

**SUBCHAPTER A: ADMINISTRATION OF OCCUPATIONAL LICENSES  
AND REGISTRATIONS**  
**§§30.1, 30.3, 30.5, 30.7, 30.10, 30.13, 30.14, 30.18, 30.20, 30.24, 30.26,  
30.28, 30.30, 30.33 - 30.38**  
**Effective September 29, 2016**

**§30.1. Authority.**

The provisions in this chapter are issued under the authority of Texas Water Code, Chapter 37.

Adopted November 20, 2001

Effective December 17, 2001

**§30.3. Purpose and Applicability.**

(a) The purpose of this chapter is to consolidate the administrative requirements and establish uniform procedures for the occupational licensing and registration programs prescribed by Texas Water Code, Chapter 37. This subchapter contains general procedures for issuing, renewing, denying, suspending, and revoking occupational licenses and registrations. Subchapters B - L of this chapter (relating to Backflow Prevention Assembly Testers; Customer Service Inspectors; Landscape Irrigators, Irrigation Technicians, and Irrigation Inspectors; Leaking Petroleum Storage Tank Corrective Action Project Managers and Specialists; Municipal Solid Waste Facility Supervisors; On-Site Sewage Facilities Installers, Apprentices, Designated Representatives, Maintenance Providers, Maintenance Technicians, and Site Evaluators; Water Treatment Specialists; Underground Storage Tank On-Site Supervisor Licensing and Contractor Registration; Wastewater Operators and Operations Companies; Public Water System Operators and Operations Companies; and Visible Emissions Evaluator Training and Certification) contain the program-specific requirements related to each program.

(b) The requirements of this chapter apply to the following occupational licenses and registrations:

- (1) backflow prevention assembly testers;
- (2) customer service inspectors;
- (3) landscape irrigators, irrigation technicians, and irrigation inspectors;

- (4) leaking petroleum storage tank corrective action specialists and project managers;
- (5) municipal solid waste facility supervisors;
- (6) on-site sewage facility installers, designated representatives, apprentices, maintenance providers, maintenance technicians, and site evaluators;
- (7) water treatment specialists;
- (8) underground storage tank contractors and on-site supervisors;
- (9) wastewater operators and operations companies;
- (10) public water system operators and operations companies; and
- (11) visible emissions evaluator training and certification.

Adopted September 7, 2016

Effective September 29, 2016

**§30.5. General Provisions.**

(a) A person must be licensed or registered by the commission before engaging in an activity, occupation, or profession described by Texas Water Code, §§26.0301, 26.345, 26.452, 26.456, Texas Health and Safety Code, §§341.033, 341.034, 361.027, 366.071, 366.0515, or Texas Occupations Code, §1903.251 and §1904.051. The commission shall issue a license or registration only after an applicant has met the minimum requirements for a license or registration as specified in this chapter.

(b) A person shall not advertise or represent themselves to the public as a holder of a license or registration unless that person possesses a current license or registration. A person shall not advertise or represent to the public that it can perform services for which a license or registration is required unless it holds a current license or registration, or unless it employs individuals who hold current licenses.

(c) The executive director may contract with persons to provide services required by this chapter. The commission may authorize contractors to collect reasonable fees for the services provided.

(d) Licenses and registrations are not transferable.

(e) New licenses shall not be issued to employees of the commission who have regulatory authority over the rules of this chapter. Commission employees may maintain a license if that license was issued prior to employment with the commission.

(f) Prohibited Employment.

(1) Individuals subject to registration under the Texas Code of Criminal Procedure, Chapter 62 because of a reportable conviction or adjudication for which an affirmative finding is entered under Texas Code of Criminal Procedure, Article 42.015(b) or Section 5(e)(2), Article 45.12, and licensed after September 1, 2013, may not, for compensation, provide or offer to provide any type of service in the residence of another person unless the provision of service will be supervised.

(2) For purposes of this subsection.

(A) "Residence" means a structure primarily used as a permanent dwelling and land that is contiguous to that permanent dwelling.

(B) "Supervision" means direct, continuous visual observation of the individual at all times.

Adopted June 18, 2014

Effective July 10, 2014

### **§30.7. Definitions.**

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise.

(1) Aerobic treatment system owner--Persons that in their individual capacities own a single-family dwelling that is serviced by an on-site sewage disposal system using aerobic treatment.

(2) Approved application--An application submitted to the Occupational Licensing Section that contains all the information the executive director has deemed necessary to be accurately processed and that the executive director has determined to be approved.

(3) Approved classroom training providers--Entities that have been approved by the executive director to provide classroom training after demonstration of hands-on subject matter expertise, knowledge of and experience with educational principles, and effective instructional designs.

(4) Approved conference and webinar training providers--Governmental entities or their designated agents, associations, or colleges as listed by accrediting agencies that are recognized by the United States Department of Education and that have been approved by the executive director to provide conference and webinar training.

(5) Approved distance training providers--Governmental entities or their designated agents, associations, or colleges as listed by accrediting agencies that are recognized by the United States Department of Education and that have been approved by the executive director to provide distance training after demonstrating comparable subject matter expertise, knowledge of and experience with educational principles, and effective instructional designs.

(6) Approved training--Training which provides the knowledge and skills necessary to perform occupational job tasks and is used for obtaining or renewing a license as determined by the executive director.

(7) Approved training delivery method--Methods approved by the executive director that currently include instructor-led classroom training, conferences, seminars, workshops, training at association meetings, distance training, or technology-based training.

(8) Association--The term association as used in the context of this chapter is an industry-related non-profit association whose members hold licenses issued by the commission or whose members are required to employ or contract with individuals who hold licenses issued by the commission.

