



## Board Rules

### Title 22, Texas Administrative Code

### Chapter 871, Subchapter A

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## §871.1 Definitions

The following words and terms, when used in these rules shall have the following meanings unless the context clearly indicates otherwise. Words and terms defined in the Athletic Trainers Act shall have the same meaning in these rules:

(1) Act--Occupations Code, Chapter 451 (formerly codified at Texas Civil Statutes, Article 4512d), relating to the Advisory Board of Athletic Trainers.

(2) Applicant--A person who applies to the board for a license or temporary license.

(3) ALJ--An administrative law judge appointed by the State Office of Administrative Hearings to preside over contested case hearings.

(4) APA--The Administrative Procedure Act, Government Code, Chapter 2001.

(5) Associate executive secretary--A licensed athletic trainer employed by the board as the associate director of board licensing activities and who serves at the direction of the board.

(6) Athletic trainer--A person licensed under the Act.

(7) Board--The Advisory Board of Athletic Trainers.

(8) Clock-hour--50 minutes of attendance and participation in an acceptable continuing education experience.

(9) Department--The Department of State Health Services.

(10) Executive secretary--A licensed athletic trainer employed by the board as the director of board licensing activities and who serves at the direction of the board.

(11) Executive secretary emeritus--A licensed athletic trainer who has been previously employed by the board as the director of board licensing activities and who currently serves at the direction of the board.

(12) Licensee--A person who holds a current license or a temporary license as an athletic trainer issued by the board under the Act.

(13) Program director--The department employee designated as the coordinator of the licensure activities authorized by the Act.

(14) SOAH--The State Office of Administrative Hearings.

(15) Temporary license--A license issued under §871.10 of this title (relating to Temporary License).

## §871.2 Scope of Practice

(a) A licensed athletic trainer prevents, recognizes, assesses, manages, treats, disposes of, and reconditions athletic injuries and illnesses under the direction of a physician licensed in this state or another qualified, licensed health professional who is authorized to refer for health care services within the scope of the person's license. An athlete is a person who participates in an organized sport or sport-related exercise or activity, including interscholastic, intercollegiate, intramural, semiprofessional, and professional sports activities.

(b) The activities listed in subsection (c)(1)-(7) of this section may be performed in any setting authorized by a licensed physician and may include, but not be limited to, an educational institution, professional or amateur athletic organization, an athletic facility, or a health care facility.

(c) Services provided by a licensed athletic trainer may include, but are not limited to:

(1) planning and implementing a comprehensive athletic injury and illness prevention program;

(2) conducting an initial assessment of an athlete's injury or illness and formulating an impression of the injury or illness in order to provide emergency or continued care and referral to a physician for definitive diagnosis and treatment, if appropriate;

(3) administering first aid and emergency care for acute athletic injuries and illnesses;

(4) coordinating, planning, and implementing a comprehensive rehabilitation program for athletic injuries;

(5) coordinating, planning, and supervising all administrative components of an athletic training or sports medicine program;

(6) providing health care information and counseling athletes; and

(7) conducting research and providing instruction on subject matter related to athletic training or sports medicine.

(d) A licensee shall not provide health care services which are not within the definition of "athletic training" in the Act except in accordance with state and federal laws and rules applicable to the provided services including, but not limited to, Occupations Code, Chapter 157, relating to a physician's delegated authority; other licensure laws; and laws relating to the possession and distribution of controlled substances.

### §871.3 The Board's Operation

- (a) The chair is appointed by and serves at the will of the governor.
- (b) The chair shall preside at all board meetings at which he or she is in attendance and perform all duties prescribed by the Act and this chapter. The chair may serve as an ex-officio member of any committee.
- (c) The vice-chair shall perform the duties of chair in case of the absence of the chair. If the office of chair becomes vacant, the vice-chair will serve until a successor is appointed.
- (d) At the meeting held nearest to August 31 of each year, the board shall elect by a majority vote of those members present and voting, a vice-chair and secretary. Nominations shall be from the floor.
- (e) A vacancy which occurs in the offices of vice-chair or secretary may be filled by a majority vote of those members present and voting at the next board meeting.
- (f) The board or the chair with the approval of the board may establish committees necessary to assist the board in carrying out its duties and responsibilities.
- (1) The chair may appoint members of the board to serve on committees.
- (2) The chair may designate a member of the committee to serve as committee chair for a one-year period.
- (3) The chair may appoint non-board members to serve as committee members on a consultant or voluntary basis, subject to board approval.
- (4) The committee chairs shall make regular reports to the board by interim written reports and/or at regular meetings, as necessary.
- (5) Committees shall meet when called by the chair of the committee or when so directed by the board.
- (6) The following standing committees may be appointed by the chair:
- (A) the Complaints Committee;
  - (B) the Continuing Education Committee;
  - (C) the Education Committee;

(D) the Governmental Affairs Committee; and

(E) the Communications Committee.

(g) The board shall hold at least two regular meetings during each year ending on August 31 at such dates, places, and times as determined by the chair.

(1) The board may hold additional meetings necessary for the transaction of board business on the call of the chair or at the written request of any three members of the board.

(2) Meetings shall be announced and conducted under the provisions of the Open Meetings Act, Government Code, Chapter 551.

(3) A quorum of the board necessary to conduct official business is three members.

(h) The board shall not be bound in any way by any statement or action on the part of any board or staff member except when a statement or action is pursuant to specific instructions of the board.

(i) Board action shall require a majority vote of those members present and voting.

(j) The latest edition of Roberts Rules of Order shall be the basis of parliamentary decisions except where otherwise provided by this chapter.

(k) Policy against discrimination. The board shall make decisions in the discharge of its statutory authority without discrimination based on any person's race, creed, sex, religion, national origin, age, physical condition, or economic status.

(l) The policy of the board is that members shall attend board and committee meetings.

(1) It is a ground for removal from the board if a member is absent from more than half of the regularly scheduled board meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the board.

(2) The board may report to the governor and the Texas Sunset Advisory Commission the attendance records of members.

(m) A board member is entitled to receive the state per diem allowance as set by the legislature in the General Appropriations Act for transportation and related expenses incurred for each day the member engages in the business of the board.

(1) Payment to board members of per diem and transportation expenses shall be on official state travel vouchers which have been approved by the department.

(2) Attendance at conventions, meetings, and seminars must be clearly related to the performance of board duties and show a benefit to the state.

(n) The program director shall prepare and submit to each member of the board, prior to each meeting, an agenda which includes items requested by members, items required by law, unfinished business, and other matters of board business which have been approved for discussion by the chair.

(o) The official agenda of a meeting shall be filed with the Office of the Secretary of State of the State of Texas in accordance with the Open Meetings Act, Government Code, Chapter 551.

(p) The drafts of the minutes of each meeting shall be forwarded to each board member for review and comments prior to approval by the board.

(1) After approval by the board, the minutes of any board meeting are official only when affixed with the original signatures of the chair and secretary.

