

# SENATE AMENDMENTS

2<sup>nd</sup> Printing

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

H.B. No. 1998

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of physicians and the disciplinary  
authority of the Texas Medical Board; increasing a criminal  
penalty; imposing a fee.

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

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

Sec. 153.055. FEE FOR CERTAIN SEARCHES RELATED TO LICENSE  
STATUS. (a) The board shall 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). The surcharge shall be collected from each license  
holder for:

(1) issuance of a first registration permit; and

(2) renewal of a registration permit.

(b) The board shall deposit each fee collected to the credit  
of the public assurance account described by Section 153.0535(b).

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

(m) The board shall 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:

(1) include any new report or correction to a report of

1 disciplinary action against the physician; and

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

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

8 SECTION 3. Section 154.056(e), Occupations Code, is amended  
9 to read as follows:

10 (e) The board by rule shall provide for an expert physician  
11 panel appointed by the board to assist with complaints and  
12 investigations relating to medical competency by acting as expert  
13 physician reviewers. Each member of the expert physician panel must  
14 be licensed to practice medicine in a member ~~[this]~~ state, as  
15 defined by Section 171.002. The rules adopted under this subsection  
16 must include provisions governing the composition of the panel,  
17 qualifications for membership on the panel, length of time a member  
18 may serve on the panel, grounds for removal from the panel, the  
19 avoidance of conflicts of interest, including situations in which  
20 the affected physician and the panel member live or work in the same  
21 geographical area or are competitors, and the duties to be  
22 performed by the panel. The board's rules governing grounds for  
23 removal from the panel must include providing for the removal of a  
24 panel member who is repeatedly delinquent in reviewing complaints  
25 and in submitting reports to the board. The board's rules governing  
26 appointment of expert physician panel members to act as expert  
27 physician reviewers must include a requirement that the board

1 randomly select, to the extent permitted by Section 154.058(b) and  
2 the conflict of interest provisions adopted under this subsection,  
3 panel members to review a complaint who are:

- 4           (1) licensed to practice medicine in this state; or  
5           (2) licensed to practice medicine in a member state,  
6 as defined by Section 171.002, if there are no panel members  
7 licensed to practice medicine in this state available to review the  
8 complaint in a timely manner.

9           SECTION 4. Section 154.0561, Occupations Code, is amended  
10 by adding Subsection (a-1) and amending Subsection (b) to read as  
11 follows:

12           (a-1) Except as provided by Subsections (b) and (c), the  
13 report issued under Subsection (a) constitutes the final report.

14           (b) If the complaint reviewed under Subsection (a) alleges a  
15 violation that resulted in serious injury or death or if the  
16 physician reviewing the complaint under Subsection (a) determines  
17 that the applicable standard of care was violated, a [A] second  
18 expert physician reviewer shall review the first physician's  
19 preliminary report and other information associated with the  
20 complaint. The second expert physician may issue a second written  
21 report with the findings of the review. If the second expert  
22 physician agrees with the first expert physician, the first  
23 physician shall issue a final written report on the matter.

24           SECTION 5. Section 155.003(e), Occupations Code, is amended  
25 to read as follows:

- 26           (e) An applicant is not eligible for a license if:  
27           (1) the applicant holds a medical license that is

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

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

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

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

16 SECTION 6. Section 155.008(a), Occupations Code, is amended  
17 to read as follows:

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

25 SECTION 7. Subchapter A, Chapter 156, Occupations Code, is  
26 amended by adding Section 156.0015 to read as follows:

27 Sec. 156.0015. CRIMINAL RECORD CHECK. (a) In addition to

1 the information required by Section 156.001, a license holder  
2 shall submit to the board with the registration permit renewal  
3 application a complete set of fingerprints. The board shall submit  
4 to the Department of Public Safety each set of fingerprints  
5 received under this section for the purpose of completing the  
6 criminal record check described by Section 155.008.

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

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

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

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

15 SECTION 8. Section 160.002(a), Occupations Code, is amended  
16 to read as follows:

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

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

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

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

27 (B) in return for not conducting an investigation

1 or proceeding relating to possible incompetence or improper  
2 professional conduct; or

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

6 SECTION 9. Section 164.051, Occupations Code, is amended by  
7 amending Subsections (a) and (d) and adding Subsection (e) to read  
8 as follows:

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

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

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

15 (A) a felony; or

16 (B) a misdemeanor involving moral turpitude;

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

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

22 (A) illness;

23 (B) drunkenness;

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

26 (D) a mental or physical condition;

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

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

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

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

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

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

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

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

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

7        SECTION 10. Section 164.0595(a), Occupations Code, is  
8 amended to read as follows:

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

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

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

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

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

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

21 and

22                        (C) committed against:

23                                (i) a patient of the license holder;

24                                (ii) a child;

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

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



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

2 SECTION 11. Section 165.154, Occupations Code, is amended  
3 to read as follows:

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

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

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

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

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

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

17 SECTION 12. Section 156.0015, Occupations Code, as added by  
18 this Act, applies only to an application to renew a registration  
19 submitted on or after the effective date of this Act. An  
20 application submitted before the effective date of this Act is  
21 governed by the law in effect on the date the application was  
22 submitted, and the former law is continued in effect for that  
23 purpose.

