

AN ACT

relating to the regulation of physicians, the disciplinary authority of the Texas Medical Board, and the administration of the Texas Physician Health Program; increasing a criminal penalty; imposing a surcharge.

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

SECTION 1. Section 153.051(d), Occupations Code, is amended to read as follows:

(d) The board may not set, charge, collect, receive, or deposit any of the following fees in excess of:

- (1) \$900 for a license;
- (2) \$400 for a first registration permit;
- (3) \$200 for a temporary license;
- (4) \$400 for renewal of a registration permit;
- (5) \$200 for a physician-in-training permit;
- (6) \$600 for the processing of an application and the issuance of a registration for anesthesia in an outpatient setting;
- (7) \$200 for an endorsement to other state medical boards;
- (8) \$200 for a duplicate license;
- (9) \$700 for a reinstated license after cancellation for cause; or

(10) \$15 [~~\$1,200~~] for a surcharge [~~an annual fee~~] under Section 153.053 to administer [~~167.011(c) for a program~~]

1 ~~participant in]~~ the Texas Physician Health Program, due at the time
2 of license issuance and registration permit renewal.

3 SECTION 2. Subchapter B, Chapter 153, Occupations Code, is
4 amended by adding Section 153.053 to read as follows:

5 Sec. 153.053. SURCHARGE TO ADMINISTER TEXAS PHYSICIAN
6 HEALTH PROGRAM. (a) The board shall collect an additional
7 surcharge not to exceed \$15 for each of the following fees:

8 (1) first registration permit; and

9 (2) renewal of a registration permit.

10 (b) The board shall deposit each surcharge collected under
11 this section to the credit of the Texas physician health program
12 account. The Texas physician health program account is a special
13 account in the general revenue fund. Money in the special account
14 shall be appropriated only to the board to pay for administration of
15 the Texas Physician Health Program under Chapter 167, including
16 paying for an initial evaluation by the program's medical director
17 or the director's designee. Money in the special account may not be
18 used to pay for program participant costs incurred for monitoring
19 or for a program participant's own medical costs, including any
20 further required evaluations, primary treatment, or continuing
21 care.

22 SECTION 3. Subchapter B, Chapter 153, Occupations Code, is
23 amended by adding Section 153.055 to read as follows:

24 Sec. 153.055. SURCHARGE FOR CERTAIN SEARCHES RELATED TO
25 LICENSE STATUS. (a) The board shall set and collect an additional
26 surcharge to cover the cost of administering a continuous query on
27 the National Practitioner Data Bank as required by Section

1 154.006(m). The surcharge shall be collected from each license
2 holder for:

3 (1) issuance of a first registration permit; and

4 (2) renewal of a registration permit.

5 (b) The board shall deposit each surcharge collected under
6 this section to the credit of the public assurance account
7 described by Section 153.0535(b).

8 SECTION 4. Section 154.006, Occupations Code, is amended by
9 adding Subsections (m) and (n) to read as follows:

10 (m) The board shall run a continuous query on the National
11 Practitioner Data Bank and, not later than the 10th working day
12 after the date any new information is found, update a physician's
13 profile to:

14 (1) include any new report or correction to a report of
15 disciplinary action against the physician; and

16 (2) remove any report of disciplinary action against
17 the physician that has been dismissed or otherwise voided.

18 (n) Information included in a physician's profile under
19 Subsection (m) may not include any patient identifying information
20 or information that may reasonably be used to identify any person or
21 entity other than the physician.

22 SECTION 5. Section 154.056(e), Occupations Code, is amended
23 to read as follows:

24 (e) The board by rule shall provide for an expert physician
25 panel appointed by the board to assist with complaints and
26 investigations relating to medical competency by acting as expert
27 physician reviewers. Each member of the expert physician panel must

1 be licensed to practice medicine in a member [~~this~~] state, as
2 defined by Section 171.002. The rules adopted under this subsection
3 must include provisions governing the composition of the panel,
4 qualifications for membership on the panel, length of time a member
5 may serve on the panel, grounds for removal from the panel, the
6 avoidance of conflicts of interest, including situations in which
7 the affected physician and the panel member live or work in the same
8 geographical area or are competitors, and the duties to be
9 performed by the panel. The board's rules governing grounds for
10 removal from the panel must include providing for the removal of a
11 panel member who is repeatedly delinquent in reviewing complaints
12 and in submitting reports to the board. The board's rules governing
13 appointment of expert physician panel members to act as expert
14 physician reviewers must include a requirement that the board
15 randomly select, to the extent permitted by Section 154.058(b) and
16 the conflict of interest provisions adopted under this subsection,
17 panel members to review a complaint who are:

- 18 (1) licensed to practice medicine in this state; or
19 (2) licensed to practice medicine in a member state,
20 as defined by Section 171.002, if there are no panel members
21 licensed to practice medicine in this state available to review the
22 complaint in a timely manner.