(2) The official minutes of board meetings shall be kept in the office of the program director and shall be available to any person desiring to examine them during regular office hours.

(q) All public records of the board shall be open for inspection during regular office hours unless such records contain information excepted from disclosure under the Public Information Act, Government Code, Chapter 552; the Family Educational Rights and Privacy Act of 1974, 20 United States Code, §1232g; or other applicable law.

(1) A person desiring to examine public records shall make a request to examine the records.

(2) Public records may not be taken from board offices; however, persons may obtain photocopies upon request and by paying the cost per page in accordance with rules of the Texas Building and Procurement Commission.

#### **§871.4 Petition for Rulemaking**

(a) The following procedures shall apply to the submission, consideration, and disposition of a petition to the board to adopt a rule.

(b) Submission of the petition.

(1) Any person may petition the board to adopt a rule.

(2) The petition shall be in writing, shall contain the petitioner's name and address, and shall describe the rule and the reason for it. If the executive secretary determines that further information is necessary to assist the board in reaching a decision, the executive secretary may require that the petitioner resubmit the petition and that it contain:

(A) a brief explanation of the proposed rule;

(B) the text of the proposed rule prepared in a manner to indicate the words to be added or deleted from the current text, if any;

(C) a statement of the statutory or other authority under which the rule is to be promulgated; and

(D) the anticipated public benefit as a result of adopting the rule or the anticipated injury or inequity that could result from the failure to adopt the proposed rule.

(3) The board may deny a petition which does not contain the information in paragraph (2) of this subsection or the information in paragraph (2)(A)-(D) of this subsection if the executive secretary determines that the latter is necessary.

(4) The petition shall be mailed or delivered to the board office.

(5) The executive secretary shall submit a completed petition to the board for its consideration.

(6) The executive secretary shall submit the petition to the board for its consideration and disposition at the first regular board meeting scheduled after receipt of the petition. If the next meeting is within 15 days of the date the petition is received, the executive secretary shall submit the petition to the board at the next regular meeting of the board.

(c) Denial or acceptance of the petition.

(1) The board may deny parts of the petition and/or initiate rulemaking procedures on parts of the petition.

(2) If the board denies the petition, the executive secretary shall give the petitioner written notice of the board's denial, including the reason(s) for the denial.

(3) If the board initiates rule-making procedures, the version of the rule which the board proposes may differ from the version proposed by the petitioner.

(4) The board may refuse to consider any subsequent petition for the adoption of the same or similar rule submitted within six months after the date of the initial petition.

### §871.5 Processing Applications

(a) The following periods of time shall apply from the date an application is received until the date of issuance of a written notice that the application is complete and accepted for filing or that the application is deficient and additional specific information is required. For the purpose of this section, an application is not considered complete until all required documentation and fees have been received. A written notice stating that the application has been approved may be sent in lieu of the notice of acceptance of a completed application. The time periods are as follows:

(1) letter of acceptance of application for licensure or temporary licensure--30 working days;

(2) letter of application or renewal deficiency--30 working days; and

(3) issuance of license renewal--20 working days.

(b) The following periods of time shall apply from the receipt of the last item necessary to complete the application until the date of issuance of written notice approving or denying the application. For the purpose of this section, an application is not considered complete until the applicant has successfully completed any required examination and all required documentation and fees have been received. The time periods for denial include notification of the proposed decision and of the opportunity, if required, to show compliance with law and of the opportunity for a formal hearing. The time periods are as follows:

(1) letter of approval for examination--30 working days;

(2) initial letter of approval for licensure--30 working days;

(3) letter of denial of licensure--180 working days; and

(4) issuance of license renewal--20 working days.

(c) In the event an application is not processed in the time periods stated in subsections (a) and (b) of this section, and no good cause exists for the delay, the applicant has the right to request reimbursement of all fees paid in that particular application process. Application for reimbursement shall be made to the program director. If the program director does not agree that the time period has been violated or finds that good cause existed for exceeding the time period, the request will be denied.

(d) Good cause for exceeding the time period is considered to exist if the number of applications for licensure and licensure renewal exceeds by 15% or more the number of applications processed in the same calendar quarter of the preceding year; another public or private entity relied upon by the board in the application process caused the delay; or any other condition exists giving the board good cause for exceeding the time period.

(e) Appeal. If the program director denies a request for reimbursement under subsection (c) of this section, the applicant may appeal to the chair of the board for a timely resolution of any dispute arising from a violation of the time periods. The applicant shall give written notice to the chair at the address of the board that he or she requests full reimbursement of all fees paid because the application was not processed within the applicable time period. The program director shall prepare and submit a written report of the facts related to the processing of the application and of any good cause for exceeding the applicable time period to the chair. The program director shall provide written notice of the chair's decision to the applicant. An appeal shall be decided in the applicant's favor if the applicable time period was exceeded and good cause was not established. If the appeal is decided in favor of the applicant, full reimbursement of all fees paid in that particular application process shall be made.

(f) Contested cases. The time periods for contested cases related to the denial of licensure or license renewals are not included within the time periods stated in subsections (a) and (b) of this section. The time period for conducting a contested case hearing runs from the date the department receives a written request for a hearing and ends when the decision of the board is final and appealable.

(g) If an application remains deficient for one year after notice of deficiency has been sent to the applicant, the application shall be voided.

### §871.6 Fees

(a) The schedule of fees of the board is as follows:

(1) application fee--\$60;

(2) temporary license fee--\$200;

(3) written examination fee--\$75;

(4) practical examination fee--\$90;

(5) initial license fee--\$100;

(6) child support reinstatement fee--\$75;

(7) returned check fee--\$25;

(8) renewal license--\$250;

(9) late renewal fee:

(A) a fee that is equal to one and one-half times the normally required renewal fee when renewed on or within 90 days of expiration; or

(B) a fee that is equal to two times the normally required renewal fee when renewed more than 90 days, but less than one year after expiration; and

(10) criminal history evaluation letter fee - \$50.

(b) For all applications and renewal applications, the board is authorized to collect subscription and convenience fees, in amounts determined by the Texas Online Authority, to recover costs associated with application and renewal application processing through Texas Online.

(c) For all applications and renewal applications, the board is required to collect fees to fund the Office of Patient Protection, Health Professions Council, as mandated by law.

(d) All fees are nonrefundable.

(e) A licensee or applicant whose personal check for a fee is not honored by the financial institution may reinstate the renewal application, initial application, or examination eligibility by remitting to the department a money order or cashier's check for the amount of the fee plus the returned check fee within 30 days of the date of the person's receipt of the department's notice that the personal check was not honored.

(1) An initial or renewal application will be considered incomplete until the fee has been received and cleared through the appropriate financial institution.

(2) If proper payment is not received, the license or temporary license shall not be issued or renewed. If a license or renewal card has already been issued, it shall be ineffective.

(3) If proper payment is not received for an examination fee, the applicant's examination results shall not be released.