(9) Conference--The term conference as used in the context of this chapter includes conferences, seminars, workshops, symposiums, expos, and any other such training venues.

(10) Continuing education--Job-related training credit approved by the executive director used for renewal of licenses.

(11) Correspondence training--The term correspondence training as used in the context of this chapter is distance training that can either be paper-based and conducted through a postal system, electronic-based and conducted through a website, or a blend of these delivery systems.

(12) Distance training--The acquisition of knowledge that occurs through various technologies with a separation of place and/or time between the instructor(s) or learning resources and the learner.

(13) Distributor--Any person or nongovernmental organization that sells a product primarily to individuals maintaining occupational licenses administered by the agency.

(14) High school diploma--An earned high school diploma from a United States high school, an accredited secondary school equivalent to that of United States high school, or a passing score on the general education development (GED) test that indicates a high school graduation level.

(15) Home school diploma--An earned diploma from a student who predominately receives instruction in a general elementary or secondary education program that is provided by the parent, or by a person in parental authority, in or through the child's home.

(16) License--An occupational license issued by the commission to a person authorizing the person to engage in an activity covered by this chapter.

(17) Maintenance provider--A person that, for compensation, provides service or maintenance for one or more on-site sewage disposal systems using aerobic treatment.

(18) Manufacturer--For the purpose of this subchapter any person, company, or nongovernmental organization that produces a product for sale primarily to individuals who maintain occupational licenses that are administered by the agency.

(19) Person--As defined in §3.2 of this title (relating to Definitions).

(20) Qualified instructor--An individual who has instructional experience, work-related experience, and subject matter expertise that enables the individual to communicate course information in a relevant, informed manner and to answer students' questions.

(21) Registration--An occupational registration issued by the commission to a person authorizing the person to engage in an activity covered by this chapter.

(22) Service provider--Any person, company, or nongovernmental organization that provides a service for its own profit to individuals who maintain occupational licenses that are administered by the agency.

(23) Subject matter expert--A person having a minimum of three years of work-related experience and expert knowledge in a particular content area or areas as relates to training.

(24) Technology-based training--The term technology-based training as used in the context of this chapter includes training offered through computer equipment or through a website (also known as on-line training or e-learning).

(25) Training credit--Hours awarded by the executive director for successful completion of approved training.

(26) Training provider--An administrative entity or individual responsible for obtaining approval of training, providing acceptable delivery of approved training, ensuring that qualified instructors or subject matter experts are utilized in the delivery, support, and development of training and monitoring, recording and reporting attendance accurately and promptly as required by the executive director.

(27) Webinar--Interactive training delivered live via the Internet as a combination of conference training and distance training where the learner is separated by place from the learning source.

Adopted September 7, 2016

Effective September 29, 2016

### **§30.10. Administration.**

The executive director is responsible for:

- (1) reviewing applications;
- (2) developing, administering, and grading examinations;
- (3) issuing and renewing licenses and registrations;
- (4) maintaining records related to licenses and registrations;
- (5) maintaining a roster of current licenses and registrations;
- (6) collecting fees;
- (7) approving training providers;
- (8) awarding training credit for approved training; and
- (9) responding to complaints against licensees, registrants, and training providers.

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Effective September 29, 2016

**§30.13. Eligibility of Certain Applicants for Occupational Licenses or Registrations.**

(a) An individual may request the agency to issue a criminal history evaluation letter regarding the individual's eligibility for a license if the individual:

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

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

(b) The request must state the basis for the individual's potential ineligibility.

(c) The executive director has the same powers to investigate a request relating to the requestor's eligibility that it has to investigate a person applying for a license.

(d) If the executive director determines that a ground for ineligibility does not exist, the executive director shall notify the requestor in writing of the executive director's determination on each ground of potential ineligibility.

(e) If the executive director determines that the requestor is ineligible for a license, the executive director shall issue a letter setting out each basis for potential ineligibility and the executive director's determination as to eligibility. Subject to subsection (g) of this section, the executive director's determination of eligibility is final.

(f) The executive director must provide notice under subsection (d) of this section or issue a letter under subsection (e) of this section not later than the 90th day after the date the executive director receives the request.

(g) Upon the executive director's discovery of new facts unknown or undisclosed at the time of the determination of eligibility, the executive director may re-evaluate the eligibility of the requestor.

Adopted June 16, 2010

Effective July 8, 2010

**§30.14. Applications for Initial Registration.**

(a) Applications for initial registrations shall be made on a standard form approved by the executive director. The application must be submitted to the executive director with the appropriate fee.

(b) Supplemental information for each individual program shall be submitted according to the specific requirements for each program.

(c) All statements and qualifications provided by the applicant or on the behalf of the applicant are subject to verification by the executive director.

(d) All statements, qualifications, and attachments provided by the applicant relating to an application shall be true, accurate, complete, and contain no misrepresentation or falsification.

(e) Misrepresentation or falsification of any information may be grounds for denial of an application and for enforcement action.

(f) All applications must be completed in full. All deficiencies must be corrected within 60 days of notification, or the application shall be considered void.

(g) The executive director shall determine whether an applicant meets the requirements of this subchapter. If all requirements have been met, the executive director shall issue the registration. The registration shall be valid for the term specified in Subchapters B - L of this chapter (relating to Backflow Prevention Assembly Testers, Customer Service Inspectors, Landscape Irrigators, Installers, Irrigation Technicians and Irrigation Inspectors, Leaking Petroleum Storage Tank Corrective Action Project Managers and Specialists, Municipal Solid Waste Facility Supervisors, On-Site Sewage Facilities Installers, Apprentices, Designated Representatives, Maintenance Providers, Maintenance Technicians, and Site Evaluators. Water Treatment Specialists, Underground Storage Tank On-Site Supervisor Licensing and Contractor Registration, Wastewater Operators and Operations Companies, Public Water System Operators and Operations Companies, Visible Emissions Evaluator Training and Certification, respectively.) The effective date of the registration shall be the date the executive director issues the registration.

