

1-1 By: Nelson S.B. No. 1331
1-2 (In the Senate - Filed March 4, 2009; March 17, 2009, read
1-3 first time and referred to Committee on Health and Human Services;
1-4 April 8, 2009, reported favorably by the following vote: Yeas 9,
1-5 Nays 0; April 8, 2009, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the creation of the Texas Physician Health Program.

1-9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-10 SECTION 1. Subtitle B, Title 3, Occupations Code, is
1-11 amended by adding Chapter 167 to read as follows:

1-12 CHAPTER 167. TEXAS PHYSICIAN HEALTH PROGRAM

1-13 Sec. 167.001. DEFINITIONS. In this chapter:

1-14 (1) "Committee" means the Physician Health and
1-15 Rehabilitation Advisory Committee established under this chapter.

1-16 (2) "Governing board" means the governing board of the
1-17 program.

1-18 (3) "Medical director" means a person appointed under
1-19 Section 167.002 to oversee the program.

1-20 (4) "Physician assistant board" means the Texas
1-21 Physician Assistant Board established under Chapter 204.

1-22 (5) "Program" means the Texas Physician Health Program
1-23 established under this chapter.

1-24 (6) "Program participant" means a physician or
1-25 physician assistant who receives services under the program.

1-26 Sec. 167.002. MEDICAL DIRECTOR. (a) The board shall
1-27 appoint a medical director for the program.

1-28 (b) The medical director must:

1-29 (1) be a physician licensed by the board; and

1-30 (2) have expertise in a field of medicine relating to
1-31 disorders commonly affecting physicians or physician assistants,
1-32 including substance abuse disorders.

1-33 (c) The medical director shall provide clinical and policy
1-34 oversight for the program.

1-35 Sec. 167.003. GOVERNING BOARD. (a) The president of the
1-36 board shall appoint persons to serve on the governing board of the
1-37 program. The appointees shall include physicians, physician
1-38 assistants, and other related professionals with experience
1-39 addressing health conditions commonly found in the population of
1-40 monitored physicians or physician assistants.

1-41 (b) The governing board shall:

1-42 (1) provide advice and counsel to the board; and

1-43 (2) establish policy and procedures for the operation
1-44 and administration of the program.

1-45 (c) The board, with the advice and in consultation with the
1-46 physician assistant board and Texas-based professional
1-47 associations of physicians and physician assistants, shall adopt
1-48 rules relating to the appointment of members to the governing
1-49 board, including length of terms, procedures for filling a vacancy,
1-50 and conflict-of-interest provisions.

1-51 Sec. 167.004. PHYSICIAN HEALTH AND REHABILITATION ADVISORY
1-52 COMMITTEE. (a) The governing board shall appoint physicians to
1-53 the Physician Health and Rehabilitation Advisory Committee who have
1-54 experience in disorders commonly affecting physicians or physician
1-55 assistants.

1-56 (b) The committee shall assist the governing board by making
1-57 recommendations on the request of the governing board.

1-58 (c) The board, with the advice and in consultation with the
1-59 physician assistant board and Texas-based professional
1-60 associations of physicians and physician assistants, shall adopt
1-61 rules relating to the appointment of members to the committee,
1-62 including length of terms, procedures for filling a vacancy, and
1-63 conflict-of-interest provisions.

1-64 (d) Chapter 2110, Government Code, does not apply to the

2-1 committee.

2-2 Sec. 167.005. TEXAS PHYSICIAN HEALTH PROGRAM. (a) The

2-3 Texas Physician Health Program is established to promote:

2-4 (1) physician and physician assistant wellness; and

2-5 (2) treatment of all health conditions that have the

2-6 potential to compromise the physician's or physician assistant's

2-7 ability to practice with reasonable skill and safety, including

2-8 mental health issues, substance abuse issues, and addiction issues.

2-9 (b) The program is a confidential, nondisciplinary

2-10 therapeutic program for physicians and physician assistants.

2-11 (c) The program is administratively attached to the board.

2-12 Sec. 167.006. RULES. The board, with the advice of and in

2-13 consultation with the governing board, committee, and Texas-based

2-14 professional associations of physicians and physician assistants,

2-15 shall:

2-16 (1) adopt rules and policies as necessary to implement

2-17 the program, including:

2-18 (A) policies for assessments under the program

2-19 and guidelines for the validity of a referral to the program;

2-20 (B) policies and guidelines for initial contacts

2-21 used to determine if there is a need for a physician or physician

2-22 assistant to complete a clinically appropriate evaluation or to

2-23 enter treatment, including policies and guidelines for

2-24 arrangements for that evaluation or treatment; and

2-25 (C) policies and guidelines for interventions

2-26 conducted under the program; and

2-27 (2) define applicable guidelines for the management of

2-28 substance abuse disorders, psychiatric disorders, and physical

2-29 illnesses and impairments.

2-30 Sec. 167.007. OPERATION OF PROGRAM. (a) The program must

2-31 include provisions for:

2-32 (1) continuing care, monitoring, and case management

2-33 of potentially impairing health conditions, including provisions

2-34 for cooperation with the evaluating or treating facility;

2-35 (2) ongoing monitoring for relapse, including random

2-36 drug testing, consultations with other physician health and

2-37 rehabilitation committees, work site monitors, and treating health

2-38 professionals, including mental health professionals; and

2-39 (3) other physician and physician assistant health and

2-40 rehabilitation programs to operate under an agreement with the

2-41 program, using established guidelines to ensure uniformity and

2-42 credibility of services throughout this state.