### §871.7 Qualifications

(a) Applicants qualifying under the Act, §451.153(a)(1) shall have:

(1) a baccalaureate or post-baccalaureate degree which includes at least 24 hours of combined academic credit from each of the following course areas:

(A) human anatomy;

(B) health, disease, nutrition, fitness, wellness, emergency care, first aid, or drug and alcohol education;

(C) kinesiology or biomechanics;

(D) physiology of exercise;

(E) athletic training, sports medicine, or care and prevention of injuries;

(F) advanced athletic training, advanced sports medicine, or assessment of injury; and

(G) therapeutic exercise or rehabilitation or therapeutic modalities; and

(2) an apprenticeship in athletic training meeting the following requirements:

(A) the program shall be under the direct supervision of and on the same campus as a Texas licensed athletic trainer, or if out-of-state, the college or university's certified or state licensed athletic trainer;

(B) the apprenticeship must be a minimum of 1,800 hours. It must be based on the academic calendar and must be completed during at least five fall and/or spring semesters. Hours in the classroom do not count toward apprenticeship hours;

(C) the hours must be completed in college or university intercollegiate sports programs. A maximum of 600 hours of the 1,800 hours may be accepted from an affiliated setting which the college or university's athletic trainer has approved. No more than 300 hours may be earned at one affiliated setting. These hours must be under the direct supervision of a licensed physician, licensed or certified athletic trainer, or licensed physical therapist;

(D) 1,500 hours of the apprenticeship shall be fulfilled while enrolled as a student at a college or university; and

(E) the apprenticeship must offer work experience in a variety of sports. It shall include instruction by a licensed or certified athletic trainer in prevention of injuries, emergency care, rehabilitation, and modality usage.

(b) In place of the requirements in subsection (a) of this section, applicants qualifying under the Act, §451.153(a)(1) shall hold a baccalaureate or post-baccalaureate degree and one of the following:

(1) current licensure, registration, or certification as an athletic trainer issued by another state, jurisdiction, or territory of the United States; or

(2) current national certification as an athletic trainer issued by the Board of Certification, Inc. (BOC).

(c) Applicants qualifying under the Act, §451.153(a)(2) or §451.153(a)(3) shall have a baccalaureate or post-baccalaureate degree or a state issued certificate in physical therapy or a baccalaureate or post-baccalaureate degree in corrective therapy with at least a minor in physical education or health. Applicants who hold such degrees must complete three semester hours of a basic athletic training course from an accredited college or university. An applicant shall also complete an apprenticeship in athletic training meeting the following requirements.

(1) The program shall be a minimum of 720 hours. It must be based on the academic calendar and must be completed during at least three fall and/or spring semesters. The hours must be under the direct supervision of a college or university's Texas licensed athletic trainer or if out-of-state, the college or university's certified or state licensed athletic trainer. The apprenticeship includes a minimum of 360 hours per year. Hours in the classroom do not count toward apprenticeship hours.

(2) Actual working hours shall include a minimum of 20 hours per week during each fall semester. A fall semester includes pre-season practice sessions. The apprenticeship must offer work experience in a variety of sports.

(3) The apprenticeship must be completed in a college or university's intercollegiate sports program. A maximum of 240 hours of the 720 hours may be earned at a collegiate, secondary school, or professional affiliated setting which the college or university's athletic trainer has approved. No more than 120 hours may be earned at one affiliated setting.

(d) In place of the requirements in subsections (a) and (b) of this section, applicants qualifying under the Act, §451.153(a)(1) shall have a baccalaureate or post-baccalaureate degree in athletic training from a college or university which held accreditation, during the applicants matriculation at the college or university and at the time the degree was conferred, from a nationally recognized accrediting organization that is approved by the board.

(e) Certification required. An applicant must have:

(1) current certification in the techniques of adult cardio-pulmonary resuscitation and the use of an automated external defibrillator; or

(2) current certification for emergency medical services (EMS) with the department.

(f) Each applicant must have a baccalaureate or post-baccalaureate degree from a college or university which held accreditation, at the time the degree was conferred, from an accepted regional educational accrediting association.

(g) The relevance to the licensing requirements of academic courses, the titles of which are not self-explanatory, must be substantiated through course descriptions in official school catalogs or bulletins or by other means acceptable to the board.

(h) The board shall not accept courses which an applicant's transcript indicates were not completed with a passing grade for credit.

(i) Documentation of the apprenticeship program described in subsections (a) and (c) of this section must be provided by completion of the proper forms prescribed by the board.

(j) License applicants must complete the board's jurisprudence examination and submit proof of completion at the time of application. The jurisprudence examination must have been completed no more than six months prior to the date of application.

### **§871.8 Student Athletic Trainer Activities**

A student athletic trainer may perform the activities of an athletic trainer only under the following circumstances.

(1) A student shall be considered to be performing the activities of an athletic trainer under the Act, §451.153, and not in violation of the Act, §451.151, if the student is performing the activities:

(A) as part of the athletic training apprenticeship hours described in §871.7 of this title (relating to Qualifications); or

(B) as follows:

(i) the student's supervising college or university licensed athletic trainer has approved, referred, sent, or directed the student to a setting other than with the student's school's intercollegiate athletes;

(ii) the setting is with another college or university, a high school, a professional athletic team, or a health care clinic; and

(iii) the student is directly supervised in the setting by a licensed athletic trainer, licensed physician or licensed physical therapist.

(2) Hours which fall under paragraph (1)(B) of this section shall not be counted as apprenticeship hours unless the hours meet the requirements of §871.7 of this title.

(3) For the purposes of this section, supervision means daily, direct, and immediate communication.

(4) A student athletic trainer who has graduated shall not accumulate apprenticeship hours at the same college, university, high school, professional athletic team, or health care clinic at which the student athletic trainer is employed. In cases where a student athletic trainer is employed by a school, the student athletic trainer shall not accumulate apprenticeship hours at a setting within the same school.

#### §871.9 Examination For Licensure

(a) The board shall offer examinations at least two times a year at times and places established and announced by the board.

(b) The examination shall consist of written and practical questions and evaluations prescribed by the board.

(c) An applicant may file an application for examination if the applicant:

(1) is within 30 semester hours of graduation;

(2) has completed or is currently pre-registered or enrolled in the courses listed in §871.7 of this title (relating to Qualifications); and

(3) has completed at least 1300 hours of the required 1800 hours and the apprenticeship program is in progress; or

(4) is currently enrolled in, and within two semesters of graduating from, an athletic training program at a college or university which holds accreditation from a nationally recognized accrediting organization that is approved by the board, if the applicant qualifies under the Act, §451.153(a)(1); or

(5) has completed at least 600 hours of the required 720 hours and the apprenticeship program is in progress if the applicant qualifies under the Act, §451.153(a)(2) or §451.153(a)(3).

(d) The program director shall review all applications prior to the examination. An applicant meeting the requirements of subsection (c) of this section or of §871.7 of this title and pays the required examination fee shall be approved to take the examination.

