OCCUPATIONS CODE

TITLE 3. HEALTH PROFESSIONS

SUBTITLE B. PHYSICIANS

CHAPTER 167. TEXAS PHYSICIAN HEALTH PROGRAM

Sec. 167.001. DEFINITIONS. In this chapter:

(1) "Committee" means the Physician Health and Rehabilitation Advisory Committee established under this chapter.

(2) "Governing board" means the governing board of the program.

(3) "Medical director" means a person appointed under Section 167.002 to oversee the program.

(4) "Physician assistant board" means the Texas Physician Assistant Board established under Chapter 204.

(5) "Program" means the Texas Physician Health Program established under this chapter.

(6) "Program participant" means a physician or physician assistant who receives services under the program.

Added by Acts 2009, 81st Leg., R.S., Ch. 1345 (S.B. 292), Sec. 2(a), eff. September 1, 2009.

Sec. 167.002. MEDICAL DIRECTOR. (a) The board shall appoint a medical director for the program.

(b) The medical director must:

(1) be a physician licensed by the board; and

(2) have expertise in a field of medicine relating to disorders commonly affecting physicians or physician assistants, including substance abuse disorders.

(c) The medical director shall provide clinical and policy oversight for the program.

Added by Acts 2009, 81st Leg., R.S., Ch. 1345 (S.B. 292), Sec. 2(a), eff. September 1, 2009.

Sec. 167.003. GOVERNING BOARD. (a) The president of the board shall appoint persons to serve on the governing board of the program. The appointees shall include physicians, physician assistants, and other related professionals with experience

addressing health conditions commonly found in the population of monitored physicians or physician assistants.

(b) The governing board shall:

(1) provide advice and counsel to the board; and

(2) establish policy and procedures for the operation and administration of the program.

(c) The board, with the advice and in consultation with the physician assistant board and Texas-based professional associations of physicians and physician assistants, shall adopt rules relating to the appointment of members to the governing board, including length of terms, procedures for filling a vacancy, and conflict-of-interest provisions.

Added by Acts 2009, 81st Leg., R.S., Ch. 1345 (S.B. 292), Sec. 2(a), eff. September 1, 2009.

Sec. 167.004. PHYSICIAN HEALTH AND REHABILITATION ADVISORY COMMITTEE. (a) The governing board shall appoint physicians to the Physician Health and Rehabilitation Advisory Committee who have experience in disorders commonly affecting physicians or physician assistants.

(b) The committee shall assist the governing board by making recommendations on the request of the governing board.

(c) The board, with the advice and in consultation with the physician assistant board and Texas-based professional associations of physicians and physician assistants, shall adopt rules relating to the appointment of members to the committee, including length of terms, procedures for filling a vacancy, and conflict-of-interest provisions.

(d) Chapter 2110, Government Code, does not apply to the committee.

Added by Acts 2009, 81st Leg., R.S., Ch. 1345 (S.B. 292), Sec. 2(a), eff. September 1, 2009.

Sec. 167.005. TEXAS PHYSICIAN HEALTH PROGRAM. (a) The Texas Physician Health Program is established to promote:

(1) physician and physician assistant wellness; and

(2) treatment of all health conditions that have the

potential to compromise the physician's or physician assistant's ability to practice with reasonable skill and safety, including mental health issues, substance abuse issues, and addiction issues.

(b) The program is a confidential, nondisciplinary therapeutic program for physicians and physician assistants.

(c) The program is administratively attached to the board.

Added by Acts 2009, 81st Leg., R.S., Ch. 1345 (S.B. 292), Sec. 2(a), eff. September 1, 2009.

Sec. 167.006. RULES. The board, with the advice of and in consultation with the governing board, committee, and Texas-based professional associations of physicians and physician assistants, shall:

(1) adopt rules and policies as necessary to implement the program, including:

(A) policies for assessments under the program and guidelines for the validity of a referral to the program;

(B) policies and guidelines for initial contacts used to determine if there is a need for a physician or physician assistant to complete a clinically appropriate evaluation or to enter treatment, including policies and guidelines for arrangements for that evaluation or treatment; and

(C) policies and guidelines for interventions conducted under the program; and

(2) define applicable guidelines for the management of substance abuse disorders, psychiatric disorders, and physical illnesses and impairments.

Added by Acts 2009, 81st Leg., R.S., Ch. 1345 (S.B. 292), Sec. 2(a), eff. September 1, 2009.

