

1-1 By: Nelson S.B. No. 191
1-2 (In the Senate - Filed November 9, 2010; January 31, 2011,
1-3 read first time and referred to Committee on Health and Human
1-4 Services; March 7, 2011, reported favorably by the following vote:
1-5 Yeas 8, Nays 0; March 7, 2011, sent to printer.)

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

1-8 relating to disposition of a contested case by the Texas Medical
1-9 Board.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Subsections (a) and (a-1), Section 164.007,
1-12 Occupations Code, are amended to read as follows:

1-13 (a) The board by rule shall adopt procedures governing
1-14 formal disposition of a contested case under Chapter 2001,
1-15 Government Code. A formal hearing shall be conducted by an
1-16 administrative law judge employed by the State Office of
1-17 Administrative Hearings. After receiving the administrative law
1-18 judge's findings of fact and conclusions of law, the board shall
1-19 dispose of the contested case by issuing a final order based on the
1-20 administrative law judge's findings of fact and conclusions of law
1-21 [~~determine the charges on the merits~~].

1-22 (a-1) Notwithstanding Section 2001.058(e), Government
1-23 Code, the [The] board may not change a finding of fact or conclusion
1-24 of law or vacate or modify an order of the administrative law judge.
1-25 The board may obtain judicial review of any finding of fact or
1-26 conclusion of law issued by the administrative law judge as
1-27 provided by Section 2001.058(f)(5), Government Code. For each
1-28 case, the board has the sole authority and discretion to determine
1-29 the appropriate action or sanction, and the administrative law
1-30 judge may not make any recommendation regarding the appropriate
1-31 action or sanction [only if the board makes a determination
1-32 required by Section 2001.058(e), Government Code].

1-33 SECTION 2. Subsections (a) and (a-1), Section 164.007,
1-34 Occupations Code, as amended by this Act, apply only to a contested
1-35 case for which an administrative law judge employed by the State
1-36 Office of Administrative Hearings issues written findings of fact
1-37 and conclusions of law on or after the effective date of this Act. A
1-38 contested case for which an administrative law judge employed by
1-39 the State Office of Administrative Hearings issues written findings
1-40 of fact and conclusions of law before the effective date of this Act
1-41 is governed by the law in effect on the date the findings of fact and
1-42 conclusions of law were issued, and the former law is continued in
1-43 effect for that purpose.

1-44 SECTION 3. This Act takes effect September 1, 2011.

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