

By: Hancock

S.B. No. 1531

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the eligibility for certain occupational licenses and
3 the use of a person's criminal history as grounds for certain
4 actions related to the license.

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

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

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

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

14 (2) being convicted of ~~+~~

15 [~~(A) a felony;~~

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

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

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

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

24 (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.

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

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

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

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

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

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

13 (4) ~~[(5)]~~ engages in unprofessional or dishonorable
14 conduct that may reasonably be determined to deceive or defraud the
15 public;

16 (5) ~~[(6)]~~ is unable to practice midwifery with
17 reasonable skill and safety because of illness, disability, or
18 psychological impairment;

19 (6) ~~[(7)]~~ is determined by a court judgment to be
20 mentally impaired;

21 (7) ~~[(8)]~~ submits a birth or death certificate known
22 by the person to be false or fraudulent or engages in another act
23 that violates Title 3, Health and Safety Code, or a rule adopted
24 under that title;

25 (8) ~~[(9)]~~ violates Chapter 244, Health and Safety
26 Code, or a rule adopted under that chapter; or

27 (9) ~~[(10)]~~ fails to practice midwifery in a manner

1 consistent with the public health and safety.

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

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

11 (b) A [~~The department shall revoke a~~] license issued under
12 this chapter is revoked in the manner provided by Section 802.108
13 if, after the license is issued, the licensed breeder [~~person~~] or a
14 controlling person of the licensed [~~dog or cat~~] breeder pleads
15 guilty or nolo contendere to, is convicted of, or receives deferred
16 adjudication for animal cruelty or neglect in this state or any
17 other jurisdiction.

18 SECTION 4. Subchapter C, Chapter 802, Occupations Code, is
19 amended by adding Section 802.108 to read as follows:

20 Sec. 802.108. REQUIRED REVOCATION FOR CERTAIN OFFENSES;
21 PROCEDURE. (a) On discovery by the department that a licensed
22 breeder or a controlling person of the licensed breeder has been
23 convicted of, entered a plea of nolo contendere or guilty to, or
24 received deferred adjudication for an offense described by Section
25 802.107(b), the department shall notify the licensed breeder that
26 the breeder is disqualified from holding a license under this
27 chapter and that the license will be revoked.

1 (b) The notice must:

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

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

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

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

13 (1) enter an order revoking the license; and

14 (2) notify the breeder of the order.

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

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

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

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

25 (A) enter an order revoking the license; and

26 (B) notify the breeder of the order.

27 (g) Notwithstanding Chapter 2001, Government Code, a

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

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

8 SECTION 5. Section 1305.152(a), Occupations Code, is
9 amended to read as follows:

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

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

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

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

18 (4) ~~[demonstrate the applicant's honesty,~~
19 ~~trustworthiness, and integrity; and~~

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

21 SECTION 6. Section 1802.052(a), Occupations Code, is
22 amended to read as follows:

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

25 (1) is at least 18 years of age;

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

27 (3) either:

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

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

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

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

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

15 SECTION 7. Section 203.404(a), Occupations Code, as amended
16 by this Act, applies only to a disciplinary action taken on or after
17 the effective date of this Act. A disciplinary action taken before
18 the effective date of this Act is governed by the law in effect on
19 the date the action was taken, and the former law is continued in
20 effect for that purpose.

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

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

3 SECTION 9. Sections [1305.152](#) and [1802.052](#), Occupations
4 Code, as amended by this Act, apply only to an application for a
5 license submitted on or after the effective date of this Act. An
6 application submitted before the effective date of this Act is
7 governed by the law in effect on the date the application was
8 submitted, and the former law is continued in effect for that
9 purpose.

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