

AN ACT

relating to the requirement that licensed physicians provide emergency contact information to the Texas Medical Board and to the creation of the Texas Physician Health Program.

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

SECTION 1. Subchapter A, Chapter 156, Occupations Code, is amended by adding Section 156.006 to read as follows:

Sec. 156.006. EMERGENCY CONTACT INFORMATION. (a) Each license holder shall submit to the board telephone numbers, fax numbers, and e-mail addresses, if available and as appropriate, that the board may use to contact the license holder in an emergency.

(b) A license holder who receives an initial registration permit shall provide the information required under Subsection (a) not later than the 30th day after the date the permit is issued. Each license holder who applies to renew a registration permit shall submit the information required under Subsection (a) with the renewal application.

(c) A license holder shall report to the board any change in the information required under Subsection (a) not later than the 45th day after the date of the change.

(d) The information provided by a license holder under this section is confidential and is not subject to disclosure under Chapter 552, Government Code. The board may not publish, release,

1 or make available information provided by a license holder under
2 this section except as provided by Subsection (e).

3 (e) In the event of a public health emergency declared or
4 invoked by the governor, the Department of State Health Services,
5 or a federal agency, the board may publish, release, or make
6 available information provided by a license holder under this
7 section for the sole purpose of disseminating information to:

8 (1) a license holder;

9 (2) a designated city, county, state, or federal
10 public health or emergency management official; or

11 (3) the Federation of State Medical Boards.

12 SECTION 2. (a) Subtitle B, Title 3, Occupations Code, is
13 amended by adding Chapter 167 to read as follows:

14 CHAPTER 167. TEXAS PHYSICIAN HEALTH PROGRAM

15 Sec. 167.001. DEFINITIONS. In this chapter:

16 (1) "Committee" means the Physician Health and
17 Rehabilitation Advisory Committee established under this chapter.

18 (2) "Governing board" means the governing board of the
19 program.

20 (3) "Medical director" means a person appointed under
21 Section 167.002 to oversee the program.

22 (4) "Physician assistant board" means the Texas
23 Physician Assistant Board established under Chapter 204.

24 (5) "Program" means the Texas Physician Health Program
25 established under this chapter.

26 (6) "Program participant" means a physician or
27 physician assistant who receives services under the program.

1 Sec. 167.002. MEDICAL DIRECTOR. (a) The board shall
2 appoint a medical director for the program.

3 (b) The medical director must:

4 (1) be a physician licensed by the board; and

5 (2) have expertise in a field of medicine relating to
6 disorders commonly affecting physicians or physician assistants,
7 including substance abuse disorders.

8 (c) The medical director shall provide clinical and policy
9 oversight for the program.

10 Sec. 167.003. GOVERNING BOARD. (a) The president of the
11 board shall appoint persons to serve on the governing board of the
12 program. The appointees shall include physicians, physician
13 assistants, and other related professionals with experience
14 addressing health conditions commonly found in the population of
15 monitored physicians or physician assistants.

16 (b) The governing board shall:

17 (1) provide advice and counsel to the board; and

18 (2) establish policy and procedures for the operation
19 and administration of the program.

20 (c) The board, with the advice and in consultation with the
21 physician assistant board and Texas-based professional
22 associations of physicians and physician assistants, shall adopt
23 rules relating to the appointment of members to the governing
24 board, including length of terms, procedures for filling a vacancy,
25 and conflict-of-interest provisions.

26 Sec. 167.004. PHYSICIAN HEALTH AND REHABILITATION ADVISORY
27 COMMITTEE. (a) The governing board shall appoint physicians to

1 the Physician Health and Rehabilitation Advisory Committee who have
2 experience in disorders commonly affecting physicians or physician
3 assistants.

4 (b) The committee shall assist the governing board by making
5 recommendations on the request of the governing board.

