

BILL ANALYSIS

Senate Research Center

S.B. 702
By: Moncrief
Jurisprudence
3-12-97
As Filed

DIGEST

Currently, the Texas Department of Health is responsible for licensing and regulating massage therapists, medical radiological technologists, respiratory therapists, and opticians. The present penalty for violating licensure laws is generally a Class B misdemeanor; however, violations of the rules may also result in sanctions, reprimands, suspensions of licenses, license revocation, or non-renewal. This legislation establishes a method for imposition and collection of monetary administrative penalties under certain professional licensing programs in order to establish a more consistent and appropriate sanction for violations which pose no direct threat to patient health and safety.

PURPOSE

As proposed, S.B. 702 establishes the imposition of administrative penalties under certain professional licensing programs.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Article 4512k, V.T.C.S., by adding Section 13A, as follows:

Sec. 13A. ADMINISTRATIVE PENALTY. Sets forth the terms by which the Texas Department of Health (department) is authorized to assess an administrative penalty not to exceed \$1,000 against a person who violates this Act or a rule adopted under this Act. Provides that each day of a continuing violation constitutes a separate violation. Subjects all proceedings for assessment of a penalty to Chapter 2001, Government Code. Establishes the conditions by which the department is required to determine the amount of a penalty and give written notice to the person alleged to have committed the violation; by which a person is authorized to accept or make a written request for a hearing on the department's determination; by which the department is required to hold a hearing and give notice of its findings; by which the person is required to pay the penalty and/or file a petition for judicial review, and stay enforcement of the penalty; by which the department is authorized to file a contest to the affidavit or refer the matter to the attorney general; by which the court is required to either sustain or dismiss the occurrence of the violation, and proceed when its judgment becomes final; by which the department and the attorney general are authorized to recover reasonable costs and expenses; and by which the penalties, costs, and expenses collected are required to be deposited. Defines "reasonable expenses and costs."

SECTION 2. Amends Article 4512l, V.T.C.S., by adding Section 13A, as follows:

Sec. 13A. ADMINISTRATIVE PENALTY. Makes conforming changes.

SECTION 3. Amends Article 4512m, V.T.C.S. (Medical Radiologic Technologist Certification Act), by adding Section 2.15, as follows:

Sec. 2.15. ADMINISTRATIVE PENALTY. Makes conforming changes.

SECTION 4. Amends Article 4551-1, V.T.C.S. (Optician's Registry Act), by adding Section 10A, as follows:

Sec. 10A. ADMINISTRATIVE PENALTY. Makes conforming changes.

SECTION 5. Effective date: September 1, 1997.
Makes application of this Act prospective.

SECTION 6. Emergency clause.