

SUBJECT: Exchanging health care information between regulatory agencies

COMMITTEE: Public Health — committee substitute recommended

VOTE: 5 ayes — Berlanga, Hirschi, Glaze, Janek, Maxey

0 nays

4 absent — Coleman, Davila, Delisi, Rodriguez

WITNESSES: For — None

Against — None

On — Bruce Levy, Texas Board of Medical Examiners

DIGEST: CSHB 561 would require health care regulatory agencies to forward information obtained in a course of an audit, review or investigation of a complaint to another health care regulatory agency if it believed that there may be grounds for the other agency to conduct an investigation or institute a disciplinary proceeding against a health care provider. Information could be forwarded only by the executive director of a health care regulatory agency to the executive director of the appropriate receiving agency.

Information forwarded by a health care agency that is privileged or confidential would retain its privileged or confidential nature following the receipt by another health care regulatory agency. Confidentiality also would extend to any agency communication concerning the information forwarded.

Health care regulatory agencies would have to establish written procedures to ensure that information required to be forwarded would be forwarded to the appropriate health care regulatory agency not later than the 15th day after the date the agency determined the information could be grounds for an investigation or disciplinary proceeding.

An agency's provision of information or failure to provide information would not give rise to a cause of action against the agency.

The bill would take effect September 1, 1997, and would apply only to information obtained by a health care regulatory agency on or after the effective date.

SUPPORTERS
SAY:

CSHB 561 would improve public protection and the efficiency of state investigations involving health care without burdening current state agency complaint processing and investigation operations.

Health care facilities and provider regulation are divided up among separate state licensing and registration agencies and boards. However, patients often are dependent upon the health care practices and facilities of several different kinds of providers when seeking care for a single health care problem, and problems in one area of care may be caused by, or influenced by, providers practicing in their immediate environment. For example, a nursing home resident is dependent upon the care of nurses licensed by one or both state licensing boards, doctors licensed by the state medical board, and nursing home administrators licensed by the nursing home administrator board, with the nursing home facility under the oversight of the Department of Human Services.

No general statute currently exists that allows health care agencies to share information concerning an ongoing investigation by another agency, and many state agencies feel constrained by confidentiality protections on information collected while investigating licensees to pass information along that might be relevant to another licensing board. Lack of communication leads to duplicative investigations or allows problems to escape identification and correction by the appropriate state agency.

This bill would not burden state agencies. It would not require them to perform extra work in investigations or to have knowledge of the laws and rules pertaining another agency or health care profession. Problems of patient neglect, abuse, fraudulent practices, or unsafe physical facilities are often obvious to trained health investigators, and this bill would simply require agencies to pass on knowledge obtained in the normal course of their own investigation in a timely manner to another relevant state agency. The agencies would have 15 days from the date they first *recognized* possible grounds might exist for investigation by another agency and would not have to pass along information within 15 days of *obtaining* the information.

**OPPONENTS
SAY:**

This bill could be overly burdensome to some state agencies and their directors by creating a duty to report information suspected of being grounds for investigation by another state agency within a specified time period of 15 days. Many state agencies are already pressed to meet complaint processing and investigative time schedules established within the licensing or registration acts over which they have responsibility, and the duty to report could be interpreted as a duty to have knowledge of what would constitute grounds for investigation by all other regulating health care agencies.

NOTES:

The committee substitute added the requirement that information exchanged between agencies be transmitted between the executive heads of the agencies.