

BILL ANALYSIS

S.B. 555
By: Janek
Civil Practices
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Certain medical treatments and surgical procedures require disclosure of the risks and hazards to the patient or person authorized to consent for the patient. Texas Civil Practice & Remedies Code, Section 74.103, requires the Texas Medical Disclosure Panel to identify which treatments and procedures require disclosure of risks and which do not. For each treatment or procedure for which disclosure of risks are required, forms must be developed by the Texas Medical Disclosure Panel. Use of forms developed by the Texas Medical Disclosure Panel is required of providers. Moreover, use of the forms protects providers against complaints by a patient alleging lack of informed consent.

The existing forms for treatments or procedures have been developed solely in English, with the exception of the form related to informed consent for hysterectomies which is also in Spanish. The Texas Department of State Health Services currently provides patient disclosure and consent forms in Spanish and English (such as for drug therapy, treatment of latent tuberculosis, treatment of HIV, birth control pills, and treatment of Hansen's Disease, among others). While major hospital systems already translate English forms into Spanish, a common translation would eliminate the variability among translations and eliminate any possibility regarding lack of informed consent as required by law.

SB 555 requires the Texas Medical Disclosure Panel to develop forms related to treatments and procedures, in English and Spanish. Existing forms must be revised prior to January 1, 2006.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

Senate Bill 555 amends Section 74.103(b), Civil Practice and Remedies Code, to add that each provision of a disclosure form prepared under this subsection must be made available in English and Spanish. Requires the Texas Medical Disclosure Panel to provide new forms and revise existing forms not later than January 1, 2006.

Provides that this Act applies only to those treatments and procedures determined by the panel to require disclosure to the patient or a person authorized to consent for the patient that are performed at least 90 days after the date the notice of the adoption of the form is published in the Texas Register.

EFFECTIVE DATE

September 1, 2005