

BILL ANALYSIS

Senate Research Center

S.B. 1699
By: Cain
Health & Human Services
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As Filed

DIGEST

Currently, the Medical Practice Act of Texas is the vehicle used to license physicians in Texas. The Medical Practice Act assures that physicians who are seeking licensure in Texas by way of endorsement or by way of original license are reviewed, examined, and evaluated according to the appropriate standards. The Texas State Board of Medical Examiners (board) is the state agency created by the legislature to carry out the constitutional mandate of Article XVI, Section 31 of the Texas Constitution which requires the legislature to pass laws prescribing the qualifications of practitioners of medicine in this state and punishing persons for malpractice. The mission of the board is to assure the safety of its citizens through the appropriate regulation of physicians who practice medicine in Texas.

Since its inception, the Medical Practice Act has been amended to adapt it to changing social, educational, and economic times. Each amendment to the Act has attempted to address on an individual basis changes in the medical practice environment regarding changes in technology, education, or the economy. This legislation addresses these same problems by consolidating relevant sections of the Medical Practice Act, deleting obsolete or wordy parts, and creating in one coherent section all the necessary provisions for licensure of physicians in Texas.

PURPOSE

As proposed, S.B. 1699 establishes provisions regarding the Texas State Board of Medical Examiners and the licensure of physicians, while providing penalties for violations.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the Texas State Board of Medical Examiners in SECTION 2 (Sections 3.01(m) and 3.05(e) and (g), Article 4495b, V.T.C.S.) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 2.09, Article 4495b, V.T.C.S. (Medical Practice Act), by amending Subsections (d), (h), (k), and (t), and adding Subsection (bb), to delete existing text regarding the Texas State Board of Medical Examiner's (board) maintenance of certain records. Authorizes, rather than requires, the board to submit to the Department of Public Safety a complete set of fingerprints of every applicant for a license. Deletes existing text requiring applicants and licensees whose licenses are subject to revocation, cancellation, or suspension to be afforded the opportunity for a hearing. Deletes text regarding placement of certain fees into the medical licensing fund. Requires the board, on request of a licensee, to issue certification of state board examination grades to the Federation of State Medical Boards of the United States and to charge a reasonable fee. Sets forth the terms by which the executive director of the board is required to file a surety bond with the board, and by which the board is required to pay the premium on the bond. Makes conforming changes.

SECTION 2. Amends Sections 3.01-3.05, Article 4495b, V.T.C.S., as follows:

Sec. 3.01. New heading: ANNUAL REGISTRATION OF PHYSICIANS. Requires all persons now qualified to practice medicine in this state or hereafter licensed for the practice of medicine by the board to register annually as practitioners with the board. Sets forth the terms by which the annual registration permit fee is required to apply to all physicians licensed

by the board, with certain exceptions. Requires the board to mail an annual registration permit renewal application to each practitioner by a certain date and to provide for a 30-day grace period for renewal. Sets forth the procedure regarding renewal of a registration permit. Sets forth the terms by which a physician whose license is considered canceled is authorized to obtain a new license. Authorizes the board, by rule, to adopt a system under which annual registration permits expire on various dates during the year. Prohibits the filing of the renewal application, the payment of the required fees, and the issuance of the permit from entitling the holder to practice medicine in Texas unless the holder has been previously licensed as a practitioner by the board and the license is in full effect. Provides that practicing medicine without an annual registration permit for the current year has the same effect as and is subject to all penalties of practicing medicine without a license. Deletes existing text regarding registration of practitioners and interns.

Sec. 3.02. New heading: **INSTITUTIONAL PERMITS**. Authorizes physicians not otherwise licensed by the board who are participating in graduate medical education training programs approved by the board to be issued institutional permits as provided by the rules of the board. Provides that this permit does not authorize the performance of medical acts, with certain exceptions. Deletes existing text regarding license renewals.

