

BILL ANALYSIS

Senate Research Center

H.B. 1998
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Health & Human Services
5/18/2023
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

H.B. 1998 clarifies language and closes a number of loopholes in current statute that governs the Texas Medical Board (TMB) and its disciplinary authority, licensing/renewal requirements, and complaint investigation/resolution process.

H.B. 1998:

- Requires TMB to run a continuous query with the National Practitioner Data Bank (NPDB) for each licensee.
- Directs the board to update the physician's profile to include any new disciplinary action and remove or revise any previous voided disciplinary action.
- Directs TMB not to include any information that identifies an entity or person other than the physician.
- Requires medical peer review committees/health care entities to report to TMB the results of any medical peer review that adversely affects a physician's clinical privileges for a period longer than 14 days.
- Updates complaint investigation process to only require one expert physician reviewer, except in cases of death or serious injury, to address complaint backlog.
- Allows expert reviewers to be licensed in a state that is a member of the Interstate Compact if a physician licensed in Texas is not available.
- Instructs TMB (in Sections 155.003(e) and 164.051, Occupations Code, pertaining to TMB's disciplinary and licensing authority, respectively) to refuse to issue a license if the applicant previously held a medical license revoked by the licensing authority in another state or a province of Canada for an offense that would be grounds for revocation in Texas.
- Requires TMB to fingerprint applicants for new licenses and renewals and submit those fingerprints to the Department of Public Safety of the State of Texas, closing a loophole in current statute.
- Expands which criminal offenses allow for temporary suspension or restriction of a medical license.
- Explicitly states in the Occupations Code that the criminal penalty for knowingly making a false statement on an application to practice medicine in a Class A misdemeanor, unless there is intent to harm or deceive, in which case it is a state jail felony.

H.B. 1998 amends current law relating to the regulation of physicians and the disciplinary authority of the Texas Medical Board, increases a criminal penalty, and imposes a fee.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the Texas Medical Board is modified in SECTION 3 (Section 154.056, Occupations Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter B, Chapter 153, Occupations Code, by adding Section 153.055, as follows:

Sec. 153.055. FEE FOR CERTAIN SEARCHES RELATED TO LICENSE STATUS. (a)
Requires the Texas Medical Board (TMB) to set and collect an additional surcharge to

cover the cost of administering a continuous query on the National Practitioner Data Bank as required by Section 154.006(m). Requires that the surcharge be collected from each license holder for issuance of a first registration permit and for renewal of a registration permit.

(b) Requires TMB to deposit each fee collected to the credit of the public assurance account described by Section 153.0535(b) (relating to requiring TMB to deposit each surcharge collected to the credit of the public assurance account).

SECTION 2. Amends Section 154.006, Occupations Code, by adding Subsections (m) and (n), as follows:

(m) Requires TMB to run a continuous query on the National Practitioner Data Bank and, not later than the 10th working day after the date any new information is found, update a physician's profile to include any new report or correction to a report of disciplinary action against the physician and to remove any report of disciplinary action against the physician that has been dismissed or otherwise voided.

(n) Prohibits information included in a physician's profile under Subsection (m) from including any patient identifying information or information that may reasonably be used to identify any person or entity other than the physician.

SECTION 3. Amends Section 154.056(e), Occupations Code, as follows:

(e) Requires each member of the expert physician panel to be licensed to practice medicine in a member state, as defined by Section 171.002 (Definitions), rather than in this state. Requires that TMB's rules governing appointment of expert physician panel members to act as expert physician reviewers include a requirement that TMB randomly select, to a certain extent, panel members to review a complaint who are:

(1) licensed to practice medicine in this state; or

(2) licensed to practice medicine in a member state, as defined by Section 171.002, if there are no panel members licensed to practice medicine in this state available to review the complaint in a timely manner.

SECTION 4. Amends Section 154.0561, Occupations Code, by adding Subsection (a-1) and amending Subsection (b), as follows:

(a-1) Provides that the report issued under Subsection (a) (relating to requiring a physician on the expert physician panel who is selected to review a complaint to take certain actions), except as provided by Subsections (b) and (c) (relating to requiring a third expert physician reviewer, if the second expert physician does not agree with the conclusions of the first expert physician, to take certain actions), constitutes the final report.

(b) Requires a second expert physician reviewer, if the complaint reviewed under Subsection (a) alleges a violation that resulted in serious injury or death or if the physician reviewing the complaint under Subsection (a) determines that the applicable standard of care was violated, to review the first physician's preliminary report and other information associated with the complaint. Authorizes the second expert physician to issue a second written report with the findings of the review. Makes a nonsubstantive change.