(e) The board shall notify an applicant whose application has been approved for examination at least 30 days prior to the next scheduled examination. Applications which are received incomplete or late may cause the applicant to miss the examination deadline.

(f) An examination registration form must be completed and returned to the board by the applicant with the required examination fee (unless otherwise instructed by the board) at least 15 days prior to the date of examination. Applications which are received incomplete or late may cause a delay.

(g) Examinations shall be graded by the board's designee.

(h) The board shall notify each applicant by mail of the results of the examination within 30 days of the date of the examination.

(i) The following procedures relate to applicants who fail the examination prescribed by the board.

(1) An applicant who fails the examination may take a subsequent examination after paying the examination fee.

(2) The board will furnish a copy of the board's policy concerning examination review to an applicant who fails an examination. If requested in writing, the board shall furnish an applicant who fails an examination a written analysis of performance.

(j) Applicants who have passed the examination and do not have a degree will have 90 days from their graduation date to submit all documents and fees necessary to show compliance with this chapter and complete the licensing procedure. If the application process is not completed within 90 days of the graduation date, the applicant shall be required to file a new application and retake the examination successfully in order to qualify for licensure.

(k) An applicant who fails to take the examination within a period of two years after the initial examination approval notice is mailed by the board shall have such approval withdrawn and the application for licensure voided.

(l) A first-time applicant must apply for examination within five years from the date on which the applicant's qualifying degree was conferred or the apprenticeship was completed, whichever is later. An applicant may submit an application after this time

period upon successful completion of remedial coursework or apprenticeship, as approved by the board.

(m) If an applicant has successfully completed the examination administered by the Board of Certification, Inc. (BOC) on or after January 1, 2004, the applicant shall not be required to complete the examination described in subsections (a) through (l) of this section, unless the applicant has previously held a license issued by the board. The applicant must furnish the board a copy of the test results indicating that the applicant passed the examination.

(n) An applicant who has failed the state examination described in subsections (a) - (l) of this section must successfully complete that examination in order to be issued a license. If the application has been voided as described in subsection (k) of this section, the person shall submit a new application, and the provisions of subsection (m) of this section shall apply.

(o) If an applicant has completed the examination administered by the Board of Certification, Inc. (BOC) before January 1, 2004, the applicant shall be required to complete the state examination described in subsections (a) - (l) of this section.

#### **§871.10 Temporary License**

(a) A temporary license may be issued to an individual who meets the educational and apprenticeship requirements of this chapter.

(b) After receiving a completed application and all required fees, the board shall issue a temporary license to an applicant that meets the requirements of this section. The temporary license entitles an applicant to perform the activities of an athletic trainer until the results of the first examination which the applicant is eligible to take are released.

(c) An applicant who failed an examination administered by the board shall not be eligible for a temporary license. If a temporary license has previously been issued, it shall be voided and the applicant shall not be eligible for another temporary license.

(d) A person who has been licensed as an athletic trainer and allowed the license to expire, may be eligible for a temporary license upon submission and approval of a new application for licensure. The expiration of a temporary license issued under this subsection will be in accordance with subsection (b) of this section.

#### **§871.11 License Renewal**

(a) Licenses are valid for two years from the date of issuance.

(b) A licensee must renew the license on or before the expiration date or pay a late fee.

(c) The renewal date of a license shall be the last day of the month in which the license was originally issued.

(d) Each licensee is responsible for renewing the license before the expiration date and shall not be excused from paying additional fees or penalties. Failure to receive notification from the department prior to the expiration date of the license shall not excuse failure to file for timely renewal.

(e) A licensee must fulfill all applicable continuing education requirements prescribed by the board in order to renew the license.

(f) The board shall not renew a license if renewal is prohibited by the Education Code, §57.491 (relating to Loan Default Ground for Nonrenewal of Professional or Occupational License).

(g) The procedures to renew a license are as follows.

(1) At least 45 days prior to the expiration date of a person's license, the department shall send a license renewal form to the licensee at the address in the department's records. The licensee must complete the license renewal form and return it to the department with all required fees.

(2) The license renewal form for licensees shall require the provision of the preferred mailing address, primary employment address and telephone number, and misdemeanor or felony convictions.

(3) A licensee has renewed the license when the licensee has mailed the renewal form and all required documentation and fees to the department prior to the expiration date of the license. The postmark date shall be considered the date of mailing. If a license holder makes a timely and sufficient application for renewal of a license, the current license in his/her possession does not expire until the application has been finally granted or denied by the department.

(4) The board shall issue a license renewal identification card to a licensee who has met all requirements for renewal.

(5) The department shall inform a person who has not renewed a license after a period of more than 30 days after the expiration of the license of the amount of the fee required for renewal and the date the license expired.

(6) A person whose license has expired for not more than 90 days may renew the license by submitting to the department

the license renewal form and the late renewal fee. The renewal is effective if it is mailed to the department not more than 90 days after the expiration date of the license. The postmark date shall be considered the date of mailing.

(7) A person whose license has been expired for more than 90 days but less than one year from the expiration date may renew the license by submitting to the department the license renewal form and the late renewal fee.

(8) A person whose license has been expired for one year or more may not renew the license. The person may obtain a new license by submitting to reexamination and complying with the then current requirements and procedures for obtaining a license.

(h) Expiration of license.

(1) A person whose license has expired may not hold himself or herself out as an athletic trainer; imply that he or she has the title of "licensed athletic trainer," "athletic trainer" or "sports trainer," or use "LAT," "AT," or "LATIC" or any facsimile of those titles in any manner.

(2) A person whose license has expired may not perform the activities of an athletic trainer.

(3) A person who fails to renew a license is required to surrender the license certificate and identification card to the board after one year from expiration of the license or upon demand. The certificate remains the property of the board.

(i) If a licensee fails to timely renew his or her license because the licensee is or was on active duty with the armed forces of the United States of America, the licensee may renew the license pursuant to this subsection.

(1) Renewal of the license may be requested by the licensee, the licensee's spouse, or an individual having power of attorney from the licensee. The renewal form shall include a current address and telephone number for the individual requesting the renewal.

(2) Renewal may be requested before or after expiration of the license.

(3) A copy of the official orders or other official military documentation showing that the licensee is or was on active duty serving outside the State of Texas shall be filed with the board along with the renewal form.

(4) A copy of the power of attorney from the licensee shall be filed with the board along with the renewal form if the individual

having the power of attorney executes any of the documents required in this subsection.

(5) A copy of the marriage license shall be filed with the board along with the renewal form if the spouse of the licensee executes any of the documents required in the subsection.

(6) A licensee renewing under this subsection shall pay all required fees, but not the late renewal fee.

(7) A licensee renewing under this subsection shall not be required to submit any continuing education hours.

(8) A licensee renewing under this subsection must submit the required forms and fees within 60 days of the licensee's return from active duty. The license must be renewed before the licensee can perform the activities of an athletic trainer.

