

BILL ANALYSIS

C.S.H.B. 2038
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Public Health
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The bill author has informed the committee that there are roughly 30 counties in Texas that have zero primary care physicians, that 39 percent of Texas' physicians are over the age of 65 and expected to retire within the next five years, and that Texas is projected to be short over 10,000 physicians by 2032. The bill author has also informed the committee that this shortage may lead to higher health care costs, longer waiting times, worsening health outcomes, and physician burnout. C.S.H.B. 2038, the Decreasing Occupational Certification Timelines, Obstacles, and Regulations (DOCTOR) Act, seeks to address the physician shortage in Texas by reducing regulatory barriers that prevent physicians from serving Texans and tapping into three underutilized physician groups to get more doctors to Texas: international physicians, veteran physicians, and physician graduates.

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 SECTIONS 3.001, 4.001, and 5.001 of this bill.

ANALYSIS

C.S.H.B. 2038 amends the Occupations Code to provide for the issuance of a license to practice medicine by the Texas Medical Board (TMB) to certain military veterans, certain foreign medical license holders, and physician graduates.

Issuance of License to Practice Medicine to Certain Military Veterans

C.S.H.B. 2038 requires the TMB, on application, to issue a license to practice medicine to an applicant who meets the following conditions:

- is licensed in good standing as a physician in another state;
- is a veteran of the U.S. armed forces who retired from or otherwise left military service not more than three years before the application date for a license to practice medicine;
- at the time of retiring from or leaving military service, was:
 - serving on active duty; and
 - authorized as a physician to treat persons enlisted in or veterans of the U.S. armed forces; and
- has passed the Texas medical jurisprudence examination.

C.S.H.B. 2038 prohibits the TMB from issuing such a license to an applicant who meets the following conditions:

- was discharged or separated from the U.S. armed forces on the basis of substandard conduct or for any act of misconduct or moral or professional dereliction;
- holds a medical license or a license to prescribe, dispense, administer, supply, or sell a controlled substance that is currently under active investigation or is or was subject to a disciplinary order or action or to denial by another jurisdiction; or
- has been convicted of, is on deferred adjudication community supervision or deferred disposition for, or is under active investigation for the commission of a felony or of a misdemeanor involving moral turpitude.

The bill defines "active duty" by reference as current full-time military service in the U.S. armed forces or active duty military service as a member of the Texas military forces, or similar military service of another state and "armed forces of the United States" by reference as the U.S. army, navy, air force, space force, coast guard, or marine corps or a reserve unit of one of those branches of the armed forces.

Issuance of Provisional License to Practice Medicine to Certain Foreign Medical License Holders

C.S.H.B. 2038 requires the TMB, on application, to issue an initial provisional license to practice medicine to an applicant who meets the following conditions:

- has been granted a degree of doctor of medicine or a substantially similar degree by a program of medical education that meets eligibility requirements for the applicant to apply for certification by the Educational Commission for Foreign Medical Graduates;
- has been licensed in good standing to practice medicine in another country in the five years preceding application and is not the subject of any pending disciplinary action before the licensing body;
- either:
 - has completed a residency or substantially similar postgraduate medical training required by the applicant's country of licensure and has practiced medicine as a licensed physician in that country or another country in which the applicant is licensed as a physician for at least five years after the completion of the required postgraduate medical training; or
 - if the applicant's country of licensure does not require postgraduate medical training, has practiced medicine as a licensed physician in that country or another country in which the applicant is licensed as a physician for at least 10 years after completing medical school;
- passes the Texas medical jurisprudence examination;
- has proficiency in the English language;
- is authorized under federal law to work in the United States;
- has been offered employment in Texas as a physician by a person who provides health care services in the normal course of business in a facility-based or group practice setting, including a health system, hospital, hospital-based facility, freestanding emergency facility, or urgent care clinic; and
- meets any other requirement the TMB prescribes by rule.

The bill sets the expiration date of the provisional license on the second anniversary of the date the provisional license was issued.

C.S.H.B. 2038 limits the practice of a holder of a provisional license to the following:

- in a facility-based or group practice setting with:
 - an Accreditation Council for Graduate Medical Education residency program; or
 - an American Osteopathic Association residency program;
- in an Accreditation Council for Graduate Medical Education-affiliated setting; or
- in an American Osteopathic Association-affiliated setting.

C.S.H.B. 2038 requires the TMB, on application, to renew a provisional license to practice medicine if the applicant meets the following conditions:

- has passed the first and second steps of the United States Medical Licensing Examination (USMLE) or its successor in accordance with statutory provisions relating to examination attempt limits; and
- holds a valid certificate issued by the Educational Commission for Foreign Medical Graduates.

C.S.H.B. 2038 limits the practice of a holder of a renewed provisional license to a rural community or medically underserved area or health professional shortage area, as designated by the U.S. Department of Health and Human Services, that has a current shortage of physicians. The bill establishes that such a license holder is not subject to the practice limitations imposed on an initial provisional license holder under the bill's provisions.

