

**SUBJECT:** Defining certain psychiatric residents as physicians

**COMMITTEE:** Public Health — committee substitute recommended

**VOTE:** 9 ayes — Gray, Coleman, Capelo, Delisi, Glaze, Hilderbran, Maxey, McClendon, Uresti

0 nays

**WITNESSES:** For — None

Against — Beth Mitchell, Advocacy, Inc.

**BACKGROUND:** Although some medical residents possess medical licenses when they enter a graduate residency program, others do not. Under the Texas Medical Practice Act, physicians not licensed by the Board of Medical Examiners who are participating in graduate medical education training programs may be issued institutional permits that authorize them to perform physicians' duties under the supervision of a licensed practitioner.

**DIGEST:** CSHB 677 would change the definition of "physician" in the Mental Health Code (Health and Safety Code, sec. 571.003(18)) to include psychiatric residents authorized to practice medicine under institutional permits at accredited postgraduate training programs.

CSHB 677 would take immediate effect if finally passed by a two-thirds record vote of the membership of each house.

**SUPPORTERS SAY:** All medical residents have the same basic medical training and all should receive equal educational experiences. By changing the definition of "physician," CSHB 677 would equalize residents' hands-on experience and allow unlicensed residents to participate in important aspects of their training, especially civil commitment hearings.

CSHB 677 would not remove residents from the direct supervision of a physician but simply would allow them to perform the whole range of tasks required of their jobs. Just as surgical residents can perform surgery,

psychiatric residents should be allowed to offer their expert medical opinion in civil commitment proceedings and to provide care to patients.

In September 1998, a Harris County probate court ruled that psychiatry residents at the Baylor College of Medicine who were providing care under institutional permits were practicing medicine illegally because the Mental Health Code did not include them in the definition of “physician.” Residents without medical licenses were barred from providing services listed under the Mental Health Code, while residents with licenses were not. Baylor has notified all psychiatric residents with institutional permits to stop performing medical services under the Mental Health Code. For many years, however, Texas’ county hospitals have relied on residents and interns in training at academic medical institutions to provide high-level care for indigent and uninsured patients.

Medical residents from other states often do not wish to obtain licenses to practice in Texas. Forbidding those residents to act as physicians under institutional permits could discourage desirable students from attending Texas medical schools.

OPPONENTS  
SAY:

Defining residents as physicians would allow them to make medical decisions without supervision. Supervision and training are the essence of residency programs, and residents should not be allowed to practice medicine unsupervised.

Psychiatry residency programs in particular should not be granting wider freedoms to residents because commitment is a deprivation of liberty. Residents with relatively little experience should not have the power to prescribe psychoactive medications, restraints, or electroshock treatments or to start commitment proceedings without the direct supervision of an experienced, licensed physician.

Both the Texas Constitution and the Mental Health Code require competent medical or psychiatric testimony to commit someone. Though CSHB 677 would allow residents to testify in commitment hearings, a court might consider that testimony less than competent.

NOTES: The committee substitute would change the definition of physician throughout the Mental Health Code. The original bill would have changed the definition only for purposes of completing the certificate of medical exam required for civil commitment.