24 SECTION 13. Section 165.154, Occupations Code, as amended  
25 by this Act, applies only to an offense committed on or after the  
26 effective date of this Act. An offense committed before the  
27 effective date of this Act is governed by the law in effect on the

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1 date the offense was committed, and the former law is continued in  
2 effect for that purpose. For purposes of this section, an offense  
3 was committed before the effective date of this Act if any element  
4 of the offense occurred before that date.

5 SECTION 14. This Act takes effect September 1, 2023.

ADOPTED

MAY 24 2023

*Lately Law*  
Secretary of the Senate

By: Bob Hall

H.B. No. 1998

Substitute the following for \_\_.B. No. \_\_\_\_:

By: Bob Hall

C.S. \_\_.B. No. \_\_\_\_

A BILL TO BE ENTITLED

1 AN ACT

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

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

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

8 Sec. 153.055. SURCHARGE FOR CERTAIN SEARCHES RELATED TO  
9 LICENSE STATUS. (a) The board shall set and collect an additional  
10 surcharge to cover the cost of administering a continuous query on  
11 the National Practitioner Data Bank as required by Section  
12 154.006(m). The surcharge shall be collected from each license  
13 holder for:

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

15 (2) renewal of a registration permit.

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

19 SECTION 2. Section 154.006, Occupations Code, is amended by  
20 adding Subsections (m) and (n) to read as follows:

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

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

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

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

9           SECTION 3. Section 154.056(e), Occupations Code, is amended  
10 to read as follows:

11           (e) The board by rule shall provide for an expert physician  
12 panel appointed by the board to assist with complaints and  
13 investigations relating to medical competency by acting as expert  
14 physician reviewers. Each member of the expert physician panel must  
15 be licensed to practice medicine in a member [~~this~~] state, as  
16 defined by Section 171.002. The rules adopted under this subsection  
17 must include provisions governing the composition of the panel,  
18 qualifications for membership on the panel, length of time a member  
19 may serve on the panel, grounds for removal from the panel, the  
20 avoidance of conflicts of interest, including situations in which  
21 the affected physician and the panel member live or work in the same  
22 geographical area or are competitors, and the duties to be  
23 performed by the panel. The board's rules governing grounds for  
24 removal from the panel must include providing for the removal of a  
25 panel member who is repeatedly delinquent in reviewing complaints  
26 and in submitting reports to the board. The board's rules governing  
27 appointment of expert physician panel members to act as expert

1 physician reviewers must include a requirement that the board  
2 randomly select, to the extent permitted by Section 154.058(b) and  
3 the conflict of interest provisions adopted under this subsection,  
4 panel members to review a complaint who are:

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

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

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

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

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

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

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

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

1 board to revoke a license to practice medicine in this state.

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

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

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

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

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

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

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

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

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

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

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

8                 (2) accepts a physician's surrender of clinical  
9 privileges either:

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

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

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

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

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

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

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

1 (A) a felony; or  
2 (B) a misdemeanor involving moral turpitude;  
3 (3) commits or attempts to commit a direct or indirect  
4 violation of a rule adopted under this subtitle, either as a  
5 principal, accessory, or accomplice;  
6 (4) is unable to practice medicine with reasonable  
7 skill and safety to patients because of:  
8 (A) illness;  
9 (B) drunkenness;  
10 (C) excessive use of drugs, narcotics,  
11 chemicals, or another substance; or  
12 (D) a mental or physical condition;  
13 (5) is found by a court judgment to be of unsound mind;  
14 (6) fails to practice medicine in an acceptable  
15 professional manner consistent with public health and welfare;  
16 (7) is removed, suspended, or is subject to  
17 disciplinary action taken by the person's peers in a local,  
18 regional, state, or national professional medical association or  
19 society, or is disciplined by a licensed hospital or medical staff  
20 of a hospital, including removal, suspension, limitation of  
21 hospital privileges, or other disciplinary action, if the board  
22 finds that the action:  
23 (A) was based on unprofessional conduct or  
24 professional incompetence that was likely to harm the public; and  
25 (B) was appropriate and reasonably supported by  
26 evidence submitted to the board;  
27 (8) is subject to repeated or recurring meritorious



1 health care liability claims that in the board's opinion evidence  
2 professional incompetence likely to injure the public; or

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

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

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

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

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

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

27 (2) Chapter 20A [~~Section 22.021(a)(1)(B)~~], Penal Code

1 (trafficking of persons) [~~aggravated sexual assault of a child~~];

2 or

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

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

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

7 and

8 (C) committed against:

9 (i) a patient of the license holder;

10 (ii) a child;

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

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

15 SECTION 10. Section 165.154, Occupations Code, is amended  
16 to read as follows:

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

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

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

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

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

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

3           SECTION 11. Section 156.0015, Occupations Code, as added by  
4 this Act, applies only to an application to renew a registration  
5 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 12. Section 165.154, Occupations Code, as amended  
11 by this Act, applies only to an offense committed on or after the  
12 effective date of this Act. An offense committed before the  
13 effective date of this Act is governed by the law in effect on the  
14 date the offense was committed, and the former law is continued in  
15 effect for that purpose. For purposes of this section, an offense  
16 was committed before the effective date of this Act if any element  
17 of the offense occurred before that date.

