

## **BILL ANALYSIS**

Senate Research Center  
87R8631 BEE-D

S.B. 961  
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Health & Human Services  
4/19/2021  
As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

From tort reform to remedial plans, the Texas Medical Board (TMB) has evolved to meet its directive of licensing physicians, enforcing rules and regulations, protecting the public, and investigating complaints. However, despite these significant improvements to TMB's disciplinary process, some physicians still contend that additional improvements should be implemented.

For example, in administrative disciplinary cases the administrative law judge reviewing the case is not required to provide all information regarding a dismissal in their final judgment. Furthermore, TMB is not required to allow any member of the legislature to attend an informal meeting held during the disciplinary process, or provide any member of the legislature with information about a complaint if requested.

In order to improve transparency over the disciplinary process, S.B. 961 requires the administrative law judge to include all information in their final judgment and allows TMB to release information about a complaint to any member of the legislature who requests it. S.B. 961 also allows any member of the legislature to attend the informal hearings that take place as part of this process, and takes away the ability of TMB to adopt a quota for a number of physicians to be disciplined within a specified period.

Finally, S.B. 961 states that TMB must only implement actions or sanctions based on a violation of a specific code or board rule.

As proposed, S.B. 961 amends current law relating to complaint information and disciplinary procedures of the Texas Medical Board.

### **RULEMAKING AUTHORITY**

Rulemaking authority previously granted to the Texas Medical Board is modified in SECTION 4 (Section 164.007, Occupations Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 154.055, Occupations Code, as follows:

Sec. 154.055. New heading: RELEASE OF COMPLAINT INFORMATION TO LEGISLATOR. (a) Requires the Texas Medical Board (TMB), on request from a member of the legislature, rather than a legislative committee created under Subchapter B (Committees and Committee Procedure), Chapter 301, Government Code, to release to the member all information regarding a complaint against a physician. Deletes existing text authorizing TMB to release the information only to the members of the committee and requiring TMB to release certain information to aid in a legitimate legislative inquiry.

(b) Prohibits TMB, in complying with a request under Subsection (a), from identifying the complainant or the patient. Deletes existing text authorizing TMB to reveal the identity of the affected physician only to the members of the committee.

SECTION 2. Amends Section 164.001, Occupations Code, by adding Subsection (k), to prohibit TMB from adopting or implementing a quota for a number of physicians to be disciplined within a specified period.

SECTION 3. Amends Section 164.003, Occupations Code, by adding Subsection (b-1), to entitle a member of the legislature, notwithstanding any other law, to attend any informal meeting held under this section.

SECTION 4. Amends Sections 164.007(a) and (a-1), Occupations Code, as follows:

(a) Requires TMB by rule to adopt procedures governing formal disposition of a contested case under Chapter 2001 (Administrative Procedures), Government Code. Requires that a formal hearing be conducted by an administrative law judge employed by the State Office of Administrative Hearings. Requires TMB, after receiving the findings of fact and conclusions of law of the administrative law judge, to:

(1) dispose of the contested case by issuing a final order based on the administrative law judge's findings of fact and conclusions of law, which are required to include dismissal of the contested case if the findings of fact and conclusions of law establish that the physician did not violate a provision of this code or TMB rule; or

(2) makes no changes.

(a-1) Prohibits TMB, notwithstanding Section 2001.058(e) (relating to the authorization of a state agency to change a finding of fact or conclusion of law made by the administrative judge under certain circumstances), Government Code, from changing a finding of fact or conclusion of law or vacating or modifying an order of the administrative law judge. Provides that TMB, for each case, has the sole authority and discretion to determine the appropriate action or sanction for a violation of a provision of this code or TMB rule. Prohibits the administrative law judge from making any recommendation regarding the appropriate action or sanction.

SECTION 5. Provides that Sections 164.007(a) and (a-1), Occupations Code, as amended by this Act, apply only to a contested case for which an administrative law judge issues written findings of fact and conclusions of law on or after the effective date of this Act. Provides that a contested case for which an administrative law judge issues written findings of fact and conclusions of law before the effective date of this Act is governed by the law in effect on the date the findings of fact and conclusions of law were issued, and the former law is continued in effect for that purpose.

SECTION 6. Effective date: September 1, 2021.