23 SECTION 6. Section 155.003(e), Occupations Code, is amended
24 to read as follows:

- 25 (e) An applicant is not eligible for a license if:
26 (1) the applicant holds a medical license that is
27 currently restricted for cause, canceled for cause, or suspended

1 for cause~~[, or revoked]~~ by a state, a province of Canada, or a
2 uniformed service of the United States;

3 (2) an investigation or a proceeding is instituted
4 against the applicant for the restriction, cancellation,
5 suspension, or revocation in a state, a province of Canada, or a
6 uniformed service of the United States; ~~[or]~~

7 (3) a prosecution is pending against the applicant in
8 any state, federal, or Canadian court for any offense that under the
9 laws of this state is a felony or a misdemeanor that involves moral
10 turpitude; or

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

15 SECTION 7. Section 155.008(a), Occupations Code, is amended
16 to read as follows:

17 (a) The board shall ~~[may]~~ submit to the Department of Public
18 Safety a complete set of fingerprints of each license applicant,
19 and the department shall classify and check the fingerprints
20 against those in the department's fingerprint records. The
21 department shall certify to the board its findings regarding the
22 criminal record of the applicant or the applicant's lack of a
23 criminal record.

24 SECTION 8. Subchapter A, Chapter 156, Occupations Code, is
25 amended by adding Section 156.0015 to read as follows:

26 Sec. 156.0015. CRIMINAL RECORD CHECK. (a) In addition to
27 the information required by Section 156.001, a license holder

1 shall submit to the board with the registration permit renewal
2 application a complete set of fingerprints. The board shall submit
3 to the Department of Public Safety each set of fingerprints
4 received under this section for the purpose of completing the
5 criminal record check described by Section 155.008.

6 (b) The board may suspend or refuse to renew the
7 registration of a license holder who fails to submit a complete set
8 of fingerprints under this section.

9 (c) This section does not apply to a license holder who
10 previously submitted a complete set of fingerprints:

11 (1) as part of an application for a license; or

12 (2) as part of a previous application to renew a
13 registration permit under this section.

14 SECTION 9. Section 160.002(a), Occupations Code, is amended
15 to read as follows:

16 (a) A medical peer review committee or health care entity
17 shall report in writing to the board the results and circumstances
18 of a medical peer review that:

19 (1) adversely affects the clinical privileges of a
20 physician for a period longer than 14 [~~30~~] days;

21 (2) accepts a physician's surrender of clinical
22 privileges either:

23 (A) while the physician is under an investigation
24 by the medical peer review committee relating to possible
25 incompetence or improper professional conduct; or

26 (B) in return for not conducting an investigation
27 or proceeding relating to possible incompetence or improper

1 professional conduct; or

2 (3) adversely affects the membership of a physician in
3 a professional society or association, if the medical peer review
4 is conducted by that society or association.

5 SECTION 10. Section 164.051, Occupations Code, is amended
6 by amending Subsections (a) and (d) and adding Subsection (e) to
7 read as follows:

8 (a) The board may refuse to admit a person to its
9 examination or refuse to issue a license to practice medicine and
10 may take disciplinary action against a person if the person:

11 (1) commits an act prohibited under Section 164.052;

12 (2) is convicted of, or is placed on deferred
13 adjudication community supervision or deferred disposition for:

14 (A) a felony; or

15 (B) a misdemeanor involving moral turpitude;

16 (3) commits or attempts to commit a direct or indirect
17 violation of a rule adopted under this subtitle, either as a
18 principal, accessory, or accomplice;

19 (4) is unable to practice medicine with reasonable
20 skill and safety to patients because of:

21 (A) illness;

22 (B) drunkenness;

23 (C) excessive use of drugs, narcotics,
24 chemicals, or another substance; or

25 (D) a mental or physical condition;

26 (5) is found by a court judgment to be of unsound mind;

27 (6) fails to practice medicine in an acceptable

1 professional manner consistent with public health and welfare;

2 (7) is removed, suspended, or is subject to
3 disciplinary action taken by the person's peers in a local,
4 regional, state, or national professional medical association or
5 society, or is disciplined by a licensed hospital or medical staff
6 of a hospital, including removal, suspension, limitation of
7 hospital privileges, or other disciplinary action, if the board
8 finds that the action:

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

11 (B) was appropriate and reasonably supported by
12 evidence submitted to the board;

13 (8) is subject to repeated or recurring meritorious
14 health care liability claims that in the board's opinion evidence
15 professional incompetence likely to injure the public; or

16 (9) except as provided by Subsections ~~[Subsection]~~ (d)
17 and (e), holds a license to practice medicine subject to
18 disciplinary action by another state, or subject to disciplinary
19 action by the uniformed services of the United States, based on acts
20 by the person that are prohibited under Section 164.052 or are
21 similar to acts described by this subsection.