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

ADOPTED

MAY 24 2023

Laticia Law  
Secretary of the Senate

Anna Campbell

FLOOR AMENDMENT NO. 1

BY: \_\_\_\_\_

1 Amend C.S.H.B. No. 1998 (senate committee report) by adding  
2 the following appropriately numbered SECTIONS to the bill and  
3 renumbering the SECTIONS of the bill accordingly:

4 SECTION \_\_\_\_\_. Section 153.051(d), Occupations Code, is  
5 amended to read as follows:

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

8 (1) \$900 for a license;

9 (2) \$400 for a first registration permit;

10 (3) \$200 for a temporary license;

11 (4) \$400 for renewal of a registration permit;

12 (5) \$200 for a physician-in-training permit;

13 (6) \$600 for the processing of an application and the  
14 issuance of a registration for anesthesia in an outpatient setting;

15 (7) \$200 for an endorsement to other state medical  
16 boards;

17 (8) \$200 for a duplicate license;

18 (9) \$700 for a reinstated license after cancellation  
19 for cause; or

20 (10) \$15 [~~\$1,200~~] for a surcharge [~~an annual fee~~]  
21 under Section 153.053 to administer [~~167.011(c) for a program~~  
22 ~~participant in~~] the Texas Physician Health Program, due at the time  
23 of license issuance and registration permit renewal.

24 SECTION \_\_\_\_\_. Subchapter B, Chapter 153, Occupations Code,  
25 is amended by adding Section 153.053 to read as follows:

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

29 (1) first registration permit; and

1           (2) renewal of a registration permit.

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

14           SECTION \_\_\_\_\_. Section 167.011, Occupations Code, is  
15 repealed.

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

LEGISLATIVE BUDGET BOARD  
Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

May 25, 2023

TO: Honorable Dade Phelan, Speaker of the House, House of Representatives

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: **HB1998** by Johnson, Julie (Relating to the regulation of physicians and the disciplinary authority of the Texas Medical Board; increasing a criminal penalty; imposing a surcharge.), **As Passed 2nd House**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB1998, As Passed 2nd House : an impact of \$0 through the biennium ending August 31, 2025.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five- Year Impact:

<i>Fiscal Year</i>	Probable Net Positive/(Negative) Impact to <i>General Revenue Related Funds</i>
2024	\$0
2025	\$0
2026	\$0
2027	\$0
2028	\$0

All Funds, Five-Year Impact:

<i>Fiscal Year</i>	Probable Savings/(Cost) from <i>General Revenue Fund</i> 1	Probable Revenue Gain/(Loss) from <i>General Revenue Fund</i> 1	Probable Savings/(Cost) from <i>Public Assurance</i> 5105	Probable Revenue Gain/(Loss) from <i>Public Assurance</i> 5105
2024	(\$173,092)	\$173,092	(\$1,124,560)	\$1,124,560
2025	(\$172,703)	\$172,703	(\$1,120,451)	\$1,120,451
2026	(\$172,881)	\$172,881	(\$1,120,896)	\$1,120,896
2027	(\$173,061)	\$173,061	(\$1,121,346)	\$1,121,346
2028	(\$173,243)	\$173,243	(\$1,121,801)	\$1,121,801

<i>Fiscal Year</i>	Probable Revenue Gain from <i>Physicians Health Program</i> 5147	<i>Change in Number of State Employees from FY 2023</i>
2024	\$615,000	7.0
2025	\$720,000	7.0
2026	\$773,000	7.0
2027	\$777,000	7.0
2028	\$832,000	7.0

## Fiscal Analysis

The bill would amend the Occupations Code to require the Texas Medical Board (TMB) to annually subscribe each licensee to the National Practitioner Data Bank's (NPDB) continuous query feature. The bill would authorize TMB to set a new surcharge to cover the cost of these annual subscriptions. The bill would require TMB to maintain publicly available physician profiles that would be updated with the information found in these queries regarding disciplinary action against the physician and the history of a physician's license in other states. The bill would also require TMB to submit a set of fingerprints of all licensees who do not have fingerprints on file to the Department of Public Safety for the purposes of a criminal background check. Additionally, the bill would eliminate the \$1,200 annual participation fee for the Texas Physicians Health Program (TXPHP) paid by program participants and replace it with a \$15 surcharge due at the time of license issuance or registration permit renewal for all licensed physicians and physician's assistants.

The bill would increase the penalty for making a false statement in a license application or under oath to obtain a medical license from a Class A misdemeanor to a felony if the intent is to defraud or harm another.

Note: This legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either in, with, or outside of the Treasury, or create a dedicated revenue source. Legislative policy, implemented as Government Code 403.095, consolidated special funds (except those affected by constitutional, federal, or other restrictions) into the General Revenue Fund as of August 31, 1993 and eliminated all applicable statutory revenue dedications as of August 31, 1995. Each subsequent Legislature has reviewed bills that affect funds consolidation. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

The bill would take effect September 1, 2023.

## Methodology

Based on information provided by the Texas Medical Board, this estimate assumes that at a cost of \$2.50 per licensee for an annual continuous query, implementing the provision of the bill to subscribe each licensee would cost \$500,000 each fiscal year. If the continuous query results in new information, it costs an additional \$2.50 to access the new report, this estimate assumes costs associated with new information discovery would be \$250,000. In total, the continuous queries with the NPDB would cost \$750,000 each year.