Adopted June 18, 2014

Effective July 10, 2014

**§30.18. Applications for an Initial License.**

(a) Applications for initial licenses shall be made on a standard form provided by the executive director. The application must be submitted to the executive director with the fee according to §30.30 of this title (relating to Terms and Fees for

Licenses and Registrations). The application must be submitted to the executive director before the applicant may take the examination.

(b) Supplemental information for each individual program shall be submitted according to the specific requirements for each program.

(c) An approved application shall be valid for one year from the date of application approval.

(d) All statements and qualifications provided by each applicant or on the behalf of the applicant are subject to verification by the executive director.

(e) All statements, qualifications, and attachments provided by the applicant relating to an application shall be true, accurate, complete, and contain no misrepresentation or falsification.

(f) Misrepresentation or falsification of any information may be grounds for denial of an application and for enforcement action.

(g) All applications must be completed in full. All deficiencies must be corrected within 120 days of notification, or the application shall be considered void.

(h) An applicant must furnish evidence of any training credit, proof of education, or work experience when requested. Diplomas from non-accredited high schools will be evaluated by the executive director on a case-by-case basis and will be considered based on the following submitted information:

(1) transcript;

(2) documentation of actual coursework;

(3) time spent on coursework or program; and

(4) any additional documentation the executive director might reasonably request or that would assist the applicant in demonstrating the proof of their education claim.

(i) The executive director shall determine whether an applicant meets the requirements of this subchapter. If all requirements have been met, the executive director shall issue the license. The license shall be valid for the term specified in Subchapters B - L of this chapter (relating to Backflow Prevention Assembly Testers; Customer Service Inspectors; Landscape Irrigators, Irrigation Technicians, and Irrigation Inspectors; Leaking Petroleum Storage Tank Corrective Action Project

Managers and Specialists; Municipal Solid Waste Facility Supervisors; On-Site Sewage Facilities Installers, Apprentices, Designated Representatives, Maintenance Providers, Maintenance Technicians, and Site Evaluators; Water Treatment Specialists; Underground Storage Tank On-Site Supervisor Licensing and Contractor Registration; Wastewater Operators and Operations Companies; Public Water System Operators and Operations Companies; and Visible Emissions Evaluator Training and Certification, respectively.) The effective date of the license shall be the date the executive director issues the license.

Adopted September 7, 2016

Effective September 29, 2016

**§30.20. Examinations.**

(a) The executive director shall prescribe the content of licensing examinations. Examinations shall be based on laws, rules, job duties, and standards relating to the particular license. The contents of any examination required for licensure under this chapter are confidential and examinees may not share them with anyone.

(b) Examinations shall be graded and the results forwarded to the applicant no later than 45 days after the examination date. The minimum passing score for an examination is 70%.

(c) An individual with an approved application who fails an examination may not repeat an examination until receiving notification of examination results for that particular examination.

(d) The application becomes void either after 365 days from date of application or failing the same examination four times, whichever occurs first. If an application becomes void, a new fee and a new application must be submitted before the applicant may take the same examination again.

(e) Any scores for repeat examinations taken after an application becomes void will not be applied to the issuance of the license.

(f) Any qualified applicant with a physical, mental, or developmental disability may request reasonable accommodations to take an examination.

(g) Examinations shall be given at places and times approved by the executive director.

(h) Examinees must comply with all written and verbal instructions of the proctor and shall not:

(1) bring any unauthorized written material, in either printed or electronic formats, into the examination room;

(2) bring any electronic devices, including any device with a camera, into the examination room;

(3) share, copy, or in any way reproduce any part of the examination;

(4) engage in any deceptive or fraudulent act; or

(5) solicit, encourage, direct, assist, or aid another person to violate any provision of this section or compromise the confidentiality of the examination.

(i) The executive director shall provide an analysis of an examination when requested in writing by the applicant. The executive director shall ensure that an examination analysis does not compromise the fair and impartial administration of future examinations.

(j) An individual who wishes to observe a religious holy day on which the individual's religious beliefs prevent the individual from taking an examination scheduled by the agency on that religious holy day shall be allowed to take the examination on an alternate date.

(k) The executive director may deny an individual the opportunity to take a licensing examination on the grounds that the individual has been convicted of an offense, other than an offense punishable as a Class C misdemeanor, that:

(1) directly relates to the duties and responsibilities of the licensed occupation;

(2) does not directly relate to the duties and responsibilities of the licensed occupation and that was committed less than five years before the date the individual applies for the license;

(3) is an offense listed in Texas Code of Criminal Procedure, Article 42.12, Section 3g; or

(4) is a sexually violent offense, as defined by Texas Code of Criminal Procedure, Article 62.001.

(l) The executive director may deny an individual the opportunity to take a licensing examination on the grounds that:

(1) the individual was charged with:

(A) any offense described by Texas Code of Criminal Procedure, Article 62.001(5); or

(B) an offense other than an offense described by subparagraph (A) of this paragraph if:

(i) the individual has not completed the period of supervision or the individual completed the period of supervision less than five years before the date the individual applied for the license; or

(ii) a conviction for the offense would make the individual ineligible for the license by operation of law; and

(2) after consideration of the factors described by Texas Occupations Code, §§53.021(d), 53.022, and 53.023(a), the executive director determines that:

(A) the individual may pose a continued threat to public safety;  
or

(B) employment of the individual in the licensed occupation would create a situation in which the individual has an opportunity to repeat the prohibited conduct.