6 (c) The board, with the advice and in consultation with the
7 physician assistant board and Texas-based professional
8 associations of physicians and physician assistants, shall adopt
9 rules relating to the appointment of members to the committee,
10 including length of terms, procedures for filling a vacancy, and
11 conflict-of-interest provisions.

12 (d) Chapter 2110, Government Code, does not apply to the
13 committee.

14 Sec. 167.005. TEXAS PHYSICIAN HEALTH PROGRAM. (a) The
15 Texas Physician Health Program is established to promote:

16 (1) physician and physician assistant wellness; and

17 (2) treatment of all health conditions that have the
18 potential to compromise the physician's or physician assistant's
19 ability to practice with reasonable skill and safety, including
20 mental health issues, substance abuse issues, and addiction issues.

21 (b) The program is a confidential, nondisciplinary
22 therapeutic program for physicians and physician assistants.

23 (c) The program is administratively attached to the board.

24 Sec. 167.006. RULES. The board, with the advice of and in
25 consultation with the governing board, committee, and Texas-based
26 professional associations of physicians and physician assistants,
27 shall:

1 (1) adopt rules and policies as necessary to implement
2 the program, including:

3 (A) policies for assessments under the program
4 and guidelines for the validity of a referral to the program;

5 (B) policies and guidelines for initial contacts
6 used to determine if there is a need for a physician or physician
7 assistant to complete a clinically appropriate evaluation or to
8 enter treatment, including policies and guidelines for
9 arrangements for that evaluation or treatment; and

10 (C) policies and guidelines for interventions
11 conducted under the program; and

12 (2) define applicable guidelines for the management of
13 substance abuse disorders, psychiatric disorders, and physical
14 illnesses and impairments.

15 Sec. 167.007. OPERATION OF PROGRAM. (a) The program must
16 include provisions for:

17 (1) continuing care, monitoring, and case management
18 of potentially impairing health conditions, including provisions
19 for cooperation with the evaluating or treating facility;

20 (2) ongoing monitoring for relapse, including random
21 drug testing, consultations with other physician health and
22 rehabilitation committees, work site monitors, and treating health
23 professionals, including mental health professionals; and

24 (3) other physician and physician assistant health and
25 rehabilitation programs to operate under an agreement with the
26 program, using established guidelines to ensure uniformity and
27 credibility of services throughout this state.

1 (b) The program must ensure appropriate communications with
2 the board, the physician assistant board, other state licensing
3 boards, and physician health and rehabilitation programs.

4 (c) The program shall use physicians or other health care
5 professional experts or consultants, as appropriate, when
6 necessary to evaluate, recommend solutions for, or resolve a
7 medical dispute.

8 Sec. 167.008. REFERRALS TO PROGRAM. (a) The program shall
9 accept a self-referral from a physician or physician assistant and
10 referrals from an individual, a physician health and rehabilitation
11 committee, a physician assistant organization, a state physician
12 health program, a hospital or hospital system licensed in this
13 state, a residency program, the board, or the physician assistant
14 board.

15 (b) A physician or physician assistant may refer the
16 physician or physician assistant to the program.

17 (c) The program may not accept a referral, except as
18 provided by board rules, for a violation of the standard of care as
19 a result of drugs or alcohol or boundary violations with a patient
20 or a patient's family.

21 Sec. 167.009. REFERRAL BY BOARD OR PHYSICIAN ASSISTANT
22 BOARD AS PREREQUISITE FOR ISSUING OR MAINTAINING A LICENSE.

23 (a) The board or the physician assistant board, through an agreed
24 order or after a contested proceeding, may make a referral to the
25 program and require participation in the program by a specified
26 physician or physician assistant as a prerequisite for issuing or
27 maintaining a license under Chapter 155 or 204.

1 (b) The board or the physician assistant board may
2 discipline a physician or physician assistant required to
3 participate in the program under Subsection (a) who does not
4 participate in the program.