In addition, this estimate assumes TMB will require additional staffing to implement the provisions of the bill relating to the NPDB. TMB would require the 5.0 additional full-time equivalent (FTE) positions: 2.0 License and Permit Specialists FTEs (annual salary of \$48,024 with estimated benefits of \$15,286) to conduct a daily review of the system, 2.0 Administrative Assistant FTEs (annual salary of \$32,320 with estimate benefits of \$10,287) to update the physician profiles, and a Program Supervisor FTE (annual salary of \$62,817 with estimated benefits of \$19,994) to be the point of contact for all NPDB matters. These FTEs have an annual cost of \$341,960 with a one-time cost of \$32,600 in fiscal year 2024.

Based on information provided by TMB, there are approximately 73,500 physicians that would need to be re-fingerprinted. This estimate assumes that implementing the fingerprinting requirements of the bill would require 2.0 additional License and Permit Specialist FTEs (annual salary of \$55,096 with estimate benefits of \$15,537) to review any background checks that produces any findings. These FTEs would have combined annual cost of \$164,192 with a one-time cost of \$8,900 in fiscal year 2024.

This analysis assumes that any increased cost to TMB above would be offset by an increase in fee-generated revenue because they are statutorily required to generate sufficient revenue to cover the costs of operation. Additionally, the bill authorizes TMB to set an additional surcharge to cover the cost of administering the continuous queries with the National Practitioner Data Bank to be deposited to the credit of General Revenue Dedicated Account No. 5105, Public Assurance. According to the Comptroller of Public Accounts, this new surcharge fee is estimated to provide \$1,000,000 each fiscal year in additional revenue to the Public Assurance account.

Based on the analysis of the Texas Medical Board and the Comptroller of Public Accounts, this estimate assumes that the bill would have a significant positive impact on the revenue deposited into the

General Revenue Dedicated Account No. 5147, Texas Physicians Health Program Fund. This fund acts as the dedicated funding source for the Texas Medical Board's Physician Health Program (TXPHP).

Under current law the TXPHP is funded by a \$1,200 annual fee paid by approximately 300 participants in the program, which is expected to generate \$360,000 in fiscal year 2024. This estimate assumes that participation for the TXPHP would remain consistent and generate similar amounts of revenue in future years. The bill would eliminate this fee and replace it with a \$15 surcharge due at the time of license issuance or registration permit renewal for all 64,981 licensed physicians and physician's assistants. This new surcharge is estimated to generate approximately \$1,000,000 in revenue in fiscal year 2024.

This estimate assumes that there will be a small increase in licensee population each fiscal year, generating a greater amount of revenue each year. As the bill would eliminate the current fee structure and replace it with a new method, the table above reflects the estimated net differences by fiscal year between the generated revenue under current law versus under the provisions of the bill to provide a more accurate representation of deposits to the General Revenue Dedicated Account.

Based on the analysis of the Office of Court Administration and the Department of Public Safety, duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

Relating to the escalation of a Class A misdemeanor to a felony for false statements to obtain a license with harmful intent, it is assumed that any impact on state correctional populations or on the demand for state correctional resources would not be significant.

**Technology**

Technology costs include desktop computer costs totaling \$5,500 in fiscal year 2024 associated with the new positions.

**Local Government Impact**

Relating to the escalation of a Class A misdemeanor to a felony for false statements to obtain a license with harmful intent, It is assumed that any fiscal impact to units of local government associated with enforcement, prosecution, supervision, or confinement would not be significant.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council, 304 Comptroller of Public Accounts, 405 Department of Public Safety, 503 Texas Medical Board

**LBB Staff:** JMc, NPe, GDZ, BFa, CMA



LEGISLATIVE BUDGET BOARD  
Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

May 21, 2023

TO: Honorable Lois W. Kolkhorst, Chair, Senate Committee on Health & Human Services

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: **HB1998** by Johnson, Julie (Relating to the regulation of physicians and the disciplinary authority of the Texas Medical Board; increasing a criminal penalty; imposing a surcharge.), **Committee Report 2nd House, Substituted**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB1998, Committee Report 2nd House, Substituted : an impact of \$0 through the biennium ending August 31, 2025.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five- Year Impact:

<i>Fiscal Year</i>	Probable Net Positive/(Negative) Impact to <i>General Revenue Related Funds</i>
2024	\$0
2025	\$0
2026	\$0
2027	\$0
2028	\$0

All Funds, Five-Year Impact:

<i>Fiscal Year</i>	Probable Savings/(Cost) from <i>General Revenue Fund 1</i>	Probable Revenue Gain/(Loss) from <i>General Revenue Fund 1</i>	Probable Savings/(Cost) from <i>Public Assurance 5105</i>	Probable Revenue Gain/(Loss) from <i>Public Assurance 5105</i>
2024	(\$173,092)	\$173,092	(\$1,124,560)	\$1,124,560
2025	(\$172,703)	\$172,703	(\$1,120,451)	\$1,120,451
2026	(\$172,881)	\$172,881	(\$1,120,896)	\$1,120,896
2027	(\$173,061)	\$173,061	(\$1,121,346)	\$1,121,346
2028	(\$173,243)	\$173,243	(\$1,121,801)	\$1,121,801

<i>Fiscal Year</i>	<i>Change in Number of State Employees from FY 2023</i>
2024	7.0
2025	7.0
2026	7.0
2027	7.0
2028	7.0

## **Fiscal Analysis**

The bill would amend the Occupations Code to require the Texas Medical Board (TMB) to annually subscribe each licensee to the National Practitioner Data Bank's (NPDB) continuous query feature. The bill would require TMB to maintain publicly available physician profiles that would be updated with the information found in these queries regarding disciplinary action against the physician and the history of a physician's license in other states. The bill would also require TMB to submit a set of fingerprints of all licensees who do not have fingerprints on file to the Department of Public Safety for the purposes of a criminal background check. Additionally, the bill would increase the penalty for making a false statement in a license application or under oath to obtain a medical license from a Class A misdemeanor to a felony if the intent is to defraud or harm another.

