

## **BILL ANALYSIS**

Senate Research Center  
77R5501 JRD-F

S.B. 539  
By: Carona  
Health & Human Services  
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### **DIGEST AND PURPOSE**

Currently, the enteral administration of anesthesia in the practice of dentistry is not regulated by the Texas Board of Dental Examiners (board). As proposed, S.B. 539 directs the board to establish minimum standards for enteral administration of anesthesia by a dentist.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the State Board of Dental Examiners in SECTION 1 (Sec. 258.153, Occupations Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Chapter 258, Occupations Code, by adding Subchapter D, as follows:

#### **SUBCHAPTER D. ENTERAL ADMINISTRATION OF ANESTHESIA**

Sec. 258.151. DEFINITION. Defines “enteral.”

Sec. 258.152. APPLICABILITY. Provides that rules adopted by the State Board of Dental Examiners (board) under this subchapter do not apply to certain practices.

Sec. 258.153. RULES. Requires the board to establish, by rule, the minimum standards for the enteral administration of anesthesia by a dentist. Requires that the rules must be designed to protect the health, safety, and welfare of the public and must include certain requirements.

Sec. 258.154. COMPLIANCE WITH ANESTHESIA RULES. Requires a dentist who, on or after August 31, 2002, practices dentistry in this state and who enterally administers anesthesia or performs a procedure for which anesthesia is enterally administered to comply with the rules adopted under this subchapter. Authorizes the board to require a dentist to submit and comply with a corrective action plan to remedy or address any current or potential deficiencies with the dentist’s enteral administration of anesthesia in accordance with this subtitle or rules of the board.

Sec. 258.155. ANNUAL PERMIT. Requires the board to require, beginning September 1, 2002, each dentist who enterally administers anesthesia or performs a procedure for which anesthesia is enterally administered to annually obtain a permit from the board by completing a form prescribed by the board. Requires the board to set and impose a fee for the permit in an amount designed to recover the costs of regulating a permit holder under this subchapter. Requires the board to coordinate the times at which a permit must be renewed with the times at which a dentist’s license must be renewed under Chapter 257, so that certain procedures of renewal are similar and provide a minimum of administrative burden to the board and the dentists.

Sec. 258.156. INSPECTIONS. Authorizes the board to conduct inspections to enforce this

subchapter, including inspections of certain locations and documents. Authorizes the board to contract with another state agency or qualified person to conduct these inspections. Requires the board to provide at least five business days' notice before conducting an on-site inspection under this section, unless doing so would jeopardize an ongoing inspection. Provides that this section does not require the board to make an on-site inspection of a dentist's office.

Sec. 258.157. REQUESTS FOR INSPECTION AND ADVISORY OPINION. Authorizes the board to consider a request by a dentist for an on-site inspection. Authorizes the board, in its discretion and on payment of a fee in an amount established by the board, to conduct the inspection and issue an advisory opinion. Provides that an advisory opinion issued by the board under this section is not binding on the board and, except as provided by Subsection (c), authorizes the board to take any action under this subtitle in relation to the situation addressed by the advisory opinion that the board considers appropriate. Authorizes a dentist who requests and relies on an advisory opinion of the board to use the opinion as mitigating evidence in an action or proceeding to impose an administrative or civil penalty under this subtitle. Requires the board or court to take proof of reliance on an advisory opinion into consideration and mitigate the imposition of administrative or civil penalties accordingly.

SECTION 2. Authorizes the State Board of Dental Examiners to allow the permitting requirements imposed under Chapter 258D, Occupations Code, as added by this Act, to be staggered and phased in so that all dentists required to obtain a permit under the law will be in compliance not later than September 1, 2004.

SECTION 3. Requires the rules required under Chapter 258D, Occupations Code, as added by this Act, be adopted by the State Board of Dental Examiners not later than January 8, 2002. Requires the board to report to the speaker of the house of representatives and the lieutenant governor on the implementation and enforcement of those rules and of the law added by this Act not later than January 1, 2003. Requires the report to include any suggested amendments or changes to the law added by this Act to make the law more effective or efficient.

SECTION 4. Effective date: September 1, 2001.