

OCCUPATIONS CODE

TITLE 3. HEALTH PROFESSIONS

SUBTITLE C. OTHER PROFESSIONS PERFORMING MEDICAL PROCEDURES

CHAPTER 204. PHYSICIAN ASSISTANTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 204.001. SHORT TITLE. This chapter may be cited as the Physician Assistant Licensing Act.

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

Sec. 204.002. DEFINITIONS. In this chapter:

(1) "Medical board" means the Texas Medical Board.

(2) "Physician assistant board" means the Texas Physician Assistant Board.

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

Amended by:

Acts 2005, 79th Leg., Ch. 269 (S.B. 419), Sec. 2.01, eff. September 1, 2005.

Sec. 204.003. APPLICABILITY. (a) A person is not required to hold a license issued under this chapter to practice as:

(1) a technician, assistant, or employee of a physician who performs delegated tasks but does not act as a physician assistant or represent that the person is a physician assistant; or

(2) any other licensed health care worker acting within the scope of that person's license if the person:

(A) does not use the title "physician assistant" or the initials "P.A."; or

(B) is not represented or designated as a physician assistant.

(b) This chapter does not limit the employment arrangement of a physician assistant licensed under this chapter.

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

SUBCHAPTER B. TEXAS PHYSICIAN ASSISTANT BOARD

Sec. 204.051. TEXAS PHYSICIAN ASSISTANT BOARD. (a) The Texas Physician Assistant Board is an advisory board to the Texas State Board of Medical Examiners.

(b) A reference in any other law to the former Texas State Board of Physician Assistant Examiners means the Texas Physician Assistant Board.

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

Amended by:

Acts 2005, 79th Leg., Ch. 269 (S.B. 419), Sec. 2.03, eff. September 1, 2005.

Sec. 204.052. APPOINTMENT OF BOARD. (a) The physician assistant board consists of 13 members appointed by the governor with the advice and consent of the senate as follows:

(1) seven practicing physician assistant members who each have at least five years of clinical experience as a physician assistant;

(2) three physician members who are licensed in this state and who supervise physician assistants; and

(3) three public members who are not licensed as a physician or physician assistant.

(b) Appointments to the physician assistant board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.

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

Amended by:

Acts 2005, 79th Leg., Ch. 269 (S.B. 419), Sec. 2.04, eff. September 1, 2005.

Acts 2015, 84th Leg., R.S., Ch. 87 (S.B. 622), Sec. 1, eff. September 1, 2015.

Sec. 204.053. MEMBERSHIP ELIGIBILITY AND RESTRICTIONS. (a) In this section, "Texas trade association" means a cooperative and voluntarily joined statewide association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual

business or profession problems and in promoting their common interest.

(b) A person may not be a public member of the physician assistant board if the person or the person's spouse:

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

(2) is employed by or participates in the management of a business entity or other organization regulated by or receiving money from the medical board or physician assistant board;

(3) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by or receiving money from the medical board or physician assistant board; or

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

(c) A person may not be a member of the physician assistant board and may not be a medical board employee in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of health care; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of health care.

(d) A person may not be a member of the physician assistant board or act as the general counsel to the physician assistant board if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the medical board or physician assistant board.

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

Amended by:

Acts 2005, 79th Leg., Ch. 269 (S.B. [419](#)), Sec. 2.05, eff. September 1, 2005.

Sec. 204.054. TERMS; VACANCIES. (a) Members of the physician assistant board are appointed for staggered six-year terms. The terms of four or five members, as applicable, expire on February 1 of each odd-numbered year.

(b) A member may not serve more than:

(1) two consecutive full terms; or

(2) a total of three full terms.

(c) If a vacancy occurs during a member's term, the governor shall appoint a new member to fill the unexpired term.

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

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 87 (S.B. [622](#)), Sec. 2, eff. September 1, 2015.

Sec. 204.055. OFFICERS. The governor shall designate a physician assistant member of the physician assistant board as the presiding officer of the board to serve in that capacity at the will of the governor. The physician assistant board shall select from its membership a secretary to serve a one-year term.

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

Amended by:

Acts 2005, 79th Leg., Ch. 269 (S.B. [419](#)), Sec. 2.06, eff. September 1, 2005.

Acts 2015, 84th Leg., R.S., Ch. 87 (S.B. [622](#)), Sec. 3, eff. September 1, 2015.

Sec. 204.056. GROUNDS FOR REMOVAL. (a) It is a ground for removal from the physician assistant board that a member:

(1) does not have at the time of taking office the qualifications required by Sections [204.052](#) and [204.053](#);

(2) does not maintain during service on the physician assistant board the qualifications required by Sections [204.052](#) and [204.053](#);

(3) is ineligible for membership under Section [204.053](#);

(4) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term; or

(5) is absent from more than half of the regularly scheduled physician assistant board meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the board.

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

(c) If the executive director of the medical board has knowledge that a potential ground for removal exists, the executive director shall notify the presiding officer of the physician assistant board of the potential ground. The presiding officer shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the executive director shall notify the next highest ranking officer of the physician assistant board, who shall then notify the governor and the attorney general that a potential ground for removal exists.

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

Amended by:

Acts 2005, 79th Leg., Ch. 269 (S.B. [419](#)), Sec. 2.07, eff. September 1, 2005.

Sec. 204.057. PER DIEM. A member of the physician assistant board is entitled to receive a per diem as set by legislative appropriation for each day that the member engages in the business of the board. If the General Appropriations Act does not prescribe the amount of the per diem, the per diem is equal to a member's actual expenses for meals, lodging, and transportation plus \$100.

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

Sec. 204.058. OPEN MEETINGS; ADMINISTRATIVE PROCEDURE LAW. Except as otherwise provided by this chapter, the physician

assistant board is subject to Chapters 551 and 2001, Government Code.

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

This section was amended by the 85th Legislature. Pending publication of the current statutes, see S.B. 1625, 85th Legislature, Regular Session, for amendments affecting this section.

Sec. 204.059. TRAINING. (a) A person who is appointed to and qualifies for office as a member of the physician assistant board may not vote, deliberate, or be counted as a member in attendance at a meeting of the board until the person completes a training program that complies with this section.

(b) The training program must provide the person with information regarding:

(1) this chapter and the physician assistant board's programs, functions, rules, and budget;

(2) the results of the most recent formal audit of the physician assistant board;

(3) the requirements of laws relating to open meetings, public information, administrative procedure, and conflicts of interest; and

(4) any applicable ethics policies adopted by the physician assistant board or the Texas Ethics Commission.

