

SUBJECT: Authorizing TDH to place hospital licenses on probation

COMMITTEE: Public Health — favorable, without amendment

VOTE: 5 ayes — Laubenberg, Truitt, Dawson, Taylor, Zedler

0 nays

4 absent — Capelo, Coleman, McReynolds, Naishtat

SENATE VOTE: On final passage, March 19 — voice vote

WITNESSES: No public hearing

BACKGROUND: The Texas Department of Health (TDH) licenses and regulates hospitals in the state. Under Health and Safety Code, sec. 241.053, TDH may deny, suspend, or revoke a hospital's license for noncompliance with any of the agency's regulations.

DIGEST: SB 162 would authorize TDH to place a hospital on probation for repeated noncompliance with a rule or regulation as long as the violation did not endanger the public's health or safety. Hospitals that could be put on probations would include ambulatory surgical centers, birthing centers, abortion facilities, end-stage renal disease facilities, hospice care facilities, and private mental health facilities.

TDH would have to notify a hospital of the probation and of the noncompliance items at least 10 days in advance and would have to set a probationary period of at least 30 days. During the probation period, the hospital would have to become compliant and report the corrections to TDH. If the violations were not corrected, TDH could suspend or revoke the hospital's license.

The bill also would allow TDH to place a dialysis center under emergency suspension if the center's actions endangered public health and safety. The emergency suspension would be immediate, without notification. Upon the

license holder's request, TDH would have to hold a hearing on the suspension between 10 and 30 days after receiving the request.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2003.

**SUPPORTERS
SAY:**

SB 162 would implement an across-the-board recommendation by the Sunset Advisory Commission relating to a full range of penalties or sanctions for licensing boards. TDH last underwent a full sunset review in 1998, but each licensing body was not reviewed individually, so standard recommendations were not implemented for each.

TDH should have the authority to place a hospital on probation when a violation does not threaten the public health or safety. Hospitals should be encouraged to comply with all regulations, but the only enforcement tools that TDH has now are suspension or revocation of a license. Probation would be a more appropriate sanction for minor violations.

The 77th Legislature in 2001 enacted SB 279 by Nelson, containing these statutory changes. However, Gov. Rick Perry vetoed the bill, citing a provision that would have repealed certain confidentiality protections related to information in a complaint against a hospital. SB 162 does not contain the provision that prompted the governor's veto.

**OPPONENTS
SAY:**

No apparent opposition.