to require an applicant for an occupational therapist or occupational therapy assistant license to pass a jurisprudence examination.

SECTION 4.15. Amends Subchapter E, Chapter 454, Occupations Code, by adding Sections 454.216 and 454.217, as follows:

Sec. 454.216. LICENSE BY ENDORSEMENT. (a) Requires TBOTE to issue an occupational therapist license or an occupational therapy assistant license, as applicable, to an applicant who holds a current, unrestricted license in another jurisdiction that maintains licensing requirements that are substantially equivalent to the requirements under this chapter. Requires an applicant for a license to meet certain criteria.

(b) Requires TBOTE to adopt rules for issuing a provisional license under Section 454.210 (Provisional License) to an applicant for a license by endorsement who encounters a delay that is outside the applicant's control in submitting to TBOTE the documentation required by this section.

Sec. 454.217. CRIMINAL HISTORY RECORD INFORMATION FOR LICENSE ISSUANCE. (a) Requires TBOTE to require that an applicant for a license submit a complete and legible set of fingerprints, on a form prescribed by TBOTE, to TBOTE or to DPS for the purpose of obtaining criminal history record information from DPS and the FBI.

(b) Prohibits TBOTE from issuing a license to a person who does not comply with the requirement of Subsection (a).

(c) Requires TBOTE to conduct a criminal history record information check of each applicant for a license using certain information.

(d) Authorizes TBOTE to enter into an agreement with DPS to administer a criminal history record information check required under this section and to authorize DPS to collect from each applicant the costs incurred by DPS in conducting the criminal history record information check.

SECTION 4.16. Amends Section 454.252(b), Occupations Code, to change references to examination fee to renewal fee and to the amount charged for examination for the license to the amount of the renewal fee.

SECTION 4.17. Amends Section 454.253(b), Occupations Code, to change a reference to examination fee to renewal fee and make a nonsubstantive change.

SECTION 4.18. Amends Section 454.254, Occupations Code, by adding Subsection (e), as follows:

(e) Requires TBOTE, by rule, to establish a process for selecting a license holder peer organization in this state to evaluate and approve continuing education courses under Subsection (d) (relating to authorizing TBOTE to authorize license holder peer organizations evaluate and approve continuing education courses). Requires that the selection process to include a request for proposal and bidding process. Requires TBOTE, if TBOTE authorizes a peer organization to evaluate and approve continuing education courses under Subsection (d), to request bids and proposals from that organization and other organizations at least once every four years.

SECTION 4.19. Amends Subchapter F, Chapter 454, Occupations Code, by adding Section 454.255, as follows:

Sec. 454.255. CRIMINAL HISTORY RECORD INFORMATION REQUIREMENT FOR LICENSE RENEWAL. (a) Requires an applicant renewing a license issued under this chapter to submit a complete and legible set of fingerprints for purposes of performing a criminal history record information check of the applicant as provided by Section 454.217.

(b) Authorizes TBOTE to administratively suspend or refuse to renew the license of a person who does not comply with the requirement of Subsection (a).

(c) Provides that a license holder is not required to submit fingerprints under this section for the renewal of the license if the license holder has previously submitted fingerprints under certain sections.

SECTION 4.20. Amends Subchapter G, Chapter 454, Occupations Code, by adding Sections 454.3025 and 454.307, as follows:

Sec. 454.3025. SCHEDULE OF SANCTIONS. (a) Requires TBOTE, by rule, to adopt a schedule of administrative penalties and other sanctions that TBOTE is authorized to impose under this chapter. Requires TBOTE, in adopting the schedule of sanctions, to ensure that the amount of the penalty or severity of the sanction imposed is appropriate to the type of violation or conduct that is the basis for disciplinary action. Requires TBOTE, in determining the appropriate disciplinary action, including the amount of any administrative penalty to assess, to consider certain information.

(b) Requires TBOTE to make the schedule of sanctions adopted under Subsection (a) available to the public on request.

Sec. 454.307. RECORD OF DISCIPLINARY ACTION; EXPUNGEMENT. (a) Requires TBOTE, by rule, to establish a process to expunge any record of disciplinary action taken against a license holder before September 1, 2019, for practicing in a facility that failed to meet the registration requirements of Section 454.215 (Occupational Therapy Facility Registration), as that section existed on January 1, 2019. Requires that the rules provide

that TBOTE is prohibited from expunging a record under this section after September 1, 2021.