2-43 (b) The program must ensure appropriate communications with

2-44 the board, the physician assistant board, other state licensing

2-45 boards, and physician health and rehabilitation programs.

2-46 (c) The program shall use physicians or other health care

2-47 professional experts or consultants, as appropriate, when

2-48 necessary to evaluate, recommend solutions for, or resolve a

2-49 medical dispute.

2-50 Sec. 167.008. REFERRALS TO PROGRAM. (a) The program shall

2-51 accept a self-referral from a physician or physician assistant and

2-52 referrals from an individual, a physician health and rehabilitation

2-53 committee, a physician assistant organization, a state physician

2-54 health program, a hospital or hospital system licensed in this

2-55 state, a residency program, the board, or the physician assistant

2-56 board.

2-57 (b) A physician or physician assistant may refer the

2-58 physician or physician assistant to the program.

2-59 (c) The program may not accept a referral, except as

2-60 provided by board rules, for a violation of the standard of care as

2-61 a result of drugs or alcohol or boundary violations with a patient

2-62 or a patient's family.

2-63 Sec. 167.009. REFERRAL BY BOARD OR PHYSICIAN ASSISTANT

2-64 BOARD AS PREREQUISITE FOR ISSUING OR MAINTAINING A LICENSE.

2-65 (a) The board or the physician assistant board, through an agreed

2-66 order or after a contested proceeding, may make a referral to the

2-67 program and require participation in the program by a specified

2-68 physician or physician assistant as a prerequisite for issuing or

2-69 maintaining a license under Chapter 155 or 204.

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

3-5 (c) Each program participant is individually responsible
3-6 for payment of the participant's own medical costs, including any
3-7 required evaluations, primary treatment, and continuing care.

3-8 Sec. 167.010. CONFIDENTIALITY. (a) Each referral,
3-9 proceeding, report, investigative file, record, or other
3-10 information received, gathered, created, or maintained by the
3-11 program or its employees, consultants, work site monitors, or
3-12 agents relating to a physician or physician assistant is privileged
3-13 and confidential and is not subject to disclosure under Chapter
3-14 552, Government Code, or to discovery, subpoena, or other means of
3-15 legal compulsion for release to any person except as provided by
3-16 this chapter.

3-17 (b) Notwithstanding Subsection (a), the program may report
3-18 to the board or the physician assistant board, as appropriate, the
3-19 name and pertinent information relating to impairment of a
3-20 physician or physician assistant.

3-21 (c) Notwithstanding Subsection (a), the program shall make
3-22 a report to the board or the physician assistant board, as
3-23 appropriate, regarding a physician or physician assistant if the
3-24 medical director or the governing board determines that the
3-25 physician or physician assistant poses a continuing threat to the
3-26 public welfare. If requested by the board or the physician
3-27 assistant board, a report under this subsection must include all
3-28 information in the possession or control of the program.

3-29 Sec. 167.011. FUNDING; FEES. (a) The Texas physician
3-30 health program account is a special account in the general revenue
3-31 fund. Funds in the account may be appropriated only to the board
3-32 for administration of the program.

3-33 (b) The board by rule shall set and collect reasonable and
3-34 necessary fees from program participants in amounts sufficient to
3-35 offset, to the extent reasonably possible, the cost of
3-36 administering this chapter.

3-37 (c) Each program participant shall pay an annual fee to
3-38 partially offset the cost of participation and monitoring services.

3-39 (d) The board shall deposit fees collected under this
3-40 section to the credit of the account established under Subsection
3-41 (a).

3-42 (e) The board may grant a waiver to the fee imposed under
3-43 Subsection (c). The board shall adopt rules relating to the
3-44 issuance of a waiver under this subsection.

3-45 SECTION 2. Subsection (d), Section 153.051, Occupations
3-46 Code, is amended to read as follows:

3-47 (d) The board may not set, charge, collect, receive, or
3-48 deposit any of the following fees in excess of:

- 3-49 (1) \$900 for a license;
- 3-50 (2) \$400 for a first registration permit;
- 3-51 (3) \$200 for a temporary license;
- 3-52 (4) \$400 for renewal of a registration permit;
- 3-53 (5) \$200 for a physician-in-training permit;
- 3-54 (6) \$600 for the processing of an application and the
3-55 issuance of a registration for anesthesia in an outpatient setting;
- 3-56 (7) \$200 for an endorsement to other state medical
3-57 boards;

3-58 (8) \$200 for a duplicate license; [~~or~~]

3-59 (9) \$700 for a reinstated license after cancellation
3-60 for cause; or

3-61 (10) \$1,200 for an annual fee under Section 167.011(c)
3-62 for a program participant in the Texas Physician Health Program.

3-63 SECTION 3. Effective January 1, 2010, the following laws
3-64 are repealed:

3-65 (1) Sections 164.202, 164.203, 164.204, and 164.205,
3-66 Occupations Code; and

3-67 (2) Sections 204.305, 204.306, 204.307, and 204.3075,
3-68 Occupations Code.

3-69 SECTION 4. A rehabilitation order under Chapter 167 or 204,

4-1 Occupations Code, entered into on or before January 1, 2010, is
4-2 governed by the law as it existed immediately before that date, and
4-3 that law is continued in effect for that purpose.

4-4 SECTION 5. Except as otherwise provided by this Act, this
4-5 Act takes effect September 1, 2009.

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