

By: Nelson

S.B. No. 191

A BILL TO BE ENTITLED

AN ACT

relating to disposition of a contested case by the Texas Medical Board.

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

SECTION 1. Subsections (a) and (a-1), Section 164.007, Occupations Code, are amended to read as follows:

(a) The board by rule shall adopt procedures governing formal disposition of a contested case under Chapter 2001, Government Code. A formal hearing shall be conducted by an administrative law judge employed by the State Office of Administrative Hearings. After receiving the administrative law judge's findings of fact and conclusions of law, the board shall dispose of the contested case by issuing a final order based on the administrative law judge's findings of fact and conclusions of law [~~determine the charges on the merits~~].

(a-1) Notwithstanding Section 2001.058(e), Government Code, the [The] board may not change a finding of fact or conclusion of law or vacate or modify an order of the administrative law judge. The board may obtain judicial review of any finding of fact or conclusion of law issued by the administrative law judge as provided by Section 2001.058(f)(5), Government Code. For each case, the board has the sole authority and discretion to determine the appropriate action or sanction, and the administrative law judge may not make any recommendation regarding the appropriate

1 action or sanction [~~only if the board makes a determination~~
2 ~~required by Section 2001.058(e), Government Code~~].

3 SECTION 2. Subsections (a) and (a-1), Section 164.007,
4 Occupations Code, as amended by this Act, apply only to a contested
5 case for which an administrative law judge employed by the State
6 Office of Administrative Hearings issues written findings of fact
7 and conclusions of law on or after the effective date of this Act. A
8 contested case for which an administrative law judge employed by
9 the State Office of Administrative Hearings issues written findings
10 of fact and conclusions of law before the effective date of this Act
11 is governed by the law in effect on the date the findings of fact and
12 conclusions of law were issued, and the former law is continued in
13 effect for that purpose.

14 SECTION 3. This Act takes effect September 1, 2011.