

BILL ANALYSIS

Senate Research Center
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S.B. 191
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Health & Human Services
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Texas Medical Board (TMB) is responsible for protecting the public's health, safety, and welfare through the regulation of the practice of medicine. S.B. 191 increases transparency regarding the disposition of cases by TMB.

Specifically, S.B. 191 prohibits TMB from changing a finding of fact or conclusion of law or modifying an order of an administrative law judge; allows TMB to obtain a judicial review of any finding of fact or conclusion of law issued by an administrative law judge; and clarifies that TMB has sole authority to determine the sanction against a license holder and prohibits an administrative law judge from making any recommendations as to the appropriate action or sanction.

As proposed, S.B. 191 amends current law relating to disposition of a contested case by the Texas Medical Board.

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 Sections 164.007(a) and (a-1), Occupations Code, as follows:

(a) Requires the Texas Medical Board (TMB), after receiving the administrative law judge's findings of fact and conclusions of law, to dispose of the contested case by issuing a final order based on the administrative law judge's findings of fact and conclusions of law, rather than to determine the charges on the merits.

(a-1) Prohibits, rather than authorizes, TMB, notwithstanding Section 2001.058(e) (relating to changing a finding of fact or conclusion of law made by the administrative law judge), Government Code, from changing a finding of fact or conclusion of law or vacating or modifying an order of the administrative law judge. Authorizes TMB to obtain judicial review of any finding of fact or conclusion of law issues by the administrative law judge as provided by Section 2001.058(f)(5) (relating to rendering a final decision in a contested case), Government Code. Provides that, for each case, TMB has the sole authority and discretion to determine the appropriate action or sanction, and the administrative law judge may not make any recommendation regarding the appropriate action or sanction. Deletes existing text authorizing TMB to change a finding of fact or conclusion of law or vacate or modify an order of the administrative law judge only if TMB makes a determination required by Section 2001.058(e), Government Code.

SECTION 2. Makes application of Sections 164.007(a) and (a-1), Occupations Code, as amended by this Act, prospective.

SECTION 3. Effective date: September 1, 2011.