

By: Delisi

H.B. No. 2706

A BILL TO BE ENTITLED

AN ACT

relating to the establishment of the Health Professions Scope of Practice Review Commission.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle A, Title 3, Occupations Code, is amended by adding Chapter 113 to read as follows:

CHAPTER 113. HEALTH PROFESSIONS SCOPE OF PRACTICE REVIEW

COMMISSION

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 113.001. SHORT TITLE. This chapter may be cited as the Scope of Practice Review Act.

Sec. 113.002. PURPOSE. The purpose of this chapter is to:

(1) provide a procedure for objective review of proposed changes in the scope of practice of health professionals licensed in this state to ensure that the changes contribute to the improvement of the overall health of people in this state; and

(2) establish a commission to make recommendations under Subdivision (1) to the legislature.

Sec. 113.003. DEFINITIONS. In this chapter:

(1) "Commission" means the Health Professions Scope of Practice Review Commission.

(2) "Health profession" means a health-related activity or occupation for which a person must hold a license under this title.

1 (3) "License" includes a license, certificate,
2 registration, permit, or other authorization issued by a licensing
3 entity.

4 (4) "Licensing entity" means an agency, board,
5 department, commission, or other entity that issues a license under
6 this title to practice a specific health profession.

7 (5) "Scope of practice" means the activities that a
8 person licensed to practice a health profession is permitted to
9 perform, as prescribed by the appropriate statutes and by rules
10 adopted by the appropriate licensing entity.

11 [Sections 113.004-113.050 reserved for expansion]

12 SUBCHAPTER B. COMMISSION

13 Sec. 113.051. HEALTH PROFESSIONS SCOPE OF PRACTICE REVIEW
14 COMMISSION. The Health Professions Scope of Practice Review
15 Commission shall be administratively attached to the Department of
16 State Health Services.

17 Sec. 113.052. MEMBERSHIP. (a) The commission consists of
18 the following members:

19 (1) the commissioner of the Department of State Health
20 Services;

21 (2) an employee of the Legislative Budget Board who
22 works in the Texas Performance Review section;

23 (3) a representative of the Center for Public Policy
24 Dispute Resolution at The University of Texas School of Law;

25 (4) a representative of the Health Law and Policy
26 Institute at the University of Houston;

27 (5) an employee of the Texas Legislative Council who

1 has expertise in scope of practice issues; and

2 (6) two representatives of the public.

3 (b) A member who is an employee of a state agency or
4 representative of an institution of higher education shall be
5 designated by that agency or institution.

6 (c) The governor shall appoint the public members of the
7 commission.

8 Sec. 113.053. PRESIDING OFFICER. The commissioner of the
9 Department of State Health Services serves as the presiding officer
10 of the commission.

11 Sec. 113.054. RESTRICTION ON PUBLIC MEMBERSHIP. (a) In
12 this section, "Texas trade association" means a cooperative and
13 voluntarily joined statewide association of business or
14 professional competitors in this state designed to assist its
15 members and its industry or profession in dealing with mutual
16 business or professional problems and in promoting their common
17 interest.

18 (b) A person may not be a public member of the commission if:

19 (1) the person is an officer, employee, manager, or
20 paid consultant of a Texas trade association in the field of health
21 care;

22 (2) the person's spouse is an officer, manager, or paid
23 consultant of a Texas trade association in the field of health care;

24 (3) the person is required to register as a lobbyist
25 under Chapter 305, Government Code, because of the person's
26 activities for compensation on behalf of a health profession
27 related to the activities of the commission; or

1 (4) the person has a direct financial interest in a
2 health care profession or is employed within the health care
3 industry.

4 Sec. 113.055. COMPENSATION. A member of the commission may
5 not receive compensation for service as a commission member.

6 Sec. 113.056. SUBCOMMITTEES, WORKGROUPS, AND ADVISORY
7 PANELS. (a) The commission may create subcommittees, workgroups,
8 and advisory panels as needed to perform the commission's duties
9 under this chapter.

10 (b) A subcommittee, workgroup, or advisory panel
11 established under this section may consist of persons other than
12 members of the commission. The name, occupation, employer, and
13 community of residence of the person must be made part of the record
14 of the commission and detailed in any report resulting from the work
15 of the subcommittee, workgroup, or advisory panel.

16 [Sections 113.057-113.100 reserved for expansion]

17 SUBCHAPTER C. SCOPE OF PRACTICE ANALYSIS

18 Sec. 113.101. REQUEST FOR CHANGE IN SCOPE OF PRACTICE. (a)
19 A person who seeks to change the scope of practice of a health
20 profession, including a person who is a member of the relevant
21 licensing entity or a license holder in that profession, shall
22 notify the licensing entity and request a hearing on the proposal.

