

BILL ANALYSIS

Senate Research Center
78R1764 JMM-D

S.B. 162
By: Nelson
Health and Human Services
2/21/2003
As Filed

DIGEST AND PURPOSE

Currently, the Texas Department of Health (TDH) has the authority to deny, revoke, and suspend the medical licenses of certain facilities found to be in noncompliance with Texas laws. However, TDH can not place these facilities on probation and emergency suspension if the facilities do not come into compliance with the law during the probationary period. As proposed, S.B. 162 would allow TDH to authorize license probation and emergency suspension in certain cases for health facilities TDH is charged with regulating.

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 the heading of Section 241.053, Health and Safety Code, to read as follows:

**DENIAL OF APPLICATION, SUSPENSION, REVOCATION, PROBATION, OR
REISSUANCE OF LICENSE.**

SECTION 2. Amends Section 241.053, Health and Safety Code, by adding Subsections (f) and (g), as follows:

(f) Authorizes the Texas Department of Health (TDH) to schedule a hospital for probation rather than suspending or revoking the hospital's license if TDH finds that a hospital is in repeated noncompliance under Subsection (a) but that the noncompliance does not endanger public health and safety. Requires TDH to provide notice to the hospital of the probation and of the items of noncompliance not later than the tenth day before the date the probation period begins. Requires TDH to designate a period of not less than 30 days during which a hospital will remain under probation. Requires a hospital, during the probation period, to correct the items that were in noncompliance and report the corrections to TDH for approval.

(g) Authorizes TDH to suspend or revoke the license of a hospital that does not correct items that were in noncompliance or that does not comply with the applicable requirements within the applicable probation period.

SECTION 3. Amends the heading of Section 243.011, Health and Safety Code, to read as follows:

DENIAL, SUSPENSION, PROBATION, OR REVOCATION OF LICENSE.

SECTION 4. Amends Section 243.011, Health and Safety Code, by adding Subsections (c) and (d), as follows:

(c) Authorizes TDH to schedule an ambulatory surgical center for probation rather than

suspending or revoking the center's license if TDH finds the center is in repeated noncompliance with this chapter or rules adopted under this chapter but that the noncompliance does not endanger public health or safety. Requires TDH to provide notice to the center of the probation and of the items of noncompliance not later than the tenth day before the date the probation period begins. Requires TDH to designate a period of not less than 30 days during which a center will remain under probation. Requires a center, during the probation period, to correct the items that were in noncompliance and report the corrections to TDH for approval.

(d) Authorizes TDH to suspend or revoke the license of an ambulatory surgical center that does not correct items that were in noncompliance or that does not comply with the applicable requirements within the applicable probation period.

SECTION 5. Amends the heading of Section 244.011, Health and Safety Code, to read as follows:

DENIAL, SUSPENSION, PROBATION, OR REVOCATION OF LICENSE.

SECTION 6. Amends Section 244.011, Health and Safety Code, by adding Subsections (c) and (d), as follows:

(c) Authorizes TDH to schedule a birthing center for probation rather than suspending or revoking the center's license if TDH finds the center is in repeated noncompliance with this chapter or rules adopted under this chapter but that the noncompliance does not endanger public health or safety. Requires TDH to provide notice to the center of the probation and of the items of noncompliance not later than the tenth day before the date the probation period begins. Requires TDH to designate a period of not less than 30 days during which a center will remain under probation. Requires a center, during the probation period, to correct the items that were in noncompliance and report the corrections to TDH for approval.

(d) Authorizes TDH to suspend or revoke the license of a birthing center that does not correct items that were in noncompliance or that does not comply with the applicable requirements within the applicable probation period.

SECTION 7. Amends the heading of Section 245.012, Health and Safety Code, to read as follows:

DENIAL, SUSPENSION, PROBATION, OR REVOCATION OF LICENSE.

SECTION 8. Amends Section 245.012, Health and Safety Code, by adding Subsections (d) and (e), as follows:

(d) Authorizes TDH to schedule an abortion facility for probation rather than suspending or revoking the facility's license if TDH finds the facility is in repeated noncompliance with this chapter or rules adopted under this chapter but that the noncompliance does not endanger public health or safety. Requires TDH to provide notice to the facility of the probation and of the items of noncompliance not later than the tenth day before the date the probation period begins. Requires TDH to designate a period of not less than 30 days during which a facility will remain under probation. Requires a facility, during the probation period, to correct the items that were in noncompliance and report the corrections to TDH for approval.