(c) A person appointed to the physician assistant board is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

Added by Acts 2005, 79th Leg., Ch. 269 (S.B. 419), Sec. 2.08, eff. September 1, 2005.

#### SUBCHAPTER C. POWERS AND DUTIES OF PHYSICIAN ASSISTANT BOARD AND MEDICAL BOARD

Sec. 204.101. GENERAL POWERS AND DUTIES OF BOARD. The physician assistant board shall:

(1) adopt rules that are reasonable and necessary for the performance of the physician assistant board's duties under this chapter, as provided by Chapter 2001, Government Code, including rules to establish:

- (A) licensing and other fees;
- (B) license renewal dates; and
- (C) procedures for disciplinary actions;

(2) review and approve or reject each application for the issuance or renewal of a license;

(3) issue each license;

(4) deny, suspend, or revoke a license or otherwise discipline a license holder; and

(5) take any action necessary to carry out the functions and duties of the physician assistant board under this chapter.

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

Sec. 204.1015. GUIDELINES FOR EARLY INVOLVEMENT IN RULEMAKING PROCESS. (a) The physician assistant board shall adopt guidelines to establish procedures for receiving input during the rulemaking process from individuals and groups that have an interest in matters under the board's jurisdiction. The guidelines must provide an opportunity for those individuals and groups to provide input before the physician assistant board submits the rule to the medical board for approval.

(b) A rule adopted by the medical board may not be challenged on the grounds that the physician assistant board did not comply with this section. If the physician assistant board was unable to solicit a significant amount of input from the public or affected persons early in the rulemaking process, the physician assistant board shall state in writing the reasons why the physician assistant board was unable to do so.

Added by Acts 2005, 79th Leg., Ch. 269 (S.B. 419), Sec. 2.09, eff. September 1, 2005.

Sec. 204.102. POWERS AND DUTIES OF MEDICAL BOARD RELATING TO PHYSICIAN ASSISTANTS. (a) The medical board shall adopt rules

consistent with this chapter to regulate physician assistants and physicians who supervise physician assistants.

(b) The medical board, by a majority vote, shall approve or reject each rule adopted by the physician assistant board. If approved, the rule may take effect. If the rule is rejected, the medical board shall return the rule to the physician assistant board for revision.

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

Sec. 204.1025. DUTIES REGARDING PRESCRIPTIVE AUTHORITY AGREEMENTS. The physician assistant board shall in conjunction with the Texas Medical Board and the Texas Board of Nursing perform the functions and duties relating to prescriptive authority agreements assigned to the physician assistant board in Sections [157.0512](#) and [157.0513](#).

Added by Acts 2013, 83rd Leg., R.S., Ch. 418 (S.B. [406](#)), Sec. 11, eff. November 1, 2013.

Sec. 204.103. FEES. The physician assistant board shall establish and collect fees in amounts that are reasonable and necessary to cover the cost of administering this chapter.

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

Sec. 204.104. RURAL PHYSICIAN ASSISTANT LOAN REIMBURSEMENT PROGRAM. (a) A program shall be established to provide student loan reimbursement for graduates of physician assistant training programs from any state who practice in rural health professional shortage areas and medically underserved areas identified by the Texas Department of Health. The physician assistant board shall fund the program by designating annually a portion of the revenue generated under this chapter from physician assistant licensing fees.

(b) The Texas Department of Rural Affairs shall establish policies for and adopt rules to administer the loan program.

(c) The physician assistant board shall authorize and the medical board shall transfer annually the funds designated under Subsection (a) to the Texas Department of Rural Affairs to



administer the loan program.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1424, Sec. 10, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 112 (H.B. 1918), Sec. 100, eff. September 1, 2009.

Sec. 204.105. RULES ON CONSEQUENCES OF CRIMINAL CONVICTION. The physician assistant board shall adopt rules and guidelines as necessary to comply with Chapter 53, except to the extent the requirements of this chapter are stricter than the requirements of Chapter 53.

Added by Acts 2005, 79th Leg., Ch. 269 (S.B. 419), Sec. 2.10, eff. September 1, 2005.

Sec. 204.106. DIVISION OF RESPONSIBILITIES. Subject to the advice and approval of the medical board, the physician assistant board shall develop and implement policies that clearly separate the policy-making responsibilities of the physician assistant board and the management responsibilities of the executive director and the staff of the medical board.

Added by Acts 2005, 79th Leg., Ch. 269 (S.B. 419), Sec. 2.11, eff. September 1, 2005.

Sec. 204.107. PUBLIC PARTICIPATION. Subject to the advice and approval of the medical board, the physician assistant board shall develop and implement policies that provide the public with a reasonable opportunity to appear before the physician assistant board and to speak on any issue under the jurisdiction of the physician assistant board.

Added by Acts 2005, 79th Leg., Ch. 269 (S.B. 419), Sec. 2.12, eff. September 1, 2005.

Sec. 204.108. RECORDS OF COMPLAINTS. (a) The physician assistant board shall maintain a system to promptly and efficiently act on complaints filed with the physician assistant board. The board shall maintain:

(1) information about the parties to the complaint and the subject matter of the complaint;

(2) a summary of the results of the review or investigation of the complaint; and

(3) information about the disposition of the complaint.

(b) The physician assistant board shall make information available describing its procedures for complaint investigation and resolution.

(c) The physician assistant board shall periodically notify the parties of the status of the complaint until final disposition of the complaint, unless the notice would jeopardize an investigation.

Added by Acts 2005, 79th Leg., Ch. 269 (S.B. 419), Sec. 2.13, eff. September 1, 2005.

Sec. 204.109. USE OF TECHNOLOGY. Subject to the advice and approval of the medical board, the physician assistant board shall implement a policy requiring the physician assistant board to use appropriate technological solutions to improve the physician assistant board's ability to perform its functions. The policy must ensure that the public is able to interact with the board on the Internet.

Added by Acts 2005, 79th Leg., Ch. 269 (S.B. 419), Sec. 2.14, eff. September 1, 2005.

Sec. 204.110. NEGOTIATED RULEMAKING AND ALTERNATIVE DISPUTE RESOLUTION POLICY. (a) Subject to the advice and approval of the medical board, the physician assistant board shall develop and implement a policy to encourage the use of:

(1) negotiated rulemaking procedures under Chapter 2008, Government Code, for the adoption of physician assistant board rules; and

(2) appropriate alternative dispute resolution procedures under Chapter 2009, Government Code, to assist in the resolution of internal and external disputes under the physician assistant board's jurisdiction.

(b) The physician assistant board's procedures relating to alternative dispute resolution must conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

(c) The physician assistant board shall designate a trained person to:

(1) coordinate the implementation of the policy adopted under Subsection (a);

(2) serve as a resource for any training needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and

(3) collect data concerning the effectiveness of those procedures, as implemented by the physician assistant board.

