

## **BILL ANALYSIS**

Senate Research Center

H.B. 3285  
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Health Services  
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Engrossed

### **DIGEST**

In today's medical practice environment, many physicians have grouped together to form multi-specialty clinics, leaving fewer solo practitioners. When a physician leaves a group to enter his or her own practice or another group practice, the ability of the departing physician to treat patients may be hindered due to a covenant not to compete a contractual clause in the work contract. This clause may make it difficult for the patient to have records transferred to the departing physician's new office and to receive continuing care from that physician. H.B. 3285 would establish a "buy-out" clause in a covenant not to compete, as well as other provisions designed to allow a departing physician to provide patients with continued care.

### **PURPOSE**

As proposed, H.B. 3285 sets forth criteria regarding the enforceability of covenants by physicians not to compete.

### **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 Section 15.50, Business & Commerce Code, as follows:

Sec. 15.50. CRITERIA FOR ENFORCEABILITY OF COVENANTS NOT TO COMPETE.

(a) Provides that a covenant not to compete under this section is subject to any applicable provision of Subsection (b).

(b) Provides that a covenant not to compete is enforceable against a person licensed as a physician by the Texas State Board of Medical Examiners (board) if the covenant also complies with the following requirements:

(1) the covenant must not deny the physician access to a list of the physician's patients whom the physician had seen or treated within one year of termination of the contract or employment; provide access to medical records of the physician's patients upon authorization of the patient and any copies of medical records for a reasonable fee as established by the board under Section 5.08(o), Article 4495b, V.T.C.S.; and provides that any access to a list of patients or to a patient's medical records after termination of the contract or employment shall not require such list or records to be provided in a format different than that by which such records are maintained except by mutual consent of the parties to the contract; and

(2) the covenant must provide for a buy-out of the covenant by the physician at a reasonable price or, at the option of either party, as determined by a mutually agreed upon arbitrator or, in the case of an inability to agree, an arbitrator of the court whose decision shall be binding on the parties; and

(3) the covenant must provide that the physician will not be prohibited from providing continuing care and treatment to a specific patient or patients during the course of an acute illness even after the contract or employment has been terminated.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 1999.

SECTION 4. Emergency clause.