

OCCUPATIONS CODE

TITLE 12. PRACTICES AND TRADES RELATED TO WATER, HEALTH, AND SAFETY

SUBTITLE B. PRACTICES RELATED TO HEALTH AND SAFETY

CHAPTER 1953. SANITARIANS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1953.001. DEFINITIONS. In this chapter:

Text of subdivision effective until September 01, 2017

(1) "Department" means the Department of State Health Services.

Text of subdivision effective on September 01, 2017

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

Text of subdivision effective on September 01, 2017

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

Text of subdivision effective until September 01, 2017

(2) "Executive commissioner" means the executive commissioner of the Health and Human Services Commission.

Text of subdivision effective on September 01, 2017

(2) "Executive director" means the executive director of the department.

(3) "Sanitarian" means a person trained in sanitary science to perform duties relating to education and inspections in environmental sanitation.

(4) "Sanitation" means the study, art, and technique of applying scientific knowledge to improve the human environment for the purpose of promoting public health and welfare.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 5.240, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.266, eff. September 1, 2017.

Sec. 1953.002. EMPLOYMENT OF SANITARIAN. This chapter does not require a person, including a municipality or governmental agency, to employ a sanitarian.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Sec. 1953.003. EXEMPTIONS. This chapter does not apply to a person, including a physician, dentist, engineer, or veterinarian, who is licensed by an agency of this state other than the department and who, by nature of the person's employment or duties, might be construed as being subject to this chapter.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 5.241, eff. April 2, 2015.

Text of subchapter heading effective on September 1, 2017

SUBCHAPTER B. POWERS AND DUTIES

Text of subchapter heading effective until September 1, 2017

SUBCHAPTER B. POWERS AND DUTIES OF EXECUTIVE COMMISSIONER AND DEPARTMENT

Text of section effective on September 01, 2017

Sec. 1953.051. GENERAL POWERS AND DUTIES. (a) The executive director shall administer and enforce this chapter.

(b) The department shall:

- (1) administer continuing education requirements; and
- (2) prescribe necessary forms.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 5.242, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.268, eff. September 1, 2017.

Text of subchapter heading effective on September 1, 2017

SUBCHAPTER B. POWERS AND DUTIES

Text of subchapter heading effective until September 1, 2017
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Text of section effective until September 01, 2017

Sec. 1953.051. GENERAL DUTIES OF DEPARTMENT. The department shall:

- (1) administer continuing education requirements;
- and
- (2) prescribe necessary forms.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 5.242, eff. April 2, 2015.

Text of subchapter heading effective on September 1, 2017

SUBCHAPTER B. POWERS AND DUTIES

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DEPARTMENT

Text of section effective on September 01, 2017

Sec. 1953.0512. ADVISORY COMMITTEE. The department may establish an advisory committee to provide advice and recommendations to the department on technical matters relevant to the administration of this chapter.

Added by Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.269, eff. September 1, 2017.

Text of subchapter heading effective on September 1, 2017

SUBCHAPTER B. POWERS AND DUTIES

Text of subchapter heading effective until September 1, 2017

SUBCHAPTER B. POWERS AND DUTIES OF EXECUTIVE COMMISSIONER AND
DEPARTMENT

Text of section effective until September 01, 2017

Sec. 1953.052. FEES; PAYMENT OF ADMINISTRATIVE COSTS.

(a) The executive commissioner by rule shall prescribe fees under this chapter.

(b) General revenue of the state may not be used to pay the costs of administering this chapter in an amount that exceeds the amount of fees received under this chapter.

(c) If the fees are inadequate to pay the costs of administering this chapter, the executive commissioner may increase the fees to an amount sufficient to pay those costs.

(d) The executive commissioner shall set fees for issuing or renewing a certificate of registration in amounts designed to allow the department to recover from the certificate of registration holders all of the department's direct and indirect costs in administering and enforcing this chapter.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 5.242, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.298(37), eff. September 1, 2017.

Text of subchapter heading effective on September 1, 2017

SUBCHAPTER B. POWERS AND DUTIES

Text of subchapter heading effective until September 1, 2017

SUBCHAPTER B. POWERS AND DUTIES OF EXECUTIVE COMMISSIONER AND
DEPARTMENT

Sec. 1953.053. REGISTER OF APPLICATIONS. (a) The department shall keep a register of each application for a certificate of registration under this chapter.