Added by Acts 2005, 79th Leg., Ch. 269 (S.B. 419), Sec. 2.15, eff. September 1, 2005.

#### SUBCHAPTER D. LICENSE REQUIREMENTS, EXEMPTIONS, AND RENEWAL

Sec. 204.151. LICENSE REQUIRED. A person may not practice as a physician assistant in this state unless the person holds a physician assistant license issued under this chapter.

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

Sec. 204.152. ISSUANCE OF LICENSE. (a) The physician assistant board shall issue a license to an applicant who:

(1) meets the eligibility requirements of Section 204.153;

(2) submits an application on a form prescribed by the board;

(3) pays the required application fee;

(4) certifies that the applicant is mentally and physically able to function safely as a physician assistant; and

(5) submits to the board any other information the board considers necessary to evaluate the applicant's qualifications.

(b) The physician assistant board may delegate authority to

medical board employees to issue licenses under this chapter to applicants who clearly meet all licensing requirements. If the medical board employees determine that the applicant does not clearly meet all licensing requirements, the application shall be returned to the physician assistant board. A license issued under this subsection does not require formal physician assistant board approval.

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

Amended by:

Acts 2005, 79th Leg., Ch. 269 (S.B. [419](#)), Sec. 2.16, eff. September 1, 2005.

This section was amended by the 85th Legislature. Pending publication of the current statutes, see S.B. [1625](#), 85th Legislature, Regular Session, for amendments affecting this section.

Sec. 204.153. ELIGIBILITY REQUIREMENTS. (a) To be eligible for a license under this chapter, an applicant must:

(1) successfully complete an educational program for physician assistants or surgeon assistants accredited by the Committee on Allied Health Education and Accreditation or by that committee's predecessor or successor entities;

(2) pass the Physician Assistant National Certifying Examination administered by the National Commission on Certification of Physician Assistants;

(3) hold a certificate issued by the National Commission on Certification of Physician Assistants;

(4) be of good moral character;

(5) meet any other requirement established by board rule; and

(6) pass a jurisprudence examination approved by the physician assistant board as provided by Subsection (a-1).

(a-1) The jurisprudence examination shall be conducted on the licensing requirements and other laws, rules, or regulations applicable to the physician assistant profession in this state. The physician assistant board shall establish rules for the jurisprudence examination under Subsection (a)(6) regarding:

- (1) the development of the examination;
- (2) applicable fees;
- (3) administration of the examination;
- (4) reexamination procedures;
- (5) grading procedures; and
- (6) notice of results.

(b) In addition to the requirements of Subsection (a), an applicant is not eligible for a license, unless the physician assistant board takes the fact into consideration in determining whether to issue the license, if the applicant:

(1) has been issued a license, certificate, or registration as a physician assistant in this state or from a licensing authority in another state that is revoked or suspended; or

(2) is subject to probation or other disciplinary action for cause resulting from the applicant's acts as a physician assistant.

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

Amended by:

Acts 2005, 79th Leg., Ch. 269 (S.B. 419), Sec. 2.17, eff. September 1, 2005.

Sec. 204.154. EXEMPTIONS FROM LICENSING REQUIREMENT FOR CERTAIN PHYSICIAN ASSISTANTS. A person is not required to hold a license issued under this chapter to practice as:

(1) a physician assistant student enrolled in a physician assistant or surgeon assistant educational program accredited by the Committee on Allied Health Education and Accreditation of the American Medical Association or by successor entities as approved and designated by physician assistant board rule; or

(2) a physician assistant employed in the service of the federal government while performing duties related to that employment.

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

Sec. 204.155. TEMPORARY LICENSE. (a) The physician

assistant board may issue a temporary license to an applicant who:

(1) meets all the qualifications for a license under this chapter but is waiting for the license to be issued at the next scheduled meeting of the board;

(2) seeks to temporarily substitute for a licensed physician assistant during the license holder's absence, if the applicant:

(A) is licensed or registered in good standing in another state;

(B) submits an application on a form prescribed by the board; and

(C) pays the appropriate fee prescribed by the board; or

(3) has graduated from an educational program for physician assistants or surgeon assistants described by Section [204.153\(a\)\(1\)](#) not later than six months before applying for a temporary license and is waiting for examination results from the National Commission on Certification of Physician Assistants.

(b) A temporary license may be valid for not more than one year after the date issued as determined by board rule.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 578, Sec. 1, eff. Sept. 1, 2001.

This section was amended by the 85th Legislature. Pending publication of the current statutes, see S.B. [1625](#), 85th Legislature, Regular Session, for amendments affecting this section.

Sec. 204.156. LICENSE RENEWAL. (a) On notification from the physician assistant board, a person who holds a license under this chapter may renew the license by:

(1) paying the required renewal fee;

(2) submitting the appropriate form; and

(3) meeting any other requirement established by board rule.

(b) The physician assistant board by rule may adopt a system under which licenses expire on various dates during the year.

(c) A person who is otherwise eligible to renew a license

may renew an unexpired license by paying the required renewal fee to the physician assistant board before the expiration date of the license. A person whose license has expired may not engage in activities that require a license until the license has been renewed.

(d) A person whose license has been expired for 90 days or less may renew the license by paying to the physician assistant board a fee that is equal to 1-1/2 times the renewal fee for the license.

(e) A person whose license has been expired for more than 90 days but less than one year may renew the license by paying to the physician assistant board a fee equal to two times the renewal fee for the license.

(f) A person who was licensed in this state, moved to another state, and is currently licensed and has been in practice in the other state for the two years preceding the date of the application may obtain a new license without reexamination. The person must pay to the physician assistant board a fee that is equal to two times the normally required renewal fee for the license.

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

Amended by:

Acts 2005, 79th Leg., Ch. 269 (S.B. [419](#)), Sec. 2.18, eff. September 1, 2005.

Sec. 204.1562. CONTINUING MEDICAL EDUCATION REQUIREMENTS.

(a) The physician assistant board by rule shall adopt, monitor, and enforce a reporting program for the continuing medical education of license holders. The physician assistant board shall adopt and administer rules that:

(1) establish the number of hours of continuing medical education the physician assistant board determines appropriate as a prerequisite to the renewal of a license under this chapter;

(2) require at least one-half of the hours of continuing medical education established under Subdivision (1) to be approved by the physician assistant board; and

(3) adopt a process to assess a license holder's

participation in continuing medical education courses.

(b) The physician assistant board may require that a specified number of continuing medical education hours be completed informally, including through self-study and self-directed education.

