

BILL ANALYSIS

Senate Research Center

S.B. 1566
By: Cain
Health & Human Services
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As Filed

DIGEST

In 1993, the Texas Legislature provided for the licensure, regulation, and discipline of acupuncturists and physician assistants through the creation of two professional licensing boards, the Texas State Board of Acupuncture Examiners and the Texas State Board of Physician Assistant Examiners, both regulated by the Texas State Board of Medical Examiners. Since physicians, physician assistants, and acupuncturists work closely together and their practice requirements are interwoven, it is intended that these three boards regulate their practice. This legislation aims to integrate the practice of acupuncturists and physician assistants into the regulation model for physicians. S.B. 1566 also provides for changes to the Medical Practice Act and the Assistant Licensing Act which will subject physician assistants and acupuncturists to the same disciplinary and enforcement procedures as physicians.

PURPOSE

As proposed, S.B. 1566 establishes licensing regulations for physician assistants and acupuncturists, and provides an administrative penalty.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the Texas State Board of Physician Assistant Examiners in SECTION 2 (Section 19.125(d), Article 4495b-1, V.T.C.S.) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 4(h), Article 4495b-1, V.T.C.S. (Physician Assistant Licensing Act), to make a conforming change.

SECTION 2. Amends Article 4495b-1, V.T.C.S., by amending Sections 18 and 19, and adding Section 19.125, as follows:

Sec. 18. DISCIPLINARY PROCEEDINGS. Authorizes the Texas State Board of Physician Assistant Examiners (board) to refuse to issue a license to any person and to take disciplinary action against any person who is convicted of a felony or has imposition of deferred adjudication or pretrial diversion; habitually uses drugs or intoxicating liquors to a certain extent; has had the person's license or other authorization to practice as a physician assistant suspended, revoked, or restricted, or who has had certain other disciplinary action taken; fails to keep complete and accurate records of purchases and disposals of certain drugs; writes a false or fictitious prescription for a dangerous drug; prescribes, dispenses, or administers a drug or treatment that is nontherapeutic; unlawfully advertises in a false, misleading, or deceptive manner; alters any physician assistant license, certificate, or diploma; uses any license, certificate, or diploma that has been fraudulently purchased, issued, or counterfeited; aids or abets the practice as a physician assistant by any person not duly licensed to practice as a physician assistant by the board; is removed or suspended or has certain disciplinary action taken; has repeated or recurring meritorious health care liability claims that evidence professional incompetence; or through practice as a physician assistant, sexually abuses or exploits another person. Deletes existing text regarding the board's authority to publicly or privately reprimand a license holder, or suspend, revoke, or place other restrictions on a license of certain persons. Makes conforming changes.

Sec. 19. New heading: DISCIPLINARY AUTHORITY. Requires the board, except as provided in Section 20 of this Act, if the board finds any person to have committed any of the acts set forth in Section 18 of this Act, to enter an order imposing certain disciplinary actions, including denying the person's application for a license or other authorization; assessing an administrative penalty; administering a public reprimand; suspending, limiting, or restricting the person's license or other authorization; and revoking the person's license or other authorization. Deletes existing text regarding the board's authorization to take certain additional disciplinary actions. Makes conforming changes.

Sec. 19.125. ADMINISTRATIVE PENALTY. Authorizes the board, by order, to impose an administrative penalty against a person licensed or regulated under this Act who violates this Act or a rule or order adopted under this Act. Authorizes the penalty to be in an amount not to exceed \$5,000, and provides that each day a violation continues is a separate violation. Requires the amount of the penalty to be based on certain factors. Requires the board, by rule, to prescribe the procedure by which it may impose an administrative penalty. Provides that all proceedings are subject to Chapter 2001, Government Code. Sets forth the terms by which the board, if the board, by order, finds that a violation has occurred and imposes an administrative penalty, is required to give notice to the person of the board's order.

SECTION 3. Amends Section 28, Article 4495b-1, V.T.C.S., as follows:

Sec. 28. New heading: IMMUNITY AND REPORTING REQUIREMENTS. Set forth the terms by which certain persons are required to report relevant information to the board related to the acts of any physician assistant in this state if, in the opinion of those persons, a physician assistant poses a continuing threat to the public welfare through the physician assistant's practice. Provides that the duty to report shall not be nullified through contract.

SECTION 4. Amends Sections 5.06(b), (d), (f), (i), (k), and (r), Article 4495b, V.T.C.S. (Medical Practice Act), to require each medical peer review committee or health-care entity to report in writing to the Texas State Board of Medical Examiners (TBME) the results and circumstances of any professional review action that adversely affects the clinical privileges of a physician, physician assistant, or acupuncturist for a certain period; accepts the surrender of clinical privileges of a physician, physician assistant, or acupuncturist; or takes a professional review action which adversely affects the membership of a physician, physician assistant, or acupuncturist in the society or association. Sets forth the terms by which certain persons are required to report relevant information to TBME relating to the acts of any physician, physician assistant, or acupuncturist in this state if, in the opinion of those persons, the physician, physician assistant, or acupuncturist poses a continuing threat to the public welfare. Requires governing bodies and medical staffs of health-care entities and others to comply fully with a subpoena for documents or information issued by TBME under Subsection (a), Section 27, Article 4495b-1, V.T.C.S. Makes conforming changes.

SECTION 5. Amends Sections 5.06(s)(1) and (2), Article 4495b, V.T.C.S., to make conforming changes.

SECTION 6. Effective date: September 1, 1997.

SECTION 7. Emergency clause.