Sec. 167.007. OPERATION OF PROGRAM. (a) The program must include provisions for:

(1) continuing care, monitoring, and case management of potentially impairing health conditions, including provisions for cooperation with the evaluating or treating facility;

(2) ongoing monitoring for relapse, including random drug testing, consultations with other physician health and

rehabilitation committees, work site monitors, and treating health professionals, including mental health professionals; and

(3) other physician and physician assistant health and rehabilitation programs to operate under an agreement with the program, using established guidelines to ensure uniformity and credibility of services throughout this state.

(b) The program must ensure appropriate communications with the board, the physician assistant board, other state licensing boards, and physician health and rehabilitation programs.

(c) The program shall use physicians or other health care professional experts or consultants, as appropriate, when necessary to evaluate, recommend solutions for, or resolve a medical dispute.

Added by Acts 2009, 81st Leg., R.S., Ch. 1345 (S.B. 292), Sec. 2(a), eff. September 1, 2009.

Sec. 167.008. REFERRALS TO PROGRAM. (a) The program shall accept a self-referral from a physician or physician assistant and referrals from an individual, a physician health and rehabilitation committee, a physician assistant organization, a state physician health program, a hospital or hospital system licensed in this state, a residency program, the board, or the physician assistant board.

(b) A physician or physician assistant may refer the physician or physician assistant to the program.

(c) The program may not accept a referral, except as provided by board rules, for a violation of the standard of care as a result of drugs or alcohol or boundary violations with a patient or a patient's family.

Added by Acts 2009, 81st Leg., R.S., Ch. 1345 (S.B. 292), Sec. 2(a), eff. September 1, 2009.

Sec. 167.009. REFERRAL BY BOARD OR PHYSICIAN ASSISTANT BOARD AS PREREQUISITE FOR ISSUING OR MAINTAINING A LICENSE. (a) The board or the physician assistant board, through an agreed order or after a contested proceeding, may make a referral to the program and require participation in the program by a specified physician

or physician assistant as a prerequisite for issuing or maintaining a license under Chapter 155 or 204.

(b) The board or the physician assistant board may discipline a physician or physician assistant required to participate in the program under Subsection (a) who does not participate in the program.

(c) Each program participant is individually responsible for payment of the participant's own medical costs, including any required evaluations, primary treatment, and continuing care.

Added by Acts 2009, 81st Leg., R.S., Ch. 1345 (S.B. 292), Sec. 2(a), eff. September 1, 2009.

Sec. 167.0091. REFERRALS FOR CERTAIN PROFESSIONS. Notwithstanding any other provision of this chapter, the board, the Texas Board of Medical Radiologic Technology, or the Texas Board of Respiratory Care, as appropriate, may make a referral to the program and require participation in the program as a prerequisite for issuing or maintaining a license, certificate, permit, or other authorization under Chapter 601, 602, 603, or 604.

Added by Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 2.002, eff. September 1, 2015.

Sec. 167.010. CONFIDENTIALITY. (a) Each referral, proceeding, report, investigative file, record, or other information received, gathered, created, or maintained by the program or its employees, consultants, work site monitors, or agents relating to a physician or physician assistant is privileged and confidential and is not subject to disclosure under Chapter 552, Government Code, or to discovery, subpoena, or other means of legal compulsion for release to any person except as provided by this chapter.

(b) Notwithstanding Subsection (a), the program may report to the board or the physician assistant board, as appropriate, the name and pertinent information relating to impairment of a physician or physician assistant.

(c) Notwithstanding Subsection (a), the program shall make a report to the board or the physician assistant board, as

appropriate, regarding a physician or physician assistant if the medical director or the governing board determines that the physician or physician assistant poses a continuing threat to the public welfare. If requested by the board or the physician assistant board, a report under this subsection must include all information in the possession or control of the program.

Added by Acts 2009, 81st Leg., R.S., Ch. 1345 (S.B. 292), Sec. 2(a), eff. September 1, 2009.

Sec. 167.012. MEMORANDUM OF UNDERSTANDING WITH BOARD. The governing board and the board shall enter into a memorandum of understanding to better coordinate services and operations of the program. The memorandum of understanding must be adopted by rule and:

(1) establish performance measures for the program, including the number of participants who successfully complete the program;

(2) include a list of services the board will provide for the program; and

(3) require that an internal audit of the program be conducted at least once every three years to ensure the program is properly documenting and referring all noncompliance to the board.

Added by Acts 2019, 86th Leg., R.S., Ch. 1231 (H.B. 1504), Sec. 17, eff. September 1, 2019.

Sec. 167.013. GIFTS, GRANTS, AND DONATIONS. In addition to any fees paid to the board or money appropriated to the board for the program, the governing board may receive and accept a gift, grant, donation, or other thing of value from any source, including the United States or a private source, for the program.

Added by Acts 2019, 86th Leg., R.S., Ch. 1231 (H.B. 1504), Sec. 17, eff. September 1, 2019.