

BILL ANALYSIS

C.S.H.B. 2853
By: Johnson, Julie
Judiciary & Civil Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The Texas Medical Disclosure Panel is responsible for developing informed consent forms regarding the risks and hazards related to medical care and surgical procedures that must be disclosed by health care providers to their patients. There are concerns that panel membership currently does not include members who adequately represent patient interests. C.S.H.B. 2853 seeks to address this issue by, among other changes, adding two members representing the public.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

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. 2853 amends the Civil Practice and Remedies Code to increase the number of members of the Texas Medical Disclosure Panel from nine to 11 by adding two members representing the public. With respect to the appointment of these two members, the bill does the following:

- requires at least one of the two to have a background in health literacy;
- prohibits the appointment of a registered lobbyist, a health care provider or the spouse of a health care provider, or a person who works in any health care related field, including health insurance; and
- requires preference to be given to persons with experience in advocating for the public interest.

C.S.H.B. 2853 requires at least one of the three panel members appointed on the basis of being licensed to practice law to be board certified in personal injury trial law by the Texas Board of Legal Specialization (TBLS) and at least one of the three members to be board certified in health law by the TBLS.

C.S.H.B. 2853 requires the executive commissioner of the Health and Human Services Commission, not later than January 1, 2022, to appoint new members to the panel in accordance with the bill's provisions.

EFFECTIVE DATE

September 1, 2021.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2853 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The original expanded the membership of the panel to include two members appointed to represent the public. The substitute retains the expansion in membership but also requires that one of the two members have a background in health literacy.

The substitute does not include a provision, as in the original, that requires at least one of the three panel members appointed on the basis of being licensed to practice law to be a person who regularly represents patients. Instead, the substitute requires at least one of the three members to be board certified in personal injury trial law and at least one of them to be board certified in health law.