Note: This legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either in, with, or outside of the Treasury, or create a dedicated revenue source. Legislative policy, implemented as Government Code 403.095, consolidated special funds (except those affected by constitutional, federal, or other restrictions) into the General Revenue Fund as of August 31, 1993 and eliminated all applicable statutory revenue dedications as of August 31, 1995. Each subsequent Legislature has reviewed bills that affect funds consolidation. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

The bill would take effect September 1, 2023.

## **Methodology**

Based on information provided by the Texas Medical Board, this estimate assumes that at a cost of \$2.50 per licensee for an annual continuous query, implementing the provision of the bill to subscribe each licensee would cost \$500,000 each fiscal year. If the continuous query results in new information, it costs an additional \$2.50 to access the new report, this estimate assumes costs associated with new information discovery would be \$250,000. In total, the continuous queries with the NPDB would cost \$750,000 each year.

In addition, this estimate assumes TMB will require additional staffing to implement the provisions of the bill relating to the NPDB. TMB would require the 5.0 additional full-time equivalent (FTE) positions: 2.0 License and Permit Specialists FTEs (annual salary of \$48,024 with estimated benefits of \$15,286) to conduct a daily review of the system, 2.0 Administrative Assistant FTEs (annual salary of \$32,320 with estimate benefits of \$10,287) to update the physician profiles, and a Program Supervisor FTE (annual salary of \$62,817 with estimated benefits of \$19,994) to be the point of contact for all NPDB matters. These FTEs have an annual cost of \$341,960 with a one-time cost of \$32,600 in fiscal year 2024.

Based on information provided by TMB, there are approximately 73,500 physicians that would need to be re-fingerprinted. This estimate assumes that implementing the fingerprinting requirements of the bill would require 2.0 additional License and Permit Specialist FTEs (annual salary of \$55,096 with estimate benefits of \$15,537) to review any background checks that produces any findings. These FTEs would have combined annual cost of \$164,192 with a one-time cost of \$8,900 in fiscal year 2024.

This analysis assumes that any increased cost to TMB above would be offset by an increase in fee-generated revenue because they are statutorily required to generate sufficient revenue to cover the costs of operation. Additionally, the bill authorizes TMB to set an additional surcharge to cover the cost of administering the continuous queries with the National Practitioner Data Bank to be deposited to the credit of General Revenue Dedicated Account No. 5105, Public Assurance. According to the Comptroller of Public Accounts, this new surcharge fee is estimated to provide \$1,000,000 each fiscal year in additional revenue to the Public Assurance account.

Based on the analysis of the Office of Court Administration and the Department of Public Safety, duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

Relating to the escalation of a Class A misdemeanor to a felony for false statements to obtain a license with harmful intent, it is assumed that any impact on state correctional populations or on the demand for state correctional resources would not be significant.

**Technology**

Technology costs include desktop computer costs totaling \$5,500 in fiscal year 2024 associated with the new positions.

**Local Government Impact**

Relating to the escalation of a Class A misdemeanor to a felony for false statements to obtain a license with harmful intent, It is assumed that any fiscal impact to units of local government associated with enforcement, prosecution, supervision, or confinement would not be significant.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council, 304 Comptroller of Public Accounts, 405 Department of Public Safety, 503 Texas Medical Board

**LBB Staff:** JMc, NPe, BFa, GDZ, CMA

LEGISLATIVE BUDGET BOARD  
Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

May 19, 2023

TO: Honorable Lois W. Kolkhorst, Chair, Senate Committee on Health & Human Services

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: **HB1998** by Johnson, Julie (Relating to the regulation of physicians and the disciplinary authority of the Texas Medical Board; increasing a criminal penalty; imposing a fee.), **As Engrossed**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB1998, As Engrossed : an impact of \$0 through the biennium ending August 31, 2025.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five- Year Impact:

<i>Fiscal Year</i>	Probable Net Positive/(Negative) Impact to <i>General Revenue Related Funds</i>
2024	\$0
2025	\$0
2026	\$0
2027	\$0
2028	\$0

All Funds, Five-Year Impact:

<i>Fiscal Year</i>	Probable Savings/(Cost) from <i>General Revenue Fund</i> 1	Probable Revenue Gain/(Loss) from <i>General Revenue Fund</i> 1	Probable Savings/(Cost) from <i>Public Assurance</i> 5105	Probable Revenue Gain/(Loss) from <i>Public Assurance</i> 5105
2024	(\$173,092)	\$173,092	(\$1,124,560)	\$1,124,560
2025	(\$172,703)	\$172,703	(\$1,120,451)	\$1,120,451
2026	(\$172,881)	\$172,881	(\$1,120,896)	\$1,120,896
2027	(\$173,061)	\$173,061	(\$1,121,346)	\$1,121,346
2028	(\$173,243)	\$173,243	(\$1,121,801)	\$1,121,801