(b) The register must include:

(1) the name, age, and place of residence of the

applicant;

(2) the name and address of the employer or business connection of the applicant;

(3) the date of the application;

(4) complete information regarding the applicant's education and experience qualifications;

(5) the date the department reviewed and acted on the application;

(6) a description of the department's action on the application;

(7) the serial number of any certificate of registration issued to the applicant; and

(8) any other information the department determines necessary.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 5.242, eff. April 2, 2015.

Text of subchapter heading effective on September 1, 2017

SUBCHAPTER B. POWERS AND DUTIES

Text of subchapter heading effective until September 1, 2017

SUBCHAPTER B. POWERS AND DUTIES OF EXECUTIVE COMMISSIONER AND DEPARTMENT

Text of section effective until September 01, 2017

Sec. 1953.054. RECORD OF PROCEEDINGS. The department shall keep a record of proceedings under this chapter.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 5.242, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.298(38), eff. September 1, 2017.

Text of subchapter heading effective on September 1, 2017

SUBCHAPTER B. POWERS AND DUTIES

Text of subchapter heading effective until September 1, 2017
SUBCHAPTER B. POWERS AND DUTIES OF EXECUTIVE COMMISSIONER AND
DEPARTMENT

Text of section effective until September 01, 2017

Sec. 1953.055. REPORTS. The department shall maintain a copy of each annual report and each report prepared by the state auditor issued in connection with this chapter.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 5.242, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.298(39), eff. September 1, 2017.

Text of subchapter heading effective on September 1, 2017

SUBCHAPTER B. POWERS AND DUTIES

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Text of section effective on September 01, 2017

Sec. 1953.051. GENERAL POWERS AND DUTIES. (a) The executive director shall administer and enforce this chapter.

(b) The department shall:

- (1) administer continuing education requirements; and
- (2) prescribe necessary forms.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 5.242, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.268, eff. September 1, 2017.

Text of subchapter heading effective on September 1, 2017

SUBCHAPTER B. POWERS AND DUTIES

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(1) administer continuing education requirements;
and

(2) prescribe necessary forms.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 5.242, eff. April 2, 2015.

Text of subchapter heading effective on September 1, 2017

SUBCHAPTER B. POWERS AND DUTIES

Text of subchapter heading effective until September 1, 2017

SUBCHAPTER B. POWERS AND DUTIES OF EXECUTIVE COMMISSIONER AND
DEPARTMENT

Text of section effective on September 01, 2017

Sec. 1953.0512. ADVISORY COMMITTEE. The department may establish an advisory committee to provide advice and recommendations to the department on technical matters relevant to the administration of this chapter.

Added by Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.269, eff. September 1, 2017.

Text of subchapter heading effective on September 1, 2017

SUBCHAPTER B. POWERS AND DUTIES

Text of subchapter heading effective until September 1, 2017
SUBCHAPTER B. POWERS AND DUTIES OF EXECUTIVE COMMISSIONER AND
DEPARTMENT

Text of section effective until September 01, 2017

Sec. 1953.052. FEES; PAYMENT OF ADMINISTRATIVE COSTS.

(a) The executive commissioner by rule shall prescribe fees under this chapter.

(b) General revenue of the state may not be used to pay the costs of administering this chapter in an amount that exceeds the amount of fees received under this chapter.

(c) If the fees are inadequate to pay the costs of administering this chapter, the executive commissioner may increase the fees to an amount sufficient to pay those costs.

(d) The executive commissioner shall set fees for issuing or renewing a certificate of registration in amounts designed to allow the department to recover from the certificate of registration holders all of the department's direct and indirect costs in administering and enforcing this chapter.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 5.242, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.298(37), eff. September 1, 2017.

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SUBCHAPTER B. POWERS AND DUTIES

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SUBCHAPTER B. POWERS AND DUTIES OF EXECUTIVE COMMISSIONER AND
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Sec. 1953.053. REGISTER OF APPLICATIONS. (a) The department shall keep a register of each application for a certificate of registration under this chapter.

(b) The register must include:

(1) the name, age, and place of residence of the applicant;

(2) the name and address of the employer or business connection of the applicant;

(3) the date of the application;

(4) complete information regarding the applicant's education and experience qualifications;

(5) the date the department reviewed and acted on the application;

(6) a description of the department's action on the application;

(7) the serial number of any certificate of registration issued to the applicant; and

(8) any other information the department determines necessary.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 5.242, eff. April 2, 2015.

