

1-1 By: Johnson of Dallas, et al. H.B. No. 1998  
1-2 (Senate Sponsor - Hall)  
1-3 (In the Senate - Received from the House May 15, 2023;  
1-4 May 16, 2023, read first time and referred to Committee on Health &  
1-5 Human Services; May 21, 2023, reported adversely, with favorable  
1-6 Committee Substitute by the following vote: Yeas 9, Nays 0;  
1-7 May 21, 2023, sent to printer.)

1-8 COMMITTEE VOTE

1-9		Yea	Nay	Absent	PNV
1-10	<u>Kolkhorst</u>	X			
1-11	<u>Perry</u>	X			
1-12	<u>Blanco</u>	X			
1-13	<u>Hall</u>	X			
1-14	<u>Hancock</u>	X			
1-15	<u>Hughes</u>	X			
1-16	<u>LaMantia</u>	X			
1-17	<u>Miles</u>	X			
1-18	<u>Sparks</u>	X			

1-19 COMMITTEE SUBSTITUTE FOR H.B. No. 1998 By: Hall

1-20 A BILL TO BE ENTITLED  
1-21 AN ACT

1-22 relating to the regulation of physicians and the disciplinary  
1-23 authority of the Texas Medical Board; increasing a criminal  
1-24 penalty; imposing a surcharge.

1-25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-26 SECTION 1. Subchapter B, Chapter 153, Occupations Code, is  
1-27 amended by adding Section 153.055 to read as follows:

1-28 Sec. 153.055. SURCHARGE FOR CERTAIN SEARCHES RELATED TO  
1-29 LICENSE STATUS. (a) The board shall set and collect an additional  
1-30 surcharge to cover the cost of administering a continuous query on  
1-31 the National Practitioner Data Bank as required by Section  
1-32 154.006(m). The surcharge shall be collected from each license  
1-33 holder for:

1-34 (1) issuance of a first registration permit; and

1-35 (2) renewal of a registration permit.

1-36 (b) The board shall deposit each surcharge collected under  
1-37 this section to the credit of the public assurance account  
1-38 described by Section 153.0535(b).

1-39 SECTION 2. Section 154.006, Occupations Code, is amended by  
1-40 adding Subsections (m) and (n) to read as follows:

1-41 (m) The board shall run a continuous query on the National  
1-42 Practitioner Data Bank and, not later than the 10th working day  
1-43 after the date any new information is found, update a physician's  
1-44 profile to:

1-45 (1) include any new report or correction to a report of  
1-46 disciplinary action against the physician; and

1-47 (2) remove any report of disciplinary action against  
1-48 the physician that has been dismissed or otherwise voided.

1-49 (n) Information included in a physician's profile under  
1-50 Subsection (m) may not include any patient identifying information  
1-51 or information that may reasonably be used to identify any person or  
1-52 entity other than the physician.

1-53 SECTION 3. Section 154.056(e), Occupations Code, is amended  
1-54 to read as follows:

1-55 (e) The board by rule shall provide for an expert physician  
1-56 panel appointed by the board to assist with complaints and  
1-57 investigations relating to medical competency by acting as expert  
1-58 physician reviewers. Each member of the expert physician panel must  
1-59 be licensed to practice medicine in a member [~~this~~] state, as  
1-60 defined by Section 171.002. The rules adopted under this subsection

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

- 2-16 (1) licensed to practice medicine in this state; or
- 2-17 (2) licensed to practice medicine in a member state,  
2-18 as defined by Section 171.002, if there are no panel members  
2-19 licensed to practice medicine in this state available to review the  
2-20 complaint in a timely manner.

2-21 SECTION 4. Section 155.003(e), Occupations Code, is amended  
2-22 to read as follows:

2-23 (e) An applicant is not eligible for a license if:  
2-24 (1) the applicant holds a medical license that is  
2-25 currently restricted for cause, canceled for cause, or suspended  
2-26 for cause [~~, or revoked~~] by a state, a province of Canada, or a  
2-27 uniformed service of the United States;

2-28 (2) an investigation or a proceeding is instituted  
2-29 against the applicant for the restriction, cancellation,  
2-30 suspension, or revocation in a state, a province of Canada, or a  
2-31 uniformed service of the United States; [~~or~~]

2-32 (3) a prosecution is pending against the applicant in  
2-33 any state, federal, or Canadian court for any offense that under the  
2-34 laws of this state is a felony or a misdemeanor that involves moral  
2-35 turpitude; or

2-36 (4) the applicant held a license to practice medicine  
2-37 that has been revoked by the licensing authority in another state or  
2-38 a province of Canada for a reason that would be grounds for the  
2-39 board to revoke a license to practice medicine in this state.