Added by Acts 2005, 79th Leg., Ch. 269 (S.B. 419), Sec. 2.19, eff. September 1, 2005.

Sec. 204.1565. INFORMAL CONTINUING MEDICAL EDUCATION.

(a) In this section, "practice serving a medically underserved population" has the meaning assigned by Section 157.051.

(b) The physician assistant board by rule shall permit a license holder to complete half of any informal continuing medical education hours required to renew a license under this chapter by providing volunteer medical services at a practice serving a medically underserved population, other than a site that is a primary practice site of the license holder.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 14.053(a), eff. Sept. 1, 2001.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 418 (S.B. 406), Sec. 12, eff. November 1, 2013.

Sec. 204.157. INACTIVE STATUS. (a) A person licensed under this chapter may place the person's license on inactive status by applying to the physician assistant board. A person whose license is on inactive status is excused from paying renewal fees for the license.

(b) The holder of a license on inactive status may not practice as a physician assistant. A violation of this subsection is considered to be practicing without a license.

(c) A person whose license is on inactive status under this section may return the person's license to active status by:

- (1) applying to the physician assistant board;
- (2) satisfying the requirements of Section 204.156;

and

- (3) paying the fee established by the physician



assistant board for returning a license to active status.

(d) The physician assistant board by rule shall establish a limit on the length of time a physician assistant's license may remain on inactive status.

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

Amended by:

Acts 2005, 79th Leg., Ch. 269 (S.B. 419), Sec. 2.20, eff. September 1, 2005.

#### SUBCHAPTER E. PRACTICE BY LICENSE HOLDER

Sec. 204.201. NOTICE OF INTENT TO PRACTICE. (a) Before beginning practice, each physician assistant licensed under this chapter shall submit on a form prescribed by the physician assistant board notice of the license holder's intent to practice. The notice must include:

(1) the name, business address, license number, and telephone number of the physician assistant; and

(2) the name, business address, Texas license number, and telephone number of the physician assistant's supervising physician.

(b) A physician assistant shall notify the physician assistant board of any change in, or addition to, the person acting as a supervising physician for the physician assistant not later than the 30th day after the date the change or addition occurs.

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

Sec. 204.202. SCOPE OF PRACTICE. (a) The practice of a physician assistant includes providing medical services delegated by a supervising physician that are within the education, training, and experience of the physician assistant.

(b) Medical services provided by a physician assistant may include:

(1) obtaining patient histories and performing physical examinations;

(2) ordering or performing diagnostic and therapeutic procedures;

- (3) formulating a working diagnosis;
- (4) developing and implementing a treatment plan;
- (5) monitoring the effectiveness of therapeutic interventions;
- (6) assisting at surgery;
- (7) offering counseling and education to meet patient needs;
- (8) requesting, receiving, and signing for the receipt of pharmaceutical sample prescription medications and distributing the samples to patients in a specific practice setting in which the physician assistant is authorized to prescribe pharmaceutical medications and sign prescription drug orders as provided by Section [157.0512](#) or [157.054](#);
- (9) prescribing or ordering a drug or device as provided by Subchapter B, Chapter [157](#); and
- (10) making appropriate referrals.

(c) The activities listed by Subsection (b) may be performed in any place authorized by a supervising physician, including a clinic, hospital, ambulatory surgical center, patient home, nursing home, or other institutional setting.

(d) A physician assistant's signature attesting to the provision of a service the physician assistant is legally authorized to provide satisfies any documentation requirement for that service established by a state agency.

(e) A physician assistant is the agent of the physician assistant's supervising physician for any medical services that are delegated by that physician and that:

- (1) are within the physician assistant's scope of practice; and

- (2) are delineated by protocols, practice guidelines, or practice directives established by the supervising physician.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 112, Sec. 3, eff. May 11, 2001; Acts 2001, 77th Leg., ch. 178, Sec. 1, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1420, Sec. 14.054(a), eff. Sept. 1, 2001.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 418 (S.B. [406](#)), Sec. 13, eff.

November 1, 2013.

Sec. 204.203. IDENTIFICATION REQUIREMENTS. A physician assistant shall:

(1) keep the physician assistant's license available for inspection at the physician assistant's primary place of business; and

(2) when engaged in the physician assistant's professional activities, wear a name tag identifying the license holder as a physician assistant.

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

Sec. 204.204. SUPERVISION REQUIREMENTS. (a) A physician assistant shall be supervised by a supervising physician. A physician assistant may have more than one supervising physician. The supervising physician oversees the activities of, and accepts responsibility for, medical services provided by the physician assistant.

(b) Supervision of a physician assistant by a supervising physician must be continuous. The supervision does not require the constant physical presence of the supervising physician where physician assistant services are being performed, but, if a supervising physician is not present, the supervising physician and the physician assistant must be, or must be able to easily be, in contact with one another by radio, telephone, or another telecommunication device.

(c) The number of physician assistants a physician may supervise in a practice setting may not be less than the number of physician assistants to whom a physician may delegate the authority to prescribe or order a drug or device in that practice setting under Subchapter B, Chapter 157.

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

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 418 (S.B. 406), Sec. 14, eff. November 1, 2013.

This section was amended by the 85th Legislature. Pending

publication of the current statutes, see H.B. 1978, 85th Legislature, Regular Session, for amendments affecting this section.

Sec. 204.2045. SERVICES PERFORMED DURING DISASTER. (a) The supervision and delegation requirements of this chapter and Subtitle B do not apply to medical tasks performed by a physician assistant during a disaster under the state emergency management plan adopted under Section 418.042, Government Code, or a disaster declared by the governor or United States government. This section does not apply to medical tasks performed by a physician assistant for compensation or other remuneration.

(b) A physician assistant performing medical tasks under this section is entitled to the immunity from liability provided by Section 74.151, Civil Practice and Remedies Code.

(c) A physician assistant may perform tasks described by this section:

(1) under the supervision of any physician who is also performing volunteer work in the disaster; or

(2) without the supervision of a physician, if a physician is not available to provide supervision.

(d) A physician assistant employed by the United States government or licensed in another state may perform medical tasks in this state in circumstances described by Subsection (a) without holding a license in this state.

Added by Acts 2005, 79th Leg., Ch. 580 (H.B. 1577), Sec. 1, eff. June 17, 2005.

Sec. 204.205. REQUIREMENTS FOR SUPERVISING PHYSICIAN. A supervising physician must:

(1) hold an unrestricted and active license as a physician in this state;

(2) notify the medical board of the physician's intent to supervise a physician assistant;

(3) submit to the medical board a statement that the physician will:

(A) supervise the physician assistant according to medical board rule; and

(B) retain professional and legal responsibility for the care provided by the physician assistant; and

(4) receive approval from the medical board to supervise the physician assistant.

