

SUBJECT: Creating physician health program for substance abuse and other issues

COMMITTEE: Public Health — favorable, without amendment

VOTE: 9 ayes — Kolkhorst, Naishtat, Coleman, Gonzales, Hopson, S. King, McReynolds, Truitt, Zerwas

0 nays

2 absent — Davis, Laubenberg

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

WITNESSES: For — (*Registered, but did not testify:* Dan Finch, Texas Medical Association; Michael Gutierrez)

Against — None

On — Mari Robinson, Texas Medical Board

BACKGROUND: Occupations Code, sec. 164.202 authorizes the Texas Medical Board to recommend nondisciplinary rehabilitation orders for physicians with mental, physical, or substance abuse issues. Occupations Code, sec. 204.305 establishes similar orders for physician assistants.

DIGEST: SB 1331 would establish the Texas Physician Health Program to promote physician and physician assistant wellness and the treatment of health conditions that have the potential to compromise their ability to practice with reasonable skill and safety, including mental health, substance abuse, and addiction issues. The program would be a confidential, nondisciplinary therapeutic program for physicians and physician assistants.

The bill would repeal current provisions dealing with rehabilitation orders for physicians and physician assistants. Rehabilitation orders entered into on or before January 1, 2010, would be governed by the law as it existed immediately before that date.

Operations. The Texas Medical Board would appoint a governing board for the program and would appoint a medical director who would provide clinical and policy oversight for the program. The Medical Board, with the advice of the program's governing board and an advisory committee and professional medical associations, would adopt rules and policies for the program.

SB 1331 would establish operating requirements for the program, including provisions for continuing care, monitoring, and case management of potentially impairing health conditions, and ongoing monitoring for relapse.

Referrals. The Medical Board or the physician assistant board, through an agreed order or after a contested proceeding, would be able to make a referral to the program and to require participation in the program as a prerequisite for issuing or maintaining a physician's or physician assistant's license. Either board would be able to discipline someone for not participating in the program when required.

The program would have to accept a self-referral from a physician or physician assistant and referrals from individuals and other entities listed in the bill, including organizations, programs, boards, and hospitals. The program would not be able to accept a referral, except as board rules allowed, for violations of the standard of care as a result of drugs or alcohol or boundary violations with a patient or a patient's family.

The program would be able to report to the Medical Board or the physician assistant board the name and pertinent information about the impairment of a physician or physician assistant. The program would be required to make a report to the Medical Board or physician assistant board if the medical director or the program's governing board determined that a physician or assistant posed a continuing threat to the public welfare.

All referrals, reports, files and other activities relating to the program would be confidential and not subject to discovery under the state's public information laws or to other means of release.

Governing board, advisory committee. The president of the Medical Board would be required to appoint persons to serve on a governing board

for the program. The governing board would be required to provide advice and counsel and to establish policies and procedures for the program.

SB 1331 also would establish a Physician Health and Rehabilitation Advisory Committee to make recommendations on the request of the governing board. The governing board would be required to appoint physicians to the committee who had experience in disorders commonly affecting physicians or physician assistants.

Funding. SB 1331 would create the Texas physician health program account in the General Revenue Fund. It could be appropriated only to administer the program. The Medical Board would be required to set and collect fees from program participants to cover the cost of the program. Each program participant would be required to pay an annual fee of up to \$1,200 to offset partially participation and monitoring costs. The board could waive a fee.

The bill would take effect September 1, 2009.

NOTES:

According to the fiscal note, the cost and gain to the General Revenue Fund each year would be the same. The bill would result in an increase of 2.5 FTEs in fiscal 2010 and 5.0 FTEs in fiscal 2011.