22 (d) The board shall refuse to issue a license under this
23 subtitle if the applicant held a license to practice medicine in
24 another state that has been revoked by the licensing authority in
25 that state for a reason that would be grounds for the board to
26 revoke a license to practice medicine in this state.

27 (e) The board shall revoke a license issued under this

1 subtitle if the license holder, while holding the license under
2 this subtitle, held a license to practice medicine in another state
3 that has been revoked by the licensing authority in that state for a
4 reason that would be grounds for the board to revoke a license to
5 practice medicine in this state.

6 SECTION 11. Section 164.0595(a), Occupations Code, is
7 amended to read as follows:

8 (a) A disciplinary panel appointed under Section 164.059
9 may suspend or restrict the license of a person arrested for an
10 offense under:

11 (1) Chapter 19 [~~Section 22.011(a)(2)~~], Penal Code
12 (criminal homicide) [~~(sexual assault of a child)~~];

13 (2) Chapter 20A [~~Section 22.021(a)(1)(B)~~], Penal Code
14 (trafficking of persons) [~~(aggravated sexual assault of a child)~~];

15 or

16 (3) Chapter 21 or 22 [~~Section 21.02~~], Penal Code
17 (sexual or assaultive offenses), if the offense is:

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

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

20 and

21 (C) committed against:

22 (i) a patient of the license holder;

23 (ii) a child;

24 (iii) an elderly individual [~~(continuous~~
25 ~~sexual abuse of young child or disabled individual)~~]; or

26 (iv) an individual with a disability [~~(4)~~

27 ~~Section 21.11, Penal Code (indecent with a child)] .~~

1 SECTION 12. Section 165.154, Occupations Code, is amended
2 to read as follows:

3 Sec. 165.154. FALSE STATEMENT [~~TAMPERING WITH GOVERNMENTAL~~
4 ~~RECORD~~]; OFFENSE [~~PERJURY OFFENSES~~]. (a) A person commits an
5 offense if the person knowingly makes a false statement:

- 6 (1) in the person's application for a license; or
7 (2) under oath to obtain a license or to secure the
8 registration of a license to practice medicine.

9 (b) An offense under this section is a Class A misdemeanor
10 unless the actor's intent is to defraud or harm another, in which
11 event the offense is a state jail felony [+

12 [~~(1) constitutes tampering with a governmental record~~
13 ~~or perjury as provided by the Penal Code, and~~

14 [~~(2) shall be punished on conviction as provided by~~
15 ~~that code~~].

16 SECTION 13. Section 167.011, Occupations Code, is repealed.

17 SECTION 14. Section 153.051, Occupations Code, as amended
18 by this Act, and Section 153.053, Occupations Code, as added by this
19 Act, apply to the initial issuance of a license or the renewal of a
20 registration permit under Subtitle B, Title 3, Occupations Code, on
21 or after September 1, 2023. A license initially issued or
22 registration permit renewed before September 1, 2023, is governed
23 by the law in effect immediately before the effective date of this
24 Act, and the former law is continued in effect for that purpose.

25 SECTION 15. Section 156.0015, Occupations Code, as added by
26 this Act, applies only to an application to renew a registration
27 submitted on or after the effective date of this Act. An

1 application submitted before the effective date of this Act is
2 governed by the law in effect on the date the application was
3 submitted, and the former law is continued in effect for that
4 purpose.

5 SECTION 16. Section 165.154, Occupations Code, as amended
6 by this Act, applies only to an offense committed on or after the
7 effective date of this Act. An offense committed before the
8 effective date of this Act is governed by the law in effect on the
9 date the offense was committed, and the former law is continued in
10 effect for that purpose. For purposes of this section, an offense
11 was committed before the effective date of this Act if any element
12 of the offense occurred before that date.

13 SECTION 17. This Act takes effect September 1, 2023.

President of the Senate

Speaker of the House

I certify that H.B. No. 1998 was passed by the House on May 12, 2023, by the following vote: Yeas 124, Nays 13, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 1998 on May 26, 2023, by the following vote: Yeas 120, Nays 16, 1 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 1998 was passed by the Senate, with amendments, on May 24, 2023, by the following vote: Yeas 30, Nays 1.

Secretary of the Senate

APPROVED: _____

Date

Governor