Text of subchapter heading effective on September 1, 2017

SUBCHAPTER B. POWERS AND DUTIES

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SUBCHAPTER B. POWERS AND DUTIES OF EXECUTIVE COMMISSIONER AND DEPARTMENT

Text of section effective until September 01, 2017

Sec. 1953.054. RECORD OF PROCEEDINGS. The department shall keep a record of proceedings under this chapter.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 5.242, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.298(38), eff. September 1, 2017.

Text of subchapter heading effective on September 1, 2017

SUBCHAPTER B. POWERS AND DUTIES

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SUBCHAPTER B. POWERS AND DUTIES OF EXECUTIVE COMMISSIONER AND
DEPARTMENT

Text of section effective until September 01, 2017

Sec. 1953.055. REPORTS. The department shall maintain a copy of each annual report and each report prepared by the state auditor issued in connection with this chapter.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 5.242, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.298(39), eff. September 1, 2017.

SUBCHAPTER C. CERTIFICATE OF REGISTRATION

Sec. 1953.101. REGISTRATION REQUIRED. A person who engages or offers to engage in work in sanitation may not represent that the person is a sanitarian or use a title containing the word "sanitarian" unless the person holds a certificate of registration under this chapter.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Text of section effective until September 01, 2017

Sec. 1953.102. ELIGIBILITY REQUIREMENTS. (a) To be eligible to receive a certificate of registration as a professional sanitarian, a person must:

(1) hold at least a bachelor's degree from an accredited college or university that includes at least 30 semester hours in basic or applied science;

(2) complete any additional training in the basic sciences or public health the executive commissioner determines necessary to effectively serve as a professional sanitarian; and

(3) have at least two years of full-time experience in

sanitation.

(b) The executive commissioner by rule may establish other qualifications for registration.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 5.243, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.270, eff. September 1, 2017.

Text of section effective on September 01, 2017

Sec. 1953.102. ELIGIBILITY REQUIREMENTS. (a) To be eligible to receive a certificate of registration as a professional sanitarian, a person must:

(1) hold at least a bachelor's degree from an accredited college or university that includes at least 30 semester hours in basic or applied science;

(2) complete any additional training in the basic sciences or public health the department determines necessary to effectively serve as a professional sanitarian; and

(3) have at least two years of full-time experience in sanitation.

(b) The commission by rule may establish other qualifications for registration.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 5.243, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.270, eff. September 1, 2017.

Text of section effective until September 01, 2017

Sec. 1953.103. RECIPROCAL REGISTRATION. The department under rules adopted by the executive commissioner may enter into an agreement with another state to provide for reciprocal registration if the other state provides by statute for the registration of

sanitarians.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 5.243, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.298(40), eff. September 1, 2017.

Sec. 1953.104. ISSUANCE OF CERTIFICATE: PROFESSIONAL SANITARIAN; TERM.

Text of subsection effective until September 01, 2017

(a) The department shall issue a certificate of registration as a professional sanitarian to a person who:

- (1) applies on the form prescribed by the department;
- (2) pays the registration fee set by the executive commissioner by rule;
- (3) meets the eligibility requirements prescribed by Section 1953.102; and
- (4) passes an examination under Subchapter D.

Text of subsection effective on September 01, 2017

(a) The department shall issue a certificate of registration as a professional sanitarian to a person who:

- (1) applies in the manner and on the form prescribed by the executive director;
- (2) pays the registration fee set by the commission by rule;
- (3) meets the eligibility requirements prescribed by Section 1953.102; and
- (4) passes an examination under Subchapter D.

(b) A certificate of registration is valid for two years.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 5.243, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.271, eff. September 1, 2017.

Sec. 1953.105. ISSUANCE OF CERTIFICATE: SANITARIAN IN TRAINING.

Text of subsection effective until September 01, 2017

(a) The department shall issue a certificate of registration as a sanitarian in training to a person who:

(1) is employed in sanitation;

(2) meets the eligibility requirements prescribed by Section [1953.102](#), other than the requirements relating to experience;

(3) pays a registration fee prescribed by the executive commissioner by rule for a sanitarian in training; and

(4) passes an examination under Subchapter D.

