

By: Johnson of Dallas, Price, Smith,  
A. Johnson of Harris

H.B. No. 1998

Substitute the following for H.B. No. 1998:

By: Klick

C.S.H.B. No. 1998

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the regulation of physicians and the disciplinary  
3 authority of the Texas Medical Board; increasing a criminal  
4 penalty.

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

6 SECTION 1. Section 154.006, Occupations Code, is amended by  
7 adding Subsections (m) and (n) to read as follows:

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

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

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

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

20 SECTION 2. Section 154.056(e), Occupations Code, is amended  
21 to read as follows:

22 (e) The board by rule shall provide for an expert physician  
23 panel appointed by the board to assist with complaints and  
24 investigations relating to medical competency by acting as expert

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

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

24           SECTION 3. Section 154.0561, Occupations Code, is amended  
25 by adding Subsection (a-1) and amending Subsection (b) to read as  
26 follows:

- 27           (a-1) Except as provided by Subsections (b) and (c), the

1 report issued under Subsection (a) constitutes the final report.

2 (b) If the complaint reviewed under Subsection (a) alleges a  
3 violation that resulted in serious injury or death or if the  
4 physician reviewing the complaint under Subsection (a) determines  
5 that the applicable standard of care was violated, a [A] second  
6 expert physician reviewer shall review the first physician's  
7 preliminary report and other information associated with the  
8 complaint. The second expert physician may issue a second written  
9 report with the findings of the review. If the second expert  
10 physician agrees with the first expert physician, the first  
11 physician shall issue a final written report on the matter.

12 SECTION 4. Section 155.003(e), Occupations Code, is amended  
13 to read as follows:

14 (e) An applicant is not eligible for a license if:

15 (1) the applicant holds a medical license that is  
16 currently restricted for cause, canceled for cause, or suspended  
17 for cause~~[, or revoked]~~ by a state, a province of Canada, or a  
18 uniformed service of the United States;

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

23 (3) a prosecution is pending against the applicant in  
24 any state, federal, or Canadian court for any offense that under the  
25 laws of this state is a felony or a misdemeanor that involves moral  
26 turpitude; or

27 (4) the applicant held a license to practice medicine

1 that has been revoked by the licensing authority in another state or  
2 a province of Canada for a reason that would be grounds for the  
3 board to revoke a license to practice medicine in this state.

4 SECTION 5. Section 155.008(a), Occupations Code, is amended  
5 to read as follows:

6 (a) The board shall [~~may~~] submit to the Department of Public  
7 Safety a complete set of fingerprints of each license applicant,  
8 and the department shall classify and check the fingerprints  
9 against those in the department's fingerprint records. The  
10 department shall certify to the board its findings regarding the  
11 criminal record of the applicant or the applicant's lack of a  
12 criminal record.

13 SECTION 6. Subchapter A, Chapter 156, Occupations Code, is  
14 amended by adding Section 156.0015 to read as follows:

15 Sec. 156.0015. CRIMINAL RECORD CHECK. (a) In addition to  
16 the information required by Section 156.001, a license holder  
17 shall submit to the board with the registration permit renewal  
18 application a complete set of fingerprints. The board shall submit  
19 to the Department of Public Safety each set of fingerprints  
20 received under this section for the purpose of completing the  
21 criminal record check described by Section 155.008.

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

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

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

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

3           SECTION 7. Section 160.002(a), Occupations Code, is amended  
4 to read as follows:

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

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

10           (2) accepts a physician's surrender of clinical  
11 privileges either:

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

15           (B) in return for not conducting an investigation  
16 or proceeding relating to possible incompetence or improper  
17 professional conduct; or

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

21           SECTION 8. Section 164.051, Occupations Code, is amended by  
22 amending Subsections (a) and (d) and adding Subsection (e) to read  
23 as follows:

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

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

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

3                   (A) a felony; or

4                   (B) a misdemeanor involving moral turpitude;

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

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

10                   (A) illness;

11                   (B) drunkenness;

12                   (C) excessive use of drugs, narcotics,  
13 chemicals, or another substance; or

14                   (D) a mental or physical condition;

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

16           (6) fails to practice medicine in an acceptable  
17 professional manner consistent with public health and welfare;

18           (7) is removed, suspended, or is subject to  
19 disciplinary action taken by the person's peers in a local,  
20 regional, state, or national professional medical association or  
21 society, or is disciplined by a licensed hospital or medical staff  
22 of a hospital, including removal, suspension, limitation of  
23 hospital privileges, or other disciplinary action, if the board  
24 finds that the action:

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

27                   (B) was appropriate and reasonably supported by

1 evidence submitted to the board;

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

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

11 (d) The board shall refuse to issue a license under this  
12 subtitle if the applicant held a license to practice medicine in  
13 another state that has been revoked by the licensing authority in  
14 that state for a reason that would be grounds for the board to  
15 revoke a license to practice medicine in this state.

16 (e) The board shall revoke a license issued under this  
17 subtitle if the license holder, while holding the license under  
18 this subtitle, held a license to practice medicine in another state  
19 that has been revoked by the licensing authority in that state for a  
20 reason that would be grounds for the board to revoke a license to  
21 practice medicine in this state.

22 SECTION 9. Section 164.0595(a), Occupations Code, is  
23 amended to read as follows:

24 (a) A disciplinary panel appointed under Section 164.059  
25 may suspend or restrict the license of a person arrested for an  
26 offense under:

27 (1) Chapter 19 [~~Section 22.011(a)(2)~~], Penal Code

1 (criminal homicide) [~~sexual assault of a child~~];

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

4 or

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

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

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

9 and

10 (C) committed against:

11 (i) a patient of the license holder;

12 (ii) a child;

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

15 (iv) an individual with a disability [~~(4)~~  
16 ~~Section 21.11, Penal Code (indecent with a child)~~].

17 SECTION 10. Section 165.154, Occupations Code, is amended  
18 to read as follows:

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

22 (1) in the person's application for a license; or

23 (2) under oath to obtain a license or to secure the  
24 registration of a license to practice medicine.

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



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

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

5           SECTION 11. Section 156.0015, Occupations Code, as added by  
6 this Act, applies only to an application to renew a registration  
7 submitted on or after the effective date of this Act. An  
8 application submitted before the effective date of this Act is  
9 governed by the law in effect on the date the application was  
10 submitted, and the former law is continued in effect for that  
11 purpose.

12           SECTION 12. Section [165.154](#), Occupations Code, as amended  
13 by this Act, applies only to an offense committed on or after the  
14 effective date of this Act. An offense committed before the  
15 effective date of this Act is governed by the law in effect on the  
16 date the offense was committed, and the former law is continued in  
17 effect for that purpose. For purposes of this section, an offense  
18 was committed before the effective date of this Act if any element  
19 of the offense occurred before that date.

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