### **§871.12 Continuing Education Requirements**

(a) The purpose of this section is to establish the continuing education requirements a licensee shall meet to maintain licensure. The requirements are intended to maintain and improve the quality of services provided to the public by licensed athletic trainers. Continuing education experiences are programs beyond the basic education required to obtain licensure which are designed to promote and enrich knowledge, improve skills, and develop attitudes for the enhancement of the practices of licensed athletic trainers, thus improving athletic training care to the public.

(b) To renew a license that expires on or after September 1, 2015, a licensee must have completed 40 clock-hours of continuing education during the previous two-year period. To renew a license that expires prior to September 1, 2015, a licensee must have completed 20 clock-hours of continuing education during the previous two-year period. The continuing education must include 2 clock-hours of training in concussion management. In addition to the number of clock-hours of continuing education required under this subsection, a licensee must also show proof of current Emergency Cardiac Care certification at the Basic Life Support for Healthcare Providers/Professional Rescuers and Healthcare Providers level or beyond, which shall be maintained throughout each two-year period. The two-year period begins on the first day following the license issuance month and ends upon the expiration date of the license.

(c) Continuing education credit undertaken by a licensee for renewal shall be acceptable if the experience falls in one or more of the following categories:

(1) academic courses at a regionally accredited college or university related to sports medicine;

(2) clinical courses related to athletic training and/or sports medicine;

(3) in-service educational programs, training programs, institutes, seminars, workshops and conferences in sports medicine or athletic training;

(4) instructing or presenting education programs or activities without compensation at an academic course, in-service educational programs, training programs, institutes, seminars, workshops and conferences in athletic training or sports medicine not to exceed five clock-hours each continuing education period;

(5) publishing a book or an article in a peer review journal relating to athletic training or sports medicine not to exceed five clock-hours each continuing education period;

(6) serving as a skills examiner at the state licensure examination not to exceed one clock-hour of continuing education credit for each examination date for a maximum of four clock-hours of credit each continuing education period; or

(7) successful completion of a self-study program in athletic training or sports medicine, not to exceed eight clock-hours each continuing education period.

(d) Continuing education experience shall be credited as follows.

(1) Completion of course work at or through an accredited college or university shall be credited for each semester hour on the basis of two clock-hours of credit for each semester hour successfully completed for credit or audit as evidenced by a certificate of successful completion or official transcript.

(2) Parts of programs which meet the criteria of subsection (c)(2) or (3) of this section shall be credited on a one-for-one basis with one clock-hour of credit for each clock-hour spent in the continuing education experience.

(3) A clock-hour shall be 50 minutes of attendance and participation in an acceptable continuing education experience.

(4) Successful completion of courses described in subsection (c)(7) of this section is evidenced by a certificate of completion presented by the sponsoring organization of the self-study program.

(5) Approval by the continuing education committee must be obtained for each continuing education program as described in subsection (c) of this section, unless continuing education

credit is granted by a national, regional or state health care professional association.

(6) Successful completion of courses related to athletic training and/or sports medicine as described in subsection (c)(2) and (3) of this section is evidenced by a certificate of completion or attendance that is issued by the sponsoring organization of the course.

(e) Requests for approval of continuing education experience should address the following criteria:

(1) relevance of the subject matter to increase or support the development of skill and competence in athletic training;

(2) objectives of specific information or skill to be learned;

(3) subject matter, educational methods, materials, and facilities utilized, including the frequency and duration of sessions and the adequacy to implement learner objectives; and

(4) sponsorship and leadership of programs; including the name of the sponsoring individual(s) or organization(s), and program leaders or faculty if different from sponsors and contact person.

(f) The board shall employ an audit system for continuing education reporting. The licensee shall be responsible for maintaining a record of his or her continuing education experiences. The certificates, diplomas, or other documentation verifying earning of continuing education hours are not to be forwarded to the board at the time of renewal unless the licensee has been selected for audit.

(g) The audit process shall be as follows.

(1) The department shall select for audit a random sample of licensees for each renewal month. Licensees will be notified of the continuing education audit when they receive their renewal documentation.

(2) All licensees selected for audit will furnish documentation such as official transcripts, certificates, diplomas, an affidavit identifying the continuing education experience satisfactory to the board, or any other documentation requested by the board to verify having earned the required continuing education hours. The documentation must be provided to the department with the renewal form and payment.

(3) Failure to timely furnish this information or knowingly providing false information during the audit process or the renewal process are grounds for disciplinary action against the licensee.

(h) A licensee who has failed to complete the requirements for continuing education may be granted a 180-day extension to the continuing education period.

(1) The request for an extension of the continuing education period must be made in writing.

(2) The subsequent continuing education period shall end two years from the date the previous continuing education period expired or upon the expiration of the license, not the date of the end of the extension period.

(3) Credit earned during the extension period may only be applied to the previous continuing education period.

(4) A license may be renewed upon completion of the required continuing education within the given extension period, submission of the license renewal form, and payment of the applicable late renewal fee.

(i) A person who fails to complete continuing education requirements for renewal and fails to request an extension to the continuing education period may not renew the license. The person may obtain a new license by complying with the current requirements and procedures for obtaining a license.

(j) The continuing education committee may not grant continuing education credit to any licensee for:

(1) education incidental to the regular professional activities of a licensee such as learning occurring from experience or research;

(2) professional organization activity such as serving on committees or councils or as an officer;

(3) any continuing education activity completed before or after the period of time described in subsection (b) or (h) of this section; or

(4) performance of duties that are routine job duties or requirements.

### §871.13 Standards for Conduct

(a) An athletic trainer shall work under the direction of a licensed physician or another qualified, licensed health professional who is authorized to refer for health care services within the scope of the person's license when carrying out the practice of prevention, recognition, assessment, management, treatment, disposition, and reconditioning of athletic injuries.

(b) A licensee shall not misrepresent any professional qualifications or credentials.

(c) A licensee shall not make any false or misleading claims about the effectiveness of any athletic training care.

(d) A licensee shall not promote or endorse products in a manner that is false or misleading.

(e) A licensee shall not abuse alcohol or drugs in any manner which detrimentally affects the provision of athletic training care.

(f) A licensee shall comply with the provisions of the Texas Controlled Substances Act, Health and Safety Code, Chapter 481, and the Texas Dangerous Drug Act, Health and Safety Code, Chapter 483, and any rules of the Department of State Health Services or the Texas State Board of Pharmacy implementing those statutes.

(g) A licensee shall have the responsibility of reporting violations of board rules to the department.

(h) A licensee shall not present false information to the board or the department on any application or other document or in any investigation or disciplinary proceeding of the board or the department.

(i) A licensee shall not aid or abet the practice of an unlicensed person when that person is required to have a license under the Act.

(j) A licensee shall comply with any order relating to the licensee which is issued by the board.

