AN ACT

relating to the requirement that licensed physicians provide
emergency contact information to the Texas Medical Board and to the
creation of the Texas Physician Health Program.

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

SECTION 1. Subchapter A, Chapter 156, Occupations Code, is
amended by adding Section 156.006 to read as follows:

Sec. 156.006. EMERGENCY CONTACT INFORMATION. (a) Each
license holder shall submit to the board telephone numbers, fax
numbers, and e-mail addresses, if available and as appropriate,
that the board may use to contact the license holder in an
emergency.

(b) A license holder who receives an initial registration
permit shall provide the information required under Subsection (a)
not later than the 30th day after the date the permit is issued.
Each license holder who applies to renew a registration permit
shall submit the information required under Subsection (a) with the
renewal application.

(c) A license holder shall report to the board any change in
the information required under Subsection (a) not later than the
45th day after the date of the change.

(d) The information provided by a license holder under this
section is confidential and is not subject to disclosure under
Chapter 552, Government Code. The board may not publish, release,
or make available information provided by a license holder under this section except as provided by Subsection (e).

(e) In the event of a public health emergency declared or invoked by the governor, the Department of State Health Services, or a federal agency, the board may publish, release, or make available information provided by a license holder under this section for the sole purpose of disseminating information to:

(1) a license holder;

(2) a designated city, county, state, or federal public health or emergency management official; or

(3) the Federation of State Medical Boards.

SECTION 2. (a) Subtitle B, Title 3, Occupations Code, is amended by adding Chapter 167 to read as follows:

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.
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.

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.

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.

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.

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.

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.

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.

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.

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.

Sec. 167.011. FUNDING; FEES. (a) The Texas physician
health program account is a special account in the general revenue
fund. Funds in the account may be appropriated only to the board
for administration of the program.

(b) The board by rule shall set and collect reasonable and
necessary fees from program participants in amounts sufficient to
offset, to the extent reasonably possible, the cost of
administering this chapter.

(c) Each program participant shall pay an annual fee to
partially offset the cost of participation and monitoring services.

(d) The board shall deposit fees collected under this
section to the credit of the account established under Subsection
(a).

(e) The board may grant a waiver to the fee imposed under
Subsection (c). The board shall adopt rules relating to the
issuance of a waiver under this subsection.

(b) Subsection (d), Section 153.051, 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; [strike]

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

(10) $1,200 for an annual fee under Section 167.011(c) for a program participant in the Texas Physician Health Program.

(c) Effective January 1, 2010, the following laws are repealed:

(1) Sections 164.202, 164.203, 164.204, and 164.205, Occupations Code; and

(2) Sections 204.305, 204.306, 204.307, and 204.3075, Occupations Code.

(d) A rehabilitation order under Chapter 167 or 204, Occupations Code, entered into on or before January 1, 2010, is governed by the law as it existed immediately before that date, and that law is continued in effect for that purpose.

SECTION 3. Not later than December 1, 2009, each person who holds a license to practice medicine under Chapter 155, Occupations Code, shall make the initial submission to the Texas Medical Board of the information required by Subsection (a), Section 156.006, Occupations Code, as added by this Act.

SECTION 4. This Act takes effect September 1, 2009.
S.B. No. 292

David Dewhurst
President of the Senate

I hereby certify that S.B. No. 292 passed the Senate on March 19, 2009, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendment on May 30, 2009, by the following vote: Yeas 31, Nays 0.

Billikkappap
Secretary of the Senate

I hereby certify that S.B. No. 292 passed the House, with amendment, on May 27, 2009, by the following vote: Yeas 148, Nays 0, one present not voting.

Robert Hanvey
Chief Clerk of the House

Approved:

19 Jun 09

Rick Perry
Governor

Filed in the office of the Secretary of State at 2 P.M. o'clock

Jun 19 2009

Colby Sheets