C.S.H.B. 2038 requires the TMB, on application, to issue a physicians license to the holder of a provisional license if the provisional license holder meets the following conditions:

- at the time the physicians license will be issued, will have practiced under the provisional license for at least four of the preceding seven years; and
- satisfies the examination requirements for a license to practice medicine.

The bill prohibits the TMB from issuing a physicians license in such a manner to an applicant who, as follows:

- is subject to board investigation or discipline for conduct that occurred while holding the provisional license; or
- has been convicted of, is on deferred adjudication community supervision or deferred disposition for, or is under active investigation for the commission of a felony or of a misdemeanor involving moral turpitude.

The bill requires the TMB to adopt rules for the issuance of a provisional license, the renewal of a provisional license, and the issuance of a physicians license under these provisions, including rules establishing eligibility for and fees applicable to the licenses.

Issuance of Physicians License to Physician Graduates

C.S.H.B. 2038 requires the TMB to adopt rules in accordance with the bill's provisions relating to the licensing and regulation of physician graduates, including rules relating to the following:

- procedures and fees for the issuance, term, and renewal of a license under provisions relating to a physician graduate, 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 defines the following terms for purposes of its provisions relating to physician graduates:

- "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 sponsoring physician's supervision of the physician graduate's practice of medicine.

The bill requires the TMB, on application, to issue a limited license to practice medicine to an applicant who meets the following conditions:

- is a Texas resident and is a U.S. citizen, a legal U.S. permanent resident, or otherwise authorized under federal law to work in the United States;
- has proficiency in the English language;
- has graduated:
 - in the two years preceding the date that the applicant initially applies for a physician graduate license from a TMB-recognized accredited medical school or

osteopathic medical school in the United States or Canada or from a medical school located outside of the United States and Canada that the TMB recognizes as acceptable; or

- if the applicant is licensed in good standing to practice medicine in another country, from a medical school located outside of the United States and Canada that the TMB recognizes as acceptable;
- has passed the first and second components of the U.S. Medical Licensing Examination (USMLE) or equivalent components of another TMB-approved licensing examination;
- is not enrolled in a TMB-approved postgraduate residency program; and
- meets any other requirement prescribed by TMB rule.

The bill caps the amount of a fee for the issuance or renewal of the license at the amount of a fee for the issuance or renewal of a physician assistant license under the Physician Assistant Licensing Act.

C.S.H.B. 2038 makes a physician eligible to enter into a supervising practice agreement as a sponsoring physician if the physician, as follows:

- holds a full and unrestricted physicians license to practice medicine;
- 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 American Board of Medical Specialties;
 - the American Osteopathic Association Bureau of Osteopathic Specialists;
 - the American Board of Oral and Maxillofacial Surgery; or
 - any other medical specialty member organization the TMB recognizes; and
- practices medicine in the specialty for which the physician is so 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 and requires the TMB by rule to establish the maximum number of physician graduates that a sponsoring physician may supervise under supervising practice agreements.

C.S.H.B. 2038 requires a physician graduate to enter into a supervising practice agreement with a sponsoring physician and prohibits a physician graduate who has not entered into such an agreement from practicing or attempting to practice medicine. A physician graduate who enters into the agreement may practice under the delegation and supervision of another physician if the following conditions are met:

- the sponsoring physician authorizes the practice of the physician graduate 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 one of the following:
 - the American Board of Medical Specialties;
 - the American Osteopathic Association Bureau of Osteopathic Specialists;
 - the American Board of Oral and Maxillofacial Surgery; or
 - any other medical specialty member organization the TMB recognizes.

The bill requires the physician profile created by the TMB under statutory provisions relating to public interest information for 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. The bill establishes that a sponsoring physician who enters into a supervising practice agreement with a physician graduate retains legal responsibility for the physician graduate's patient care activities, including the provision of care and treatment to a patient in a health care facility.

C.S.H.B. 2038 limits the practice of a physician graduate to providing medical services in the specialty in which the physician graduate's sponsoring physician is certified under supervision in accordance with a supervising practice agreement. The bill requires a license holder, before

providing a treatment, consultation, or other medical service, to disclose to a patient that the license holder is a physician graduate and that the license holder has not completed any formal specialized postgraduate or resident training. The bill requires a physician graduate license holder to display at all times while practicing as a physician graduate a personal identification document identifying the holder as such and authorizes the use of "doctor," or "Dr." or "doc" as titles or abbreviations. The bill establishes that a physician graduate license holder is considered a general practitioner for purposes of regulations of the federal Centers for Medicare and Medicaid Services. The bill prohibits the TMB from renewing a license unless:

- 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 license as follows:

- for any ground provided by statutory provisions relating to TMB disciplinary actions and procedures or TMB rule; and
- in the manner provided by those provisions and TMB rule.