(k) A licensee shall not provide health care services which are not within the definition of "athletic training" in the Act except in accordance with state and federal laws and rules applicable to the provided services including, but not limited to, Occupations Code, Chapter 157, (relating to a physician's authority to delegate certain medical acts); other licensure laws; and laws relating to the possession and distribution of controlled substances.

(l) A licensee shall not receive or give a commission or rebate or any other form of remuneration for the referral of athletes for professional services.

(m) A licensee shall provide athletic training services without discrimination based on race, creed, sex, religion, national origin, or age.

(n) A licensee shall not violate any provision of any federal or state statute relating to confidential medical communications and/or records.

(o) A licensee shall not offer professional services to a person concurrently receiving the same or similar professional services from another individual except with the knowledge of that individual.

(p) A licensee shall not engage in sexual contact or sexually exploitive behavior with a person receiving athletic training services from the licensee. Sexual contact shall mean the activities or behaviors described in the Texas Penal Code, §21.01. Sexually exploitive behavior shall mean any verbal or physical conduct that can reasonably be construed as intended to arouse or gratify the sexual desire of any person.

(q) A licensee shall not use advertising that is false, misleading, or deceptive or that is not readily subject to verification. False, misleading, or deceptive advertising or advertising that is not readily subject to verification includes advertising that:

(1) makes a material misrepresentation of fact or omits a fact necessary to make the statement as a whole not materially misleading;

(2) makes a representation likely to create an unjustified expectation about the results of a health care service or procedure;

(3) compares a health care professional's service with another health care professional's services unless the comparison can be factually substantiated;

(4) contains a testimonial;

(5) causes confusion or misunderstanding as to the credentials, education, or licensure of a health care professional;

(6) advertises or represents that health care insurance deductibles or copayments may be waived or are not applicable to health care services to be provided if the deductibles or copayments are required;

(7) advertises or represents that the benefits of a health benefit plan will be accepted as full payment when deductibles or copayments are required;

(8) makes a representation that is designed to take advantage of the fears or emotions of a particularly susceptible type of patient; or

(9) advertises or represents in the use of a professional name a title or professional identification that is expressly or commonly reserved to or used by another profession or professional.

(r) On the written request of a client, a client's guardian, or a client's parent, if the client is a minor, a licensee shall provide, in plain language, a written explanation of the charges for athletic training services previously made on a bill or a statement for the client. This requirement applies even if the charges are to be paid by a third party.

(s) Unreasonable or medically unnecessary billing is prohibited.

(t) A licensee shall be subject to disciplinary action by the board if the licensee:

(1) is issued a public letter of reprimand;

(2) is assessed a civil penalty by a court; or

(3) has been convicted and ordered to pay court costs under Article 56.55 of the Crime Victims Compensation Act, Code of Criminal Procedures, Chapter 56, Subchapter B.

(u) The license certificate shall be displayed in the primary office or place of employment of the licensee. In the absence of a primary office or place of employment or when the licensee is employed in multiple locations, the licensee shall carry a current license identification card.

(v) Neither the licensee nor anyone else shall display a photocopy of a license certificate or carry a photocopy of a license identification card in lieu of the original document.

(w) Neither the licensee nor anyone else shall make any alteration on a license certificate or identification card issued by the board.

(x) The licensee shall notify the board of changes in name or preferred mailing address within 30 days of such change.

(y) A licensee may not violate any provision of the Act or this chapter.

(z) A person may not hold himself or herself out as an athletic trainer or perform any of the duties of an athletic trainer as defined in the Act unless the person holds an appropriate license issued under the Act. A person may not hold himself or herself out as an athletic trainer by implying that he or she has the title of "licensed athletic trainer," "sports trainer," or "athletic trainer" or using the letters "LAT," "LATC," or "AT" or any facsimile of those titles in any manner unless the person holds a license issued under the Act.

## §871.14 Violations, Complaints, and Disciplinary Actions

(a) Any person may complain to the board alleging that a person has violated the Act or this chapter.

(b) A person wishing to file a complaint against a licensee or other person shall notify the department in writing.

(c) The department shall investigate anonymous complaints if the complainant provides sufficient information.

(d) Complaints shall be investigated in accordance with the following procedures.

(1) The program director shall conduct an initial review of the complaint to determine jurisdiction and alleged Act or rule violations. After conducting the initial review, the program director will determine if additional information is needed or if the complaint should be closed, referred to the Complaints Committee or referred for investigation.

(2) The board may issue a subpoena to compel the attendance of a relevant witness or the production, for inspection and copying, or relevant evidence.

(3) If it is determined that the matters alleged in the complaint are non-jurisdictional, or would not constitute a violation of the Act or this chapter, the program director, after consulting with the board's attorney may dismiss the complaint and give written notice of dismissal to the licensee or person against whom the complaint has been filed, the complainant, and the Complaints Committee.

(4) The program director shall, at least quarterly until final disposition of the complaint, notify the complainant and the person against whom the complaint has been filed of the status of the complaint unless such notice would jeopardize an investigation.

(5) The Complaints Committee may recommend that the license be revoked, suspended, suspended with probation, suspended on an emergency basis, denied, or that the licensee be reprimanded, that administrative penalties be assessed, or other enforcement action authorized by law.

(6) If the Complaints Committee determines that there are insufficient grounds to support the complaint, the program director shall dismiss the complaint and give written notice of the reason for dismissal to the licensee or person against whom the complaint has been filed and the complainant.

(e) The Complaints Committee may recommend that the board deny an application or initiate disciplinary actions as described

in subsection (d)(5) of this section for a violation of the Act or this chapter.

(f) The program director shall give written notice to the applicant or licensee by certified mail, return receipt requested, of the facts or conduct alleged to warrant the action, and the applicant or licensee shall be given an opportunity, as described in the notice, to show compliance with all requirements of the Act and this chapter.

(g) If disciplinary action is proposed, the program director shall give written notice by certified mail, return receipt requested, that the licensee or applicant must request, in writing, a formal hearing within 20 days of receipt of the notice, or the right to a hearing shall be waived and the action shall be taken.

(h) Informal disposition of any complaint or contested case involving a licensee or an applicant for licensure may be made through an informal conference held to determine whether an agreed order may be secured. The Complaints Committee may determine whether the public interest would be served by attempting to resolve a complaint or contested case with an agreed order in lieu of a formal hearing. A member of the Complaints Committee shall be present at an informal conference.

(1) An informal conference shall be voluntary and shall not be a prerequisite to a formal hearing. The program director shall establish the time, date and place of the informal conference, and provide written notice to the licensee or applicant. Notice shall be provided no less than 10 working days prior to the date of the informal conference by certified mail, return receipt requested to the last known address of the licensee or applicant. The licensee or applicant may waive the 10-day notice requirement.

(2) A settlement conference shall be informal and shall not follow the procedures established in this chapter for contested cases and formal hearings.