(m) After notice and opportunity for a hearing, the commission may deny or revoke any license or registration held by a person who violates any of the provisions of this section. The commission may file a criminal complaint against any individual who removes or attempts to remove any portion of the examination, reproduces without permission any part of the examination, or who engages in any fraudulent act relating to the examination process.

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Effective September 29, 2016

### **§30.24. License and Registration Applications for Renewal.**

(a) A license or registration may not be renewed if it has been:

(1) expired for more than 30 days and an application has not been received by the executive director or postmarked within 30 days after the expiration date of the license or registration;

(2) revoked; or

(3) replaced by a higher class of license.

(b) Applications for renewal must be made on a standard form provided by the executive director.

(1) The executive director shall mail a renewal notification at least 60 days before the license or registration expires to the most recent address provided to the executive director. If a person does not receive a renewal notification, the person is not relieved of the responsibility to timely submit a renewal application.

(2) The person is responsible for ensuring that the completed renewal application, the renewal fee, and other required information are submitted to the executive director by the expiration date of the license or registration.

(c) All statements, qualifications, and attachments provided by the applicant that relate to a renewal application shall be true, accurate, complete, and contain no misrepresentation or falsification.

(d) Approved training to renew a license must be successfully completed after the issuance date and before the expiration date of the current license. Any training credits completed in excess of the amount required for the renewal period shall not be carried over to the next renewal period.

(e) An individual who holds a license prescribed by Texas Water Code, §26.0301, or Texas Health and Safety Code, §341.033 or §341.034, specifically the holder of a Class A or Class B public water system operator or Class A or B wastewater treatment facility operator license may certify compliance with continuing education requirements prior to or at the time the license is renewed by submitting a continuing education certification form available from the executive director.

(f) The executive director may renew a license or registration if the application is received by the executive director or is postmarked within 30 days after the expiration date of the license or registration, and the person meets the requirements for renewal by the expiration date of the license or registration and pays all appropriate fees. This subsection does not extend the validity period of the license or registration nor grant the person authorization to perform duties requiring a license or registration. This subsection only allows an additional 30 days after the expiration of the license or registration for the person to submit the renewal application, any supporting documentation, and appropriate fees.

(g) An individual whose license renewal application is not received by the executive director or is not postmarked within 30 days after the license expiration date may not renew the license and must meet the current education, training, and experience requirements, submit a new application with the appropriate fee, and

pass the examination. A person whose registration renewal application is not received by the executive director or is not postmarked within 30 days after the expiration date may not renew the registration and must submit a new application with the appropriate fee and meet all applicable requirements for a new registration.

(h) Persons failing to renew their license or registration in a timely manner due to serving as a military service member may renew their license within two years of returning from active duty by submitting the following:

(1) a completed renewal application;

(2) a copy of the military orders substantiating the military service during the time the license expired; and

(3) the applicable license renewal fee.

(i) For good cause the executive director may extend the two years period for a military service member seeking to renew their license. Good cause may include, but is not limited to, hospitalization or injury to the licensee.

(j) Completion of the required continuing education will be waived for the renewal cycle for military service members outside of this state who were unable to complete the requirements.

(k) These procedures apply only to military service members who are outside this state and not to military contractors.

(l) All licensees must notify the executive director of any change in the previously submitted application information within ten days from the date the change occurs.

(m) All registration holders must notify the executive director of any change in the previously submitted application information within ten days after the month in which the change occurs.

(n) Licenses and registrations that have renewal cycles in transition shall follow the renewal requirements in the applicable subchapter.

(o) The executive director shall determine whether an applicant meets the renewal requirements of this subchapter. If all requirements have been met, the executive director shall renew the license or registration.

(p) The license or registration shall be valid for the term specified.

(q) If the application does not meet the requirements, the executive director shall notify the applicant in writing of the deficiencies.

(r) All deficiencies must be corrected within 30 days of date printed on the notification, or the renewal application shall be considered void after the license expiration date.

(s) A person whose license or registration has expired shall not engage in activities that require a license or registration until the license or registration is renewed or a new license or registration has been obtained.

Adopted September 7, 2016

Effective September 29, 2016

**§30.26. Recognition of Licenses from Out-of-State; Licenses for Military Service Members, Military Veterans, or Military Spouses.**

(a) Except for landscape irrigators the executive director may waive qualifications, training, or examination for individuals with a good compliance history who hold a current license from another state, territory, or country if that state, territory, or country has requirements equivalent to those in this chapter.

(b) A license may be issued after review and approval of the application, receipt of the appropriate fee, and verification of the license from the corresponding state, territory, or country.

(c) The executive director may waive any of the prerequisites for obtaining a landscape irrigator license, if the applicant is licensed as an irrigator in another jurisdiction that has a reciprocity agreement with the State of Texas.

(d) The executive director may require the applicant to provide information about other occupational licenses and registrations held by the person, including:

(1) the state in which the other license or registration was issued;

(2) the current status of the other license or registration; and

(3) whether the other license or registration was ever denied, suspended, revoked, surrendered, or withdrawn.

(e) To maintain a license that was issued on the basis of reciprocity, applicants must comply with the renewal requirements of this subchapter. Reciprocity will not be granted for the issuance of lower level licenses of the same type as the one that was initially issued on the basis of reciprocity.

(f) Military Service Members, Military Veterans, or Military Spouses.

