

BILL ANALYSIS

C.S.H.B. 2556
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Health Care Reform, Select
Committee Report (Substituted)

BACKGROUND AND PURPOSE

According to a report by the Department of State Health Services, there is a physician workforce shortage in Texas which is expected to worsen. While our state has taken steps to help alleviate these shortages, there is still a group of health care professionals who are underutilized. According to the National Resident Matching Program, not all physicians who have graduated from medical school are matched into residency programs. At present, this group of physicians is not permitted to practice any kind of medicine in Texas.

Medical school graduates who do not match into a residency program are being pushed to the sidelines, unable to use their training and expertise. Although these graduates are able to reapply for residency in subsequent match cycles, their applications are considerably weakened each year they are out of medical school and not in the workforce. C.S.H.B. 2556 establishes a medical license that allows certain medical school graduates to enter the workforce under the supervision of a licensed physician, with the goal of helping these graduates gain practice experience and maintain or even increase the strength of their applications, making it more likely that they will eventually match into their chosen field, while also alleviating health care workforce shortages.

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 rulemaking authority is expressly granted to the Texas Medical Board in SECTION 1 of this bill.

ANALYSIS

C.S.H.B. 2556 amends the Occupations Code to provide for the licensing and regulation of physician graduates and for the authority of an insurer to select a physician graduate under a health insurance policy.

Licensing and Regulation

C.S.H.B. 2556 requires the Texas Medical Board (TMB), on application, to issue a limited license to practice medicine as a physician graduate to an applicant who satisfies the following qualifications:

- is a graduate of a TMB-recognized accredited medical school or osteopathic medical school in the United States or Canada or a medical school located outside of the United States and Canada that is recognized by the TMB as acceptable;

- has graduated from such a school in the two years preceding the date that the applicant initially applies for a physician graduate license or, for a graduate of a school outside of the United States and Canada, is licensed in good standing to practice medicine in another country;
- has passed the first and second components of the United States Medical Licensing Examination or equivalent components of another TMB-approved licensing examination;
- is not enrolled in a TMB-approved postgraduate residency program;
- is a Texas resident;
- is a U.S. citizen, a legal permanent resident, or otherwise authorized under federal law to work in the United States;
- has proficiency in the English language; and
- meets any other requirement prescribed by TMB rule.

A physician graduate license holder is considered a general practitioner for purposes of regulations of the federal Centers for Medicare and Medicaid Services.

C.S.H.B. 2556 requires a physician graduate to enter into a supervising practice agreement with a sponsoring physician and does the following with respect to such agreements:

- prohibits a physician graduate who has not entered into a supervising practice agreement from practicing or attempting to practice medicine;
- authorizes a physician graduate who enters into a supervising practice agreement to practice under the delegation and supervision of another physician if:
 - the sponsoring physician authorizes the practice under the delegation and supervision of the other physician in a written document that identifies the other physician by name; and
 - the other physician is part of the sponsoring physician's physician group or facility and certified in the same specialty as the sponsoring physician by a medical specialty member board of the American Board of Medical Specialties (ABMS) or the American Osteopathic Association Bureau of Osteopathic Specialists (BOS);
- requires the physician profile of a sponsoring physician or physician graduate to indicate in the manner prescribed by TMB rule that the sponsoring physician or physician graduate has entered into a supervising practice agreement; and
- establishes that a physician who enters into a supervising practice agreement with a physician graduate is responsible at all times for the oversight of and is liable for any medical act performed or the omission of any medical act by the physician graduate in the provision of medical services.

C.S.H.B. 2556 makes a physician eligible to enter into a supervising practice agreement as a sponsoring physician if the physician meets the following criteria:

- holds a full and unrestricted license to practice medicine issued under the Medical Practice Act;
- has not been and is not currently the subject of disciplinary action by the TMB or the medical licensing authority of any other jurisdiction;
- is certified by a medical specialty member board of the ABMS or the BOS; and
- practices medicine in the specialty for which the physician is certified.

The bill requires a sponsoring physician who enters into a supervising practice agreement with a physician graduate to comply with all TMB rules related to the supervision of physician graduates. The TMB by rule must establish the maximum number of physician graduates that a sponsoring physician may supervise under supervising practice agreements.

C.S.H.B. 2556 does the following with respect to practice by a physician graduate:

- authorizes a physician graduate to provide only medical services in the specialty in which their sponsoring physician is certified under supervision in accordance with a supervising practice agreement;

- requires a physician graduate license holder, before providing a treatment, consultation or other medical service, to disclose to the patient that the license holder is a physician graduate and, if asked, that the license holder has not completed any formal specialized postgraduate or resident training;
- prohibits a physician graduate from prescribing a schedule II controlled substance;
- requires a physician graduate license holder, while practicing, to always display a personal identification document identifying the license holder as a physician graduate; and
- authorizes a physician graduate to use the title "doctor" or the abbreviations "Dr." or "doc."

