

By: Nelson, West

S.B. No. 1331

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Texas Physician Health Program.

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

SECTION 1. Subtitle B, Title 3, Occupations Code, is amended by adding Chapter 167 to read as follows:

CHAPTER 167. TEXAS PHYSICIAN HEALTH PROGRAM

Sec. 167.001. DEFINITIONS. In this chapter:

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

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

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

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

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

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

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

(b) The medical director must:

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

(2) have expertise in a field of medicine relating to

1 disorders commonly affecting physicians or physician assistants,
2 including substance abuse disorders.

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

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

11 (b) The governing board shall:

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

13 (2) establish policy and procedures for the operation
14 and administration of the program.

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

21 Sec. 167.004. PHYSICIAN HEALTH AND REHABILITATION ADVISORY
22 COMMITTEE. (a) The governing board shall appoint physicians to
23 the Physician Health and Rehabilitation Advisory Committee who have
24 experience in disorders commonly affecting physicians or physician
25 assistants.

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

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

7 (d) Chapter 2110, Government Code, does not apply to the
8 committee.

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

11 (1) physician and physician assistant wellness; and

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

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

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

19 Sec. 167.006. RULES. The board, with the advice of and in
20 consultation with the governing board, committee, and Texas-based
21 professional associations of physicians and physician assistants,
22 shall:

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

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

27 (B) policies and guidelines for initial contacts

1 used to determine if there is a need for a physician or physician
2 assistant to complete a clinically appropriate evaluation or to
3 enter treatment, including policies and guidelines for
4 arrangements for that evaluation or treatment; and

5 (C) policies and guidelines for interventions
6 conducted under the program; and

7 (2) define applicable guidelines for the management of
8 substance abuse disorders, psychiatric disorders, and physical
9 illnesses and impairments.

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

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

15 (2) ongoing monitoring for relapse, including random
16 drug testing, consultations with other physician health and
17 rehabilitation committees, work site monitors, and treating health
18 professionals, including mental health professionals; and

19 (3) other physician and physician assistant health and
20 rehabilitation programs to operate under an agreement with the
21 program, using established guidelines to ensure uniformity and
22 credibility of services throughout this state.

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

26 (c) The program shall use physicians or other health care
27 professional experts or consultants, as appropriate, when

1 necessary to evaluate, recommend solutions for, or resolve a
2 medical dispute.

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

10 (b) A physician or physician assistant may refer the
11 physician or physician assistant to the program.

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

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

18 (a) The board or the physician assistant board, through an agreed
19 order or after a contested proceeding, may make a referral to the
20 program and require participation in the program by a specified
21 physician or physician assistant as a prerequisite for issuing or
22 maintaining a license under Chapter 155 or 204.

23 (b) The board or the physician assistant board may
24 discipline a physician or physician assistant required to
25 participate in the program under Subsection (a) who does not
26 participate in the program.

27 (c) Each program participant is individually responsible

1 for payment of the participant's own medical costs, including any
2 required evaluations, primary treatment, and continuing care.

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

12 (b) Notwithstanding Subsection (a), the program may report
13 to the board or the physician assistant board, as appropriate, the
14 name and pertinent information relating to impairment of a
15 physician or physician assistant.

16 (c) Notwithstanding Subsection (a), the program shall make
17 a report to the board or the physician assistant board, as
18 appropriate, regarding a physician or physician assistant if the
19 medical director or the governing board determines that the
20 physician or physician assistant poses a continuing threat to the
21 public welfare. If requested by the board or the physician
22 assistant board, a report under this subsection must include all
23 information in the possession or control of the program.

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

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

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

7 (d) The board shall deposit fees collected under this
8 section to the credit of the account established under Subsection
9 (a).

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

13 SECTION 2. Subsection (d), Section 153.051, Occupations
14 Code, is amended to read as follows:

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

- 17 (1) \$900 for a license;
- 18 (2) \$400 for a first registration permit;
- 19 (3) \$200 for a temporary license;
- 20 (4) \$400 for renewal of a registration permit;
- 21 (5) \$200 for a physician-in-training permit;
- 22 (6) \$600 for the processing of an application and the
23 issuance of a registration for anesthesia in an outpatient setting;
- 24 (7) \$200 for an endorsement to other state medical
25 boards;
- 26 (8) \$200 for a duplicate license; [~~or~~]
- 27 (9) \$700 for a reinstated license after cancellation

1 for cause; or

2 (10) \$1,200 for an annual fee under Section 167.011(c)
3 for a program participant in the Texas Physician Health Program.

4 SECTION 3. Effective January 1, 2010, the following laws
5 are repealed:

6 (1) Sections 164.202, 164.203, 164.204, and 164.205,
7 Occupations Code; and

8 (2) Sections 204.305, 204.306, 204.307, and 204.3075,
9 Occupations Code.

10 SECTION 4. A rehabilitation order under Chapter 167 or 204,
11 Occupations Code, entered into on or before January 1, 2010, is
12 governed by the law as it existed immediately before that date, and
13 that law is continued in effect for that purpose.

14 SECTION 5. Except as otherwise provided by this Act, this
15 Act takes effect September 1, 2009.