

## **BILL ANALYSIS**

Senate Research Center

H.B. 148  
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Health & Human Services  
5/13/2023  
Engrossed

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

Informed consent is critically important for patient autonomy and protocol for safe medical care. It is the responsibility of the Texas Medical Disclosure Panel (panel) to develop the informed consent notices physicians must give to patients about their personal health. Informed consent notices remain important and this information must be delivered in a manner that are comprehensible to the average person so they can make an informed decision about their personal health. However, the panel does not include an average person who could provide critical input since this panel consistently consists of solely physicians and attorneys. There are also no additional requirements for attorneys who are appointed to the panel, such as having a background in health law.

H.B. 148 attempts to address this issue by adding two new members representing the general public to the Texas Medical Disclosure Panel and additional requirements for attorneys on the panel. H.B. 148 amends the Civil Practice and Remedies Code to increase the number of members of the Texas Medical Disclosure Panel from nine to 11 to represent the general public. This bill also requires at least one of the two members to have a background in health literacy, prohibits appointing a registered lobbyist, a health care provider or a spouse of a health care provider, or anyone who works in any health care-related field. H.B. 148 seeks to advocate for patients and their personal health.

[Note: While the statutory reference in this bill is to the Texas Department of Health (TDH), the following amendments affect the Department of State Health Services as the successor agency to TDH.]

H.B. 148 amends current law relating to the Texas Medical Disclosure Panel.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 74.102, Civil Practice and Remedies Code, by amending Subsections (b), (c), (d), and (h) and adding Subsection (i), as follows:

(b) Provides that the Texas Medical Disclosure Panel (panel) is administratively attached to the Health and Human Services Commission (HHSC), rather than the Texas Department of Health (TDH). Requires that the panel be subject, except where inconsistent, to the rules and procedures of HHSC, rather than TDH, except that the duties and responsibilities of the panel are required to be exercised solely by the panel, and the executive commissioner of HHSC (executive commissioner) or TDH. Makes conforming changes.

(c) Provides that the panel is composed of 11 members, rather than nine members, with two members representing the public, at least one of whom has a background in health literacy, three members licensed to practice law in this state, at least one of whom is board certified in personal injury trial law by the Texas Board of Legal Specialization and

at least one of whom is board certified in health law by the Texas Board of Legal Specialization, and six members licensed to practice medicine in this state. Requires members of the panel to be selected by the executive commissioner, rather than the commissioner of health.

(d) and (h) Makes conforming and nonsubstantive changes to these subsections.

(i) Prohibits the executive commissioner, when appointing panel members representing the public, from appointing 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.

SECTION 2. Amends the heading to Section 74.103, Civil Practice and Remedies Code, to read as follows:

Sec. 74.103. DUTIES OF DISCLOSURE PANEL; LIMITATIONS ON AUTHORITY.

SECTION 3. Amends Section 74.103, Civil Practice and Remedies Code, by adding Subsection (e) to provide that the panel is not authorized to take any action that may be interpreted as changing the scope of practice authority of any physician or health care provider.

SECTION 4. Requires the executive commissioner to appoint new members to the panel in accordance with Section 74.102, Civil Practice and Remedies Code, as amended by this Act, not later than January 1, 2024.

SECTION 5. Effective date: September 1, 2023.