

BILL ANALYSIS

C.S.H.B. 1126
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Public Health
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Concerns from medical professionals, the legal community, and the general public regarding the processes and procedures pertaining to disciplinary matters of the Texas Medical Board have increased significantly. The process has been described as convoluted and slow and has raised questions about whether taxpayer funds and agency resources are being used efficiently.

C.S.H.B. 1126 requires the Texas Medical Board to dispose of a case that involves disciplinary action against a physician by issuing a final order based on the administrative law judge's findings of fact and conclusions of law. The bill authorizes the board to obtain judicial review of any finding of fact or conclusion of law issued by the administrative law judge to which an occupational licensing agency and any other party to a contested case that concerns an occupational license would be entitled.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Medical Board in SECTION 1 of this bill.

ANALYSIS

C.S.H.B. 1126 amends the Occupations Code to require the Texas Medical Board, within the board's requirement to adopt procedures by rule governing formal disposition, to dispose of a case contested under the Administrative Procedure Act that involves disciplinary action against a physician by issuing a final order based on the administrative law judge's findings of fact and conclusions of law rather than determining the charges on the merits. The bill clarifies that the board is prohibited from changing a finding of fact or conclusion of law or vacating or modifying an order of the administrative law judge, rather than limiting the prohibition only to circumstances authorized under the Administrative Procedure Act. The bill authorizes the board to obtain judicial review of any finding of fact or conclusion of law issued by the administrative law judge to which an occupational licensing agency and any other party to a contested case that concerns an occupational license would be entitled. The bill provides that, for each case, the board has the sole authority and discretion to determine the appropriate action or sanction, and prohibits the administrative law judge from making any recommendation regarding the appropriate action or sanction.

EFFECTIVE DATE

September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 1126 removes a provision in the original specifying that vacating or modifying an order that recommends or imposes a sanction is included in the prohibition against the board changing a finding of fact or conclusion of law or vacating or modifying any order of the administrative

law judge in a case contested under the Administrative Procedure Act that involves disciplinary action against a physician.

C.S.H.B. 1126 adds a provision not in the original authorizing the board to obtain judicial review of any finding of fact or conclusion of law issued by the administrative law judge that to which an occupational licensing agency and any other party to a contested case that concerns an occupational license would be entitled.

C.S.H.B. 1126 adds provisions not in the original providing that, for each such case, the board has the sole authority and discretion to determine the appropriate action or sanction and prohibiting the administrative law judge from making any recommendation regarding the appropriate action or sanction.