(1) The executive director shall issue a license to an applicant who is a military service member, military veteran, or military spouse and:

(A) holds a current license issued by another jurisdiction that has licensing requirements that are substantially equivalent to the requirements for the license; or

(B) within the five years preceding the application date held the license in this state.

(2) A license issued under this subsection shall be valid for the term specified in §30.18(i) of this title (relating to Applications for an Initial License).

(3) The executive director shall notify the license holder of the requirements for renewing a license issued under this subsection as specified in §30.24(b)(1) of this title (relating to License and Registration Applications for Renewal).

(g) In lieu of the standard method(s) of demonstrating competency for a particular license, and based on the applicant's circumstances, the alternative methods for demonstrating competency may include, but not be limited to, any combination of the following as determined by the executive director:

(1) education;

(2) continuing education;

(3) examinations (written, practical, or a combination of written and practical);

(4) letters of good standing;

(5) letters of recommendation;

(6) work experience; or

(7) other methods or options as determined by the executive director.

(h) Military service members or military veterans. The executive director shall credit verified military service, training, or education toward the licensing requirements.

(1) Verified military service, training, or education shall not be credited toward an examination requirement.

(2) The executive director may not apply this credit provision to an applicant who:

(A) holds a restricted license issued by another jurisdiction; or

(B) has an unacceptable criminal history.

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**§30.28. Approval of Training.**

(a) The executive director shall approve training that provides the knowledge or skills necessary to obtain or maintain licenses or registrations that are issued by the commission. This training shall be directly related to tasks performed by persons whose duties require a license or registration in a program that is administered by the commission.

(b) The executive director may approve specific training delivery methods, to include:

(1) classroom training;

(2) conferences;

(3) technology-based training;

(4) correspondence courses or similar distance training;

(5) association meetings that include training sessions containing subject matter related to the particular license; or

(6) other professional activities, such as the publication of articles.

(c) The executive director shall award training credit for successful completion of approved training used for obtaining or renewing a license.

(d) The executive director shall determine the occupational program(s) and number of hours of training credit that will be granted for approved training. The executive director may:

(1) use the provider's subject matter experts' qualifications to determine the program(s); and

(2) request field testing data from training providers to validate the hours requested.

(e) Training providers who submit applications for approval must:

(1) utilize a standard form and method provided by the executive director;

(2) include the applicable fee found in the chart contained in subsection (g) of this section;

(3) include supplemental information and materials according to the specific requirements for each method of training as approved by the executive director;

(4) include supplemental materials and information edited by subject matter experts;

(5) include samples of certificates of completion, including information as required by the executive director;

(6) document approval from the publisher to reprint text, pictures, graphics, tables, data, and any other information that is copyrighted or obtained from a source that is not an original creation of the training provider. The training materials submitted shall include appropriate references; and

(7) respond to any deficiencies within 60 days of the notification provided by the executive director or the application will become void and the fee forfeited.

(f) The executive director shall determine whether a provider meets the requirements of this subchapter.

(g) Fees for training applications will be calculated based on the number of requested training credit hours or type of association meetings using the following table. If the requested hours are significantly different than the actual hours of training awarded, the executive director may request an adjustment in the fee from the applicant. If the applicant does not provide the adjusted fee, the application will not be processed, resulting in denial of training approval. Fees are nonrefundable whether the training is approved or not approved.

Figure: 30 TAC §30.28(g)

<b>Type of Delivery Method</b>	<b>Fee Amount</b>
<b>Association Meetings</b> - training sessions up to two hours (over two hours, see conferences)	\$10.00 per training credit hour
<b>Association Meetings</b> - annual review for single chapter, section, or district with 12 or less meetings per year	\$100 per annual review application
<b>Association Meetings</b> - annual review for multiple chapters, sections, or districts with 12 or less meetings per year	\$400 per annual review application
<b>Conferences</b>	\$10.00 per training credit hour or a minimum of \$50 whichever is greater
<b>Classroom Training</b> - using existing approved manuals	\$10.00 per training credit hour or a minimum of \$50 whichever is greater
<b>Classroom Training</b> - with new manuals and new materials	\$25 per training credit hour or a minimum of \$100 whichever is greater
<b>Technology-Based Training</b>	\$25 per training credit hour or a minimum of \$100 whichever is greater
<b>Correspondence Courses</b>	\$25 per training credit hour or a minimum of \$100 whichever is greater
<b>Webinar</b>	\$50 for initial review, then \$10.00 per training credit hour for subsequent applications

(h) Training delivered to meet the requirements for obtaining or renewing a license must:

- (1) be approved by the executive director before the training begins;
  - (2) provide the knowledge or skills necessary to perform one or more of the occupation's critical job tasks as determined by a job analysis or training needs assessment;
  - (3) not promote or endorse the products, product lines, or services of a manufacturer, distributor, or service provider or used as an opportunity for advertisement;
  - (4) provide the means to accomplish the learning objectives identified for the training;
  - (5) contain learning aids, such as visual aids and graphics. Training must be interactive in order to enhance learning and attain learning objectives;
  - (6) include regular monitoring of student comprehension throughout the training and provide feedback from the training provider, instructor, or subject matter expert to the student;
  - (7) be monitored for successful student completion;
  - (8) track student time and progress toward completing learning objectives; and
  - (9) utilize, at a minimum, subject matter experts and instructional design experts or effective qualified instructors to develop training materials for approval. Additionally, development of technology-based training must also utilize qualified subject matter experts in technology delivery methods.
- (i) Training shall not be advertised as approved until notice of approval is received from the executive director.
  - (j) Training may not be held in a place of business of a product manufacturer, distributor, or service provider directly related to the occupational license for which the training provider seeks approval.
  - (k) Once training is approved, training providers may offer the training without notification to the executive director.
  - (l) Training is considered approved until the content changes, or until the executive director notifies the training provider that changes in the content or delivery of the training are required.

