

SUBJECT: Replacing perfusionist examining board with advisory committee

COMMITTEE: Public Health — favorable, without amendment

VOTE: 5 ayes — Laubenberg, Truitt, Jackson, McReynolds, Zedler
0 nays
4 absent — Delisi, Coleman, Dawson, Solis

SENATE VOTE: On final passage, March 31 — 30-0, on Local and Uncontested Calendar

WITNESSES: (*On House companion bill, HB 1028:*)
For —None
Against —None
On — David Olvera, Sunset Advisory Commission; Debbie Peterson,
Department of State Health Services

BACKGROUND: Perfusionists operate cardiopulmonary bypass equipment to maintain and monitor a patient's vital heart and lung functions during open-heart surgery. The Texas State Board of Examiners of Perfusionists, a part of the Department of State Health Service's Professional Licensing and Certification Unit, is the licensing and regulatory authority for perfusionists in Texas. The perfusionists' board licensed about 300 perfusionists and received one complaint in fiscal 2003. The board requires all licensees to be certified by the American Board of Cardiopulmonary Perfusion (ABCP).

If not continued by the 79th Legislature, the board will be abolished September 1, 2005.

DIGEST: SB 403 would abolish the Texas State Board of Examiners of Perfusionists and create a five-member Texas State Perfusionist Advisory Committee. Government Code, ch. 2110, which governs advisory boards would not apply to this committee. The committee would meet subject to the call of the commissioner of the Department of State Health Services

(DSHS), and a department employee would serve as executive secretary of the committee. The committee would be continued until September 1, 2017.

In addition, SB 403 would:

- implement a jurisprudence examination;
- revise provisions governing the composition of the board, renewal penalties, and reimbursement for member expenses;
- add provisions governing grounds for refusing renewal, refunds to consumers, cease and desist orders, and administrative penalties; and
- remove an exemption for non-Texas residents to practice without temporary licensure.

The bill also would add standard Sunset provisions governing conflict of interest, grounds for removal of a member, designation of a presiding officer, training, use of technology, negotiated rulemaking and alternative dispute resolution, and complaint information.

The bill would make technical and conforming changes to reflect the status change from that of a state board to an advisory committee as well as to reflect changes of powers and duties due to the reorganization of the former Department of Public Health. It would grant the executive commissioner of the Health and Human Services Commission rulemaking authority. The State Health Services Council would provide a mechanism for the public to address issues related to the practice of perfusion.

The bill would take effect September 1, 2005. New policies and rules would have to be adopted by January 1, 2006. The jurisprudence exam would have to be developed by March 1, 2006. Adjustments to renewal fees would have to be made by September 1, 2007.

**SUPPORTERS
SAY:**

SB 403 appropriately would abolish the Texas State Board of Examiners of Perfusionists and replace it with the Texas State Perfusionist Advisory Committee. The board's licensing process is handled by DSHS, the rules governing the practice of perfusion are written and need few updates, and the board hears few enforcement cases. As a result, there is little work for the board to do and little reason for board members to meet. Because the perfusionists' board largely has achieved its original objectives, the board is not needed as currently constituted to oversee the profession.

The board's licensing process relies exclusively upon the perfusionist certification provided by the ABCP. Because the education, examination, and experience requirements for a Texas perfusionist license are identical to requirements for an ABCP certificate, the perfusionist board's licensing process almost literally rubber stamps the ABCP process. Perfusionist board license renewals also mirror ABCP's process – licensees complete ABCP recertification and forward an acknowledgment form to the board confirming compliance with continuing education requirements and ethical standards. Following a review of ABCP material, the perfusionist board approves the renewal and reissues the license.

Independent, governor-appointed boards typically are necessary when decisions need to be made on approving individuals for licenses, creating rules governing the practice of a profession, processing complaints, and taking enforcement actions. The perfusionist rules committee has not met since November 2000. The board receives very few complaints — a total of three in its entire 11-year history — which indicates a low risk to the public from incompetent perfusionists. The enforcement cases heard before the perfusionist board have not been technical in nature and have not required expertise in perfusion to resolve.

**OPPONENTS
SAY:**

It would be preferable to continue the regulation of perfusionists through a separate board rather than an advisory committee. The cost savings to be achieved by abolishing the board and replacing it with an advisory committee are projected to be only \$3,200 per year. Additionally, in fiscal 2003, licensed perfusionists remitted fees in the amount of \$51,470, while the total direct and indirect costs of operating the board's program were \$34,489, resulting in a gain of \$16,981 to general revenue.

NOTES:

The companion bill, HB 1028 by Truitt, was reported favorably, as substituted, by the Public Health Committee on April 6.