

## **BILL ANALYSIS**

Senate Research Center  
76R3000 MXM-F

S.B. 310  
By: Cain  
Health Services  
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As Filed

### **DIGEST**

Currently, Texas law consolidates the Texas Board of Occupational Therapy Examiners (TBOTE) and the Texas Board of Physical Therapy Examiners (TBPTE), but the licensing and regulatory responsibilities were left under the respective boards. TBOTE members have expressed concern about the size of the board, lack of authority for certain administrative functions, and lack of a variety of enforcement tools. S.B. 310 would expand TBOTE, authorize more authority for certain administrative functions, and increase the variety of enforcement tools.

### **PURPOSE**

As proposed, S.B. 310 regulates occupational therapists, and provides for administrative penalties.

### **RULEMAKING AUTHORITY**

Rulemaking authority is granted to the Texas Board of Occupational Therapy in SECTION 7(Sec.30A(d), Article 8851, V.T.C.S.).

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Sections 3(a) and (b), Article 88851, V.T.C.S.(Occupational Therapy Practice Act), to require the Texas Board of Occupational Therapy (board) to consist of nine, rather than six members. Provides that the board members are appointed for staggered terms of six years with three, rather than two members' terms expiring on February 1 of each odd-number year. Requires four, rather than three, members of the board to be occupational therapists. Requires two, rather than one member of the board to be occupational therapy assistants, and be residents of the state. Requires all six, rather than four, of these members of the board be licensed under this Act, and the terms of two of the six end on February 1 of each odd-number year. Requires three, rather than two, members of the board be public members who are not occupational therapists, and the term of one public member ends on February 1 of each odd-number year.

SECTION 2. Amends Section 3A(b), Article 8851, V.T.C.S. to require, rather than prohibit, a member to receive reimbursement for meals, lodging, and transportation expenses, rather than travel expenses, as provided by the General Appropriations Act.

SECTION 3. Amends Section 5C, Article 8851, V.T.C.S., to authorize the board to request or compel certain persons or items by subpoena. Authorizes the board to bring an action to enforce the subpoena in a Travis County district court in a county in which a hearing conducted by the board is authorized to be held, if a person fails to comply with a subpoena. Requires the court to order compliance, if the court determines that good cause exists for the subpoena. Authorizes the court to punish as contempt a person who does not obey the order.

SECTION 4. Amends Section 18(a), Article 8851, V.T.C.S., to delete the provision requiring sponsorship by a person licensed by the board under this Act with whom the provisional licensee may practice under this section.

SECTION 5. Amends Section 29 Article 8851, V.T.C.S., as follows:

Sec. 29. New heading: CRIMINAL PENALTY; CIVIL PENALTY; INJUNCTION

SECTION 6. Amends Article 8851, V.T.C.S. by adding Section 29A, as follows:

Sec. 29A. ADMINISTRATIVE PENALTY. Authorizes the board to impose an administrative penalty against a person licensed or registered under this Act who violates this Act. Prohibits the penalty from exceeding \$200. Sets forth certain conditions on which a penalty is based. Authorizes a person to stay enforcement during the time the order is under judicial review if the person pays the penalty to the court or files a supersedeas bond with the court in the amount of the penalty. Requires a person who cannot afford to pay the penalty or file the bond to stay enforcement by filing an affidavit, except that the board may contest the affidavit. Provides that a proceeding to impose an administrative penalty is subject to Chapter 2001, Government Code.

SECTION 7. Amends Article 8851, V.T.C.S., by adding Section 30A, as follows:

Sec. 30A. EMERGENCY SUSPENSION. Requires the board to temporarily suspend a license issued under this Act on an emergency basis if the board determines that the continued practice by the license holder constitutes a continuing or imminent threat to the public health or welfare. Provides that a temporary suspension under this section requires a two-thirds vote by the board. Authorizes a license temporarily suspended under this section to be suspended without notice or hearing if, at the time the suspension is ordered, a hearing on whether to institute a disciplinary proceeding is scheduled to be held not later than a certain date. Requires a second hearing to be held not later than a certain date. Provides that the suspended licensed is automatically reinstated, if the second hearing is not held within the required time. Required the board to adopt rules establishing procedures and standards for the temporary suspension of a license.

SECTION 8. Sets forth the dates on which the terms of the board members appointed by the governor will expire.

SECTION 9. Effective date: September 1, 1999.

Makes application of this Act prospective.

SECTION 10. Emergency clause.