

By: White

H.B. No. 2233

Substitute the following for H.B. No. 2233:

By: Allen

C.S.H.B. No. 2233

A BILL TO BE ENTITLED

AN ACT

relating to the eligibility for certain occupational licenses and the use of a person's criminal history as grounds for certain actions related to the license.

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

SECTION 1. Section 202.253(a-1), Occupations Code, is amended to read as follows:

(a-1) The commission or department may refuse to admit a person to an examination, and may refuse to issue a license to practice podiatry to a person, for:

(1) presenting a license, certificate, or diploma that was illegally or fraudulently obtained or engaging in fraud or deception in passing the examination;

(2) being convicted of ~~+~~

~~[(A) a felony,~~

~~[(B) a crime that involves moral turpitude, or~~

~~[(C)]~~ an offense under Section 202.606;

(3) engaging in habits of intemperance or drug addiction that in the department's opinion would endanger the health, well-being, or welfare of patients;

(4) engaging in grossly unprofessional or dishonorable conduct of a character that in the department's opinion is likely to deceive or defraud the public;

(5) directly or indirectly violating or attempting to

1 violate this chapter or a rule adopted under this chapter as a
2 principal, accessory, or accomplice;

3 (6) using any advertising statement of a character
4 tending to mislead or deceive the public;

5 (7) advertising professional superiority or the
6 performance of professional service in a superior manner;

7 (8) purchasing, selling, bartering, or using or
8 offering to purchase, sell, barter, or use a podiatry degree,
9 license, certificate, diploma, or a transcript of a license,
10 certificate, or diploma, in or incident to an application for a
11 license to practice podiatry;

12 (9) altering, with fraudulent intent, a podiatry
13 license, certificate, diploma, or a transcript of a podiatry
14 license, certificate, or diploma;

15 (10) using a podiatry license, certificate, or
16 diploma, or a transcript of a podiatry license, certificate, or
17 diploma, that has been fraudulently purchased, issued,
18 counterfeited, or materially altered;

19 (11) impersonating, or acting as proxy for, another
20 person in a podiatry license examination;

21 (12) impersonating a license holder, or permitting
22 another person to use the license holder's license to practice
23 podiatry in this state, to treat or offer to treat, by any method,
24 conditions and ailments of human feet;

25 (13) directly or indirectly employing a person whose
26 license to practice podiatry has been suspended or associating in
27 the practice of podiatry with a person whose license to practice

1 podiatry has been suspended or who has been convicted of the
2 unlawful practice of podiatry in this state or elsewhere;

3 (14) wilfully making in the application for a license
4 to practice podiatry a material misrepresentation or material
5 untrue statement;

6 (15) being unable to practice podiatry with reasonable
7 skill and safety to a patient because of age, illness, drunkenness,
8 or excessive use of drugs, narcotics, chemicals, or other
9 substances or as a result of a mental or physical condition;

10 (16) failing to practice podiatry in an acceptable
11 manner consistent with public health and welfare;

12 (17) being removed, suspended, or disciplined in
13 another manner by the podiatrist's peers in a professional podiatry
14 association or society, whether local, regional, state, or national
15 in scope, or being disciplined by a licensed hospital or the medical
16 staff of a hospital, including removal, suspension, limitation of
17 hospital privileges, or other disciplinary action, if the
18 commission or department determines that the action was:

19 (A) based on unprofessional conduct or
20 professional incompetence likely to harm the public; and

21 (B) appropriate and reasonably supported by
22 evidence submitted to the association, society, hospital, or
23 medical staff; or

24 (18) having repeated or recurring meritorious health
25 care liability claims filed against the podiatrist that in
26 the commission's or department's opinion are evidence of
27 professional incompetence likely to injure the public.