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

Sec. 204.206. ESTABLISHMENT OF CERTAIN FUNCTIONS AND STANDARDS. Each physician assistant and the physician assistant's supervising physician shall ensure that:

(1) the physician assistant's scope of function is identified;

(2) delegation of medical tasks is appropriate to the physician assistant's level of competence;

(3) the relationship between the physician assistant and the supervising physician and the access of the physician assistant to the supervising physician are defined; and

(4) a process is established for evaluating the physician assistant's performance.

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

Sec. 204.207. ASSUMPTION OF PROFESSIONAL LIABILITY. (a) Each supervising physician retains legal responsibility for a physician assistant's patient care activities, including the provision of care and treatment to a patient in a health care facility.

(b) If a physician assistant is employed by an entity, including a health care facility, the entity shares the legal responsibility for the physician assistant's acts or omissions with the physician assistant's supervising physician.

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

Sec. 204.208. DUTY TO REPORT; MEDICAL PEER REVIEW. (a) A medical peer review committee in this state, physician assistant, physician assistant student, or physician lawfully practicing medicine in this state shall report relevant information to the physician assistant board related to the acts of a physician assistant in this state if, in the person's opinion, a physician

assistant poses a continuing threat to the public welfare through practice as a physician assistant. The duty to report under this section may not be nullified through contract.

(b) Sections [160.002](#), [160.003](#), [160.006](#), [160.007\(d\)](#), [160.009](#), [160.013](#), [160.014](#), and [160.015](#) apply to medical peer review relating to the practice of a physician assistant.

(c) A person, including a health care entity or medical peer review committee, that without malice furnishes records, information, or assistance to the physician assistant board is immune from any civil liability arising from that act.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.055, eff. Sept. 1, 2001.

#### Sec. 204.209. JOINTLY OWNED ENTITIES WITH PHYSICIANS.

(a) A physician assistant who jointly owns an entity with a physician shall report annually to the physician assistant board the ownership interest and other information required by physician assistant board rule.

(b) The physician assistant board shall assess a fee for processing each report required by Subsection (a).

(c) A report filed under Subsection (a) is public information for purposes of Chapter [552](#), Government Code.

Added by Acts 2011, 82nd Leg., R.S., Ch. 782 (H.B. [2098](#)), Sec. 5, eff. June 17, 2011.

#### SUBCHAPTER F. COMPLAINTS AND INVESTIGATIVE INFORMATION

Sec. 204.251. COMPLAINT INFORMATION AND STATUS. (a) The physician assistant board shall keep information on file about each complaint filed with the board.

(b) If a written complaint is filed with the physician assistant board relating to a person licensed by the board, the board, as often as quarterly and until final determination of the action to be taken on the complaint, shall notify the parties to the complaint of the status of the complaint unless the notice would jeopardize an active investigation.

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

Sec. 204.2511. CONDUCT OF INVESTIGATION. The physician assistant board shall complete a preliminary investigation of a complaint filed with the physician assistant board not later than the 30th day after the date of receiving the complaint. The physician assistant board shall first determine whether the physician assistant constitutes a continuing threat to the public welfare. On completion of the preliminary investigation, the physician assistant board shall determine whether to officially proceed on the complaint. If the physician assistant board fails to complete the preliminary investigation in the time required by this section, the physician assistant board's official investigation of the complaint is considered to commence on that date.

Added by Acts 2005, 79th Leg., Ch. 269 (S.B. 419), Sec. 2.21, eff. September 1, 2005.

Sec. 204.252. LICENSE HOLDER ACCESS TO COMPLAINT INFORMATION. (a) The physician assistant board shall provide a license holder who is the subject of a formal complaint filed under this chapter with access to all information in its possession that the board intends to offer into evidence in presenting its case in chief at the contested hearing on the complaint, subject to any other privilege or restriction established by rule, statute, or legal precedent. The board shall provide the information not later than the 30th day after receipt of a written request from the license holder or the license holder's counsel, unless good cause is shown for delay.

(b) Notwithstanding Subsection (a), the board is not required to provide:

- (1) board investigative reports;
- (2) investigative memoranda;
- (3) the identity of a nontestifying complainant;
- (4) attorney-client communications;
- (5) attorney work product; or
- (6) other material covered by a privilege recognized by the Texas Rules of Civil Procedure or the Texas Rules of

Evidence.

(c) The provision of information does not constitute a waiver of privilege or confidentiality under this chapter or other law.

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

Sec. 204.253. HEALTH CARE ENTITY REQUEST FOR INFORMATION. On the written request of a health care entity, the physician assistant board shall provide to the entity:

(1) information about a complaint filed against a license holder that was resolved after investigation by:

(A) a disciplinary order of the board; or

(B) an agreed settlement; and

(2) the basis of and current status of any complaint under active investigation.

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

Sec. 204.254. CONFIDENTIALITY OF INVESTIGATIVE INFORMATION. A complaint, adverse report, investigation file, other report, or other investigative information in the possession of or received or gathered by the physician assistant board or a board employee or agent relating to a license holder, a license application, or a criminal investigation or proceeding is privileged and confidential and is not subject to discovery, subpoena, or other means of legal compulsion for release to any person other than the board or a board employee or agent involved in license holder discipline.

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

Sec. 204.255. PERMITTED DISCLOSURE OF INVESTIGATIVE INFORMATION. (a) Investigative information in the possession of a physician assistant board employee or agent that relates to the discipline of a license holder may be disclosed to:

(1) a licensing authority in another state or country in which the license holder is licensed or has applied for a license; or

(2) a peer review committee reviewing:



(A) an application for privileges; or

(B) the qualifications of the license holder with respect to retaining privileges.

(b) If investigative information in the possession of the physician assistant board or a board employee or agent indicates that a crime may have been committed, the board shall report the information to the proper law enforcement agency. The board shall cooperate with and assist each law enforcement agency conducting a criminal investigation of a license holder by providing information relevant to the investigation. Confidential information disclosed by the board to a law enforcement agency under this subsection remains confidential and may not be disclosed by the law enforcement agency except as necessary to further the investigation.

