

- SUBJECT:** Creating a Health Professions Scope of Practice Review Commission
- COMMITTEE:** Public Health — committee substitute recommended
- VOTE:** 5 ayes — Delisi, Dawson, McReynolds, Solis, Truitt
0 nays
4 absent — Laubenberg, Coleman, Jackson, Zedler
- WITNESSES:** For — Diane Brozowsky, Texas Physical Therapy Association; Alicia Grant, Texas Dental Hygienists' Association; Greg Hooser, Texas Dietetic Association; Jerry Hurt, Texas Physical Therapy Association; Sam Johnson, Registered Opticians Association of Texas; Jay Propes, Texas Ophthalmological Association; Laurie Sorrenson, Texas Optometric Association; (*Registered, but did not testify:* Jennifer Banda, Texas Hospital Association; Geoffrey Shute, Texas Association of Psychological Associates)
- Against — Jerry Long, Texas Dental Association; Charlie Schnabel, Texas Academy of Pediatric Dentistry; Scott Pospisil, Texas Hearing Aid Association; Lynda Woolbert, Coalition for Nurses in Advanced Practice; Jenny Young, Texas Dental Association; (*Registered, but did not testify:* James Willmann, Texas Nurses Association)
- On — Don Blum, Texas Podiatric Medical Association; David Henkes, Texas Medical Association; Joey Longley, Sunset Commission; James Willmann, Texas Nurses Association; (in subcommittee) Lynda Woolbert, Coalition for Nurses in Advanced Practice
- BACKGROUND:** Scope of practice refers to the range of medical services a specific practitioner can provide under statute or by rule. A practice act refers to the set of statutes governing the scope of practice for a group of practitioners.
- DIGEST:** CSHB 2706 would create the Scope of Practice Review Act and create the Health Professions Scope of Practice Review Commission administratively attached to the Office of Patient Protection. A member of the Legislature could request the commission perform an analysis of

specific scope of practice issues. The commission would invite stakeholder input and would evaluate any proposed change based on public health and safety, access to health care, available education or training, what other states have experienced, and any economic impact the change would have on the health care system.

The analysis would be submitted to the Legislature and governor by December 31 of each even-numbered year. A member of the Legislature who filed a bill involving scope of practice could request that the commission analyze the bill.

The commission would include nine members, with the director of the Sunset Commission presiding and including the commissioner of the Department of State Health Services; a Legislative Budget Board Performance Review staff member; one representative each from the Office of Patient Protection and the Health Law and Policy Institute at the University of Houston; a Texas Higher Education Coordinating Board staff member with expertise in health care education issues; a Legislative Council staff member with scope of practice expertise; and two representatives of the public appointed by the governor. Initial appointments would be made by December 31, 2005. Standard subcommittee authority and conflict of interest provisions would apply and no member could be compensated for service.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2005.

**SUPPORTERS
SAY:**

The Legislature often is called on to decide scope of practice issues without an independent analysis of how the issue would affect the health care system. Some common scope of practice issues include services that can be performed by an orthopedist versus a podiatrist or by an optometrist versus an ophthalmologist. Issues commonly are raised when the Sunset Commission performs its review of a health licensing agency, although that process has not included scope of practice in its purview.

This commission would give the Legislature the type of independent analysis it needs to interpret the information legislators often receive from stakeholders and would assist them in making more informed decisions. It would not exclude any interested group, and the commission would be required to include stakeholder input.

It can be difficult for smaller groups of practitioners to have their side heard on scope of practice issues even when their licensing board is undergoing review. This commission would establish a state body that could review every side of an issue, offering a forum for some groups that otherwise could be left out. Licensing boards can not perform this function as they are usually overseen by their licensees.

The commission would not be unduly influenced by or biased toward any one group of practitioners. All of the members on the commission would have state policy interests, not the interests of any specific profession.

**OPPONENTS
SAY:**

This bill is not needed – licensing boards already perform this function. Health professions are regulated by the state through licensing boards whose members are usually appointed by the governor. These individuals are charged with protecting the health and safety of the public. They have more expertise and a better understanding of the health care system as it relates to their scope of practice than would a commission populated with state employees.

This bill also could cause the issue of scope of practice to become an ongoing battle, whereas now it generally arises only every 12 years when Sunset reviews the health licensing boards.

**OTHER
OPPONENTS
SAY:**

This commission would not accomplish the stated goals. Researching these issues takes significant time and resources, as evidenced by the fact that the Sunset Advisory Commission has more than 20 staff members and the LBB has more than 13 staff conducting performance reviews. To produce meaningful analysis, this commission would require some dedicated resources.

NOTES:

The committee substitute would change the commission's charge from "recommendations" to "analysis" of scope of practice issues. It also would change the structure of the commission and its duties, specifically removing the requirement that the commission look into practices in other countries.

An amendment proposed by the author would administratively attach the commission to the Health Professions Council rather than the Office of Patient Protection.