

By: Allen

H.B. No. 6

A BILL TO BE ENTITLED

AN ACT

relating to the regulation and enforcement of the practice of medicine by the Texas State Board of Medical Examiners.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter A, Chapter 153, Occupations Code, is amended by adding Section 153.014 to read as follows:

Sec. 153.014. PHYSICIAN EDUCATION AND ASSISTANCE PROGRAM.

(a) The board shall establish a physician education and assistance program to ensure that all physicians licensed under this subtitle have sufficient knowledge regarding current medical technology and other developments in the practice of medicine.

(b) As part of the program established under this section, the board shall establish a procedure to identify and provide assistance to physicians who may be at risk of committing medical errors or other acts of malpractice.

SECTION 2. Section 164.051, Occupations Code, is amended by amending Subsections (a) and (c) and adding Subsection (d) to read as follows:

(a) The board may refuse to admit a person to its examination or refuse to issue a license to practice medicine and may take disciplinary action against a person if the person:

(1) commits an act prohibited under Section 164.052;

(2) is convicted of:

(A) a felony; or

1 (B) a misdemeanor involving moral turpitude;

2 (3) commits or attempts to commit a direct or indirect  
3 violation of a rule adopted under this subtitle, either as a  
4 principal, accessory, or accomplice;

5 (4) is unable to practice medicine with reasonable  
6 skill and safety to patients because of:

7 (A) illness;

8 (B) drunkenness;

9 (C) excessive use of drugs, narcotics,  
10 chemicals, or another substance; or

11 (D) a mental or physical condition;

12 (5) is found by a court judgment to be of unsound mind;

13 (6) fails to practice medicine in an acceptable  
14 professional manner consistent with public health and welfare;

15 (7) is removed, suspended, or is subject to  
16 disciplinary action taken by the person's peers in a local,  
17 regional, state, or national professional medical association or  
18 society, or is disciplined by a licensed hospital or medical staff  
19 of a hospital, including removal, suspension, limitation of  
20 hospital privileges, or other disciplinary action, if the board  
21 finds that the action:

22 (A) was based on unprofessional conduct or  
23 professional incompetence that was likely to harm the public; and

24 (B) was appropriate and reasonably supported by  
25 evidence submitted to the board;

26 (8) is subject to repeated or recurring meritorious  
27 health care liability claims that in the board's opinion evidence

1 professional incompetence likely to injure the public; or

2 (9) except as provided by Subsection (d), holds a  
3 license to practice medicine subject to disciplinary action by  
4 another state, or subject to disciplinary action by the uniformed  
5 services of the United States, based on acts by the person that are  
6 prohibited under Section 164.052 or are similar to acts described  
7 by this subsection.

8 (c) A certified copy of the record of another state that  
9 takes action described by Subsection (a)(9) or (d) is conclusive  
10 evidence of that action.

11 (d) The board shall revoke a license issued under this  
12 subtitle if the license holder held a license to practice medicine  
13 in another state that has been revoked by the licensing authority in  
14 that state.

15 SECTION 3. Section 164.057, Occupations Code, is amended to  
16 read as follows:

17 Sec. 164.057. REQUIRED SUSPENSION OR REVOCATION OF LICENSE  
18 FOR CERTAIN [~~FELONY~~] OFFENSES. (a) The board shall suspend a  
19 physician's license on proof that the physician has been:

20 (1) initially convicted of:

21 (A) a felony; or

22 (B) any other offense that is a violent crime; or

23 (2) subject to an initial finding by the trier of fact  
24 of guilt of a felony under:

25 (A) [~~(1)~~] Chapter 481 or 483, Health and Safety  
26 Code;

27 (B) [~~(2)~~] Section 485.033, Health and Safety

1 Code; or

2 (C) [~~3~~] the Comprehensive Drug Abuse  
3 Prevention and Control Act of 1970 (21 U.S.C. Section 801 et seq.).

4 (b) On final conviction for an offense [~~a felony~~] described  
5 by Subsection (a), the board shall revoke the physician's license.

6 (c) The board shall adopt rules that prescribe the offenses  
7 for which a conviction is considered to be a conviction of a violent  
8 crime under Subsection (a)(1)(B).

9 SECTION 4. Section 164.059, Occupations Code, is amended by  
10 adding Subsections (e) and (f) to read as follows:

11 (e) The board by rule shall adopt guidelines to assist in  
12 determining whether a license holder's continuation in practice  
13 constitutes a threat to the public welfare for purposes of this  
14 section and Section 164.001(c).

15 (f) The board and the State Office of Administrative  
16 Hearings shall expedite any informal settlement conference,  
17 hearing, or other decision resulting from a temporary suspension  
18 under this section.

19 SECTION 5. (a) This Act takes effect September 1, 2003.

20 (b) The Texas State Board of Medical Examiners shall:

21 (1) establish the physician education and assistance  
22 program required by Section 153.014, Occupations Code, as added by  
23 this Act, not later than January 1, 2004; and

24 (2) adopt rules required by Sections 164.057(c) and  
25 164.059(e), Occupations Code, as added by this Act, not later than  
26 January 1, 2004.

27 (c) The change in law made by this Act by the amendment of

1 Section 164.051, Occupations Code, applies to a physician whose  
2 license to practice medicine in another state was revoked on,  
3 before, or after the effective date of this Act.

4 (d) The change in law made by this Act by the amendment of  
5 Section 164.057, Occupations Code, applies only to a person who is  
6 initially convicted of an offense on or after January 1, 2004. A  
7 person initially convicted of an offense before that date is  
8 governed by the law in effect on the date the conviction occurred,  
9 and the former law is continued in effect for that purpose.