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

#### SUBCHAPTER G. DISCIPLINARY PROCEEDINGS

Sec. 204.301. DISCIPLINARY AUTHORITY OF BOARD. (a) Except as provided by Section 204.305, on a determination that an applicant or license holder committed an act described in Section 204.302, 204.303, or 204.304, the physician assistant board by order shall take any of the following actions:

(1) deny the person's application for a license or license renewal or revoke the person's license or other authorization;

(2) require the person to submit to the care, counseling, or treatment of a health care practitioner designated by the physician assistant board;

(3) stay enforcement of an order and place the person on probation;

(4) require the person to complete additional training;

(5) suspend, limit, or restrict the person's license, including:

(A) limiting the practice of the person to, or excluding from the practice, one or more specified activities of

the practice as a physician assistant; or

(B) stipulating periodic physician assistant board review;

(6) assess an administrative penalty against the person under Section 204.351;

(7) order the person to perform public service; or

(8) administer a public reprimand.

(b) If the physician assistant board stays enforcement of an order and places a person on probation, the board retains the right to vacate the probationary stay and enforce the original order for noncompliance with the terms of probation or impose any other remedial measure or sanction authorized by this section.

(c) The physician assistant board may restore or reissue a license or remove any disciplinary or corrective measure that the board has imposed.

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

Amended by:

Acts 2005, 79th Leg., Ch. 269 (S.B. 419), Sec. 2.22, eff. September 1, 2005.

Sec. 204.3011. DELEGATION OF CERTAIN COMPLAINT DISPOSITIONS. (a) The physician assistant board may delegate to a committee of medical board employees the authority to dismiss or enter into an agreed settlement of a complaint that does not relate directly to patient care or that involves only administrative violations. The disposition determined by the committee must be approved by the physician assistant board at a public meeting.

(b) A complaint delegated under this section shall be referred for informal proceedings under Section 204.312 if:

(1) the committee of employees determines that the complaint should not be dismissed or settled;

(2) the committee is unable to reach an agreed settlement; or

(3) the affected physician assistant requests that the complaint be referred for informal proceedings.

Added by Acts 2005, 79th Leg., Ch. 269 (S.B. 419), Sec. 2.23, eff. September 1, 2005.

Sec. 204.302. CONDUCT RELATED TO FRAUD OR MISREPRESENTATION. The physician assistant board may take action under Section 204.301 against an applicant or license holder who:

- (1) fraudulently or deceptively obtains or attempts to obtain a license;
- (2) fraudulently or deceptively uses a license;
- (3) falsely represents that the person is a physician;
- (4) acts in an unprofessional or dishonorable manner that is likely to deceive, defraud, or injure the public;
- (5) fraudulently alters a physician assistant license, certificate, or diploma;
- (6) uses a physician assistant license, certificate, or diploma that has been fraudulently purchased, issued, or counterfeited or that has been materially altered;
- (7) directly or indirectly aids or abets a person not licensed to practice as a physician assistant in practicing as a physician assistant; or
- (8) unlawfully advertises in a false, misleading, or deceptive manner, as described by Section 101.201.

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

Sec. 204.303. CONDUCT RELATED TO VIOLATION OF LAW. (a) The physician assistant board may take action under Section 204.301 against an applicant or license holder who:

- (1) violates this chapter or a rule adopted under this chapter;
- (2) is convicted of a felony, placed on deferred adjudication, or placed in a pretrial diversion program;
- (3) violates state law if the violation is connected with practice as a physician assistant;
- (4) fails to keep complete and accurate records of the purchase and disposal of drugs as required by Chapter 483, Health and Safety Code, or any subsequent rules; or
- (5) writes a false or fictitious prescription for a dangerous drug as defined by Chapter 483, Health and Safety Code.

(b) A complaint, indictment, or conviction of a law

violation is not necessary for the physician assistant board to act under Subsection (a)(3). Proof of the commission of the act while in practice as a physician assistant or under the guise of practice as a physician assistant is sufficient for action by the physician assistant board.

(c) A failure to keep the records described under Subsection (a)(4) for a reasonable time is grounds for disciplinary action against a physician assistant. The physician assistant board or its representative may enter and inspect a physician assistant's place or places of practice during reasonable business hours to:

- (1) verify the correctness of the records; and
- (2) inventory the drugs on hand.

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

Sec. 204.304. CONDUCT INDICATING LACK OF FITNESS. (a) The physician assistant board may take action under Section [204.301](#) against an applicant or license holder who:

(1) habitually uses drugs or intoxicating liquors to the extent that, in the board's opinion, the person cannot safely perform as a physician assistant;

(2) has been adjudicated as mentally incompetent;

(3) has a mental or physical condition that renders the person unable to safely perform as a physician assistant;

(4) has committed an act of moral turpitude;

(5) has failed to practice as a physician assistant in an acceptable manner consistent with public health and welfare;

(6) has had the person's license to practice as a physician assistant suspended, revoked, or restricted;

(7) has had other disciplinary action taken by another state or by the uniformed services of the United States regarding practice as a physician assistant;

(8) prescribes, dispenses, or administers a drug or treatment that is nontherapeutic in nature or nontherapeutic in the manner the drug or treatment is prescribed, dispensed, or administered;

(9) is removed or suspended from, or has had disciplinary action taken by the person's peers in, any

professional association or society, or is being disciplined by a licensed hospital or medical staff of a hospital, including removal, suspension, limitation of privileges, or other disciplinary action, if the reason for the discipline, in the board's opinion, is unprofessional conduct or professional incompetence likely to harm the public;

(10) has repeated or recurring meritorious health care liability claims that, in the board's opinion, are evidence of professional incompetence likely to harm the public; or

(11) sexually abuses or exploits another person through the license holder's practice as a physician assistant.

(b) A certified copy of the record of the state or uniformed services of the United States taking an action described by Subsection (a)(7) is conclusive evidence of the action.

(c) An action described by Subsection (a)(9) does not constitute state action on the part of the association, society, or hospital medical staff.

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

Sec. 204.3045. PHYSICAL OR MENTAL EXAMINATION. (a) The physician assistant board shall adopt guidelines, in conjunction with persons interested in or affected by this section, to enable the physician assistant board to evaluate circumstances in which a physician assistant or applicant may be required to submit to an examination for mental or physical health conditions, alcohol and substance abuse, or professional behavior problems.

(b) The physician assistant board shall refer a physician assistant or applicant with a physical or mental health condition to the most appropriate medical specialist for evaluation. The physician assistant board may not require a physician assistant or applicant to submit to an examination by a physician having a specialty specified by the physician assistant board unless medically indicated. The physician assistant board may not require a physician assistant or applicant to submit to an examination to be conducted an unreasonable distance from the person's home or place of business unless the physician assistant or applicant resides and works in an area in which there are a

limited number of physicians able to perform an appropriate examination.

(c) The guidelines adopted under this section do not impair or remove the physician assistant board's power to make an independent licensing decision.

Added by Acts 2005, 79th Leg., Ch. 269 (S.B. 419), Sec. 2.24, eff. September 1, 2005.