SECTION 5. Amends Section 155.003(e), Occupations Code, as follows:

(e) Provides that an applicant is not eligible for a license if:

(1) deletes existing text providing that an applicant is not eligible for a license if the applicant holds a medical license that is currently revoked by certain entities;

(2)-(3) makes nonsubstantive changes to these subdivisions;

(4) the applicant held a license to practice medicine that has been revoked by the licensing authority in another state or a province of Canada for a reason that would be grounds for TMB to revoke a license to practice medicine in this state.

SECTION 6. Amends Section 155.008(a), Occupations Code, as follows:

(a) Provides that TMB is required, rather than authorized, to submit to the Department of Public Safety of the State of Texas (DPS) a complete set of fingerprints of each license applicant, and DPS is required to take certain actions.

SECTION 7. Amends Subchapter A, Chapter 156, Occupations Code, by adding Section 156.0015, as follows:

Sec. 156.0015. CRIMINAL RECORD CHECK. (a) Requires a license holder, in addition to the information required by Section 156.001 (Registration Requirements and Procedures), to submit to TMB with the registration permit renewal application a complete set of fingerprints. Requires TMB to submit to DPS each set of fingerprints received under this section for the purpose of completing the criminal record check described by Section 155.008 (Criminal Record Check).

(b) Authorizes TMB to suspend or refuse to renew the registration of a license holder who fails to submit a complete set of fingerprints under this section.

(c) Provides that this section does not apply to a license holder who previously submitted a complete set of fingerprints as part of an application for a license or as part of a previous application to renew a registration permit under this section.

SECTION 8. Amends Section 160.002(a), Occupations Code, as follows:

(a) Requires a medical peer review committee or health care entity to report in writing to TMB the results and circumstances of a medical peer review that meets certain criteria, including adversely affecting the clinical privileges of a physician for a period longer than 14 days, rather than longer than 30 days.

SECTION 9. Amends Section 164.051, Occupations Code, by amending Subsections (a) and (d) and adding Subsection (e), as follows:

(a) Creates an exception under Subsection (e) and makes a nonsubstantive change.

(d) Requires TMB to refuse to issue a license under Subtitle B (Physicians) if the applicant held a license to practice medicine in another state that has been revoked by the licensing authority in that state for a reason that would be grounds for TMB to revoke a license to practice medicine in this state.

(e) Creates this subsection from existing text. Requires TMB to revoke a license issued under this subtitle if the license holder, while holding the license under this subtitle, held a license to practice medicine in another state that has been revoked by the licensing authority in that state for a reason that would be grounds for TMB to revoke a license to practice medicine in this state.

SECTION 10. Amends Section 164.0595(a), Occupations Code, as follows:

(a) Authorizes a disciplinary panel appointed under Section 164.059 (Temporary Suspension or Restriction of License) to suspend or restrict the license of a person arrested for an offense under:

(1) Chapter 19 (Criminal Homicide), rather than Section 22.011(a)(2) (relating to sexual assault of a child), Penal Code;

(2) Chapter 20A (Trafficking of Persons), rather than Section 22.021(a)(1)(B) (relating to aggravated sexual assault of a child), Penal Code; or

(3) Chapter 21 (Sexual Offenses) or 22 (Assaultive Offenses), rather than Section 21.02 (Continuous Sexual Abuse of Young Child or Disabled Individual), Penal Code, if the offense is:

(A) sexual, lewd, or indecent in nature;

(B) not a misdemeanor punishable by fine only; and

(C) committed against a patient of the license holder, a child, an elderly individual, or an individual with a disability.

Deletes existing text authorizing a disciplinary panel appointed under Section 164.059 to suspend or restrict the license of a person arrested for an offense under: Section 21.11, Penal Code (Indecency With a Child).

SECTION 11. Amends Section 165.154, Occupations Code, as follows:

Sec. 165.154. New heading: FALSE STATEMENT; OFFENSE. (a) Provides that a person commits an offense if the person knowingly makes a false statement in certain circumstances.

(b) Provides that an offense under this section is a Class A misdemeanor unless the actor's intent is to defraud or harm another, in which event the offense is a state jail felony. Deletes existing text providing that an offense under this section constitutes tampering with a governmental record or perjury as provided by the Penal Code and is required to be punished on conviction as provided by that code.

SECTION 12. Makes application of Section 156.0015, Occupations Code, as added by this Act, prospective.

SECTION 13. Makes application of Section 165.154, Occupations Code, as amended by this Act, prospective.

SECTION 14. Effective date: September 1, 2023.