

By: Brown of Brazos

H.B. No. 97

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the membership and operation of the Texas State Board of
3 Pharmacy.

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

5 SECTION 1. Section 552.004, Occupations Code, is amended by
6 adding Subsection (c) to read as follows:

7 (c) A person may not be a member of the board if the person
8 is an employee, contractor, or law enforcement officer of another
9 state or federal governmental entity involved in the regulation of
10 drugs or medical devices.

11 SECTION 2. Chapter 552, Occupations Code, is amended by
12 adding Section 552.013 to read as follows:

13 Sec. 552.013. BOARD INDEPENDENCE. The board shall adopt
14 policies and procedures to ensure that the board, to the extent
15 allowed by law, exercises its powers and duties independent of
16 other state and federal governmental entities.

17 SECTION 3. Section 553.005, Occupations Code, is amended by
18 adding Subsection (c) to read as follows:

19 (c) A person may not be an employee of the board if the
20 person is an employee, contractor, or law enforcement officer of
21 another state or federal governmental entity involved in the
22 regulation of drugs or medical devices.

23 SECTION 4. Chapter 555, Occupations Code, is amended by
24 adding Section 555.0015 to read as follows:

1 Sec. 555.0015. DISCLOSURE OF LICENSE HOLDER INFORMATION.

2 (a) The board or an employee of the board may not disclose to a state
3 or federal governmental entity information relating to a license
4 holder that is exempt from public disclosure under Chapter 552,
5 Government Code, unless the entity presents a subpoena, warrant, or
6 other court order compelling disclosure of the information.

7 (b) Not later than the 10th day after the date of the
8 disclosure, the board shall notify a license holder that the board
9 has disclosed information about the license holder under Chapter
10 552, Government Code.

11 SECTION 5. Subchapter B, Chapter 556, Occupations Code, is
12 amended by adding Section 556.057 to read as follows:

13 Sec. 556.057. INSPECTION SCHEDULE. (a) The board by rule
14 shall develop and implement an inspection schedule designed to
15 promote voluntary compliance with this subtitle and board rules.

16 (b) The inspection schedule must include risk-based
17 inspections scheduled according to the following criteria:

18 (1) the type and nature of the license holder's
19 business or practice;

20 (2) whether there has been a prior violation by the
21 license holder;

22 (3) the inspection history of the license holder;

23 (4) any history of complaints involving the license
24 holder; and

25 (5) any other factor determined by the board.

26 SECTION 6. Subchapter A, Chapter 566, Occupations Code, is
27 amended by adding Section 566.010 to read as follows:

1 Sec. 566.010. DISPOSITION OF PENALTY. A penalty collected
2 under this subchapter shall be deposited in the state treasury to
3 the credit of the general revenue fund.

4 SECTION 7. Section 566.102, Occupations Code, is amended to
5 read as follows:

6 Sec. 566.102. COLLECTION BY ATTORNEY GENERAL. (a) At the
7 request of the board, the attorney general shall institute an
8 action to collect a civil penalty from a person who has violated
9 this subtitle or any rule adopted under this subtitle.

10 (b) A penalty collected by the attorney general under this
11 section shall be deposited in the state treasury to the credit of
12 the general revenue fund.

13 SECTION 8. (a) Section 552.004(c), Occupations Code, as
14 added by this Act, applies to a member of the Texas State Board of
15 Pharmacy who is serving on the board on the effective date of this
16 Act or who is appointed to the board on or after the effective date
17 of this Act.

18 (b) Section 553.005(c), Occupations Code, as added by this
19 Act, applies to a person who is employed by the Texas State Board of
20 Pharmacy on the effective date of this Act or who is hired by the
21 board on or after the effective date of this Act.

22 (c) As soon as practicable on or after the effective date of
23 this Act:

24 (1) the governor shall remove a member of the Texas
25 State Board of Pharmacy who does not qualify for board membership
26 under Section 552.004(c), Occupations Code, as added by this Act;
27 and

1 (2) the executive director of the Texas State Board of
2 Pharmacy shall terminate the employment of any employee who does
3 not qualify for board employment under Section 553.005(c),
4 Occupations Code, as added by this Act.

5 SECTION 9. Not later than December 31, 2009, the Texas State
6 Board of Pharmacy shall adopt rules necessary to implement the
7 changes in law made by this Act.

8 SECTION 10. Section 555.0015(b), Occupations Code, as added
9 by this Act, applies only to the disclosure of information by the
10 Texas State Board of Pharmacy that occurs on or after the effective
11 date of this Act.

12 SECTION 11. This Act takes effect September 1, 2009.