By: White 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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(18) having repeated or recurring meritorious health care liability claims filed against the podiatrist that in the commission's or department's opinion are evidence of 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) A [~~The department shall revoke a~~] license issued under this chapter is revoked in the manner provided by Section 802.108 if, after the license is issued, the licensed breeder [~~person~~] or a controlling person of the licensed [~~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. Subchapter C, Chapter 802, Occupations Code, is amended by adding Section 802.108 to read as follows:

Sec. 802.108. REQUIRED REVOCATION FOR CERTAIN OFFENSES; PROCEDURE. (a) On discovery by the department that a licensed breeder or a controlling person of the licensed breeder has been convicted of, entered a plea of nolo contendere or guilty to, or received deferred adjudication for an offense described by Section 802.107(b), the department shall notify the licensed breeder that the breeder is disqualified from holding a license under this chapter and that the license will be revoked.

(b) The notice must:

(1) include a brief summary of the grounds for disqualification; and

(2) inform the licensed breeder of the right to a hearing to contest the revocation.

(c) Not later than the 20th day after the date the licensed breeder receives the notice of revocation under this section, the breeder may submit a written request for a hearing to contest the revocation.

(d) If the licensed breeder does not request a hearing within the period prescribed by Subsection (c), the department shall:

(1) enter an order revoking the license; and

(2) notify the breeder of the order.

(e) If the licensed breeder requests a hearing within the period prescribed by Subsection (c), the State Office of Administrative Hearings shall conduct the hearing.

(f) Based on the findings from the hearing, the department shall:

(1) determine whether the licensed breeder is disqualified from holding a license under this chapter based on the grounds described by Subsection (a); and

(2) if the department determines that the licensed breeder is disqualified:

(A) enter an order revoking the license; and

(B) notify the breeder of the order.

(g) Notwithstanding Chapter 2001, Government Code, a

determination under Subsection (f) is not subject to judicial review.

(h) If the conviction, plea, or grant of deferred adjudication that is the basis for a revocation under this section is vacated, set aside, or otherwise overturned on appeal, the former licensed breeder may apply to the department for issuance of a new license.

SECTION 5. 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 6. 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 7. 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 the date the action was taken, and the former law is continued in effect for that purpose.

SECTION 8. Section 802.107(b), Occupations Code, as amended by this Act, and Section 802.108, Occupations Code, as added by this Act, apply only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed

before the effective date of this Act if any element of the offense occurred before that date.

SECTION 9. Sections 1305.152 and 1802.052, Occupations Code, as amended by this Act, apply only to an application for a license submitted on or after the effective date of this Act. An application submitted before the effective date of this Act is governed by the law in effect on the date the application was submitted, and the former law is continued in effect for that purpose.

SECTION 10. This Act takes effect September 1, 2019.