(m) If a training provider changes the delivery method of the training, the training must be submitted for review and approval by the executive director.

(n) The executive director may:

(1) deny applications for training courses that contain extensive errors or do not meet the requirements of this section;

(2) conduct an administrative review for application completeness and a technical review for compliance with applicable agency rules;

(3) monitor, recall, reevaluate, and/or rescind approval of topics or training materials;

(4) require training providers to update training delivery methods or training materials to ensure that the content reflects current technology and practices;

(5) deny an application after determination that another delivery method is more conducive for the training material; and

(6) recall training for reevaluation which may result in rescinding any previous approval.

(o) The executive director's grounds for recalling, rescinding, suspending, or denying approval include, but are not limited to:

(1) the training does not conform to current accepted industry standard practices or agency rules;

(2) the training does not conform to the materials or method as approved;

(3) the subject matter is not related to critical job tasks performed by licensees;

(4) an instructor is not qualified to teach the subject matter;

(5) an instructor is ineffective in the delivery of the subject matter;

(6) the training promotes or endorses products, product lines, or services from a manufacturer, distributor, or service provider;

(7) the training credits for successfully completed training are not electronically submitted within 14 business days of course completion;

(8) the records, rosters, or application materials have been falsified;

(9) the training provider does not comply with a training recall;

(10) the training provider is not active or training has not been conducted for three or more years; or

(11) the training environment is not conducive to learning.

(p) The following types of training will not be approved or awarded training credit:

(1) distance training or webinars that are repeated during the renewal period;

(2) distance training that is intended to teach required manual skills;  
or

(3) webinar training that is submitted to qualify an applicant for an initial license.

(q) Approved training providers shall:

(1) ensure the executive director has the most current electronic edition of training materials;

(2) keep manuals and training content updated to reflect rule changes;

(3) submit approved training material that references rules for reapproval within 180 days of any new rule adoption that pertains to that training;

(4) submit material with substantial changes, including a summary, list, or other indication of changes, for review and reapproval by the executive director;

(5) allow the executive director staff or their agents access to training in order to audit training content, manner of delivery, and the effectiveness and qualifications of instructors and subject matter experts;

(6) be responsible for the content and delivery of the training;

- (7) retain accurate training records for a minimum of five years;
  - (8) maintain records of training approval throughout the entire period the training provider actively delivers training;
  - (9) ensure that instructors and subject matter experts are qualified and provide the executive director with qualifications when requested;
  - (10) notify students of all fees associated with completing the training and obtaining credit for training before and during the training;
  - (11) accurately present to students the approved training credit along with any other criteria for obtaining full or partial training credit;
  - (12) provide students with approved copies of texts, manuals, or other training materials to use during the training and for future reference required by the delivery method and as approved by the executive director;
  - (13) verify participation;
  - (14) provide acceptable procedures for student identity verification;
  - (15) maintain procedures to protect student identity and personal information;
  - (16) provide students access to subject matter experts to answer technology-related and content-related questions within one business day from the time of request; and
  - (17) electronically report the students' successfully completed training credit hours per procedures provided and approved by the executive director, not to exceed approved training credit hours, within 14 business days of training completion.
- (r) Printed training material must be presented in an original manner and must be relevant to the critical job tasks and knowledge for the occupational licensees.
- (s) Public information copied from websites or other sources is not acceptable as training materials unless modified to be applicable to the target audience and the method of delivery.

**§30.30. Terms and Fees for Licenses and Registrations.**

(a) Licenses and registrations are valid for three years from the date of issuance, unless specified otherwise by Subchapters B - L of this chapter (relating to Backflow Prevention Assembly Testers; Customer Service Inspectors; Landscape Irrigators, Irrigation Technicians, and Irrigation Inspectors; Leaking Petroleum Storage Tank Corrective Action Project Managers and Specialists; Municipal Solid Waste Facility Supervisors; On-Site Sewage Facilities Installers, Apprentices, Designated Representatives, Maintenance Providers, Maintenance Technicians, and Site Evaluators; Water Treatment Specialists; Underground Storage Tank On-Site Supervisor Licensing and Contractor Registration; Wastewater Operators and Operations Companies; Public Water System Operators and Operations Companies; and Visible Emissions Evaluator Training and Certification, respectively).

(b) The executive director may adopt a system under which licenses or registrations expire on various dates.

(c) The license fee is \$111 for a three-year license. The total amount shall be paid with each initial and renewal application and is nonrefundable. The initial fee is waived for military service member, military veteran, or military spouse applicants if they:

(1) meet all other requirements for the license; or

(2) hold a current license issued by another jurisdiction that has licensing requirements that are substantially equivalent to the requirements for the license the applicant is applying for in this state.

(d) Registration fees are established in the applicable subchapters of this chapter.

(e) The executive director may charge a \$20 fee to process a duplicate certificate or pocket card.

(f) A convenience fee may be set by the executive director or service provider for alternative fee payment methods. A person using an alternative payment method is responsible for paying the convenience fee.

(g) An examination or reexamination fee may be charged if the executive director designates an entity to administer the examinations.

(h) The executive director may charge an individual requesting a criminal history evaluation letter under §30.13 of this title (relating to Eligibility of Certain Applicants for Occupational Licenses or Registrations) a fee adopted by the

commission. Fees adopted by the commission under §30.13 of this title must be in an amount sufficient to cover the cost of administering §30.13 of this title.

