

House Bill 1998
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

No equivalent provision.

SENATE VERSION (IE)

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

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

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

or

- (10) \$15 [~~\$1,200~~] for a surcharge [~~an annual fee~~] under Section 153.053 to administer [~~167.011(e) for a program participant in~~] the Texas Physician Health Program, due at the time of license issuance and registration permit renewal.
[FA1]

No equivalent provision.

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

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

- (1) first registration permit; and
- (2) renewal of a registration permit.

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(b) The board shall deposit each surcharge collected under this section to the credit of the Texas physician health program account. The Texas physician health program account is a special account in the general revenue fund. Money in the special account shall be appropriated only to the board to pay for administration of the Texas Physician Health Program under Chapter 167, including paying for an initial evaluation by the program's medical director or the director's designee. Money in the special account may not be used to pay for program participant costs incurred for monitoring or for a program participant's own medical costs, including any further required evaluations, primary treatment, or continuing care. [FA1]

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

Sec. 153.055. **SURCHARGE** 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 surcharge collected under this section to the credit of the public assurance account described by Section 153.0535(b).

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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 disciplinary action against the physician; and

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

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

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

(e) The board by rule shall provide for an expert physician panel appointed by the board to assist with complaints and investigations relating to medical competency by acting as expert physician reviewers. Each member of the expert physician panel must be licensed to practice medicine in a member ~~[this]~~ state, as defined by Section 171.002. The rules adopted under this subsection must include provisions governing the composition of the panel, qualifications for membership on the panel, length of time a member may serve on the panel, grounds for removal from the panel, the avoidance of conflicts of interest, including situations in which the affected physician and the panel member live or work in the same geographical area or are competitors, and

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SECTION 2. Same as House version.

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the duties to be performed by the panel. The board's rules governing grounds for removal from the panel must include providing for the removal of a panel member who is repeatedly delinquent in reviewing complaints and in submitting reports to the board. The board's rules governing appointment of expert physician panel members to act as expert physician reviewers must include a requirement that the board randomly select, to the extent permitted by Section 154.058(b) and the conflict of interest provisions adopted under this subsection, panel members to review a complaint who are:

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

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

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

(b) If the complaint reviewed under Subsection (a) alleges a violation that resulted in serious injury or death or if the physician reviewing the complaint under Subsection (a) determines that the applicable standard of care was violated, a [A] second expert physician reviewer shall review the first physician's preliminary report and other information associated with the complaint. The second expert physician may issue a second written report with the findings of the

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review. If the second expert physician agrees with the first expert physician, the first physician shall issue a final written report on the matter.

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

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

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

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

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

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

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

(a) The board shall ~~[may]~~ submit to the Department of Public Safety a complete set of fingerprints of each license applicant, and the department shall classify and check the

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fingerprints against those in the department's fingerprint records. The department shall certify to the board its findings regarding the criminal record of the applicant or the applicant's lack of a criminal record.

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

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

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

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

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

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

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

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

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- (1) adversely affects the clinical privileges of a physician for a period longer than 14 [~~30~~] days;
- (2) accepts a physician's surrender of clinical privileges either:
 - (A) while the physician is under an investigation by the medical peer review committee relating to possible incompetence or improper professional conduct; or
 - (B) in return for not conducting an investigation or proceeding relating to possible incompetence or improper professional conduct; or
- (3) adversely affects the membership of a physician in a professional society or association, if the medical peer review is conducted by that society or association.

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

- (a) The board may refuse to admit a person to its examination or refuse to issue a license to practice medicine and may take disciplinary action against a person if the person:
 - (1) commits an act prohibited under Section 164.052;
 - (2) is convicted of, or is placed on deferred adjudication community supervision or deferred disposition for:
 - (A) a felony; or
 - (B) a misdemeanor involving moral turpitude;
 - (3) commits or attempts to commit a direct or indirect violation of a rule adopted under this subtitle, either as a principal, accessory, or accomplice;
 - (4) is unable to practice medicine with reasonable skill and safety to patients because of:

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- (A) illness;
- (B) drunkenness;
- (C) excessive use of drugs, narcotics, chemicals, or another substance; or
- (D) a mental or physical condition;
- (5) is found by a court judgment to be of unsound mind;
- (6) fails to practice medicine in an acceptable professional manner consistent with public health and welfare;
- (7) is removed, suspended, or is subject to disciplinary action taken by the person's peers in a local, regional, state, or national professional medical association or society, or is disciplined by a licensed hospital or medical staff of a hospital, including removal, suspension, limitation of hospital privileges, or other disciplinary action, if the board finds that the action:
 - (A) was based on unprofessional conduct or professional incompetence that was likely to harm the public; and
 - (B) was appropriate and reasonably supported by evidence submitted to the board;
- (8) is subject to repeated or recurring meritorious health care liability claims that in the board's opinion evidence professional incompetence likely to injure the public; or
- (9) except as provided by Subsections [Subsection] (d) and (e), holds a license to practice medicine subject to disciplinary action by another state, or subject to disciplinary action by the uniformed services of the United States, based on acts by the person that are prohibited under Section 164.052 or are similar to acts described by this subsection.
- (d) The board shall refuse to issue a license under this subtitle if the applicant held a license to practice medicine in another state that has been revoked by the licensing authority

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in that state for a reason that would be grounds for the board to revoke a license to practice medicine in this state.

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

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

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

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

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

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

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

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

(C) committed against:

(i) a patient of the license holder;

(ii) a child;

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

(iv) an individual with a disability [(4) Section 21.11, Penal Code (indecenty with a child)].

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SECTION 9. Same as House version.

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

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

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

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

- ~~[(1) constitutes tampering with a governmental record or perjury as provided by the Penal Code; and~~
~~[(2) shall be punished on conviction as provided by that code].~~

No equivalent provision.

No equivalent provision.

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SECTION 10. Same as House version.

SECTION __. Section 167.011, Occupations Code, is repealed. [FA1]

SECTION __. Section 153.051, Occupations Code, as amended by this Act, and Section 153.053, Occupations Code, as added by this Act, apply to the initial issuance of a license or the renewal of a registration permit under Subtitle B, Title 3, Occupations Code, on or after September 1, 2023. A license initially issued or registration permit renewed before September 1, 2023, is governed by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose. [FA1]

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

SECTION 13. Section 165.154, Occupations Code, as amended by this Act, applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

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

SENATE VERSION (IE)

SECTION 11. Same as House version.

SECTION 12. Same as House version.

SECTION 13. Same as House version.

CONFERENCE