<i>Fiscal Year</i>	<i>Change in Number of State Employees from FY 2023</i>
2024	7.0
2025	7.0
2026	7.0
2027	7.0
2028	7.0

## Fiscal Analysis

The bill would amend the Occupations Code to require the Texas Medical Board (TMB) to annually subscribe each licensee to the National Practitioner Data Bank's (NPDB) continuous query feature. The bill would require TMB to maintain publicly available physician profiles that would be updated with the information found in these queries regarding disciplinary action against the physician and the history of a physician's license in other states. The bill would also require TMB to submit a set of fingerprints of all licensees who do not have fingerprints on file to the Department of Public Safety for the purposes of a criminal background check. Additionally, the bill would increase the penalty for making a false statement in a license application or under oath to obtain a medical license from a Class A misdemeanor to a felony if the intent is to defraud or harm another.

Note: This legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either in, with, or outside of the Treasury, or create a dedicated revenue source. Legislative policy, implemented as Government Code 403.095, consolidated special funds (except those affected by constitutional, federal, or other restrictions) into the General Revenue Fund as of August 31, 1993 and eliminated all applicable statutory revenue dedications as of August 31, 1995. Each subsequent Legislature has reviewed bills that affect funds consolidation. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

The bill would take effect September 1, 2023.

## Methodology

Based on information provided by the Texas Medical Board, this estimate assumes that at a cost of \$2.50 per licensee for an annual continuous query, implementing the provision of the bill to subscribe each licensee would cost \$500,000 each fiscal year. If the continuous query results in new information, it costs an additional \$2.50 to access the new report, this estimate assumes costs associated with new information discovery would be \$250,000. In total, the continuous queries with the NPDB would cost \$750,000 each year.

In addition, this estimate assumes TMB will require additional staffing to implement the provisions of the bill relating to the NPDB. TMB would require the 5.0 additional full-time equivalent (FTE) positions: 2.0 License and Permit Specialists FTEs (annual salary of \$48,024 with estimated benefits of \$15,286) to conduct a daily review of the system, 2.0 Administrative Assistant FTEs (annual salary of \$32,320 with estimate benefits of \$10,287) to update the physician profiles, and a Program Supervisor FTE (annual salary of \$62,817 with estimated benefits of \$19,994) to be the point of contact for all NPDB matters. These FTEs have an annual cost of \$341,960 with a one-time cost of \$32,600 in fiscal year 2024.

Based on information provided by TMB, there are approximately 73,500 physicians that would need to be re-fingerprinted. This estimate assumes that implementing the fingerprinting requirements of the bill would require 2.0 additional License and Permit Specialist FTEs (annual salary of \$55,096 with estimate benefits of \$15,537) to review any background checks that produces any findings. These FTEs would have combined annual cost of \$164,192 with a one-time cost of \$8,900 in fiscal year 2024.

This analysis assumes that any increased cost to TMB above would be offset by an increase in fee-generated revenue because they are statutorily required to generate sufficient revenue to cover the costs of operation. Additionally, the bill authorizes TMB to set an additional surcharge to cover the cost of administering the continuous queries with the National Practitioner Data Bank to be deposited to the credit of General Revenue Dedicated Account No. 5105, Public Assurance. According to the Comptroller of Public Accounts, this new surcharge fee is estimated to provide \$1,000,000 each fiscal year in additional revenue to the Public Assurance account.

Based on the analysis of the Office of Court Administration and the Department of Public Safety, duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

Relating to the escalation of a Class A misdemeanor to a felony for false statements to obtain a license with harmful intent, it is assumed that any impact on state correctional populations or on the demand for state correctional resources would not be significant.

**Technology**

Technology costs include desktop computer costs totaling \$5,500 in fiscal year 2024 associated with the new positions.

**Local Government Impact**

Relating to the escalation of a Class A misdemeanor to a felony for false statements to obtain a license with harmful intent, It is assumed that any fiscal impact to units of local government associated with enforcement, prosecution, supervision, or confinement would not be significant.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council, 304 Comptroller of Public Accounts, 405 Department of Public Safety, 503 Texas Medical Board

**LBB Staff:** JMc, NPe, GDZ, BFa, CMA

LEGISLATIVE BUDGET BOARD  
Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

April 19, 2023

TO: Honorable Stephanie Klick, Chair, House Committee on Public Health

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: **HB1998** by Johnson, Julie (relating to the regulation of physicians and the disciplinary authority of the Texas Medical Board; increasing a criminal penalty.), **Committee Report 1st House, Substituted**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB1998, Committee Report 1st House, Substituted : an impact of \$0 through the biennium ending August 31, 2025.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five- Year Impact:

<i>Fiscal Year</i>	Probable Net Positive/(Negative) Impact to <i>General Revenue Related Funds</i>
2024	\$0
2025	\$0
2026	\$0
2027	\$0
2028	\$0

All Funds, Five-Year Impact:

<i>Fiscal Year</i>	Probable Savings/(Cost) from <i>General Revenue Fund</i> 1	Probable Revenue Gain/(Loss) from <i>General Revenue Fund</i> 1	Probable Savings/(Cost) from <i>Public Assurance</i> 5105	Probable Revenue Gain/(Loss) from <i>Public Assurance</i> 5105
2024	(\$173,092)	\$173,092	(\$1,124,560)	\$1,124,560
2025	(\$172,703)	\$172,703	(\$1,120,451)	\$1,120,451
2026	(\$172,881)	\$172,881	(\$1,120,896)	\$1,120,896
2027	(\$173,061)	\$173,061	(\$1,121,346)	\$1,121,346
2028	(\$173,243)	\$173,243	(\$1,121,801)	\$1,121,801

<i>Fiscal Year</i>	<i>Change in Number of State Employees from FY 2023</i>
2024	7.0
2025	7.0
2026	7.0
2027	7.0
2028	7.0

## **Fiscal Analysis**

The bill would amend the Occupations Code to require the Texas Medical Board (TMB) to annually subscribe each licensee to the National Practitioner Data Bank's (NPDB) continuous query feature. The bill would require TMB to maintain publicly available physician profiles that would be updated with the information found in these queries regarding disciplinary action against the physician and the history of a physician's license in other states. The bill would also require TMB to submit a set of fingerprints of all licensees who do not have fingerprints on file to the Department of Public Safety for the purposes of a criminal background check. Additionally, the bill would increase the penalty for making a false statement in a license application or under oath to obtain a medical license from a Class A misdemeanor to a felony if the intent is to defraud or harm another. The bill would take effect September 1, 2023.

## **Methodology**

Based on information provided by the Texas Medical Board, this estimate assumes that at a cost of \$2.50 per licensee for an annual continuous query, implementing the provision of the bill to subscribe each licensee would cost \$500,000 each fiscal year. If the continuous query results in new information, it costs an additional \$2.50 to access the new report, this estimate assumes costs associated with new information discovery would be \$250,000. In total, the continuous queries with the NPDB would cost \$750,000 each year.

In addition, this estimate assumes TMB will require additional staffing to implement the provisions of the bill relating to the NPDB. TMB would require the 5.0 additional full-time equivalent (FTE) positions: 2.0 License and Permit Specialists FTEs (annual salary of \$48,024 with estimated benefits of \$15,286) to conduct a daily review of the system, 2.0 Administrative Assistant FTEs (annual salary of \$32,320 with estimate benefits of \$10,287) to update the physician profiles, and a Program Supervisor FTE (annual salary of \$62,817 with estimated benefits of \$19,994) to be the point of contact for all NPDB matters. These FTEs have an annual cost of \$341,960 with a one-time cost of \$32,600 in fiscal year 2024.

Based on information provided by TMB, there are approximately 73,500 physicians that would need to be re-fingerprinted. This estimate assumes that implementing the fingerprinting requirements of the bill would require 2.0 additional License and Permit Specialist FTEs (annual salary of \$55,096 with estimate benefits of \$15,537) to review any background checks that produces any findings. These FTEs would have combined annual cost of \$164,192 with a one-time cost of \$8,900 in fiscal year 2024.

This analysis assumes that any increased cost to TMB above would be offset by an increase in fee-generated revenue because they are statutorily required to generate sufficient revenue to cover the costs of operation.

Based on the analysis of the Office of Court Administration and the Department of Public Safety, duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

Relating to the escalation of a Class A misdemeanor to a felony for false statements to obtain a license with harmful intent, it is assumed that any impact on state correctional populations or on the demand for state correctional resources would not be significant.

## **Technology**

Technology costs include desktop computer costs totaling \$5,500 in fiscal year 2024 associated with the new positions.

## **Local Government Impact**

Relating to the escalation of a Class A misdemeanor to a felony for false statements to obtain a license with harmful intent, It is assumed that any fiscal impact to units of local government associated with enforcement, prosecution, supervision, or confinement would not be significant.



**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council, 304 Comptroller of Public Accounts, 405  
Department of Public Safety, 503 Texas Medical Board

**LBB Staff:** JMc, NPe, GDZ, BFa

LEGISLATIVE BUDGET BOARD  
Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

March 19, 2023

TO: Honorable Stephanie Klick, Chair, House Committee on Public Health

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: **HB1998** by Johnson, Julie (Relating to the regulation of physicians and the disciplinary authority of the Texas Medical Board.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1998, As Introduced : an impact of \$0 through the biennium ending August 31, 2025.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five- Year Impact:

<i>Fiscal Year</i>	Probable Net Positive/(Negative) Impact to <i>General Revenue Related Funds</i>
2024	\$0
2025	\$0
2026	\$0
2027	\$0
2028	\$0

All Funds, Five-Year Impact:

<i>Fiscal Year</i>	Probable Savings/(Cost) from <i>General Revenue Fund</i> 1	Probable Revenue Gain/(Loss) from <i>General Revenue Fund</i> 1	<i>Change in Number of State Employees from FY 2023</i>
2024	(\$9,633,852)	\$9,633,852	64.0
2025	(\$8,133,852)	\$8,133,852	64.0
2026	(\$8,133,852)	\$8,133,852	64.0
2027	(\$8,133,852)	\$8,133,852	64.0
2028	(\$8,133,852)	\$8,133,852	64.0

Fiscal Analysis

The bill would require the Texas Medical Board (TMB) to use the National Practitioner Data Bank to conduct a query on every physician licensee once a month and update their physician profile to include any new reports of disciplinary action.