Sec. 3.03. New heading: **LICENSURE OF PHYSICIANS**. Authorizes the board to grant a license to practice medicine to any physician who qualifies under this Act. Sets forth the procedure regarding an application for a license. Prohibits an applicant from having a medical license that is currently restricted, canceled, or revoked in the United States or Canada; an investigation or a proceeding instituted against the applicant for the restriction, cancellation, suspension, or revocation; or a prosecution pending in certain courts for certain offenses involving moral turpitude. Requires an applicant to present satisfactory proof that each medical school attended is substantially equivalent to a Texas medical school. Requires an applicant who is a graduate of a medical school located outside the United States and Canada to present satisfactory proof to the board of certain achievements. Requires all medical or osteopathic medical education received by the applicant in the United States to be accredited by certain accrediting bodies, with certain exceptions. Sets forth the terms by which an applicant who is unable to comply with the requirements of Subsection (h) may be eligible for an unrestricted license. Establishes the conditions under which the executive director is required to review each application for licensure; recommend to the board all applicants eligible for licensure; and report all applicants ineligible for licensure. Authorizes an applicant deemed ineligible to request review of such recommendation and a hearing, and requires the board to determine the eligibility of the applicant following a hearing. Provides that certain questions, examinations, and deliberations are exempted from the open meetings law and the open records law. Sets forth the confidentiality of certain reports. Authorizes the board to require applicants to comply with other requirements that the board considers appropriate. Deletes existing text regarding reciprocal agreements.

Sec. 3.04. New heading: **QUALIFICATIONS OF LICENSEES**. Requires an applicant, to be eligible for issuance of a license, to present satisfactory proof to the board that the applicant meets certain qualifications. Deletes existing text regarding qualification of licensees.

Sec. 3.05. New heading: **EXAMINATIONS ACCEPTED OR ADMINISTERED**. Authorizes the board to administer or accept certain examinations for licensure as determined by rule. Requires examinations to meet certain standards. Requires applicants who wish to request reasonable accommodations due to a disability to submit the request on filing the application. Requires examinations to include certain subjects. Requires the board to also administer the Texas medical jurisprudence examination to all applicants. Requires the passing grade for all examinations used by the board to be determined by rule. Sets forth requirements for examinations administered to evaluate basic medical knowledge and clinical competency. Requires all questions, answers, and grades to be preserved for one year as the board may direct by rule. Requires all applicants to be given due notice of the date and place of the examination if administered by the board. Sets forth the terms by which each examinee is required to be notified of the results of the examination. Deletes existing text regarding examinations.

SECTION 3. Amends Section 3.10, Article 4495b, V.T.C.S., as amended by Chapters 214 and 862, Acts of the 73rd Legislature, 1993, to set forth the terms by which all fees collected by the board are required to be deposited, credited, and spent. Prohibits the board from setting, charging, collecting, receiving, or depositing certain fees in excess of a specified amount. Authorizes the board to set and collect a sales charge for making copies of records in the office of the board and for any materials published by the board. Provides that the financial transactions of the board are subject to audit by the state auditor in accordance with Chapter 321, Government Code. Requires the board to annually file a report with certain persons. Deletes existing text regarding fees.

SECTION 4. Section 3.11A, Article 4495b, V.T.C.S., to require an additional \$200 surcharge to apply to certain fees. Requires a certain amount of each surcharge collected to be deposited to the credit of the foundation school fund and the general revenue fund. Provides that this section applies to the disposition of the stated portion of each fee regardless of any other provision of law providing for a different disposition of funds. Deletes existing text regarding disposition of fees.

SECTION 5. Repealer: Section 2.10, as added by Section 1.04, Chapter 36, Acts of the 73rd Legislature, 1993 (Creation of Funds); Section 3.0305, Article 4495b, V.T.C.S. (Temporary License for Out-of-State Practitioners); and Section 3.031, Article 4495b, V.T.C.S. (Temporary reciprocal license for physicians employed by Texas Department of Mental Health and Mental Retardation).

SECTION 6. Emergency clause.
Effective date: upon passage.