

## **BILL ANALYSIS**

C.S.H.B. 1028  
By: Truitt  
Public Health  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

The Legislature created the Texas State Board of Examiners of Perfusionists in 1993 to ensure that health care professionals who operate cardiopulmonary bypass equipment during open heart surgeries provide safe and quality services to the public. To accomplish its mission, the Board licenses qualified individuals to practice perfusion, sets rules, and enforces the Act by investigating and resolving complaints.

The Texas State Board of Examiners of Perfusionists is subject to the Sunset Act and will be abolished on September 1, 2005, unless continued by the Legislature. As a result of its review of the Board, the Sunset Advisory Commission recommended continuing the regulation of perfusionists, replacing the Governor-appointed Perfusionist Board with an advisory committee, and several other statutory modifications contained in this legislation.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the Commissioner of the Health and Human Services Commission in SECTION 23, SECTION 37, and SECTION 60 of this bill.

Rulemaking authority is expressly transferred from the Texas State Board of Examiners of Perfusionists to the Executive Commissioner of the Health and Human Services Commission in SECTION 21, SECTION 25, SECTION 30, SECTION 32, SECTION 35, SECTION 39, SECTION 40, SECTION 42, SECTION 50, SECTION 52, and SECTION 53 of this bill. In addition, under the general rulemaking authority already granted to the Executive Commissioner, rules may be developed to implement other new provisions found in this bill.

### **ANALYSIS**

#### ***Continuation of Perfusion Regulation***

The bill continues the regulation of perfusionists until September 1, 2017.

#### ***Abolishment of Board and Establishment of Advisory Committee***

C.S.H.B. 1028 abolishes the Governor-appointed Board while continuing the regulation of perfusionists. The bill also establishes the Perfusionist Advisory Committee to advise the Executive Commissioner of the Health and Human Services Commission on perfusion rules, and the Department of State Health Services on the administration of the Act.

#### ***Committee Appointments***

C.S.H.B. 1028 grants authority to the Commissioner of State Health Services to make appointments to the Perfusionist Advisory Committee and to designate the advisory committee's presiding officer. The bill updates standard Sunset language requiring impartial appointments to the advisory committee and applies standard Sunset language restricting public membership on the advisory committee to persons without financial ties to the agency or the regulated industry. C.S.H.B. 1028 removes provisions that allowed the former Perfusionist Board members to receive payments for attendance at meetings. The bill also applies standard Sunset language requiring members of the advisory committee to complete training before assuming their duties.

#### ***Licensing Process***

C.S.H.B. 1028 requires applicants to pass a jurisprudence exam as a requirement for licensure. The bill removes exemptions for non-Texas residents to practice without a temporary license.

C.S.H.B. 1028 79(R)

C.S.H.B. 1028 applies standard guidelines on the use of criminal convictions in licensing perfusionists. The bill requires delinquent license renewal fees to be based on the normally required renewal fee instead of the examination fee. The bill prescribes the rate at which a person has to pay to renew a delinquent license. The bill also requires perfusionists whose licenses are delinquent by more than one year to reapply for licensure.

### ***Complaints and Enforcement***

C.S.H.B. 1028 updates statutory language requiring the Department to maintain information on all complaints and notify the parties about policies for and status of complaints. The bill authorizes the Department to require refunds as part of settlements. C.S.H.B. 1028 also requires the Executive Commissioner of the Health and Human Services Commission to adopt a penalty matrix with dollar amounts associated with violations. The bill grants the Department cease-and-desist authority to quickly stop unlicensed activity, and authorizes the Department to refuse to renew a license as an administrative sanction.

### ***Administrative Process***

C.S.H.B. 1028 adds standard Sunset across-the-board language requiring the Executive Commissioner of the Health and Human Services Commission to adopt a policy requiring the Department to make effective use of technology in its delivery of services and provision of information to the public. The bill also requires the Executive Commissioner to develop a policy that encourages the use of negotiated rulemaking and alternative dispute resolution.

### **EFFECTIVE DATE**

September 1, 2005.

### **COMPARISON OF ORIGINAL TO SUBSTITUTE**

C.S.H.B. 1028 conforms statutory language to changes in the functions of the State Health Services Council and the Commissioner of State Health Services required by H.B. 2292, 78th Legislature. The substitute assigns to the Commissioner the responsibility for appointments to the advisory committee and administrative procedures. The substitute also assigns to the State Health Services Council responsibility for taking public input on any issue related to the practice of perfusion.