By:  Bonnen of Galveston H.B. No. 1899

     (Senate Sponsor - Kolkhorst)

(In the Senate - Received from the House May 6, 2019; May 8, 2019, read first time and referred to Committee on Business & Commerce; May 20, 2019, reported favorably by the following vote: Yeas 8, Nays 0; May 20, 2019, sent to printer.)

COMMITTEE VOTE

                    Yea Nay Absent  PNV

Hancock              X

Nichols              X

Campbell             X

Creighton                      X

Menéndez             X

Paxton               X

Schwertner           X

Whitmire             X

Zaffirini            X

A BILL TO BE ENTITLED

AN ACT

relating to the revocation or denial of certain health care professional licenses and the reporting of the grounds for revocation or denial.

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

SECTION 1.  Article 42.01, Code of Criminal Procedure, is amended by adding Section 14 to read as follows:

Sec. 14.  In addition to the information described by Section 1, the judgment must reflect affirmative findings entered pursuant to Article 42.0175.

SECTION 2.  Chapter 42, Code of Criminal Procedure, is amended by adding Article 42.0175 to read as follows:

Art. 42.0175.  FINDING REGARDING CERTAIN HEALTH CARE PROFESSIONALS; NOTIFICATION. (a) In this article, "health care professional," "license," and "licensing authority" have the meanings assigned by Section 108.051, Occupations Code.

(b)  In the trial of an offense, the judge shall make an affirmative finding of fact and enter the affirmative finding in the judgment in the case if the judge determines that at the time of the offense the defendant held a license as a health care professional and the offense is:

(1)  an offense for which the defendant is required to register as a sex offender under Chapter 62;

(2)  a felony offense and the defendant used force or threat of force in the commission of the offense; or

(3)  an offense under Section 22.011, 22.02, 22.021, or 22.04, Penal Code, and:

(A)  the victim of the offense was a patient of the defendant; and

(B)  the offense was committed in the course of providing services within the scope of the defendant's license.

(c)  Not later than the fifth day after the date the defendant is convicted or granted deferred adjudication on the basis of an offense described by Subsection (b)(1), (2), or (3), the clerk of the court in which the conviction or deferred adjudication is entered shall provide written notice of the conviction or deferred adjudication, including the offense on which the conviction or deferred adjudication was based, to:

(1)  the licensing authority that issued the defendant's license as a health care professional; and

(2)  the Department of Public Safety.

SECTION 3.  Article 62.005(e), Code of Criminal Procedure, is amended to read as follows:

(e)  The department shall provide a licensing authority with notice of any person required to register under this chapter who holds or seeks a license that is issued by the authority. The department shall provide the notice required by this subsection as the applicable licensing information becomes available through notification by a court clerk under Article 42.0175, a parole panel under Section 508.1864, Government Code, or the person's registration or verification of registration.

SECTION 4.  Subchapter F, Chapter 508, Government Code, is amended by adding Section 508.1864 to read as follows:

Sec. 508.1864.  NOTIFICATION TO DEPARTMENT OF PUBLIC SAFETY AND LICENSING AUTHORITY. (a) In this section, "health care professional," "license," and "licensing authority" have the meanings assigned by Section 108.051, Occupations Code.

(b)  A parole panel that knows an inmate holds or has submitted an application for a license as a health care professional shall immediately notify the Department of Public Safety and the applicable licensing authority if the parole panel requires the inmate as a condition of release on parole or to mandatory supervision to register as a sex offender under Chapter 62, Code of Criminal Procedure.

SECTION 5.  The heading to Chapter 108, Occupations Code, is amended to read as follows:

CHAPTER 108. LICENSE SUSPENSION OR REVOCATION REQUIRED [~~FOR CERTAIN DRUG FELONY CONVICTIONS~~]

SECTION 6.  Chapter 108, Occupations Code, is amended by designating Sections 108.001 through 108.003 as Subchapter A and adding a subchapter heading to read as follows:

SUBCHAPTER A. SUSPENSION OR REVOCATION OF PHYSICIAN LICENSE FOR CERTAIN DRUG FELONY CONVICTIONS

SECTION 7.  Section 108.001, Occupations Code, is amended to read as follows:

Sec. 108.001.  DEFINITION. In this subchapter [~~chapter~~], "board" means the Texas [~~State Board of~~] Medical Board [~~Examiners~~].