Rulemaking

C.S.H.B. 2038 requires the TMB, not later than January 1, 2026, to adopt rules as necessary to implement the bill's provisions relating to the issuance of provisional licenses under the bill's provisions to military veterans, foreign medical license holders with offers of employment, and physician graduates.

Authority of Insured to Select Physician Graduate

C.S.H.B. 2038 amends the Insurance Code to authorize an insured to select a 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, 2026.

EFFECTIVE DATE

September 1, 2025.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 2038 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.

While both the introduced and substitute require the TMB to issue a license to practice medicine to a veteran applicant who meets certain criteria, the substitute includes a specification absent from the introduced that the requirement applies on application. Whereas the introduced required the TMB to issue the license to an otherwise qualified applicant who was, at the time of retiring from or leaving military service, serving on active duty in Texas and authorized as a physician to treat persons enlisted in the U.S. armed forces or veterans, the substitute instead requires the TMB to issue the license to such an otherwise qualified applicant who was, at the time of retiring from or leaving military service, serving on active duty and authorized as a physician to treat persons enlisted in or veterans of the U.S. armed forces.

With respect to the requirement included in the introduced for the TMB to issue a provisional license to practice medicine to certain foreign medical license holders with offers of employment in Texas, the substitute does the following:

- specifies that the license is an initial provisional license, which the introduced did not do; and
- revises the requirements for licensure that were included in the introduced as follows:
 - includes as an alternative to having practiced medicine in the applicant's country of licensure having practiced in another country in which the applicant is licensed as a physician, which was absent from the introduced;
 - whereas the introduced included as an alternative to certain training or practice requirements the applicant, if the applicant's country of licensure does not require postgraduate medical training, having practiced as a medical professional performing the duties of a physician in that country for at least five years and having practiced medicine as a licensed physician in that country for at least 10 years after completing medical school, the substitute includes as such an alternative the applicant, if the applicant's country of licensure does not require postgraduate medical training, having practiced medicine as a licensed physician in that country or another country in which the applicant is licensed as a physician for at least 10 years after completing medical school;
 - includes passing the Texas medical jurisprudence examination, which the introduced did not do;
 - omits satisfying the examination requirements to receive a license to practice medicine, as in the introduced;
 - specifies that the offer of employment in Texas is in a facility-based or group practice setting, which the introduced did not do; and
 - includes meeting any other requirements the TMB prescribes by rule, which the introduced did not do.

The substitute changes the expiration of the provisional license from the earlier of the date the TMB issues the provisional license holder a license to practice medicine or denies the provisional license holder's application for a license to practice medicine or the third anniversary of the date the provisional license was issued, as in the introduced, to the second anniversary of the date the license was issued.

The substitute omits the requirement included in the introduced for the TMB to issue a license to practice medicine to the holder of a provisional license under certain conditions.

The substitute includes a provision absent from the introduced that limits the practice of a provisional license to certain facilities, programs, and settings.

The substitute includes the following provisions absent from the introduced:

- a requirement for the TMB to renew a provisional license if the applicant meets certain conditions;
- a provision limiting the practice of the holder of a renewed provisional license to a rural community or medically underserved area or health professional shortage area, as designated by the U.S. Department of Health and Human Services, that has a current shortage of physicians;
- a provision establishing that such a holder is not subject to the practice limitations imposed on an initial provisional license holder under the bill's provisions;
- a requirement for the TMB to issue a physicians license to the holder of a provisional license if the provisional license holder meets certain conditions;
- a prohibition against the TMB issuing a physicians license to an applicant who is subject to TMB investigation or discipline for conduct that occurred while holding the provisional license or has been convicted of, is on deferred adjudication community supervision or deferred disposition for, or is under active investigation for the commission of a felony or of a misdemeanor involving moral turpitude; and
- a requirement for the TMB to adopt rules for the issuance of a provisional license, the renewal of a provisional license, and the issuance of a physicians license as provided, including rules establishing eligibility for and fees applicable to the licenses.

With respect to the issuance of a limited license to practice medicine to a physician graduate the substitute revises the conditions the applicant must meet by omitting a condition included in the introduced that the applicant has not been and is not currently the subject of disciplinary action by the TMB or the medical licensing authority of any other jurisdiction.

With respect to eligibility requirements included in the introduced for a sponsoring physician, the substitute omits the specification included in the introduced that the physician has not been the subject of disciplinary action by the board or the medical licensing authority of any other jurisdiction.

The substitute omits a requirement included in the introduced for the TMB, in adopting rules to implement the bill's Occupations Code provisions, to develop a process to create a "whitelist" of countries whose licensure requirements include residency or a substantially similar postgraduate medical training under the bill's provisions and a requirement for the process to include a review by the TMB of at least 10 countries per year for inclusion on the whitelist, and if after the review a country is not included, required the TMB to identify, with specificity, the aspects of the country's requirements that caused the country's exclusion.