

BILL ANALYSIS

Senate Research Center

S.B. 847
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Health Services
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As Filed

DIGEST

Currently, a Texas constitutional provision exists regarding medical freedom which states that “. . . no preference shall ever be given to any schools of medicine” (Article 16, Section 31, V.T.C.S.). The Medical Practice Act also mandates that “Nothing in this act shall be construed so as to discriminate against a school or system of medical practice” (Section 3.06(a), Article 4495b, V.T.C.S.). These protections are not being enforced; therefore, in October, 1998, the State Board of Medical Examiners adopted regulations that permitted the use of complementary and integrative therapies by medical doctors. Consequently, these regulations only apply to medical doctors and doctors of osteopathy. S.B. 847 would regulate the practice of integrative or complementary health care by licensed health care practitioners.

PURPOSE

As proposed, S.B. 847 regulates the practice of integrative or complementary health care by licensed health care practitioners.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Title 71, V.T.C.S., by adding Article 4512r, as follows:

Article 4512r. PATIENT RIGHTS ACT

Sec. 1. LEGISLATIVE FINDINGS. Sets forth the legislative findings.

Sec. 2. DEFINITIONS. Defines “board,” “conventional practice,” “integrative or complementary practice,” and “licensee.”

Sec. 3. TREATMENT PLANS. Authorizes a licensee to offer a treatment plan tailored for the individual needs of the patient that has stated objectives by which patient progress may be evaluated. Sets forth the required information to be included in the treatment plan. Requires the treatment plan to also consider the advisability of certain additional steps. Provides that a treatment plan is reasonable if the treatment provides for therapeutic gain in the patient’s health or medical condition that is not reasonably outweighed by the risk of the treatment.

Sec. 4. INFORMED CONSENT. Requires a licensee, prior to offering treatment to a patient, to inform the patient or the patient’s legal guardian, verbally or in writing, under certain conditions. Requires the patient’s record to include documentation of the notification under Subsection (a) of this section.

Sec. 5. GUIDELINES FOR THE PROVISION OF CONVENTIONAL OR INTEGRATIVE OR COMPLEMENTARY CARE. Prohibits a licensee from being judged by a licensing agency which has engaged in unprofessional conduct or has been found to have failed to practice in a safe and acceptable manner primarily on the basis of the type of treatment the licensee employed which may have been integrative or complementary under certain conditions. Sets forth integrative and complementary conditions. Authorizes the licensee to continue to use a treatment, including an integrative or complementary practice, provided the licensee continues to document in the patient’s record, the patient’s care and progress toward the stated objectives based on periodic reviews at

reasonable intervals in view of the individual circumstances.

Sec. 6. INVESTIGATION PROCEDURE. Requires a licensing agency to notify the licensee of the nature of the complaint and the identity of the person filing the complaint if that person is other than an individual patient or legal guardian of a patient. Requires each licensing agency to appoint a review panel to ensure that treatment protocols are fairly and accurately evaluated. Requires a majority of the panel to be practitioners thoroughly trained in the subspeciality of the licensee being evaluated.

SECTION 2. Effective date: September 1, 1999.

SECTION 3. Emergency clause.