

Amend CSSB 104 as follows:

(1) In SECTION 3 of the bill, in proposed Section 153.0535(b), Occupations Code (committee printing page 1, line 61), between "panel" and the period, insert "and representation of the board by the attorney general's office".

(2) In SECTION 20 of the bill, in amended Section 164.003(b), Occupations Code, in proposed Subdivision (4) of that subsection (committee printing page 5, line 47), strike "~~[(2)] the board's legal counsel or~~" and substitute "~~[(2) the board's legal counsel or]~~".

(3) Insert the following appropriately numbered SECTIONS to the bill:

SECTION _____. Section 153.013, Occupations Code, is amended to read as follows:

Sec. 153.013. REPRESENTATION BY ATTORNEY GENERAL. (a) The board shall be represented by the attorney general in:

(1) formal contested case hearings under Section 164.007; and

(2) court proceedings [~~by the attorney general~~].

(b) A representative of the attorney general shall advise the board's staff in informal proceedings under Section 164.003.

SECTION _____. Section 164.005(e), Occupations Code, is amended to read as follows:

(e) The president or designee shall notify the State Office of Administrative Hearings and the attorney general of a formal complaint.

SECTION _____. Section 164.007, Occupations Code, is amended by amending Subsections (a) and (b) and adding Subsection (i) to read as follows:

(a) The board by rule shall adopt procedures governing formal disposition of a contested case under Chapter 2001, Government Code. A formal hearing shall be conducted by an administrative law judge employed by the State Office of Administrative Hearings. The attorney general shall represent the board in the hearing. [~~After receiving the administrative law judge's findings of fact and conclusions of law, the board shall determine the charges on the merits.~~]

(b) Notwithstanding this subtitle or other law, the board, with the approval of the attorney general, may employ, retain, and compensate:

(1) [~~attorneys,~~] consultants[~~7~~] and other professionals as necessary and appropriate to serve as board consultants [~~or special counsel to prosecute complaints filed with the board on behalf of the hearings division and investigating division~~]; and

(2) court reporters and other staff necessary to prepare for or represent the board in the hearings authorized by this section.

(i) After a hearing described by this section is concluded, the parties may submit to the administrative law judge proposed findings of fact and conclusions of law and a proposal for decision as to the occurrence of the violation and any proposed sanction. The administrative law judge shall make findings of fact and conclusions of law and issue a final decision finding that a violation has occurred and imposing a sanction or finding that no violation occurred. If the administrative law judge finds that a violation has occurred, the administrative law judge may impose any sanction that the board is authorized to impose under this chapter. The administrative law judge may impose more than one sanction for the same violation. Section 2001.058(f), Government Code, applies to the formal disposition of a contested case under this section regardless of whether the board has adopted a rule under that subsection. For the purposes of this chapter, a sanction imposed by an administrative law judge under this section is considered to be a disciplinary action taken by the board.

SECTION _____. (a) Not later than January 1, 2004, the Texas State Board of Medical Examiners and the attorney general shall enter into a memorandum of understanding under which all attorneys employed by the board, except as provided by Subsection (b) of this section, are transferred to the attorney general's office. The memorandum required by this section shall prescribe the manner by which the transfer shall be accomplished and provide for the transfer to the attorney general's office of money appropriated to the board for legal services, including money for salaries of

transferred employees, and the transfer of any files, records, equipment, property, and support personnel necessary to accomplish the transfer. The memorandum shall also address the manner by which any investigation or other formal or informal proceeding in which a board employee is providing services shall be transferred to the attorney general's office. The transfer required by this section must be completed not later than March 1, 2004.

(b) The transfer of legal personnel and services required by this section does not apply to the general counsel to the Texas State Board of Medical Examiners. The memorandum of understanding required by Subsection (a) of this section shall include provisions for the retention by the general counsel of one attorney and sufficient support personnel to fulfill the general counsel's responsibilities.

(4) Renumber the SECTIONS of the bill appropriately.