(3) The licensee or applicant, the licensee's or applicant's attorney, a complaints committee member, the executive secretary, the program director, and the board's attorney may question witnesses, make relevant statements, present statements of persons not in attendance, and present such other evidence as may be appropriate.

(4) The complainant shall not be considered a party in the settlement conference but shall be given an opportunity to be heard if the complainant attends. Any written statement submitted by the complainant shall be reviewed at the conference.

(5) At the conclusion of the informal conference, the complaints committee member, the executive secretary, the program director or the program attorney may make recommendations for informal disposition of the complaint or contested case. The recommendations may include any disciplinary action authorized by the Act. The complaints committee member, the executive secretary, the program director or the program attorney may also conclude that the board lacks jurisdiction, conclude that a violation of the Act or this chapter has not been established, order that the investigation be closed, or refer the matter for further investigation.

(6) The licensee or applicant may either accept or reject the recommendations at the informal conference. If the recommendations are accepted, an agreed order shall be prepared by the board office or the board's legal counsel and forwarded to the licensee or applicant. The order may contain agreed findings of fact and conclusions of law. The licensee or applicant shall execute the order and return the signed order to the board office within 10 working days of his or her receipt of the order. If the licensee or applicant fails to return the signed order within the stated time period, the inaction shall constitute rejection of the recommendations.

(7) If the licensee or applicant signs and accepts the proposed recommendations, the agreed order shall be submitted to the complaints committee and the board for approval. Placement of the agreed order on the committee and board agendas shall constitute only a recommendation for approval by the board.

(8) The identity of the licensee or applicant shall not be made available to the board until after the board has reviewed and accepted the agreed order unless the licensee or applicant chooses to attend the board meeting. The licensee or applicant shall be notified of the date, time, and place of the board meeting at which the proposed agreed order will be considered. Attendance by the licensee or applicant is voluntary.

(9) Upon an affirmative majority vote, the board shall enter an agreed order approving the accepted recommendations. The board may not change the terms of a proposed order but may only approve or disapprove an agreed order unless the licensee or applicant is present at the board meeting and agrees to other terms proposed by the board.

(10) If the board does not approve a proposed agreed order, the licensee or applicant shall be so informed. The matter shall be referred to the program director for other appropriate action.

(11) A proposed agreed order is not effective until the board has approved the order and it is signed by the board chair.

(12) A licensee's or applicant's opportunity for an informal conference under this section shall satisfy the requirement of the Administrative Procedure Act, Texas Government Code, §2001.054(c).

(13) If a licensee or applicant who has requested an informal conference fails to appear at the conference and fails to provide notice of their inability to attend the conference at least 24 hours in advance of the time the conference is scheduled, such action may constitute a withdrawal of the request for a formal hearing.

(i) When a licensee has offered the surrender of his or her license after a complaint has been filed, the board shall consider whether to accept the surrender of the license.

(1) Surrender of a license without acceptance thereof by the board, or a licensee's failure to renew the license, shall not deprive the board of jurisdiction against the licensee under the Act, this chapter, or other applicable statute.

(2) When the board has accepted a license surrender after a complaint has been filed, the license surrender is deemed to be the result of a formal disciplinary action, and a board order shall be prepared accepting the license surrender.

(3) Upon surrender of a license after a complaint has been filed, the surrender is considered a final disciplinary action and may be considered for denial upon subsequent reapplication for license.

#### **§871.15 Licensing of Persons with Criminal Backgrounds to be Athletic Trainers**

(a) The board may suspend or revoke a license, disqualify a person from receiving a license, or deny to a person the opportunity to be examined for a license because of a person's conviction of a felony or misdemeanor if the crime directly relates to the duties and responsibilities of an athletic trainer.

(b) In considering whether a criminal conviction directly relates to the occupation of an athletic trainer, the board shall consider:

(1) the nature and seriousness of the crime;

(2) the relationship of the crime to the purposes for requiring a license to be an athletic trainer. The following felonies and misdemeanors relate to the license of an athletic trainer because these criminal offenses indicate an unwillingness or an inability to be able to perform as an athletic trainer:

(A) the misdemeanor of knowingly or intentionally acting as an athletic trainer without a license issued under the Act;

(B) a misdemeanor and/or felony offense involving moral turpitude;

(C) a misdemeanor and/or felony offense under various titles of the Texas Penal Code:

(i) Title 5 concerning offenses against the person;

(ii) Title 7 concerning offenses against property;

(iii) Title 9 concerning offenses against public order and decency;

(iv) Title 10 concerning offenses against public health, safety, and morals; and

(v) Title 4 concerning offenses of attempting or conspiring to commit any offenses in this subsection.

(vi) the misdemeanors and felonies listed in clauses (i)-(v) of this subparagraph are not inclusive in that the board may consider other particular crimes in special cases in order to promote the intent of the Act and this chapter;

(3) the extent to which a license might offer an opportunity to engage in further criminal activity of the same type as that in which the person previously had been involved; and

(4) the relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the responsibilities of an athletic trainer. In determining the present fitness of a person, the board shall consider the evidence described in the Occupations Code, Chapter 53, relating to Consequences of Criminal Conviction.

(c) The board's procedures for revoking, suspending, probating, reprimanding, or denying a license to persons with criminal backgrounds are as follows.

(1) The program director, upon consent of the executive secretary, shall give written notice to the person that the board proposes to take any of the disciplinary actions outlined in §871.14(d)(5) of this title (relating to Violations, Complaints, and Disciplinary Actions).

(2) If the board takes any of the disciplinary actions outlined in §871.14(d)(5) of this title, the program director, upon consent of the executive secretary, shall give the person written notice:

(A) of the reasons for the decision;

(B) that the person, after exhausting administrative appeals, may file an action in a district court of Travis County, Texas, for review of the evidence presented to the board and its decision;

(C) that the person must begin the judicial review by filing a petition with the court within 30 days after the board's action is final and appealable; and

(D) of the earliest date that the person may appeal.

#### **§871.16 Formal Hearings**

(a) The program director, on request from a licensee or applicant, who is entitled to a formal hearing, shall initiate a formal hearing.

(b) A hearing shall be conducted in accordance with the Administrative Procedure Act (APA) and this section.

(c) An administrative law judge (ALJ) appointed by the State Office of Administrative Hearings (SOAH) shall preside over and conduct the hearing. After the hearing, the ALJ shall prepare a proposal for decision and provide copies of same to all parties to the hearing.

(d) The final order or decision will be rendered by the board.

#### **§871.17 Suspension of License Relating to Child Support and Child Custody**

(a) On receipt of a final court order or attorney general's order suspending a license due to failure to pay child support or for failure to comply with the terms of a court order providing for the possession of or access to a child, the program director, upon consent of the executive secretary, shall immediately determine if the board has issued a license to the obligator named on the order, and, if a license has been issued:

(1) record the suspension of the license in the board's records;

(2) report the suspension as appropriate; and

(3) demand surrender of the suspended license.

