

By: Bonnen of Galveston

H.B. No. 1899

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the revocation or denial of certain health care
3 professional licenses and the reporting of the grounds for
4 revocation or denial.

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

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

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

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

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

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

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

24 (2) a felony offense and the defendant used force or

1 threat of force in the commission of the offense; or

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

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

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

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

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

17 (2) the Department of Public Safety.

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

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

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

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

7 (b) A parole panel that knows an inmate holds or has
8 submitted an application for a license as a health care
9 professional shall immediately notify the Department of Public
10 Safety and the applicable licensing authority if the parole panel
11 requires the inmate as a condition of release on parole or to
12 mandatory supervision to register as a sex offender under Chapter
13 62, Code of Criminal Procedure.

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

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

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

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

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

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

27 SECTION 8. Chapter 108, Occupations Code, is amended by

1 adding Subchapter B to read as follows:

2 SUBCHAPTER B. AUTOMATIC DENIAL OR REVOCATION OF HEALTH CARE

3 PROFESSIONAL LICENSE

4 Sec. 108.051. DEFINITIONS. In this subchapter:

5 (1) "Health care professional" means:

6 (A) a dentist licensed under Subtitle D;

7 (B) a dental hygienist licensed under Chapter
8 262;

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

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

13 (E) an occupational therapist licensed under
14 Chapter 454;

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

17 (G) a pharmacist licensed under Subtitle J;

18 (H) a physical therapist licensed under Chapter
19 453;

20 (I) a physician licensed under Subtitle B;

21 (J) a physician assistant licensed under Chapter
22 204;

23 (K) a podiatrist licensed under Chapter 202;

24 (L) a psychologist licensed under Chapter 501;

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

26 and

27 (N) a speech-language pathologist or audiologist

1 licensed under Chapter 401.

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

4 (A) is issued by a licensing authority; and

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

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

10 (4) "Reportable conviction or adjudication" has the
11 meaning assigned by Article 62.001(5), Code of Criminal Procedure.

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

15 (1) has a reportable conviction or adjudication;

16 (2) is required to register as a sex offender under
17 Chapter 62, Code of Criminal Procedure, as a condition of release on
18 parole or to mandatory supervision;

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

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

25 (A) under Section 22.011, 22.02, 22.021, or
26 22.04, Penal Code, or an offense under the laws of another state or
27 federal law that is equivalent to an offense under one of those

1 sections;

2 (B) committed:

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

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

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

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

12 (1) convicted or placed on deferred adjudication
13 community supervision for an offense:

14 (A) for which registration as a sex offender is
15 required under Chapter 62, Code of Criminal Procedure; or

16 (B) described by Section 108.052(3) or (4); or

17 (2) required to register as a sex offender under
18 Chapter 62, Code of Criminal Procedure, as a condition of release on
19 parole or to mandatory supervision.

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

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

25 (2) by a parole panel under Section 508.1864,
26 Government Code, that the license holder is required to register as
27 a sex offender under Chapter 62, Code of Criminal Procedure, as a

1 condition of release on parole or to mandatory supervision.

2 Sec. 108.054. NO APPEAL. A person whose license
3 application is denied or whose license is revoked under this
4 subchapter:

5 (1) is not entitled to a hearing regarding the denial
6 or revocation;

7 (2) may not be granted a hearing by the licensing
8 authority regarding the denial or revocation;

9 (3) may not appeal the denial or revocation to the
10 licensing authority; and

11 (4) notwithstanding Section 53.052, is not entitled to
12 judicial review of the denial or revocation and may not file an
13 action in a court requesting judicial review.

14 Sec. 108.055. REAPPLICATION. A person whose license
15 application is denied under this subchapter may reapply for the
16 license if the conviction, deferred adjudication, or condition of
17 release on parole or to mandatory supervision that is the basis for
18 the license denial is reversed, set aside, or vacated on appeal.

19 Sec. 108.056. REINSTATEMENT. A person whose license is
20 revoked under this subchapter may apply for reinstatement of the
21 license with the appropriate licensing authority if the conviction,
22 deferred adjudication, or condition of release on parole or to
23 mandatory supervision that is the basis for the license revocation
24 is reversed, set aside, or vacated on appeal.

25 SECTION 9. Section 14, Article 42.01, Code of Criminal
26 Procedure, and Article 42.0175, Code of Criminal Procedure, as
27 added by this Act, apply only to a judgment of conviction entered on

1 or after the effective date of this Act.

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

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

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