23 (b) On receipt of the request, the licensing entity shall
24 notify the commission and shall:

25 (1) collect data, including information from the
26 person making the request under Subsection (a) and other
27 appropriate persons, necessary to review the proposal;

1 (2) conduct a technical assessment of the proposal,
2 with the assistance of a technical advisory group established for
3 that specific purpose if necessary, to determine whether the
4 proposal is within the profession's current scope of practice; and

5 (3) provide the analysis, the entity's conclusions and
6 recommendations, if any, and the material collected by the entity
7 to the commission.

8 (c) The person making the request under Subsection (a) shall
9 provide to the licensing entity all information requested by the
10 entity.

11 Sec. 113.102. COMMISSION REVIEW AND ANALYSIS. (a) On
12 receipt of notice under Section 113.101, the commission shall
13 review and make recommendations on the proposed change to the scope
14 of practice.

15 (b) In performing the commission's duties under this
16 section, the commission shall:

17 (1) provide appropriate public notice of the
18 commission's proceedings;

19 (2) invite persons having special knowledge or
20 expertise in the relevant field to testify regarding the proposed
21 change;

22 (3) assess the proposed change according to the
23 following criteria:

24 (A) whether the proposed change could
25 potentially harm the public health, safety, or welfare;

26 (B) whether the proposed change will benefit the
27 public health, safety, or welfare;

1 (C) what economic impact the proposed change
2 would likely have on the overall delivery of health care;

3 (D) whether potential benefits from the proposed
4 change outweigh any potential harm caused by the change; and

5 (E) the extent to which the proposed change would
6 affect the availability, accessibility, delivery, and quality of
7 health care in this state;

8 (4) evaluate the quality and quantity of the training
9 provided by health care professional degree curricula and
10 post-graduate training programs to health care professionals in
11 active practice with regard to the increased scope of practice
12 proposed; and

13 (5) whether a need exists for the change in the scope
14 of practice.

15 (c) The analysis performed by the commission must include:

16 (1) a review of other states and countries that have a
17 scope of practice for the relevant profession that is identical or
18 similar to the proposed change and any available information on how
19 that scope of practice has affected the quality and cost of health
20 care in the state or country;

21 (2) a review of any statutory or regulatory changes
22 that were required in the other state or country to implement the
23 identical or similar change in the scope of practice; and

24 (3) an objective and balanced review that examines the
25 extent to which the potential benefits predicted by proponents of
26 the change or concerns raised by opponents of the change
27 materialized after the change of the scope of practice took effect

1 in the other state or country.

2 Sec. 113.103. RECOMMENDATION; REPORT. (a) The commission
3 shall report, not later than December 31 of each even-numbered
4 year, the results of the commission's reviews in the preceding
5 biennium under Section 113.102 to the:

6 (1) governor;

7 (2) lieutenant governor;

8 (3) speaker of the house of representatives;

9 (4) standing committees of the senate and house of
10 representatives having jurisdiction over state finance issues; and

11 (5) standing committees of the senate and house of
12 representatives having jurisdiction over health and human services
13 issues.

14 (b) The report must include evidence-based legislative
15 recommendations for each proposed change in the scope of practice
16 of a health profession submitted to the commission.

17 (c) A bill that proposes to expand, contract, or change the
18 scope of practice of a health profession that was not submitted to
19 the commission must include a statement to that effect.

20 Sec. 113.104. OTHER REVIEW AND RESEARCH DUTIES. As the
21 commission determines appropriate, the commission shall conduct
22 other reviews and perform research on issues related to the scope of
23 practice of a health profession, including retrospective reviews of
24 changes in the scope of practice.

25 Sec. 113.105. REQUIREMENTS PERTAINING TO NOTICE AND PUBLIC
26 MEETINGS. (a) The commission shall notify annually each licensing
27 entity and each professional association and group of health

1 professions of the commission's and entity's duties under this
2 chapter.

3 (b) A public hearing conducted under this chapter shall be
4 open to the public and is subject to the requirements of Chapter
5 551, Government Code.

6 Sec. 113.106. ASSISTANCE PROVIDED TO LEGISLATURE AND REVIEW
7 PANELS. (a) The commission on request shall provide assistance to
8 the legislature with regard to a proposed change in the scope of
9 practice of a health profession.

10 (b) The commission shall provide staff services to any
11 review panel established under this chapter.

12 Sec. 113.107. RULES. The commission and each licensing
13 entity shall adopt rules as necessary to administer the
14 requirements of this chapter.

15 SECTION 2. The initial appointments to the Health
16 Professions Scope of Practice Review Commission shall be made not
17 later than December 31, 2005.

18 SECTION 3. This Act takes effect immediately if it receives
19 a vote of two-thirds of all the members elected to each house, as
20 provided by Section 39, Article III, Texas Constitution. If this
21 Act does not receive the vote necessary for immediate effect, this
22 Act takes effect September 1, 2005.