2-40 SECTION 5. Section 155.008(a), Occupations Code, is amended  
2-41 to read as follows:

2-42 (a) The board shall [~~may~~] submit to the Department of Public  
2-43 Safety a complete set of fingerprints of each license applicant,  
2-44 and the department shall classify and check the fingerprints  
2-45 against those in the department's fingerprint records. The  
2-46 department shall certify to the board its findings regarding the  
2-47 criminal record of the applicant or the applicant's lack of a  
2-48 criminal record.

2-49 SECTION 6. Subchapter A, Chapter 156, Occupations Code, is  
2-50 amended by adding Section 156.0015 to read as follows:

2-51 Sec. 156.0015. CRIMINAL RECORD CHECK. (a) In addition to  
2-52 the information required by Section 156.001, a license holder  
2-53 shall submit to the board with the registration permit renewal  
2-54 application a complete set of fingerprints. The board shall submit  
2-55 to the Department of Public Safety each set of fingerprints  
2-56 received under this section for the purpose of completing the  
2-57 criminal record check described by Section 155.008.

2-58 (b) The board may suspend or refuse to renew the  
2-59 registration of a license holder who fails to submit a complete set  
2-60 of fingerprints under this section.

2-61 (c) This section does not apply to a license holder who  
2-62 previously submitted a complete set of fingerprints:

- 2-63 (1) as part of an application for a license; or
- 2-64 (2) as part of a previous application to renew a  
2-65 registration permit under this section.

2-66 SECTION 7. Section 160.002(a), Occupations Code, is amended  
2-67 to read as follows:

2-68 (a) A medical peer review committee or health care entity  
2-69 shall report in writing to the board the results and circumstances

3-1 of a medical peer review that:  
3-2 (1) adversely affects the clinical privileges of a  
3-3 physician for a period longer than 14 [~~30~~] days;  
3-4 (2) accepts a physician's surrender of clinical  
3-5 privileges either:  
3-6 (A) while the physician is under an investigation  
3-7 by the medical peer review committee relating to possible  
3-8 incompetence or improper professional conduct; or  
3-9 (B) in return for not conducting an investigation  
3-10 or proceeding relating to possible incompetence or improper  
3-11 professional conduct; or  
3-12 (3) adversely affects the membership of a physician in  
3-13 a professional society or association, if the medical peer review  
3-14 is conducted by that society or association.  
3-15 SECTION 8. Section 164.051, Occupations Code, is amended by  
3-16 amending Subsections (a) and (d) and adding Subsection (e) to read  
3-17 as follows:  
3-18 (a) The board may refuse to admit a person to its  
3-19 examination or refuse to issue a license to practice medicine and  
3-20 may take disciplinary action against a person if the person:  
3-21 (1) commits an act prohibited under Section 164.052;  
3-22 (2) is convicted of, or is placed on deferred  
3-23 adjudication community supervision or deferred disposition for:  
3-24 (A) a felony; or  
3-25 (B) a misdemeanor involving moral turpitude;  
3-26 (3) commits or attempts to commit a direct or indirect  
3-27 violation of a rule adopted under this subtitle, either as a  
3-28 principal, accessory, or accomplice;  
3-29 (4) is unable to practice medicine with reasonable  
3-30 skill and safety to patients because of:  
3-31 (A) illness;  
3-32 (B) drunkenness;  
3-33 (C) excessive use of drugs, narcotics,  
3-34 chemicals, or another substance; or  
3-35 (D) a mental or physical condition;  
3-36 (5) is found by a court judgment to be of unsound mind;  
3-37 (6) fails to practice medicine in an acceptable  
3-38 professional manner consistent with public health and welfare;  
3-39 (7) is removed, suspended, or is subject to  
3-40 disciplinary action taken by the person's peers in a local,  
3-41 regional, state, or national professional medical association or  
3-42 society, or is disciplined by a licensed hospital or medical staff  
3-43 of a hospital, including removal, suspension, limitation of  
3-44 hospital privileges, or other disciplinary action, if the board  
3-45 finds that the action:  
3-46 (A) was based on unprofessional conduct or  
3-47 professional incompetence that was likely to harm the public; and  
3-48 (B) was appropriate and reasonably supported by  
3-49 evidence submitted to the board;  
3-50 (8) is subject to repeated or recurring meritorious  
3-51 health care liability claims that in the board's opinion evidence  
3-52 professional incompetence likely to injure the public; or  
3-53 (9) except as provided by Subsections [~~Subsection~~] (d)  
3-54 and (e), holds a license to practice medicine subject to  
3-55 disciplinary action by another state, or subject to disciplinary  
3-56 action by the uniformed services of the United States, based on acts  
3-57 by the person that are prohibited under Section 164.052 or are  
3-58 similar to acts described by this subsection.  
3-59 (d) The board shall refuse to issue a license under this  
3-60 subtitle if the applicant held a license to practice medicine in  
3-61 another state that has been revoked by the licensing authority in  
3-62 that state for a reason that would be grounds for the board to  
3-63 revoke a license to practice medicine in this state.  
3-64 (e) The board shall revoke a license issued under this  
3-65 subtitle if the license holder, while holding the license under  
3-66 this subtitle, held a license to practice medicine in another state  
3-67 that has been revoked by the licensing authority in that state for a  
3-68 reason that would be grounds for the board to revoke a license to  
3-69 practice medicine in this state.