(b) Provides that this section expires September 1, 2021.

SECTION 4.21. Amends Sections 454.3521(a) and (b), Occupations Code, as follows:

(a) Authorizes TBOTE to impose an administrative penalty against a person licensed, rather than against a person licensed or facility registered, under this chapter who violates this chapter or a rule or order adopted under this chapter.

(b) Requires that the amount of the penalty be determined according to the sanctions schedule under Section 454.3025. Deletes existing text setting forth certain criteria the amount of the penalty is required to be based on.

SECTION 4.22. Repealer: Section 454.205(b) (relating to the requirement of TBOTE to require a foreign-trained applicant to furnish certain proof before allowing the applicant to take the examination), Occupations Code.

Repealer: Section 454.206 (Application for Examination), Occupations Code.

Repealer: Section 454.208 (Examination Results), Occupations Code.

Repealer: Section 454.209 (Reexamination), Occupations Code.

Repealer: Section 454.215 (Occupational Therapy Facility Registration), Occupations Code.

SECTION 4.23. (a) Provides that, except as provided by Subsection (b) of this section, Section 454.059, Occupations Code, as amended by this article, applies to a member of TBOTE appointed before, on, or after the effective date of this article.

(b) Requires a member of TBOTE who, before the effective date of this article, completed the training program required by Section 454.059, Occupations Code, as that law existed before the effective date of this article, to complete additional training only on subjects added to the training program required by Section 454.059, Occupations Code, as amended by this article. Prohibits a TBOTE member described by this subsection from voting, deliberating, or being counted as a member in attendance at a meeting of TBOTE held on or after December 1, 2017, until the member completes the additional training.

SECTION 4.24. Requires the director, as soon as practicable after the effective date of this article, to create the training manual required by Section 454.059(d), Occupations Code, as amended by this article.

SECTION 4.25. Requires TBOTE, as soon as practicable after the effective date of this article, to develop and implement the policies required by Sections 454.105(b) and 454.108, Occupations Code, as amended and added by this article, and adopt any rules necessary to implement Chapter 454, Occupations Code, as amended by this article.

SECTION 4.26. Requires TBOTE, not later than September 1, 2018, to establish the request for proposal and bidding process required by Section 454.254(e), Occupations Code, as added by this article.

SECTION 4.27. Makes application of Sections 454.203, 454.205, 454.252, and 454.253, Occupations Code, as amended by this article, and Sections 454.217 and 454.255, Occupations Code, as added by this article, prospective.

SECTION 4.28. Authorizes a person who holds an occupational therapist or occupational therapy assistant license issued before the effective date of this article to continue to renew that

license without complying with the changes in law made by this article to Section 454.203, Occupations Code.

SECTION 4.29. (a) Requires TBOTE to dismiss the portion of any complaint, penalty, disciplinary action, or contested case pending on September 1, 2019, that is based on a violation of rules adopted under Section 454.215, Occupations Code, as repealed by this article.

(b) Provides that Section 454.307, Occupations Code, as added by this article, applies only to records of disciplinary action for conduct that occurred before September 1, 2019.

SECTION 4.30. Makes application of Section 454.3025, Occupations Code, as added by this article, and Section 454.3521(b), Occupations Code, as amended by this article, prospective to the effective date of rules adopted under Section 454.3025.

ARTICLE 5. EFFECTIVE DATE

SECTION 5.01. (a) Effective date, except as provided by Subsection (b) of this section: September 1, 2017.

(b) Effective date of the following changes: September 1, 2019:

(1) the repeal by Article 2 of this Act of Sections 453.001(8) and 453.213, Occupations Code;

(2) Sections 453.1061 and 453.357, Occupations Code, as added by Article 2 of this Act;

(3) Sections 453.151(c), 453.401, and 453.403(a), Occupations Code, as amended by Article 2 of this Act;

(4) the heading to Subchapter E, Chapter 453, Occupations Code, as amended by Article 2 of this Act;

(5) Sections 454.1061 and 454.307, Occupations Code, as added by Article 4 of this Act;

(6) the heading to Subchapter E, Chapter 454, Occupations Code, as amended by Article 4 of this Act;

(7) the repeal by Article 4 of this Act of Section 454.215, Occupations Code; and

(8) Section 454.3521(a), Occupations Code, as amended by Article 4 of this Act.