Methodology

Based on the analysis of the Texas Medical Board, This estimate assumes the number of physician licensees to

be 106,000. With each query costing \$2.50, the annual cost of the queries to the National Practitioner Data Bank would be \$3,180,000.

This estimate assumes that implementing the bill's provisions would require additional staffing due to the query search with the National Practitioner Data Bank not being automated. Based on the assessment of the Texas Medical Board and given the current rate at which agency employees conduct queries, the Texas Medical Board would require an additional 57.0 License and Permit Specialist I full-time equivalents (FTEs), with an annual salary of \$41,529 and \$13,206 in estimated benefits, to have the workforce necessary to process these queries. Additionally, a Manager IV FTE (annual salary of \$110,000 and \$34,980 in estimated benefits), a Accountant III FTE (annual salary of \$56,165 and \$17,860 in estimated benefits), and a Program Specialist IV FTE (annual salary of \$66,259 and \$21,070 in estimated benefits) would be needed to address the increase in operational responsibilities of the agency. Lastly, a General Counsel III FTE (annual salary of \$139,205 and \$44,267 in estimated benefits) and 3.0 Administrative Assistant II FTEs (annual salary of \$40,308 and \$12,818 in estimated benefits) would be needed to review new reports of disciplinary action and update physician profiles. In total, these 64.0 FTEs would cost \$4,953,852 in annual costs and one-time start-up costs of \$1,500,000 in fiscal year 2024.

This analysis assumes that any increased cost to the Texas Medical Board would be offset by an increase in fee-generated revenue because the agency is statutorily required to generate sufficient revenue to cover operational costs.

### **Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 503 Texas Medical Board

**LBB Staff:** JMc, NPe, GDZ, BFa

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**CRIMINAL JUSTICE IMPACT STATEMENT**

**88TH LEGISLATIVE REGULAR SESSION**

**May 21, 2023**

**TO:** Honorable Lois W. Kolkhorst, Chair, Senate Committee on Health & Human Services

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: HB1998** by Johnson, Julie (Relating to the regulation of physicians and the disciplinary authority of the Texas Medical Board; increasing a criminal penalty; imposing a surcharge.), **Committee Report 2nd House, Substituted**

The bill would modify the conduct constituting the offense of making a false statement in an application for a license to practice medicine or under oath to obtain or secure the registration of a license to practice medicine to specify that the actor must knowingly make the false statement. The bill would establish the penalty for the offense as a Class A misdemeanor or a state jail felony if the actor's intent is to defraud or harm another.

Increasing the penalty for an existing offense may result in additional demands upon state and local correctional resources due to a possible increase in the number of individuals placed under supervision in the community or sentenced to a term of confinement.

It is assumed that any impact on state correctional populations or on the demand for state correctional resources would not be significant.

**Source**

**Agencies:**

**LBB Staff:** JMc, NPe, LBO, ESch

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**CRIMINAL JUSTICE IMPACT STATEMENT**

**88TH LEGISLATIVE REGULAR SESSION**

**May 18, 2023**

**TO:** Honorable Lois W. Kolkhorst, Chair, Senate Committee on Health & Human Services

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: HB1998** by Johnson, Julie (Relating to the regulation of physicians and the disciplinary authority of the Texas Medical Board; increasing a criminal penalty; imposing a fee.), **As Engrossed**

The bill would modify the conduct constituting the offense of making a false statement in an application for a license to practice medicine or under oath to obtain or secure the registration of a license to practice medicine to specify that the actor must knowingly make the false statement. The bill would establish the penalty for the offense as a Class A misdemeanor or a state jail felony if the actor's intent is to defraud or harm another.

Increasing the penalty for an existing offense may result in additional demands upon state and local correctional resources due to a possible increase in the number of individuals placed under supervision in the community or sentenced to a term of confinement.

It is assumed that any impact on state correctional populations or on the demand for state correctional resources would not be significant.

**Source**

**Agencies:**

**LBB Staff:** JMc, NPe, LBO, ESch

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**CRIMINAL JUSTICE IMPACT STATEMENT**

**88TH LEGISLATIVE REGULAR SESSION**

**April 18, 2023**

**TO:** Honorable Stephanie Klick, Chair, House Committee on Public Health

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: HB1998** by Johnson, Julie (relating to the regulation of physicians and the disciplinary authority of the Texas Medical Board; increasing a criminal penalty.), **Committee Report 1st House, Substituted**

The bill would modify the conduct constituting the offense of making a false statement in an application for a license to practice medicine or under oath to obtain or secure the registration of a license to practice medicine to specify that the actor must knowingly make the false statement. The bill would establish the penalty for the offense as a Class A misdemeanor or a state jail felony if the actor's intent is to defraud or harm another.

Increasing the penalty for an existing offense may result in additional demands upon state and local correctional resources due to a possible increase in the number of individuals placed under supervision in the community or sentenced to a term of confinement.

It is assumed that any impact on state correctional populations or on the demand for state correctional resources would not be significant.

**Source**

**Agencies:**

**LBB Staff:** JMc, NPe, LBO, ESch