5 (c) Each program participant is individually responsible
6 for payment of the participant's own medical costs, including any
7 required evaluations, primary treatment, and continuing care.

8 Sec. 167.010. CONFIDENTIALITY. (a) Each referral,
9 proceeding, report, investigative file, record, or other
10 information received, gathered, created, or maintained by the
11 program or its employees, consultants, work site monitors, or
12 agents relating to a physician or physician assistant is privileged
13 and confidential and is not subject to disclosure under Chapter
14 552, Government Code, or to discovery, subpoena, or other means of
15 legal compulsion for release to any person except as provided by
16 this chapter.

17 (b) Notwithstanding Subsection (a), the program may report
18 to the board or the physician assistant board, as appropriate, the
19 name and pertinent information relating to impairment of a
20 physician or physician assistant.

21 (c) Notwithstanding Subsection (a), the program shall make
22 a report to the board or the physician assistant board, as
23 appropriate, regarding a physician or physician assistant if the
24 medical director or the governing board determines that the
25 physician or physician assistant poses a continuing threat to the
26 public welfare. If requested by the board or the physician
27 assistant board, a report under this subsection must include all

1 information in the possession or control of the program.

2 Sec. 167.011. FUNDING; FEES. (a) The Texas physician
3 health program account is a special account in the general revenue
4 fund. Funds in the account may be appropriated only to the board
5 for administration of the program.

6 (b) The board by rule shall set and collect reasonable and
7 necessary fees from program participants in amounts sufficient to
8 offset, to the extent reasonably possible, the cost of
9 administering this chapter.

10 (c) Each program participant shall pay an annual fee to
11 partially offset the cost of participation and monitoring services.

12 (d) The board shall deposit fees collected under this
13 section to the credit of the account established under Subsection
14 (a).

15 (e) The board may grant a waiver to the fee imposed under
16 Subsection (c). The board shall adopt rules relating to the
17 issuance of a waiver under this subsection.

18 (b) Subsection (d), Section 153.051, Occupations Code, is
19 amended to read as follows:

20 (d) The board may not set, charge, collect, receive, or
21 deposit any of the following fees in excess of:

- 22 (1) \$900 for a license;
- 23 (2) \$400 for a first registration permit;
- 24 (3) \$200 for a temporary license;
- 25 (4) \$400 for renewal of a registration permit;
- 26 (5) \$200 for a physician-in-training permit;
- 27 (6) \$600 for the processing of an application and the

- 1 issuance of a registration for anesthesia in an outpatient setting;
2 (7) \$200 for an endorsement to other state medical
3 boards;
4 (8) \$200 for a duplicate license; [~~or~~]
5 (9) \$700 for a reinstated license after cancellation
6 for cause; or
7 (10) \$1,200 for an annual fee under Section 167.011(c)
8 for a program participant in the Texas Physician Health Program.

9 (c) Effective January 1, 2010, the following laws are
10 repealed:

- 11 (1) Sections 164.202, 164.203, 164.204, and 164.205,
12 Occupations Code; and
13 (2) Sections 204.305, 204.306, 204.307, and 204.3075,
14 Occupations Code.

15 (d) A rehabilitation order under Chapter 167 or 204,
16 Occupations Code, entered into on or before January 1, 2010, is
17 governed by the law as it existed immediately before that date, and
18 that law is continued in effect for that purpose.

19 SECTION 3. Not later than December 1, 2009, each person who
20 holds a license to practice medicine under Chapter 155, Occupations
21 Code, shall make the initial submission to the Texas Medical Board
22 of the information required by Subsection (a), Section 156.006,
23 Occupations Code, as added by this Act.

24 SECTION 4. This Act takes effect September 1, 2009.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 292 passed the Senate on March 19, 2009, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendment on May 30, 2009, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 292 passed the House, with amendment, on May 27, 2009, by the following vote: Yeas 148, Nays 0, one present not voting.

Chief Clerk of the House

Approved:

Date

Governor