

BILL ANALYSIS

C.S.H.B. 2627
By: Zedler
Public Health
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties assert that the Texas Optometry Board would benefit from an additional process for resolving investigations of licensed optometrists who commit minor infractions or of cases in which the appropriate remedy is something other than a limit on an optometrist's ability to practice. The parties contend that remedial plans, which are similar to the deferred adjudication program found in the criminal court system, have been enacted for the Texas Medical Board and proposed for the Texas State Board of Pharmacy and would give the Texas Optometry Board a useful tool for resolving such investigations. C.S.H.B. 2627 seeks to provide for the use of a remedial plan in resolving certain investigations of complaints filed with the board.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Optometry Board in SECTIONS 1 and 2 of this bill.

ANALYSIS

C.S.H.B. 2627 amends the Occupations Code to authorize the Texas Optometry Board to issue and establish the terms of a remedial plan to resolve the investigation of a complaint filed under the Texas Optometry Act. The bill prohibits a remedial plan from containing a provision that revokes, suspends, limits, or restricts a person's license or other authorization to practice optometry or therapeutic optometry or that assesses an administrative penalty against a person and from being imposed to resolve a complaint concerning a death, a hospitalization, or the commission of a felony, or in which the appropriate resolution may involve a restriction on the manner in which a license holder practices optometry or therapeutic optometry. The bill prohibits the board from issuing a remedial plan to resolve a complaint against a license holder if the license holder has entered into a remedial plan with the board in the preceding 24 months for the resolution of a different complaint. The bill requires the board to remove all records of a remedial plan from the board's records on the second anniversary of the date the license holder successfully completes a remedial plan if a license holder complies with and successfully completes the terms of the plan. The bill authorizes the board to assess a fee against a license holder participating in a remedial plan in an amount necessary to recover the costs of administering the plan and requires the board to adopt rules necessary to implement the bill's provisions not later than January 1, 2014.

EFFECTIVE DATE

September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2627 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial

differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Title 3, **Subtitle F**, Chapter 351, Occupations Code, is amended by adding Section 351.206 to read as follows:

Sec. 351.206. REMEDIAL PLAN. (a) The board may issue and establish the terms of a remedial plan to resolve the investigation of a complaint relating to this chapter.

(b) A remedial plan may not contain a provision that:

(1) revokes, suspends, limits, or restricts a person's license or other authorization to practice optometry or therapeutic optometry; or

(2) assesses an administrative penalty against a person.

(c) A remedial plan may not be imposed to resolve a complaint:

(1) concerning:

(A) a death;

(B) a hospitalization; or

(C) the commission of a felony; or

(2) in which the appropriate resolution may involve a restriction on the manner in which a license holder practices optometry or therapeutic optometry.

(d) The board may not issue a remedial plan to resolve a complaint against a license holder if the license holder has entered into a remedial plan with the board in the preceding 24 months for the resolution of a different complaint relating to this subtitle.

(e) If a license holder complies with and successfully completes the terms of a remedial plan, the board shall remove all records of the remedial plan from the board's records on the second anniversary of the date the license holder successfully completes the remedial plan.

(f) The board may assess a fee against a license holder participating in a remedial plan in an amount necessary to recover the costs of administering the plan.

(g) The board shall adopt rules necessary to implement this section.

No equivalent provision.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. **Subchapter K**, Chapter 351, Occupations Code, is amended by adding Section 351.509 to read as follows:

Sec. 351.509. REMEDIAL PLAN. (a) The board may issue and establish the terms of a remedial plan to resolve the investigation of a complaint filed under this chapter.

(b) A remedial plan may not contain a provision that:

(1) revokes, suspends, limits, or restricts a person's license or other authorization to practice optometry or therapeutic optometry; or

(2) assesses an administrative penalty against a person.

(c) A remedial plan may not be imposed to resolve a complaint:

(1) concerning:

(A) a death;

(B) a hospitalization; or

(C) the commission of a felony; or

(2) in which the appropriate resolution may involve a restriction on the manner in which a license holder practices optometry or therapeutic optometry.

(d) The board may not issue a remedial plan to resolve a complaint against a license holder if the license holder has entered into a remedial plan with the board in the preceding 24 months for the resolution of a different complaint filed under this chapter.

(e) If a license holder complies with and successfully completes the terms of a remedial plan, the board shall remove all records of the remedial plan from the board's records on the second anniversary of the date the license holder successfully completes the remedial plan.

(f) The board may assess a fee against a license holder participating in a remedial plan in an amount necessary to recover the costs of administering the plan.

(g) The board shall adopt rules necessary to implement this section.

SECTION 2. The Texas Optometry Board shall adopt rules under Section 351.509, Occupations Code, as added by this Act, not later than January 1, 2014.

SECTION 2. Section 351.206, Occupations Code, as added by this Act, applies only to a complaint filed on or after the effective date of this Act. A complaint filed before that date is governed by the law in effect on the date the complaint was filed, and that law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 2013.

SECTION 3. Substantially the same as introduced version.

SECTION 4. Same as introduced version.