(e) Authorizes TDH to suspend or revoke the license of an abortion facility that does not correct items that were in noncompliance or that does not comply with the applicable requirements within the applicable probation period.

SECTION 9. Amends the heading of Section 248.051, Health and Safety Code, to read as follows:

DENIAL, SUSPENSION, PROBATION, OR REVOCATION OF LICENSE.

SECTION 10. Amends Section 248.051, Health and Safety Code, by adding Subsections (c) and (d), as follows:

(c) Authorizes TDH to schedule a special care facility for probation rather than suspending or revoking the facility's license if TDH finds the facility is in repeated noncompliance with this chapter or rules adopted under this chapter but that the noncompliance does not endanger public health or safety. Requires TDH to provide notice to the facility of the probation and of the items of noncompliance not later than the tenth day before the date the probation period begins. Requires TDH to designate a period of not less than 30 days during which a facility will remain under probation. Requires a facility, during the probation period, to correct the items that were in noncompliance and report the corrections to TDH for approval.

(d) Authorizes TDH to suspend or revoke the license of a special care facility that does not correct items that were in noncompliance or that does not comply with the applicable requirements within the applicable probation period.

SECTION 11. Amends the heading of Section 251.062, Health and Safety Code, to read as follows:

DENIAL, SUSPENSION, PROBATION, OR REVOCATION OF LICENSE.

SECTION 12. Amends Section 251.062, Health and Safety Code, by adding Subsections (c) and (d), as follows:

(c) Authorizes TDH to schedule an end stage renal disease facility for probation rather than suspending or revoking the facility's license if TDH finds the facility is in repeated noncompliance with this chapters or rules adopted under this chapter but that the noncompliance does not endanger public health or safety. Requires TDH to provide notice to the facility of the probation and of the items of noncompliance not later than the tenth day before the date the probation period begins. Requires TDH to designate a period of not less than 30 days during which a facility will remain under probation. Requires a facility, during the probation period, to correct the items that were in noncompliance and report the corrections to TDH for approval.

(d) Authorizes TDH to suspend or revoke the license of an end stage renal disease facility that does not correct items that were in noncompliance or that does not comply with the applicable requirements within the applicable probation period.

SECTION 13. Amends Chapter 251E, Health and Safety Code, by adding Section 251.0621, as follows:

Sec. 251.0621. **EMERGENCY SUSPENSION.** Authorizes TDH to issue an emergency order to suspend a license issued under this chapter if TDH has reasonable cause to believe that the conduct of a license holder creates an immediate danger to public health and safety. Provides that an emergency suspension is effective immediately without a hearing on notice to the license holder. Requires TDH, on written request of the license holder, to conduct a hearing not earlier than the tenth day or later than the thirtieth day after the date the hearing request is received to determine if the emergency suspension is to be continued, modified, or rescinded. Provides that the hearing and any appeal are governed by TDH rules for a contested case hearing and Chapter 2001, Government Code (Administrative Procedure).

SECTION 14. Amends the heading of Section 577.016, Health and Safety Code, to read as follows:

DENIAL, SUSPENSION, PROBATION, OR REVOCATION OF LICENSE.

SECTION 15. Amends Section 577.016, Health and Safety Code, by adding Subsections (f) and (g),

as follows:

(f) Authorizes TDH to schedule a private mental hospital or mental health facility for probation rather than suspending or revoking the license of the hospital or facility if TDH finds a hospital or facility is in repeated noncompliance with this chapters or rules adopted under this chapter but that the noncompliance does not endanger public health or safety. Requires TDH to provide notice to a hospital or facility of the probation and of the items of noncompliance not later than the tenth day before the date the probation period begins. Requires TDH to designate a period of not less than 30 days during which a hospital or facility will remain under probation. Requires a hospital or facility, during the probation period, to correct the items that were in noncompliance and report the corrections to TDH for approval.

(g) Authorizes TDH to suspend or revoke the license of a private mental hospital or mental health facility that does not correct items that were in noncompliance or that does not comply with the applicable requirements within the applicable probation period.

SECTION 16. Effective date: upon passage or September 1, 2003.