

BILL ANALYSIS

C.S.H.B. 3974
By: Darby
Public Health
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties note that minor infractions, such as an administrative violation, committed by a health care professional licensed by the state are permanently included in a health care professional's record, which the parties believe is unnecessary. C.S.H.B. 3974 seeks to address this issue.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to a licensing entity that regulates activities and persons under statutory provisions relating to speech-language pathologists and audiologists, physical therapists, occupational therapists, physicians, professions performing certain medical procedures, dentistry, nursing, professions related to eyes and vision, pharmacy and pharmacists, and professions related to the use of certain medical equipment in SECTION 1 of this bill.

ANALYSIS

C.S.H.B. 3974 amends the Occupations Code to require a licensing entity that regulates activities and persons under statutory provisions relating to speech-language pathologists and audiologists, physical therapists, occupational therapists, physicians, professions performing certain medical procedures, dentistry, nursing, professions related to eyes and vision, pharmacy and pharmacists, and professions related to the use of certain medical equipment to remove a disciplinary action from a health care professional's record on the licensing entity's public website if the health care professional applies to the licensing entity for removal; the disciplinary action is the only disciplinary action of which the health care professional has been the subject; the disciplinary action was an administrative, clerical, or other minor violation not causing harm to a patient; the disciplinary action did not result in the suspension or revocation of, or the probation of the suspension or revocation of, the health care professional's license; the disciplinary action provides no indication that continued practice by the health care professional may risk harm to a patient; and the disciplinary action occurred at least five years before the date the health care professional applied for removal. The bill expressly does not limit a licensing entity's authority with regard to records under other law.

C.S.H.B. 3974 requires the Health Professions Council, as soon as practicable after the bill's effective date, to adopt policies and standards to promote consistency in implementing the bill's provisions and provide those policies and standards to each applicable licensing entity. The bill prohibits the public disclosure of information that is removed from a licensing entity's public website under the bill's provisions. The bill authorizes the applicable licensing entity to maintain

the information in the entity's records and to use the information only for a purpose permitted under other law that does not conflict with the bill's provisions. The bill requires each applicable licensing entity by rule to provide the procedure for a health care professional to apply for such a removal, authorizes each applicable licensing entity to adopt other rules to implement the bill's provisions, and requires an applicable licensing entity to adopt the rules as soon as practicable after the date the council adopts the policies and standards.

EFFECTIVE DATE

September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3974 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Subtitle A, Title 3, Occupations Code, is amended by adding Chapter 116 to read as follows:

CHAPTER 116. DISCIPLINARY RECORD PROVISIONS APPLICABLE TO MULTIPLE HEALTH CARE PROFESSIONALS

Sec. 116.001. DEFINITIONS.

Sec. 116.002. APPLICABILITY. This chapter applies only to licensing entities and health care professionals under Chapters 401, 453, and 454 and Subtitles B, C, D, E, F, J, and K.

Sec. 116.003. HEALTH CARE PROFESSIONAL'S RECORD. (a) A licensing entity shall expunge a disciplinary action from a medical professional's record with the licensing entity if:

- (1) the medical professional applies to the licensing entity for expunction;
- (2) the disciplinary action is the only disciplinary action the medical professional has been the subject of;
- (3) the disciplinary action was an administrative violation not causing harm to a patient; and

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Subtitle A, Title 3, Occupations Code, is amended by adding Chapter 116 to read as follows:

CHAPTER 116. DISCIPLINARY RECORD PROVISIONS APPLICABLE TO MULTIPLE HEALTH CARE PROFESSIONALS

Sec. 116.001. DEFINITIONS.

Sec. 116.002. APPLICABILITY. (a) This chapter applies only to licensing entities and health care professionals under Chapters 401, 453, and 454 and Subtitles B, C, D, E, F, J, and K.

(b) This chapter does not limit a licensing entity's authority with regard to records under other law.

Sec. 116.003. HEALTH CARE PROFESSIONAL'S RECORD. (a) A licensing entity shall remove a disciplinary action from a health care professional's record on the licensing entity's public website if:

- (1) the health care professional applies to the licensing entity for removal;
- (2) the disciplinary action is the only disciplinary action the health care professional has been the subject of;
- (3) the disciplinary action was an administrative, clerical, or other minor violation not causing harm to a patient;
- (4) the disciplinary action did not result in the suspension or revocation of, or the probation of the suspension or revocation of,

(4) the disciplinary action occurred at least five years before the date the medical professional applied for expunction.

(b) Each licensing entity by rule shall provide the procedure for a medical professional to apply for an expunction under this section.

No equivalent provision.

SECTION 2. As soon as practicable after the effective date of this Act, a licensing entity subject to Chapter 116, Occupations Code, as added by this Act, shall adopt rules necessary to implement Section 116.003, Occupations Code, as added by this Act.

SECTION 3. This Act takes effect September 1, 2015.

the health care professional's license;
(5) the disciplinary action provides no indication that continued practice by the health care professional may risk harm to a patient; and

(6) the disciplinary action occurred at least five years before the date the health care professional applied for removal.

(b) The Health Professions Council shall:

(1) adopt policies and standards to promote consistency in implementing this chapter; and

(2) provide those policies and standards to each licensing entity.

(c) Information that is removed from a licensing entity's public website under this section may not be disclosed to a member of the public. The licensing entity may maintain the information in the entity's records and may use the information only for a purpose permitted under other law that does not conflict with this chapter.

(d) Each licensing entity by rule shall provide the procedure for a health care professional to apply for the removal of information under this section and may adopt other rules to implement this chapter.

SECTION 2. As soon as practicable after the effective date of this Act, the Health Professions Council shall adopt and provide to the appropriate licensing entities the policies and standards necessary to implement Chapter 116, Occupations Code, as added by this Act.

SECTION 3. As soon as practicable after the date the Health Professions Council adopts policies and standards under Section 116.003(b), Occupations Code, as added by this Act, a licensing entity subject to Chapter 116, Occupations Code, as added by this Act, shall adopt rules necessary to implement Section 116.003, Occupations Code, as added by this Act.

SECTION 4. Same as introduced version.