

CHAPTER 819

S.B. No. 844

An Act relating to a medical advisory board within the Texas Department of Health to assist the Texas Department of Public Safety division of driver's licensing; revising Section 21A, Chapter 173,

Acts of the 47th Legislature, Regular Session, 1941, as amended (Article 6687b, Vernon's Texas Civil Statutes).

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 21A, Chapter 173, Acts of the 47th Legislature, Regular Session, 1941, as amended (Article 6687b, Vernon's Texas Civil Statutes), is revised to read as follows:

"Section 21A. (a) A medical advisory board, hereinafter called the board, is established to assist the department in determining whether an applicant or a licensee is capable of safely operating a motor vehicle.

"(b) The Commissioner of Health shall appoint the board from among the following:

"(1) individuals who are licensed to practice medicine in the State of Texas, including physicians who are board certified in internal medicine, psychiatry, neurology, physical medicine, and ophthalmology, and who have been jointly recommended by the Texas Department of Health and the Texas Medical Association; and

"(2) individuals who are licensed to practice optometry in the State of Texas and who have been jointly recommended by the Texas Department of Health and the Texas Optometric Association.

"(c) The board is administratively attached to the Medical Standards on Motor Vehicle Operations Division of the Texas Department of Health, and the Texas Board of Health may adopt rules which are necessary to govern the conduct of its activities.

"(d) If the department requests an opinion and recommendation from the board as to the ability of an applicant or licensee to operate a motor vehicle safely, the Commissioner of Health or the commissioner's designee shall convene a panel of the board to consider the case or the question submitted by the department. To act at least three members of the board must be present to form the panel. The panel shall prepare a written report for the department stating its opinion as to the ability of the applicant or licensee to operate a motor vehicle safely and in the report it may also make recommendations relating to the department's subsequent actions.

"(1) In its deliberations, the panel may examine any medical records or reports which contain material which may be relevant to the ability of the applicant or licensee to operate a motor vehicle safely.

"(2) The panel may require the applicant or licensee to undergo medical or other examinations, and the applicant or licensee must bear the expense of the examination or examinations. The person or persons conducting the examination or examinations may be compelled to testify before the panel and in any subsequent proceeding under Section 22 or Section 31 of this Act concerning his or her observations and findings.

"(3) A physician who is licensed to practice medicine in Texas may voluntarily inform the department or the board, orally or in writing, of the full name, date of birth, and address of a patient over the age of 15 years whom he or she has diagnosed as having a disorder or disability specified in the rules of the department. The release of such information by the physician to the board is an exception to the patient-physician privilege requirements of Section 5.08 of the Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes).

"(e) The Medical Standards on Motor Vehicle Operations Division of the Texas Department of Health will provide administrative support for the board. The division may collect and maintain the individual medical records necessary for use by the board under this section from physicians, hospitals, and other health care providers.

"(1) All records, reports, and testimony relating to the medical condition of an applicant or licensee are for the confidential use of the board or the department and as such are privileged information. Such information may not be divulged to any person or used as evidence in any trial except as provided in Subdivision (2) of this subsection.

"(2) In the event of a subsequent proceeding under Section 22 or Section 31 of this Act the Medical Standards on Motor Vehicle Operations Division of the Texas Department of Health may provide copies of the board's report and the medical records or reports relating to an applicant or licensee to the Department, the applicant or the licensee, or the officer who presides over the hearing.

"(f) Members of the board, persons making examinations for or upon recommendation of the board, and physicians voluntarily reporting to the board under Subdivision (3) of Subsection (d) of this section may not be held liable for their professional opinions, recommendations, and reports."

SECTION 2. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed the Senate on April 4, 1985, by the following vote: Yeas 31, Nays 0; passed the House on May 23, 1985, by a non-record vote.

Approved: June 15, 1985

Effective: August 26, 1985