4-1 SECTION 9. Section 164.0595(a), Occupations Code, is  
4-2 amended to read as follows:

4-3 (a) A disciplinary panel appointed under Section 164.059  
4-4 may suspend or restrict the license of a person arrested for an  
4-5 offense under:

4-6 (1) Chapter 19 [Section 22.011(a)(2)], Penal Code  
4-7 (criminal homicide) [~~sexual assault of a child~~];

4-8 (2) Chapter 20A [Section 22.021(a)(1)(B)], Penal Code  
4-9 (trafficking of persons) [~~aggravated sexual assault of a child~~];  
4-10 or

4-11 (3) Chapter 21 or 22 [Section 21.02], Penal Code  
4-12 (sexual or assaultive offenses), if the offense is:

4-13 (A) sexual, lewd, or indecent in nature;

4-14 (B) not a misdemeanor punishable by fine only;

4-15 and

4-16 (C) committed against:

4-17 (i) a patient of the license holder;

4-18 (ii) a child;

4-19 (iii) an elderly individual [~~continuous~~  
4-20 ~~sexual abuse of young child or disabled individual~~]; or

4-21 (iv) an individual with a disability [~~(4)~~  
4-22 ~~Section 21.11, Penal Code (indecency with a child)~~].

4-23 SECTION 10. Section 165.154, Occupations Code, is amended  
4-24 to read as follows:

4-25 Sec. 165.154. FALSE STATEMENT [~~TAMPERING WITH GOVERNMENTAL~~  
4-26 ~~RECORD~~]; OFFENSE [~~PERJURY OFFENSES~~]. (a) A person commits an  
4-27 offense if the person knowingly makes a false statement:

4-28 (1) in the person's application for a license; or

4-29 (2) under oath to obtain a license or to secure the  
4-30 registration of a license to practice medicine.

4-31 (b) An offense under this section is a Class A misdemeanor  
4-32 unless the actor's intent is to defraud or harm another, in which  
4-33 event the offense is a state jail felony [~~+~~

4-34 [~~(1) constitutes tampering with a governmental record~~  
4-35 ~~or perjury as provided by the Penal Code; and~~

4-36 [~~(2) shall be punished on conviction as provided by~~  
4-37 ~~that code~~].

4-38 SECTION 11. Section 156.0015, Occupations Code, as added by  
4-39 this Act, applies only to an application to renew a registration  
4-40 submitted on or after the effective date of this Act. An  
4-41 application submitted before the effective date of this Act is  
4-42 governed by the law in effect on the date the application was  
4-43 submitted, and the former law is continued in effect for that  
4-44 purpose.

4-45 SECTION 12. Section 165.154, Occupations Code, as amended  
4-46 by this Act, applies only to an offense committed on or after the  
4-47 effective date of this Act. An offense committed before the  
4-48 effective date of this Act is governed by the law in effect on the  
4-49 date the offense was committed, and the former law is continued in  
4-50 effect for that purpose. For purposes of this section, an offense  
4-51 was committed before the effective date of this Act if any element  
4-52 of the offense occurred before that date.

4-53 SECTION 13. This Act takes effect September 1, 2023.

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