Adopted September 7, 2016

Effective September 29, 2016

**§30.33. License or Registration Denial, Warning, Suspension, or Revocation.**

(a) The executive director may deny an initial or renewal application for the following reasons.

(1) Insufficiency. The executive director shall notify the applicant of the executive director's intent to deny the application and advise the applicant of the opportunity to file a motion to overturn the executive director's decision under §50.139 of this title (relating to Motion to Overturn Executive Director's Decision). The executive director may determine that an application is insufficient for the following reasons:

(A) failing to meet the licensing or registration requirements of this chapter; or

(B) if an out-of-state licensing program does not have requirements substantially equivalent to those of this chapter.

(2) Cause. After notice and opportunity for a hearing, the commission may deny an application for a license or registration by an applicant who:

(A) provides fraudulent information or falsifies the application;

(B) has engaged in fraud or deceit in obtaining or applying for a license or registration;

(C) has demonstrated gross negligence, incompetence, or misconduct in the performance of activities authorized by a license or registration;

(D) made an intentional misstatement or misrepresentation of fact or information required to be maintained or submitted to the commission by the applicant or by the license or registration holder;

(E) failed to keep and transmit records as required by a statute within the commission's jurisdiction or a rule adopted under such a statute;

(F) at the time the application is submitted, is indebted to the state for a fee, penalty, or tax imposed by a statute within the commission's jurisdiction or a rule adopted under such a statute; or

(G) is in default on loans guaranteed by Texas Guaranteed Student Loan Corporation (TGSLC) (the executive director shall proceed as described in Texas Education Code, Chapter 57) if identified by TGSLC and the application is for a renewal license or registration.

(b) If an individual causes, contributes to, or allows a violation of this chapter, the executive director may issue a warning letter. The letter shall be placed in the individual's permanent file maintained by the executive director. This letter shall be a warning that further violations or offenses by the individual may be grounds for suspension, revocation, enforcement action, or some combination. A warning is not a prerequisite for initiation of suspension, revocation, or enforcement proceedings.

(c) After notice and hearing, the commission may suspend or revoke a license, certificate, or registration on any of the grounds contained in Texas Water Code, §7.303(b).

(d) After notice and hearing a license or registration may be suspended for a period of up to one year, depending upon the seriousness of the violations. A license or registration shall be revoked after notice and hearing upon a second suspension.

(e) The commission may revoke a license or registration after notice and hearing for a designated term or permanently. If a license or registration is revoked a second time, the revocation shall be permanent.

(f) The following procedures for renewal apply to individuals that have had their license or registration suspended.

(1) If a license or registration expiration date falls within the suspension period, an individual may renew the license or registration during the suspension period according to §30.24 of this title (relating to License and Registration Applications for Renewal) and the applicable subchapters of this chapter.

(2) A license or registration suspended in accordance with subsection (j) of this section may not be renewed during the suspension period. The license or registration may only be renewed if the court or the Title IV-D agency renders an order vacating or staying an order suspending the license or registration and the license or registration has not expired during the suspension period.

(3) After the suspension period has ended, the license or registration shall be automatically reinstated unless the individual failed to renew the license or registration during the suspension period.

(g) Individuals that have had their license or registration revoked shall not have their license or registration reinstated after the revocation period. After the revocation period has ended, an individual may apply for a new license or registration according to this chapter.

(h) Criminal Conviction.

(1) After notice and hearing, the commission may deny, suspend, or revoke a license on the grounds that the individual has been convicted of an offense, other than a Class C misdemeanor that:

(A) directly relates to the duties and responsibilities of the licensed occupation;

(B) does not directly relate to the duties and responsibilities of the licensed occupation and that was committed less than five years before the date the individual applies for the license;

(C) is listed in Texas Code of Criminal Procedure, Article 42.12, Section 3g; or

(D) is a sexually violent offense, as defined by Texas Code of Criminal Procedure, Article 62.001.

(2) The commission shall revoke the license or registration upon an individual's imprisonment following a felony conviction, felony community supervision revocation, revocation of parole, or revocation of mandatory supervision.

(3) Prohibited Employment.

(A) Individuals subject to registration under the Texas Code of Criminal Procedure, Chapter 62 because of a reportable conviction or adjudication for which an affirmative finding is entered under Texas Code of Criminal Procedure, Article 42.015(b) or Section 5(e)(2), Article 45.12, and licensed after September 1, 2013, may not, for compensation, provide or offer to provide any type of service in the residence of another person unless the provision of service will be supervised.

(B) For purposes of this subsection:

(i) "Residence" means a structure primarily used as a permanent dwelling and land that is contiguous to that permanent dwelling.

(ii) "Supervision" means direct, continuous visual observation of the individual at all times.

(4) Except as provided by paragraph (5) of this subsection, notwithstanding any other law, the executive director may not consider an individual to have been convicted of an offense for purposes of this section if, regardless of the statutory authorization:

(A) the individual entered a plea of guilty or nolo contendere;

(B) the judge deferred further proceedings without entering an adjudication of guilt and placed the individual under the supervision of the court or an officer under the supervision of the court; and

(C) at the end of the period of supervision, the judge dismissed the proceedings and discharged the individual.

(5) The executive director may consider an individual to have been convicted of an offense for purposes of this section regardless of whether the proceedings were dismissed and the individual was discharged as described by paragraph (4) of this subsection if:

(A) the individual was charged with:

(i) any offense described by Texas Code of Criminal Procedure, Article 62.001(5); or

(ii) an offense other than an offense described by clause (i) of this subparagraph if:

(I) the individual has not completed the period of supervision or the individual completed the period of supervision less than five years before the date the individual applied for the license; or

(II) a conviction for the offense would make the individual ineligible for the license by operation of law; and

(B) after consideration of the factors described by Texas Occupations Code, §53.022 and §53.023(a), the executive director determines that:

(i) the individual may pose a continued threat to public safety; or

(ii) employment of the individual in the licensed occupation would create a situation in which the individual has an opportunity to repeat the prohibited conduct.