Text of subsection effective on September 01, 2017

(a) The department shall issue a certificate of registration as a sanitarian in training to a person who:

(1) is employed in sanitation;

(2) meets the eligibility requirements prescribed by Section [1953.102](#), other than the requirements relating to experience;

(3) pays a registration fee prescribed by the commission by rule for a sanitarian in training; and

(4) passes an examination under Subchapter D.

(b) A certificate issued under this section is valid for a period not to exceed two years after the date of issuance.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. [219](#)), Sec. 5.244, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. [202](#)), Sec. 1.272, eff. September 1, 2017.

Text of section effective until September 01, 2017

Sec. 1953.106. RENEWAL OR REINSTATEMENT OF CERTIFICATE.

(a) To renew a certificate of registration under this chapter, a professional sanitarian must:

(1) pay to the department a renewal fee prescribed by the executive commissioner by rule; and

(2) provide proof of completion of continuing education contact hours as prescribed by the executive commissioner.

(b) The department may reinstate a certificate of registration as provided by department rules that was revoked for failure to pay the renewal fee.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 5.245, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.273, eff. September 1, 2017.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.298(41), eff. September 1, 2017.

Text of section effective on September 01, 2017

Sec. 1953.106. RENEWAL OF CERTIFICATE.

(a) To renew a certificate of registration under this chapter, a professional sanitarian must:

(1) pay to the department a renewal fee prescribed by the commission by rule; and

(2) provide proof of completion of continuing education requirements prescribed by the commission by rule.

(b) Repealed by Acts 2015, 84th Leg., R.S., Ch. 838, Sec. 1.298(41), eff. September 1, 2017.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 5.245, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.273, eff. September 1, 2017.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.274, eff. September 1, 2017.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.298(41), eff. September 1, 2017.

SUBCHAPTER D. EXAMINATION

Sec. 1953.151. EXAMINATION. (a) To obtain a certificate of registration under this chapter, an applicant must pass a written examination prescribed by the department that provides evidence satisfactory to the department that the applicant is qualified for registration under this chapter.

Text of subsection effective until September 01, 2017

(b) An applicant for a certificate of registration may not take the examination unless the applicant pays the examination fee prescribed by the executive commissioner by rule.

Text of subsection effective on September 01, 2017

(b) An applicant for a certificate of registration may not take the examination unless the applicant pays the examination fee prescribed by the commission by rule.

(c) In evaluating an applicant's performance on the examination, the department shall carefully consider the applicant's knowledge and understanding of the principles of sanitation and the physical, biological, and social sciences.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 5.246, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.275, eff. September 1, 2017.

Text of section effective until September 01, 2017

Sec. 1953.152. EXAMINATION RESULTS. (a) Not later than the 30th day after the examination date, the department shall notify each examinee of the results of the examination. If an examination is graded or reviewed by a national testing service, the department shall notify each examinee of the results of the examination not later than the 14th day after the date the department receives the results from the testing service.

(b) If the notice of the results of an examination graded or

reviewed by a national testing service will not be given before the 91st day after the examination date, the department shall notify each examinee of the reason for the delay before the 90th day.

(c) If requested in writing by a person who fails the examination, the department shall provide to the person an analysis of the person's performance on the examination.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 5.246, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.298(42), eff. September 1, 2017.

SUBCHAPTER E. CERTIFICATE DENIAL AND DISCIPLINARY PROCEDURES

Text of section effective until September 01, 2017

Sec. 1953.201. DENIAL OF CERTIFICATE; DISCIPLINARY ACTION.

(a) The department may deny a person's application for a certificate of registration if:

(1) the person's certificate or license to engage in a profession in this state or elsewhere has been revoked for unprofessional conduct, fraud, deceit, negligence, or misconduct in the practice of the profession; or

(2) satisfactory proof is presented to the department establishing that the person has been found guilty of unprofessional conduct, fraud, deceit, negligence, or misconduct in the practice of a profession.

(b) The department may suspend or revoke a certificate of registration if the certificate holder:

(1) practiced fraud or deceit in obtaining the certificate; or

(2) acted in a manner constituting gross negligence, incompetency, or misconduct in the practice of sanitation.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 5.246, eff. April 2, 2015.