C.S.H.B. 2556 prohibits the TMB from renewing a physician graduate license unless both of the following conditions are met:

- the TMB verifies that the license holder has practiced in accordance with the bill's provisions under a supervising practice agreement with a sponsoring physician in the license term preceding the application for renewal; and
- the license holder satisfies the continuing medical education requirements established by TMB rule.

The bill authorizes the TMB to deny an application for licensure or suspend or revoke a physician graduate license for any ground provided by the Medical Practice Act or TMB rule and in the manner provided by such act and rule.

C.S.H.B. 2556 requires the TMB, not later than January 1, 2024, to adopt rules relating to licensing and regulation of physician graduates in accordance with the bill's provisions, including rules relating to the following:

- procedures and fees for the issuance, term, and renewal of a physician graduate license, including continuing medical education requirements for renewal of the license;
- practices and requirements for the supervision of physician graduates; and
- any other matter necessary to ensure protection of the public, including disciplinary procedures.

The bill prohibits the amount of a fee for the issuance or renewal of a physician graduate license from exceeding the amount of a fee for the issuance or renewal of a physician assistant license.

C.S.H.B. 2556 defines the following terms:

- "physician graduate" as an individual issued a limited license under the bill's provisions to practice medicine under a supervising practice agreement with a sponsoring physician;
- "sponsoring physician" as a physician who enters into a supervising practice agreement with a physician graduate; and
- "supervising practice agreement" as an agreement between a sponsoring physician and a physician graduate regarding the supervision by the sponsoring physician of the physician graduate's practice of medicine.

Insurance

C.S.H.B. 2556 amends the Insurance Code to authorize an insured to select a licensed physician graduate to provide the services scheduled in the health insurance policy that are within the scope of the physician graduate's license. This authorization applies only to a health insurance policy that is delivered, issued for delivery, or renewed on or after January 1, 2024.

EFFECTIVE DATE

September 1, 2023.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 2556 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute revises provisions of the introduced with respect to issuance of a physician graduate license, as follows:

- clarifies that the license is limited;
- makes certain changes to the requirement for a license holder to be a graduate of a qualifying medical school or osteopathic medical school relating to the criteria a qualifying school must satisfy;
- requires an applicant either to have graduated in the two years preceding the initial application date or, if applicable, to be licensed in good standing to practice medicine in another country; and
- requires an applicant to have passed the first component of the United States Medical Licensing Examination or an equivalent component, in addition to the second component, which was already required by the introduced.

Both the introduced and the substitute require the sponsoring physician of a physician graduate to be licensed under the Medical Practice Act and to not currently be the subject of disciplinary action by the TMB. However, the substitute specifies that the sponsoring physician must hold a full and unrestricted license under that act and must have not ever been the subject of disciplinary action by the TMB or the medical licensing authority of any other jurisdiction. The substitute also includes the following provisions absent from the introduced relating to sponsoring physicians and supervising practice agreements:

- requirements for the sponsoring physician to be certified by a medical specialty member board of the ABMS or the BOS and practice in the certified specialty;
- a requirement for the sponsoring physician to comply with all TMB rules related to the supervision of physician graduates;
- a requirement for the TMB by rule to establish the maximum number of physician graduates that a sponsoring physician may supervise;
- an authorization for a physician graduate who enters into a supervising practice agreement to practice under the delegation and supervision of another physician under certain circumstances; and
- a requirement absent from the introduced for the physician profile of a sponsoring physician or physician graduate indicate in the manner prescribed by TMB rule that the sponsoring physician or physician graduate has entered into a supervising practice agreement.

Whereas the introduced authorized a physician graduate to provide only primary care services, as defined by TMB rule, the substitute authorizes a physician graduate to provide only medical services in the specialty in which the sponsoring physician is certified. The substitute includes the following provisions absent from the introduced relating to practice by a physician graduate:

- a requirement for a license holder to disclose to the patient that the license holder is a physician graduate and, if asked, that the license holder has not completed any formal specialized postgraduate or resident training; and
- a prohibition against a physician graduate prescribing a schedule II controlled substance.

While both the introduced and the substitute provide for the liability of a sponsoring physician for medical acts performed by a physician graduate, the substitute also makes a sponsoring physician liable for the omission of any medical act by the physician graduate.

The substitute includes provisions absent from the introduced requiring the TMB to adopt rules regarding continuing medical education requirements for renewal of a physician graduate license and requiring those requirements to be satisfied by a license holder seeking renewal.

The substitute changes the deadline for the TMB to adopt rules necessary to implement the bill's provisions relating to physician graduate licensing and regulation from December 1, 2023, as in the introduced, to January 1, 2024.

The substitute includes definitions absent from the introduced for "sponsoring physician" and "supervising practice agreement."