(b) The board shall implement the terms of a final court or attorney general's order suspending a license without additional review or hearing. The board will provide notice as appropriate to the licensee or to others concerned with the license.

(c) The board may not modify, remand, reverse, vacate, or stay a court or attorney general's order suspending a license

issued under the Family Code, Chapter 232 and may not review, vacate, or reconsider the terms of an order.

(d) A licensee who is the subject of a final court or attorney general's order suspending his or her license is not entitled to a refund for any fee paid to the board.

(e) If a suspension overlaps a license renewal period, an individual with a license suspended under this section shall comply with the normal renewal procedures in the Act and this chapter; however, the license will not be renewed until subsections (g) and (h) of this section are met.

(f) An individual who continues to use the title "athletic trainer" or practice athletic training after the issuance of a court or attorney general's order suspending the license is liable for the same civil and criminal penalties provided for engaging in the prohibited activity without a license or while a license is suspended as any other license holder of the board.

(g) On receipt of a court or attorney general's order vacating or staying an order suspending a license, the program director, upon consent of the executive secretary, shall promptly issue the affected license to the individual if the individual is otherwise qualified for the license.

(h) The individual must pay a reinstatement fee set out at §871.6 of this title (relating to Fees) prior to issuance of the license under subsection (g) of this section.

#### **§871.18. Administrative Penalties.**

(a) The board may assess an administrative penalty in accordance with the Act.

(b) The amount of the penalty may not exceed \$500 for each violation, and each day a violation continues or occurs is a separate violation for purposes of imposing a penalty. The total amount of the penalty assessed for a violation continuing or occurring on separate days under this subsection may not exceed \$2,500.

(c) The amount of an administrative penalty shall be based on the following criteria.

(1) The seriousness of a violation shall be categorized by one of the following severity levels.

(A) Level I – violations that have or had an adverse impact on the health and safety of an athlete;

(B) Level II – violations that have or had the potential to cause an adverse impact on the health and safety of an athlete, but did not actually have an adverse impact; or

(C) Level III – violations that have or had minimal health or safety significance.

(2) The range of administrative penalties by severity levels are as follows:

(A) Level I - \$251-500

(B) Level II - \$101-250

(C) Level III – no more than \$100

(3) Subsequent violations in the same severity level for which an administrative penalty has been previously imposed may be categorized at the next higher severity level.

(4) Adjustments to the range of an administrative penalty may be made for prompt reporting, corrective action, compliance history, or multiple violations.

#### **§871.19. Request for Criminal History Evaluation Letter.**

(a) In accordance with Occupations Code, §53.102, a person may request the board to issue a criminal history evaluation letter regarding the person's eligibility for a license if the person:

(1) is enrolled or planning to enroll in an educational program that prepares a person for an initial license or is planning to take an examination for an initial license; and

(2) has reason to believe that the person is ineligible for the license due to a conviction for a felony or misdemeanor offense.

(b) A person making a request for issuance of a criminal history evaluation letter shall submit the request on a form prescribed by the board, accompanied by the criminal history evaluation letter fee and the required supporting documentation, as described on the form. The request shall state the basis for the person's potential ineligibility.

(c) The board has the same authority to investigate a request submitted under this subsection and the requestor's eligibility that the board has to investigate a person applying for a license.

(d) If the board determines that a ground for ineligibility does not exist, the board shall notify the requestor in writing of the determination. The notice shall be issued not later than the 90th day after the date the board received the request form, the criminal history evaluation letter fee, and any supporting documentation as described in the request form.

(e) If the board determines that the requestor is ineligible for a license, the board shall issue a letter setting out each basis for potential ineligibility and the board's determination as to eligibility. The letter shall be issued not later than the 90th day after the date the board received the request form, the criminal history evaluation letter fee, and any supporting documentation as described in the request form. In the absence of new evidence known to but not disclosed by the requestor or not reasonably available to the board at the time the letter is issued, the board's ruling on the request determines the requestor's eligibility with respect to the grounds for potential ineligibility set out in the letter.

### **§871.20 Licensing of Military Service Members, Military Veterans, and Military Spouses.**

(a) This section sets out licensing procedures for military service members, military veterans, and military spouses required under Occupations Code, Chapter 55 (relating to Licensing of Military Service Members, Military Veterans, and Military Spouses). For purposes of this section:

(1) "Military service member" means a person who is currently serving in the armed forces of the United States, in a reserve component of the armed forces of the United States, including the National Guard, or in the state military service of any state.

(2) "Military spouse" means a person who is married to a military service member who is currently on active duty.

(3) "Military veteran" means a person who has served in the army, navy, air force, marine corps, or coast guard of the United States, or in an auxiliary service of one of those branches of the armed forces.

(b) An applicant shall provide documentation of the applicant's status as a military service member, military veteran, or military spouse. Acceptable documentation includes, but is not limited to, copies of official documents such as military service orders, marriage licenses, and military discharge records. The application of a person who fails to provide documentation of his or her status shall not be processed under the requirements of this section.

(c) Upon request, an applicant shall provide acceptable proof of current licensure issued by another jurisdiction. Upon request, the applicant shall provide proof that the licensing requirements of that jurisdiction are substantially equivalent to the licensing requirements of this state.

(d) The board's authority to require an applicant to undergo a criminal history background check, and the timeframes

associated with that process, are not affected by the requirements of this section.

(e) For an application for a license submitted by a verified military service member or military veteran, the applicant shall receive credit towards any licensing or apprenticeship requirements, except an examination requirement, for verified military service, training, or education that is relevant to the occupation, unless he or she holds a restricted license issued by another jurisdiction or if he or she has an unacceptable criminal history as described by the Act and this chapter.

(f) An applicant who is a military spouse who holds a current license issued by another jurisdiction that has substantially equivalent licensing requirements shall complete and submit an application form and fee. The board shall issue a license to a qualified applicant who holds such a license as soon as practicable and the renewal of the license shall be in accordance with subsection (i) of this section.

(g) In accordance with Occupations Code, §55.004(c), the program director may waive any prerequisite to obtaining a license after reviewing the applicant's credentials and determining that the applicant holds a license issued by another jurisdiction that has licensing requirements substantially equivalent to those of this state.

(h) A military spouse who within the five years preceding the application date held the license in this state that expired while the applicant lived in another state for at least six months is qualified for licensure based on the previously held license, if there are no unresolved complaints against the applicant and if there is no other bar to licensure, such as criminal background or non-compliance with a board order.

(i) If the board issues an initial license to an applicant who is a military spouse in accordance with subsection (f) of this section, the board shall assess whether the applicant has met all licensing requirements of this state by virtue of the current license issued by another jurisdiction. The board shall provide this assessment in writing to the applicant at the time the license is issued. If the applicant has not met all licensing requirements of this state, the applicant must provide proof of completion at the time of the first application for license renewal. A license shall not be renewed, shall be allowed to expire, and shall become ineffective if the applicant does not provide proof of completion at the time of the first application for licensure renewal.