

## **BILL ANALYSIS**

Senate Research Center  
82R2256 JAM-D

S.B. 227  
By: Nelson  
Health & Human Services  
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As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

The Texas Medical Board (TMB) is responsible for protecting the public's health, safety, and welfare through the regulation of the practice of medicine. Currently, TMB has only two options for resolving a complaint against a physician: dismissal of the complaint or public disciplinary action.

S.B. 227 establishes a more educational and corrective process at TMB by allowing TMB to resolve the investigation of certain complaints through a remedial plan, rather than formal disciplinary action. A remedial plan would give a physician an opportunity to learn and improve the physician's practice.

As proposed, S.B. 227 amends current law relating to the nondisciplinary resolution of certain complaints filed against physicians.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Texas Medical Board in SECTION 1 (Section 164.0015, Occupations Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subchapter A, Chapter 164, Occupations Code, by adding Section 164.0015, as follows:

Sec. 164.0015. REMEDIAL PLAN. (a) Authorizes the Texas Medical Board (TMB), in addition to the authority under Sections 164.001 (Disciplinary Authority of Board; Methods of Discipline) and 164.002 (Board Disposition of Complaints, Contested Cases, and Other Matters), to issue and establish terms of a remedial plan to resolve the investigation of a complaint relating to this subtitle.

(b) Prohibits a remedial plan from containing a provision that revokes, suspends, limits, or restricts a person's license or other authorization to practice medicine or assesses an administrative penalty against a person.

(c) Prohibits a remedial plan from being imposed to resolve a complaint:

(1) concerning a patient death, the commission of a felony, or a matter in which the physician engaged in inappropriate sexual behavior or contact with a patient or became financially or personally involved with a patient in an inappropriate manner; or

(2) in which the appropriate resolution may involve a restriction on the manner in which a license holder practices medicine.

(d) Prohibits TMB from issuing a remedial plan to resolve a complaint against a license holder if the license holder has previously entered into a remedial plan with TMB for the resolution of a different complaint relating to this subtitle.

(e) Authorizes TMB to assess a fee against a license holder participating in a remedial plan in an amount necessary to recover the costs of administering the plan.

(f) Requires TMB to adopt rules necessary to implement this section.

SECTION 2. Amends Sections 164.002(c) and (d), Occupations Code, as follows:

(c) Provides that an agreed disposition is a disciplinary order for purposes of reporting under this subtitle and of administrative hearings and proceedings by state and federal regulatory agencies regarding the practice of medicine. Provides that an agreed disposition or a remedial plan under Section 164.0015 is public information.

(d) Provides that in civil litigation, an agreed disposition or a remedial plan under Section 16.0015 is a settlement agreement under Rule 408, Texas Rules of Evidence. Provides that this subsection does not apply to a license holder who has previously entered into an agreed disposition with TMB of a different disciplinary matter or whose license TMB is seeking to revoke.

SECTION 3. (a) Requires TMB to adopt rules under Section 164.0015, Occupations Code, as added by this Act, not later than January 1, 2012.

(b) Makes application of Section 164.0015, Occupations Code, as added by this Act, prospective.

SECTION 4. Effective date: September 1, 2011.