

BILL ANALYSIS

C.S.H.B. 998
By: Brown, Fred
Judiciary & Civil Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The State Office of Administrative Hearings (SOAH) is an independent agency created to manage contested cases and conduct hearings for other state agencies. SOAH provides its services to those agencies that do not have specially trained employees to preside over matters related to contested cases before state agencies. Typically, a contested case between a doctor and the Texas Medical Board is conducted by SOAH at the request of the medical board. The person responsible for reviewing the facts in those cases is known as an administrative law judge (ALJ). Once an ALJ has been assigned to the case, the proceeding is quite similar to that of arbitration; witnesses are called to testify, records are put into evidence, and legal arguments are entered. Following the hearing, the ALJ is responsible for issuing a proposal for decision (PFD) analyzing the evidence and recommending a decision to the medical board. Once presented to the full medical board, the board members hold a hearing on the PFD in which the ALJ presents the proposed decision and attorneys for both sides argue their case. The medical board either adopts the PFD, adopts something different than the PFD, or dismisses the case.

However, in recent years, the medical board has frequently overturned the independent PFD put forth by the SOAH judge in favor of harsher and more restrictive penalties for the medical professionals under review. The bill seeks to make the decisions in these contested cases more impartial by allowing the State Office of Administrative Hearings, rather than the professional board, to render fair and independent judgments.

C.S.H.B. 998 gives administrative law judges the final authority in rendering disciplinary decisions against certain occupational license holders.

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

C.S.H.B. 998 amends the Government Code to require the denial, suspension, revocation, annulment, or refusal to renew an occupational license or the imposition of an administrative penalty or other sanction against certain health-related occupational license holders to be preceded by notice and opportunity for hearing. The bill requires the contested case hearing to be conducted by an administrative law judge employed by the State Office of Administrative Hearings (SOAH).

C.S.H.B. 998 requires an administrative law judge to render the final decision in such contested cases and makes provisions relating to a deadline for a rendered decision to become final, inclusion of findings of fact, conclusions of law, and whether the case concerns an issue related to the denial, suspension, revocation, annulment, or refusal to renew certain health-related occupational licenses or the imposition of an administrative penalty or other sanction against such license holders, distribution of a copy of a decision that may become a final order, motion for rehearing, and judicial review of the final decision applicable to the rendering of the final

decision.

C.S.H.B. 998 requires SOAH to conduct all hearings and render the final decision in contested cases under the Administrative Procedure Act involving the denial, suspension, revocation, annulment, or refusal to renew an occupational license or the imposition of an administrative penalty or other sanction against certain health-related occupational license holders.

EFFECTIVE DATE

September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 998 differs from the original specifying the applicability of the bill's provisions to certain health-related occupational licenses and makes conforming changes to the savings provision. The original amended certain provisions of law generally applicable to contested case hearings, whereas the substitute does not amend those provisions and thus retains current law in those provisions.