SECTION 2. Section 203.404(a), Occupations Code, is amended to read as follows:

(a) The commission or executive director may discipline a licensed midwife, refuse to renew a midwife's license, or refuse to issue a license to an applicant if the person:

(1) violates this chapter or a rule adopted under this chapter;

(2) submits false or misleading information to the department;

~~(3) [is convicted of a misdemeanor involving moral turpitude or a felony];~~

~~[(4)]~~ uses alcohol or drugs intemperately;

(4) ~~[(5)]~~ engages in unprofessional or dishonorable conduct that may reasonably be determined to deceive or defraud the public;

(5) ~~[(6)]~~ is unable to practice midwifery with reasonable skill and safety because of illness, disability, or psychological impairment;

(6) ~~[(7)]~~ is determined by a court judgment to be mentally impaired;

(7) ~~[(8)]~~ submits a birth or death certificate known by the person to be false or fraudulent or engages in another act that violates Title 3, Health and Safety Code, or a rule adopted under that title;

(8) ~~[(9)]~~ violates Chapter 244, Health and Safety Code, or a rule adopted under that chapter; or

(9) ~~[(10)]~~ fails to practice midwifery in a manner

consistent with the public health and safety.

SECTION 3. Sections 802.107(a) and (b), Occupations Code, are amended to read as follows:

(a) The department shall deny issuance of a license to, or refuse to renew the license of, a person if the person or a controlling person of the dog or cat breeder has pled guilty or nolo contendere to, been convicted of, or received deferred adjudication for animal cruelty or neglect in this state or any other jurisdiction in the five years preceding the person's initial or renewal application for a license.

(b) The ~~[department shall revoke a]~~ license of a person is revoked by operation of law if, after the license is issued, the person or a controlling person of the dog or cat breeder pleads guilty or nolo contendere to, is convicted of, or receives deferred adjudication for animal cruelty or neglect in this state or any other jurisdiction.

SECTION 4. Section 1305.152(a), Occupations Code, is amended to read as follows:

(a) An applicant for a license under this chapter must:

(1) submit to the department a completed application on a form prescribed by the executive director;

(2) submit to the department any other information required by executive director rule;

(3) demonstrate to the satisfaction of the executive director the appropriate amount of electrical work experience as required by this subchapter; and

(4) ~~[demonstrate the applicant's honesty,~~

~~trustworthiness, and integrity, and~~

~~[(5)]~~ pay the application and examination fees.

SECTION 5. Section 1802.052(a), Occupations Code, is amended to read as follows:

(a) An individual is eligible for an auctioneer's license if the individual:

(1) is at least 18 years of age;

(2) is a citizen of the United States or a legal alien;

(3) either:

(A) passes a written or oral examination demonstrating knowledge of the auction business and of the laws of this state relating to the auction business; or

(B) shows proof of employment by a licensed auctioneer for at least two years and participation in at least 10 auctions during that employment;

(4) holds a high school diploma or a high school equivalency certificate; and

~~(5) [has not been convicted of a felony during the five years preceding the date of application, and~~

~~[(6)]~~ has completed at least 80 hours of classroom instruction at an auction school with a curriculum approved by the department in accordance with the standards and procedures established by rule adopted under this chapter.

SECTION 6. Section 203.404(a), Occupations Code, as amended by this Act, applies only to a disciplinary action taken on or after the effective date of this Act. A disciplinary action taken before the effective date of this Act is governed by the law in effect on

1 the date the action was taken, and the former law is continued in
2 effect for that purpose.

3 SECTION 7. Section 802.107(b), Occupations Code, as amended
4 by this Act, applies only to an offense committed on or after the
5 effective date of this Act. An offense committed before the
6 effective date of this Act is governed by the law in effect on the
7 date the offense was committed, and the former law is continued in
8 effect for that purpose. For purposes of this section, an offense
9 was committed before the effective date of this Act if any element
10 of the offense occurred before that date.

11 SECTION 8. Sections 1305.152 and 1802.052, Occupations
12 Code, as amended by this Act, apply only to an application for a
13 license submitted on or after the effective date of this Act. An
14 application submitted before the effective date of this Act is
15 governed by the law in effect on the date the application was
16 submitted, and the former law is continued in effect for that
17 purpose.

18 SECTION 9. This Act takes effect September 1, 2019.