Sec. 204.308. SUBPOENA. (a) The executive director or the secretary-treasurer of the medical board may issue a subpoena or subpoena duces tecum for the physician assistant board to:

(1) conduct an investigation or a contested proceeding related to:

(A) alleged misconduct by a physician assistant;

(B) an alleged violation of this chapter or other law related to practice as a physician assistant; or

(C) the provision of health care under this chapter;

(2) issue, suspend, restrict, or revoke a license under this chapter; or

(3) deny or grant an application for a license under this chapter.

(b) Failure to timely comply with a subpoena issued under this section is a ground for:

(1) disciplinary action by the physician assistant board or another licensing or regulatory agency with jurisdiction over the person subject to the subpoena; and

(2) denial of a license application.

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

Sec. 204.309. PROTECTION OF PATIENT IDENTITY. In a disciplinary investigation or proceeding conducted under this chapter, the physician assistant board shall protect the identity of each patient whose medical records are examined and used in a public proceeding unless the patient:

(1) testifies in the public proceeding; or

(2) submits a written release in regard to the

patient's records or identity.

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

Sec. 204.310. REQUIRED SUSPENSION OF LICENSE OF INCARCERATED PHYSICIAN ASSISTANT. Regardless of the offense, the physician assistant board shall suspend the license of a physician assistant serving a prison term in a state or federal penitentiary during the term of the incarceration.

Added by Acts 2001, 77th Leg., ch. 578, Sec. 2, eff. Sept. 1, 2001.

Sec. 204.311. TEMPORARY SUSPENSION. (a) The presiding officer of the physician assistant board, with board approval, shall appoint a three-member disciplinary panel consisting of board members to determine whether a person's license to practice as a physician assistant should be temporarily suspended.

(b) If the disciplinary panel determines from the evidence or information presented to the panel that a person licensed to practice as a physician assistant would, by the person's continuation in practice, constitute a continuing threat to the public welfare, the disciplinary panel shall temporarily suspend the license of that person.

(c) A license may be suspended under this section without notice or hearing on the complaint if:

(1) institution of proceedings for a hearing before the physician assistant board is initiated simultaneously with the temporary suspension; and

(2) a hearing is held under Chapter 2001, Government Code, and this chapter as soon as possible.

(d) Notwithstanding Chapter 551, Government Code, the disciplinary panel may hold a meeting by telephone conference call if immediate action is required and convening of the panel at one location is inconvenient for any member of the disciplinary panel.

Added by Acts 2001, 77th Leg., ch. 578, Sec. 2, eff. Sept. 1, 2001.

Sec. 204.312. INFORMAL PROCEEDINGS. (a) The physician assistant board by rule shall adopt procedures governing:

(1) informal disposition of a contested case under

Section 2001.056, Government Code; and

(2) informal proceedings held in compliance with Section 2001.054, Government Code.

(b) Rules adopted under this section must require that:

(1) an informal meeting in compliance with Section 2001.054, Government Code, be scheduled not later than the 180th day after the date the complaint is filed with the physician assistant board, unless good cause is shown by the physician assistant board for scheduling the informal meeting after that date;

(2) the physician assistant board give notice to the license holder of the time and place of the meeting not later than the 30th day before the date the meeting is held;

(3) the complainant and the license holder be provided an opportunity to be heard;

(4) at least one of the physician assistant board members participating in the informal meeting as a panelist be a member who represents the public;

(5) the physician assistant board's legal counsel or a representative of the attorney general be present to advise the physician assistant board or the medical board's staff; and

(6) a member of the medical board's staff be at the meeting to present to the physician assistant board's representative the facts the staff reasonably believes it could prove by competent evidence or qualified witnesses at a hearing.

(c) An affected physician assistant is entitled to:

(1) reply to the staff's presentation; and

(2) present the facts the physician assistant reasonably believes the physician assistant could prove by competent evidence or qualified witnesses at a hearing.

(d) After ample time is given for the presentations, the physician assistant board representative shall recommend that the investigation be closed or shall attempt to mediate the disputed matters and make a recommendation regarding the disposition of the case in the absence of a hearing under applicable law concerning contested cases.

(e) If the license holder has previously been the subject of



disciplinary action by the physician assistant board, the physician assistant board shall schedule the informal meeting as soon as practicable but not later than the deadline prescribed by Subsection (b)(1).

Added by Acts 2005, 79th Leg., Ch. 269 (S.B. 419), Sec. 2.27, eff. September 1, 2005.

This section was amended by the 85th Legislature. Pending publication of the current statutes, see S.B. 1625, 85th Legislature, Regular Session, for amendments affecting this section.

Sec. 204.313. PHYSICIAN ASSISTANT BOARD REPRESENTATION IN INFORMAL PROCEEDINGS. (a) In an informal meeting under Section 204.312, at least two panelists shall be appointed to determine whether an informal disposition is appropriate.

(b) Notwithstanding Subsection (a) and Section 204.312(b)(4), an informal proceeding may be conducted by one panelist if the affected physician assistant waives the requirement that at least two panelists conduct the informal proceeding. If the physician assistant waives that requirement, the panelist may be any member of the physician assistant board.

(c) The panel requirements described by Subsections (a) and (b) apply to an informal proceeding conducted by the physician assistant board under Section 204.312, including a proceeding to:

(1) consider a disciplinary case to determine if a violation has occurred; or

(2) request modification or termination of an order.

(d) The panel requirements described by Subsections (a) and (b) do not apply to an informal proceeding conducted by the physician assistant board under Section 204.312 to show compliance with an order of the physician assistant board.

Added by Acts 2005, 79th Leg., Ch. 269 (S.B. 419), Sec. 2.28, eff. September 1, 2005.

Sec. 204.314. ROLES AND RESPONSIBILITIES OF PARTICIPANTS IN INFORMAL PROCEEDINGS. (a) A physician assistant board member that serves as a panelist at an informal meeting under Section 204.312

shall make recommendations for the disposition of a complaint or allegation. The member may request the assistance of a medical board employee at any time.

(b) Medical board employees shall present a summary of the allegations against the affected physician assistant and of the facts pertaining to the allegation that the employees reasonably believe may be proven by competent evidence at a formal hearing.

(c) A physician assistant board or medical board attorney shall act as counsel to the panel and, notwithstanding Subsection (e), shall be present during the informal meeting and the panel's deliberations to advise the panel on legal issues that arise during the proceeding. The attorney may ask questions of participants in the informal meeting to clarify any statement made by the participant. The attorney shall provide to the panel a historical perspective on comparable cases that have appeared before the physician assistant board or medical board, keep the proceedings focused on the case being discussed, and ensure that the medical board's employees and the affected physician assistant have an opportunity to present information related to the case. During the panel's deliberations, the attorney may be present only to advise the panel on legal issues and to provide information on comparable cases that have appeared before the physician assistant board or medical board.