Text of section effective on September 01, 2017

Sec. 1953.201. DENIAL OF CERTIFICATE; DISCIPLINARY ACTION.

(a) The commission or executive director may deny a person's application for a certificate of registration if:

(1) the person's certificate or license to engage in a profession in this state or elsewhere has been revoked for unprofessional conduct, fraud, deceit, negligence, or misconduct in the practice of the profession; or

(2) satisfactory proof is presented to the commission or executive director establishing that the person has been found guilty of unprofessional conduct, fraud, deceit, negligence, or misconduct in the practice of a profession.

(b) The commission or executive director may suspend or revoke a certificate of registration if the certificate holder:

(1) practiced fraud or deceit in obtaining the certificate; or

(2) acted in a manner constituting gross negligence, incompetency, or misconduct in the practice of sanitation.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 5.246, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.276, eff. September 1, 2017.

Text of section effective until September 01, 2017

Sec. 1953.202. HEARING. The department may not deny an application for a certificate of registration or suspend or revoke a person's certificate until a hearing is held and the person is given the opportunity to answer any charges filed with the department.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 5.246, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.298(43), eff. September 1, 2017.

SUBCHAPTER F. PENALTIES

Sec. 1953.251. CRIMINAL PENALTY. (a) A person commits an offense if the person violates Section 1953.101.

(b) An offense under this section is a Class C misdemeanor. Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

SUBCHAPTER G. ADMINISTRATIVE PENALTY

Text of section effective until September 01, 2017

Sec. 1953.301. IMPOSITION OF ADMINISTRATIVE PENALTY. The department may impose an administrative penalty on a person registered under this chapter who violates this chapter or a rule or order adopted under this chapter.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 5.247, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.298(44), eff. September 1, 2017.

Sec. 1953.302. AMOUNT OF ADMINISTRATIVE PENALTY.

Text of subsection effective until September 01, 2017

(a) The amount of the administrative penalty may not be less than \$50 or more than \$5,000 for each violation. Each day a violation continues or occurs is a separate violation for the purpose of imposing a penalty.

Text of subsection effective on September 01, 2017

(a) The amount of an administrative penalty imposed for a violation of this chapter or a rule adopted or order issued under this chapter may not be less than \$50 or more than \$5,000 for each violation. Each day a violation continues or occurs is a separate violation for the purpose of imposing a penalty.

(b) The amount shall be based on:

- (1) the seriousness of the violation, including the nature, circumstances, extent, and gravity of the violation;
- (2) the economic harm caused by the violation;
- (3) the history of previous violations;
- (4) the amount necessary to deter a future violation;
- (5) efforts to correct the violation; and
- (6) any other matter that justice may require.

Added by Acts 2003, 78th Leg., ch. 326, Sec. 26, eff. Sept. 1, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.277, eff. September 1, 2017.

Text of section effective until September 01, 2017

Sec. 1953.303. NOTICE OF VIOLATION AND PENALTY. If the department determines that a violation occurred, the department shall give written notice of the violation to the person. The notice must:

- (1) include a brief summary of the alleged violation;
- (2) state the amount of the administrative penalty recommended by the department; and
- (3) inform the person of the person's right to a hearing on the occurrence of the violation, the amount of the penalty, or both.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 5.248, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.298(45), eff. September 1, 2017.

Sec. 1953.304. PENALTY TO BE PAID OR HEARING REQUESTED.
(a) Within 10 days after the date the person receives the notice, the person in writing may:

- (1) accept the determination and recommended administrative penalty; or
- (2) make a request for a hearing on the occurrence of the violation, the amount of the penalty, or both.

(b) If the person accepts the determination and recommended

penalty, the department by order shall approve the determination and impose the recommended penalty.

Added by Acts 2003, 78th Leg., ch. 326, Sec. 26, eff. Sept. 1, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 5.248, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.298(46), eff. September 1, 2017.

Text of section effective until September 01, 2017

Sec. 1953.305. HEARING. (a) If the person requests a hearing or fails to respond in a timely manner to the notice, the department shall set a hearing and give written notice of the hearing to the person.

(b) An administrative law judge of the State Office of Administrative Hearings shall hold the hearing.

(c) The administrative law judge shall make findings of fact and conclusions of law and promptly issue to the department a proposal for a decision about the occurrence of the violation and the amount of a proposed administrative penalty.