(i) After notice and hearing, the commission may revoke a maintenance provider registration on any of the grounds in Texas Health and Safety Code, §366.0515(m).

(j) Failure to pay child support.

(1) The commission may suspend a license or registration if a licensed or registered individual has been identified by the Office of the Attorney General as being delinquent on child support payments (upon receipt of a final order suspending a license or registration, the executive director shall proceed as described in Texas Family Code, Chapter 232).

(2) The commission shall refuse to accept an application for:

(A) issuance of a new license or registration to an individual; or

(B) renewal of an existing license or registration to an individual if:

(i) the individual has failed to pay child support for six months or more;

(ii) the commission is notified by a child support agency, as defined by Texas Family Code, §101.004; and

(iii) the child support agency requests the commission to refuse to accept the application.

(3) The commission shall not accept an application for a license that was refused under paragraph (2) of this subsection until notified by the child support agency that the individual has:

(A) paid all child support arrearages;

(B) made an immediate payment of not less than \$200 toward child support arrearages owed and established with the child support agency a

satisfactory repayment schedule for the remainder or is in compliance with a court order for payment of the arrearages;

(C) been granted an exemption from this subsection as part of a court-supervised plan to improve the individual's earnings and child support payments; or

(D) successfully contested the child support agency's request for the commission's denial of issuance or renewal of the license or registration.

(4) The commission may charge a fee in an amount sufficient to recover the administrative costs incurred for denying or suspending that license.

(5) For purposes of this subsection, the suspension period for a license or registration shall be until:

(A) the court or the Title IV-D agency renders an order vacating or staying an order suspending the license or registration; or

(B) the expiration of the license or registration.

Adopted June 18, 2014

Effective July 10, 2014

**§30.34. Factors in Determining Whether Conviction Relates to Occupation.**

(a) In determining whether a criminal conviction directly relates to an occupation, the commission shall consider:

(1) the nature and seriousness of the crime;

(2) the relationship of the crime to the purposes for requiring a license to engage in the occupation;

(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 individual 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 the licensed occupation.

(b) In determining the fitness to perform the duties and discharge the responsibilities of the licensed occupation of an individual who has been convicted

of a crime, the executive director shall consider, in addition to the factors listed in subsection (a) of this section:

- (1) the extent and nature of the individual's past criminal activity;
- (2) the age of the individual when the crime was committed;
- (3) the amount of time that has elapsed since the individual's last criminal activity;
- (4) the conduct and work activity of the individual before and after the criminal activity;
- (5) evidence of the individual's rehabilitation or rehabilitative effort while incarcerated or after release; and
- (6) other evidence of the individual's fitness, including letters of recommendation from:
  - (A) prosecutors and law enforcement and correctional officers who prosecuted, arrested, or had custodial responsibility for the individual;
  - (B) the sheriff or chief of police in the community where the individual resides; and
  - (C) any other individual in contact with the convicted individual.

(c) The applicant has the responsibility, to the extent possible, to obtain and provide to the executive director the recommendations of the prosecution, law enforcement, and correctional authorities as required by subsection (b)(6) of this section.

(d) In addition to fulfilling the requirements of subsection (a)(2) of this section, the applicant shall furnish proof in the form required by the executive director that the applicant has:

- (1) maintained a record of steady employment;
- (2) supported the applicant's dependents;
- (3) maintained a record of good conduct; and
- (4) paid all outstanding court costs, supervision fees, fines, and restitution ordered in any criminal case in which the applicant has been convicted.

Adopted June 16, 2010

Effective July 8, 2010

**§30.35. Guidelines.**

(a) The agency shall issue guidelines relating to the practice of the agency in determining whether a particular crime is considered to relate to a particular license and any other criterion that affects the decisions of the commission.

(b) The agency shall file the guidelines with the secretary of state for publication in the *Texas Register*.

Adopted June 16, 2010

Effective July 8, 2010

**§30.36. Notice.**

The executive director shall notify the individual in writing of the intent to suspend or revoke a license or deny the individual a license or the opportunity to be examined for a license because of the individual's prior conviction of a crime and the relationship of the crime to the license. The notification shall include, but not be limited to the:

- (1) reason for the suspension, revocation, denial, or disqualification;
- (2) review procedure provided by §30.35 of this title (relating to Guidelines); and
- (3) earliest date that the individual may appeal the action of the commission.

Adopted June 18, 2014

Effective July 10, 2014

**§30.37. Judicial Review.**

(a) An individual whose license has been suspended or revoked or who has been denied a license or the opportunity to take an examination under §30.20(m) and §30.33(a)(2)(H) or (d) of this title (relating to Examinations; or License or Registration Denial, Warning, Suspension, or Revocation) and who has exhausted the individual's administrative appeals may file an action in the district court in Travis County, Texas for review of the evidence presented to the commission and the decision of the commission.

(b) The petition for an action under subsection (a) of this section must be filed not later than the 30th day after the date the commission's decision is final and appealable.

Adopted June 16, 2010

Effective July 8, 2010

**§30.38. Hearings.**

All hearings are to be conducted according to Chapters 70 and 80 of this title (relating to Enforcement and Contested Case Hearings, respectively).

Adopted June 16, 2010

Effective July 8, 2010