

BILL ANALYSIS

C.S.H.B. 2706
By: Delisi
Public Health
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The Texas Legislature is often called upon to decide issues relating to the scope of practice of the various health care professions. These decisions may have an impact, either positive or negative, on items such as health care costs, access to care, clinical outcomes, and patient safety. The purpose of this legislation is to establish a formal method for objectively evaluating proposed changes in health care scope of practice laws.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Health Professions Scope of Practice Review Commission in SECTION 1 of this bill.

ANALYSIS

The substitute creates the Health Professions Scope of Practice Review Commission. The substitute provides a procedure for objective review of any proposed changes in the scope of practice of health professionals to ensure that the changes improve overall health care in this state and establishes a commission to make those recommendations to the legislature. It provides definitions of "commission," "health profession," "license," "licensing entity," and "scope of practice."

This bill creates the Health Professions Scope of Practice Review Commission, which will be administratively attached to the Office of Patient Protection. The commission will consist of the commissioner of the Department of State Health Services (DSHS), an employee of the Legislative Budget Board in the Texas Performance Review section, a representative of the Office of Patient Protection, a representative of the Health Law and Policy Institute, an employee of the Texas Legislative Council with expertise in scope issues, an employee of the Texas Higher Education Coordinating Board with expertise in health care education issues, the director of the Sunset Advisory Commission, an employee of the Texas Legislative Council with expertise in scope of practice issues, and two representatives of the public. Members who are employees of a state agency or representative of an institution of higher education must be designated by that agency or institution, and public members are to be appointed by the governor. The director of the Sunset Advisory Commission is to be the presiding officer. A person may not be a public member of the commission if the person or his or her spouse is employed by a Texas trade association in the health care field, if the person is a registered lobbyist, or if the person has direct financial interest in a health care profession. Members of the commission may not receive compensation for their role on the commission.

The commission is authorized to create subcommittees, workgroups, or advisory panels as needed, which may consist of persons other than members of the commission. Name, occupation, employer, and community of residence must be made part of the commission's record if not a member of the commission and detailed in any reports that are produced.

Members of the legislature may request in writing that the commission perform an analysis of a proposed change to the scope of practice of a health profession. The commission is then required to review the proposed change. They are required to provide public notice, invite testimony, and follow designated criteria when assessing the proposed change. They are also to take into account the training required for the health profession.

The analysis must include a review of other states with a scope similar to that of the proposed change, a review of any statutory changes that were required to implement it, as well as the effects the change had.

By December 31 of each even-numbered year, the commission is required to report the results of their reviews to the governor, lieutenant governor, speaker of the house of representatives, and house and senate standing committees that deal with financial and health and human services issues. The report must include evidence-based legislative analysis of changes submitted to the commission by a member of the legislature by August 31 of each even-numbered year. A member of the legislature who proposes change in a scope of practice is authorized to request the commission to analyze the bill. If requested, the analysis is to be provided before the second reading of the bill, and the analysis is to be made available to the public.

The commission is authorized to perform ongoing research on issues related to scope of practice to prepare for legislative requests. It is also required to notify annually each licensing entity and professional association of the commission's and entity's duties under this Act. Public hearings of the commission are subject to open meeting requirements. The commission is required to provide staff services to any review panel established.

The commission may be requested to provide other assistance to the legislature in regards to a proposed change in the scope of practice of a health profession and staff services to any review panel established under this chapter.

The commission is to adopt rules as necessary to administer the requirements of this chapter.

Initial appointments to the commission are required to be made by December 31, 2005.

EFFECTIVE DATE

Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2005.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute modifies the original by moving the commission from the jurisdiction of the DSHS to the Office of Patient Protection. It changes the makeup of members of the commission, as well as the presiding officer. The substitute makes the commission's duties directly related to the legislature and potential legislative changes to scope of practice. The substitute removes criteria that are to be considered on the potential benefits and harm of a proposed change and whether a need exists for the change in the scope of practice. The substitute changes the analysis performed by the commission to now limit the analysis to scope of practice in other states, not states and countries. The substitute does not require the commission to perform ongoing research on issues related to scope of practice, and removes the requirement for retrospective reviews of changes in scope of practice. The substitute requires the commission to provide "analysis" rather than "recommendations."