(d) The panel and medical board employees shall provide an opportunity for the affected physician assistant and the physician assistant's authorized representative to reply to the medical board employees' presentation and to present oral and written statements and facts that the physician assistant and representative reasonably believe could be proven by competent evidence at a formal hearing.

(e) An employee of the medical board who participated in the presentation of the allegation or information gathered in the investigation of the complaint, the affected physician assistant, the physician assistant's authorized representative, the complainant, the witnesses, and members of the public may not be present during the deliberations of the panel. Only the members of the panel and the attorney serving as counsel to the panel may be

present during the deliberations.

(f) The panel shall recommend the dismissal of the complaint or allegations or, if the panel determines that the affected physician assistant has violated a statute or physician assistant board rule, the panel may recommend physician assistant board action and terms for an informal settlement of the case.

(g) The panel's recommendations under Subsection (f) must be made in a written order and presented to the affected physician assistant and the physician assistant's authorized representative. The physician assistant may accept the proposed settlement within the time established by the panel at the informal meeting. If the physician assistant rejects the proposed settlement or does not act within the required time, the physician assistant board may proceed with the filing of a formal complaint with the State Office of Administrative Hearings.

Added by Acts 2005, 79th Leg., Ch. 269 (S.B. 419), Sec. 2.29, eff. September 1, 2005.

Sec. 204.3145. LIMIT ON ACCESS TO INVESTIGATION FILES. The physician assistant board shall prohibit or limit access to an investigation file relating to a license holder in an informal proceeding in the manner provided by Section 164.007(c).

Added by Acts 2005, 79th Leg., Ch. 269 (S.B. 419), Sec. 2.29, eff. September 1, 2005.

Sec. 204.315. SURRENDER OF LICENSE. (a) The physician assistant board may accept the voluntary surrender of a license.

(b) A surrendered license may not be returned to the license holder unless the physician assistant board determines, under physician assistant board rules, that the former holder of the license is competent to resume practice.

(c) The physician assistant board by rule shall establish guidelines for determining the competency of a former license holder to return to practice.

Added by Acts 2005, 79th Leg., Ch. 269 (S.B. 419), Sec. 2.30, eff. September 1, 2005.

Sec. 204.316. REFUND. (a) Subject to Subsection (b), the physician assistant board may order a license holder to pay a refund to a consumer as provided in an agreement resulting from an informal settlement conference instead of or in addition to imposing an administrative penalty under Section 204.351.

(b) The amount of a refund ordered as provided in an agreement resulting from an informal settlement conference may not exceed the amount the consumer paid to the license holder for a service regulated by this chapter. The physician assistant board may not require payment of other damages or estimate harm in a refund order.

Added by Acts 2005, 79th Leg., Ch. 269 (S.B. 419), Sec. 2.31, eff. September 1, 2005.

Sec. 204.317. MODIFICATION OF FINDINGS OR RULINGS BY ADMINISTRATIVE LAW JUDGE. The physician assistant board may change a finding of fact or conclusion of law or vacate or modify an order of an administrative law judge only if the physician assistant board makes a determination required by Section 2001.058(e), Government Code.

Added by Acts 2005, 79th Leg., Ch. 269 (S.B. 419), Sec. 2.32, eff. September 1, 2005.

Sec. 204.318. EXPERT IMMUNITY. An expert who assists the physician assistant board is immune from suit and judgment and may not be subjected to a suit for damages for any investigation, report, recommendation, statement, evaluation, finding, or other action taken without fraud or malice in the course of assisting the board in a disciplinary proceeding. The attorney general shall represent the expert in any suit resulting from a service provided by the person in good faith to the physician assistant board.

Added by Acts 2005, 79th Leg., Ch. 269 (S.B. 419), Sec. 2.33, eff. September 1, 2005.

#### SUBCHAPTER H. PENALTIES AND OTHER ENFORCEMENT PROVISIONS

Sec. 204.351. ADMINISTRATIVE PENALTY. (a) The physician

assistant board by order may impose an administrative penalty against a person licensed under this chapter who violates this chapter or a rule or order adopted under this chapter.

(b) The penalty may be in an amount not to exceed \$5,000. Each day a violation continues or occurs is a separate violation for purposes of imposing a penalty.

(c) The physician assistant board shall base the amount of the penalty on:

- (1) the severity of patient harm;
- (2) the severity of economic harm to any person;
- (3) the severity of any environmental harm;
- (4) increased potential for harm to the public;
- (5) any attempted concealment of misconduct;
- (6) any premeditated or intentional misconduct;
- (7) the motive for the violation;
- (8) prior misconduct of a similar or related nature;
- (9) the license holder's disciplinary history;
- (10) prior written warnings or written admonishments from any government agency or official regarding statutes or regulations relating to the misconduct;
- (11) violation of a board order;
- (12) failure to implement remedial measures to correct or mitigate harm from the misconduct;
- (13) lack of rehabilitative potential or likelihood of future misconduct of a similar nature;
- (14) relevant circumstances increasing the seriousness of the misconduct; and
- (15) any other matter that justice may require.

(d) The physician assistant board by rule shall prescribe the procedure by which it may impose an administrative penalty. A proceeding under this section is subject to Chapter 2001, Government Code.

(e) If the physician assistant board by order determines that a violation has occurred and imposes an administrative penalty, the board shall give notice to the person of the board's order. The notice must include a statement of the person's right to judicial review of the order.

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

Sec. 204.352. CRIMINAL PENALTY. (a) A person commits an offense if, without holding a license issued under this chapter, the person:

- (1) holds the person out as a physician assistant;
- (2) uses any combination or abbreviation of the term "physician assistant" to indicate or imply that the person is a physician assistant; or
- (3) acts as a physician assistant.

(b) An offense under this section is a felony of the third degree.

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

Sec. 204.353. CEASE AND DESIST ORDER. (a) If it appears to the physician assistant board that a person who is not licensed under this chapter is violating this chapter, a rule adopted under this chapter, or another state statute or rule relating to physician assistant practice, the board after notice and opportunity for a hearing may issue a cease and desist order prohibiting the person from engaging in the activity.

(b) A violation of an order under this section constitutes grounds for imposing an administrative penalty under this subchapter.

Added by Acts 2005, 79th Leg., Ch. 269 (S.B. [419](#)), Sec. 2.35, eff. September 1, 2005.