Added by Acts 2003, 78th Leg., ch. 326, Sec. 26, eff. Sept. 1, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 5.249, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.298(47), eff. September 1, 2017.

Sec. 1953.306. DECISION BY DEPARTMENT. (a) Based on the findings of fact, conclusions of law, and proposal for decision, the department by order may determine that:

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

(2) a violation did not occur.

(b) The notice of the department's order given to the person must include a statement of the right of the person to judicial review of the order.

Added by Acts 2003, 78th Leg., ch. 326, Sec. 26, eff. Sept. 1, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 5.250, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.298(48), eff. September 1, 2017.

Text of section effective until September 01, 2017

Sec. 1953.307. OPTIONS FOLLOWING DECISION: PAY OR APPEAL.

(a) Within 30 days after the date the department's order becomes final, the person shall:

(1) pay the administrative penalty; or

(2) file a petition for judicial review contesting the occurrence of the violation, the amount of the penalty, or both.

(b) Within the 30-day period prescribed by Subsection (a), a person who files a petition for judicial review may:

(1) stay enforcement of the penalty by:

(A) paying the penalty to the court for placement in an escrow account; or

(B) giving the court a supersedeas bond approved by the court that:

(i) is for the amount of the penalty; and

(ii) is effective until all judicial review of the department's order is final; or

(2) request the court to stay enforcement of the penalty by:

(A) filing with the court a sworn affidavit of the person stating that the person is financially unable to pay the penalty and is financially unable to give the supersedeas bond; and

(B) giving a copy of the affidavit to the department by certified mail.

(c) If the department receives a copy of an affidavit under Subsection (b)(2), the department may file with the court, within five days after the date the copy is received, a contest to the affidavit.

(d) The court shall hold a hearing on the facts alleged in the affidavit as soon as practicable and shall stay the enforcement of the penalty on finding that the alleged facts are true. The

person who files an affidavit has the burden of proving that the person is financially unable to pay the penalty and to give a supersedeas bond.

Added by Acts 2003, 78th Leg., ch. 326, Sec. 26, eff. Sept. 1, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 5.251, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.298(49), eff. September 1, 2017.

Text of section effective until September 01, 2017

Sec. 1953.308. COLLECTION OF PENALTY. (a) If the person does not pay the administrative penalty and the enforcement of the penalty is not stayed, the penalty may be collected.

(b) The attorney general may sue to collect the penalty.

Added by Acts 2003, 78th Leg., ch. 326, Sec. 26, eff. Sept. 1, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.298(50), eff. September 1, 2017.

Text of section effective until September 01, 2017

Sec. 1953.309. DETERMINATION BY COURT. (a) If the court sustains the determination that a violation occurred, the court may uphold or reduce the amount of the administrative penalty and order the person to pay the full or reduced amount of the penalty.

(b) If the court does not sustain the finding that a violation occurred, the court shall order that a penalty is not owed.

Added by Acts 2003, 78th Leg., ch. 326, Sec. 26, eff. Sept. 1, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.298(51), eff. September 1, 2017.

Text of section effective until September 01, 2017

Sec. 1953.310. REMITTANCE OF PENALTY AND INTEREST. (a) If the person paid the administrative penalty and if the amount of the

penalty is reduced or the penalty is not upheld by the court, the court shall order, when the court's judgment becomes final, that the appropriate amount plus accrued interest be remitted to the person.

(b) The interest accrues at the rate charged on loans to depository institutions by the New York Federal Reserve Bank.

(c) The interest shall be paid for the period beginning on the date the penalty is paid and ending on the date the penalty is remitted.

(d) If the person gave a supersedeas bond and the penalty is not upheld by the court, the court shall order, when the court's judgment becomes final, the release of the bond.

(e) If the person gave a supersedeas bond and the amount of the penalty is reduced, the court shall order the release of the bond after the person pays the reduced amount.

Added by Acts 2003, 78th Leg., ch. 326, Sec. 26, eff. Sept. 1, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.298(52), eff. September 1, 2017.

Text of section effective until September 01, 2017

Sec. 1953.311. ADMINISTRATIVE PROCEDURE. A proceeding under this subchapter is a contested case under Chapter 2001, Government Code.

Added by Acts 2003, 78th Leg., ch. 326, Sec. 26, eff. Sept. 1, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.298(53), eff. September 1, 2017.