

BILL ANALYSIS

S.B. 317
By: Nichols
Public Health
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The Executive Council of Physical Therapy and Occupational Therapy Examiners, Texas Board of Physical Therapy Examiners, and Texas Board of Occupational Therapy Examiners, which oversee physical and occupational therapy professionals in the state, are subject to the Texas Sunset Act and will be abolished on September 1, 2017, unless continued by the legislature. S.B. 317 seeks to continue the executive council and each board with several statutory modifications.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Board of Physical Therapy Examiners in SECTIONS 2.14, 2.16, 2.19, 2.21, and 3.01 of this bill and to the Texas Board of Occupational Therapy Examiners in SECTIONS 4.14, 4.15, 4.18, and 4.20 of this bill.

ANALYSIS

S.B. 317 amends the Occupations Code to postpone from September 1, 2017, to September 1, 2029, the date on which the Executive Council of Physical Therapy and Occupational Therapy Examiners, Texas Board of Physical Therapy Examiners, and Texas Board of Occupational Therapy Examiners are abolished and statutory provisions relating to the executive council and physical and occupational therapy professionals expire, unless continued in existence as provided by the Texas Sunset Act. The bill revises statutory provisions relating to executive council and board membership and, as applicable, employee restrictions, grounds for removal of a member, and the division of responsibilities between the executive council or board and the council's director and staff and sets out provisions relating to member training and negotiated rulemaking and alternative dispute resolution.

S.B. 317 removes the administration of written examinations and the collection of fees from the executive council's required administrative functions relating to issuing and renewing licenses. The bill authorizes an executive council member who has not completed the bill's training requirements to vote, deliberate, and be counted as a member in attendance at an executive council meeting until December 1, 2017.

Effective September 1, 2019, S.B. 317 authorizes the Texas Board of Physical Therapy Examiners and the Texas Board of Occupational Therapy Examiners to require that a license holder provide current information in a readily accessible and usable format regarding the license holder's place of employment as a physical therapist or occupational therapist or a physical therapist assistant or occupational therapy assistant, as applicable.

S.B. 317 revises statutory provisions relating to each board's presiding officer. The bill changes the person who is required to notify each board, as applicable, of certain unresolved complaints from the coordinator of physical therapy programs or occupational therapy programs to a staff member of the executive council. The bill revises education requirements for applicants for a physical therapy license, occupational therapy license, physical therapist assistant license, or occupational therapy assistant license and authorizes a person who holds an applicable license issued before the bill's effective date to continue to renew that license without complying with such revisions. The bill removes and repeals the requirement that each board require a foreign-trained applicant to furnish proof of good moral character before allowing the applicant to take the requisite examination. The bill revises and repeals statutory provisions relating to a license examination or reexamination. The bill requires each board by rule to recognize a national testing entity to administer the examination required to obtain a physical therapist license, occupational therapist license, physical therapist assistant license, or occupational therapy assistant license, as applicable, and authorizes each board to require an applicant to pass a jurisprudence examination. The bill repeals provisions that require each board to take certain actions regarding examination results.

S.B. 317 requires each board to issue a physical therapist license or occupational therapist license or a physical therapist assistant license or occupational therapy assistant license, as applicable, to an applicant who holds a current, unrestricted license in another jurisdiction that maintains licensing requirements that are substantially equivalent to Texas requirements, sets out requirements for such an applicant, and requires each board to adopt rules for issuing a provisional license to such an applicant who encounters a delay outside the applicant's control in submitting the required documentation. The bill requires each board to require that an applicant for a license submit a complete and legible set of fingerprints, on a form prescribed by the applicable board, to the applicable board or to the Department of Public Safety (DPS) for the purpose of obtaining criminal history record information from the Department of Public Safety and the FBI, sets out each board's duties regarding a criminal history record information check of an applicant, provides for an agreement between each board and DPS for DPS to administer such checks, and sets out requirements for an applicant renewing a license to submit fingerprints. The bill revises the fee for renewal of a license.

S.B. 317 requires the Texas Board of Physical Therapy Examiners by rule to establish a process for selecting an appropriate organization to approve continuing competence activities for license holders and requires the Texas Board of Occupational Therapy Examiners by rule to establish a process for selecting a license holder peer organization in Texas to evaluate and approve continuing education courses for license holders. The bill requires each selection process to include a request for proposal and bidding process and requires each board, if the board authorizes an organization to approve continuing competence activities or to evaluate and approve continuing education courses, as applicable, to request bids and proposals from that organization and other organizations at least once every four years. The bill requires each board to establish the request for proposal and bidding process not later than September 1, 2018.

S.B. 317 requires each board by rule to adopt a schedule of administrative penalties and other sanctions that the board may impose, sets out requirements for such sanctions and disciplinary actions, and requires each board to make the schedule of sanctions available to the public on request. The bill removes the factors on which the amount of an administrative penalty is required to be based and instead requires the amount of the penalty to be determined according to the sanctions schedule. The bill applies these provisions relating to a sanctions schedule to conduct that occurs on or after the date that the applicable board rules relating to the schedule take effect.

Effective September 1, 2019, S.B. 317 repeals and removes provisions relating to the registration of a physical therapy facility or occupational therapy facility. The bill requires each board to dismiss the portion of any complaint, penalty, disciplinary action, or contested case pending on

September 1, 2019, that is based on a violation of rules adopted under those repealed provisions.

Effective September 1, 2019, S.B. 317 requires each board by rule to establish a process to expunge any record of disciplinary action taken against a license holder before September 1, 2019, for practicing in a facility that failed to meet repealed registration requirements as they existed on January 1, 2019, and requires the rules to provide that the applicable board may not so expunge a record after September 1, 2021. These provisions expire September 1, 2021.

S.B. 317 applies its member training requirements to a member of each board appointed before, on, or after the bill's effective date. The bill requires a member who, before the bill's effective date, completed the training program required by law as that law existed before the bill's effective date to complete additional training only on subjects added to the training program by the bill and prohibits such a board member from voting, deliberating, or being counted as a member in attendance at a board meeting held on or after December 1, 2017, until the member completes the additional training. The bill requires each board to adopt any rules necessary to implement the bill's changes to provisions relating to physical and occupational therapy professionals, as applicable.

S.B. 317 removes the requirement that an application for a physical therapy license or a physical therapist assistant license be accompanied by an examination fee prescribed by the board. The bill exempts from licensing requirements an occupational therapy assistant who is licensed by another state or applicably certified, does not live in Texas, comes into Texas temporarily, and meets certain other conditions. The bill repeals provisions relating to certain application requirements for taking an occupational therapy licensing examination.

S.B. 317 provides for the adoption of the Physical Therapy Licensure Compact and the establishment of the Physical Therapy Compact Commission and sets out the contents of the compact, including provisions providing for withdrawal from the compact. The bill specifies that the Texas Board of Physical Therapy Examiners is the compact administrator, authorizes that board to adopt rules necessary to implement the compact, and provides for the disclosure of personally identifiable information about a physical therapist or a physical therapist assistant to the coordinated database and reporting system under the compact.

S.B. 317 repeals the following provisions of the Occupations Code:

- Section 452.153(b)
- Effective September 1, 2019, Section 453.001(8)
- Section 453.202(c)
- Section 453.206
- Effective September 1, 2019, Section 453.213
- Section 454.205(b)
- Section 454.206
- Section 454.208
- Section 454.209
- Effective September 1, 2019, Section 454.215

EFFECTIVE DATE

Except as otherwise provided, September 1, 2017.