SECTION 8.  Chapter 108, Occupations Code, is amended by adding Subchapter B to read as follows:

SUBCHAPTER B. AUTOMATIC DENIAL OR REVOCATION OF HEALTH CARE PROFESSIONAL LICENSE

Sec. 108.051.  DEFINITIONS. In this subchapter:

(1)  "Health care professional" means:

(A)  a dentist licensed under Subtitle D;

(B)  a dental hygienist licensed under Chapter 262;

(C)  a hearing instrument fitter and dispenser licensed under Chapter 402;

(D)  a nurse, including an advanced practice registered nurse, licensed under Chapter 301;

(E)  an occupational therapist licensed under Chapter 454;

(F)  an optometrist or therapeutic optometrist licensed under Chapter 351;

(G)  a pharmacist licensed under Subtitle J;

(H)  a physical therapist licensed under Chapter 453;

(I)  a physician licensed under Subtitle B;

(J)  a physician assistant licensed under Chapter 204;

(K)  a podiatrist licensed under Chapter 202;

(L)  a psychologist licensed under Chapter 501;

(M)  a social worker licensed under Chapter 505; and

(N)  a speech-language pathologist or audiologist licensed under Chapter 401.

(2)  "License" means a license, certificate, registration, permit, or other authorization that:

(A)  is issued by a licensing authority; and

(B)  a person must obtain to practice or engage in a particular business, occupation, or profession.

(3)  "Licensing authority" means a department, commission, board, office, or other agency of this state that issues a license.

Sec. 108.052.  DENIAL OF LICENSE. A licensing authority shall deny an application for a license as a health care professional for an applicant who:

(1)  is required to register as a sex offender under Chapter 62, Code of Criminal Procedure;

(2)  has been previously convicted of or placed on deferred adjudication community supervision for the commission of a felony offense involving the use or threat of force; or

(3)  has been previously convicted of or placed on deferred adjudication community supervision for the commission of an offense:

(A)  under Section 22.011, 22.02, 22.021, or 22.04, Penal Code, or an offense under the laws of another state or federal law that is equivalent to an offense under one of those sections;

(B)  committed:

(i)  when the applicant held a license as a health care professional in this state or another state; and

(ii)  in the course of providing services within the scope of the applicant's license; and

(C)  in which the victim of the offense was a patient of the applicant.

Sec. 108.053.  REVOCATION OF LICENSE. (a) The license of a health care professional is revoked if the health care professional is:

(1)  convicted or placed on deferred adjudication community supervision for an offense described by Section 108.052(2) or (3); or

(2)  required to register as a sex offender under Chapter 62, Code of Criminal Procedure.

(b)  The licensing authority shall revoke a license and update the authority's records to reflect the revocation under Subsection (a) immediately on receiving notification:

(1)  by a court under Article 42.0175, Code of Criminal Procedure, that the court made a finding under that article; or

(2)  by a parole panel under Section 508.1864, Government Code, that the license holder is required to register as a sex offender under Chapter 62, Code of Criminal Procedure, as a condition of release on parole or to mandatory supervision.

Sec. 108.054.  REAPPLICATION. A person whose license application is denied under this subchapter:

(1)  based on a conviction or placement on deferred adjudication community supervision for an offense described by Section 108.052(2) or (3) may reapply for the license if the conviction or deferred adjudication is reversed, set aside, or vacated on appeal; or

(2)  based on a requirement to register as a sex offender under Chapter 62, Code of Criminal Procedure, may reapply for the license after the expiration of the period for which the person is required to register.

Sec. 108.055.  REINSTATEMENT. A person whose license is revoked under this subchapter:

(1)  based on a conviction or placement on deferred adjudication community supervision for an offense described by Section 108.052(2) or (3) may apply for reinstatement of the license with the appropriate licensing authority if the conviction or deferred adjudication is reversed, set aside, or vacated on appeal; or

(2)  based on a requirement to register as a sex offender under Chapter 62, Code of Criminal Procedure, may apply for reinstatement of the license after the expiration of the period for which the person is required to register.

SECTION 9.  Section 14, Article 42.01, Code of Criminal Procedure, and Article 42.0175, Code of Criminal Procedure, as added by this Act, apply only to a judgment of conviction entered on or after the effective date of this Act.

SECTION 10.  Section 508.1864, Government Code, as added by this Act, applies only to a person who is released on parole or to mandatory supervision on or after the effective date of this Act. A person who is released on parole or to mandatory supervision before the effective date of this Act is governed by the law in effect at the time of release, and the former law is continued in effect for that purpose.

SECTION 11.  Section 108.052, Occupations Code, as added by this Act, applies only to an application for a license as a health care professional, as defined by Section 108.051, Occupations Code, as added by this Act, pending on or submitted on or after the effective date of this Act.

SECTION 12.  This Act takes effect September 1, 2019.

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