

## **BILL ANALYSIS**

Senate Research Center  
79R10932 MSE-D79R2336 MSE-D

C.S.S.B. 130  
By: Nelson  
Health and Human Services  
3/31/2005  
Committee Report (Substituted)

### **AUTHOR'S/SPONSOR'S STATEMENT OF INTENT**

H.B. 2292 enacted by the 78th Legislature, Regular Session, made significant changes to the organization and provision of health and human services in Texas. As with any lengthy and multi-issued piece of legislation, implementation often reveals mistakes in drafting or unintended consequences of certain language. Among the issues which have arisen following implementation of H.B. 2292 are that prior authorization cannot be required on drugs before the Pharmaceuticals and Therapeutics Committee has reviewed and considered them for addition to the Preferred Drug List; it is unclear whether resolved cases from the Office of the Inspector General are subject to open records requests; all non-federally required advisory committees were abolished; and respiratory therapists need half the continuing education credits they were previously required to obtain.

C.S.S.B. 130 clarifies and corrects portions of H.B. 2292 as enacted by the 78th, Legislature, Regular Session, 2003.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Department of State Health Services in SECTION 4 (Section 1001.0711, Health and Safety Code).

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 531.070(1), Government Code, to require that the annual report to be provided by the Health and Human Services Commission to the legislature and the governor include an analysis of the effect during the preceding year of the implementation of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Pub. L. No. 108-173) on the preferred drug lists adopted under Section 531.072 (Preferred Drug List) and the prior authorization requirements under Section 531.073 (Prior Authorization for Certain Prescription Drugs).

SECTION 2. Amends Section 531.073(b), Government Code, by deleting existing text requiring prior authorization procedures to ensure that a prior authorization requirement is not imposed for a drug before a certain time. Redesignates existing Subdivisions 2 and 3. Makes a conforming change.

SECTION 3. Amends Section 531.1021, Government Code, by amending Subsection (g) and adding Subsection (h), as follows:

(g) Provides that all information and materials subpoenaed or compiled by the Office of Inspector General (office) in connection with a fraud and abuse investigation are confidential and not subject to disclosure under Chapter 552, except as provided by Subsection (h), and not subject to disclosure, discovery, subpoena, or other means of legal compulsion for their release to anyone other than the office or its employees or agents involved in the investigation conducted by the office, except if that this information may be disclosed to the office of the attorney general and other law enforcement agencies. Makes a conforming and nonsubstantive change.

(h) Prohibits this section from being interpreted to prohibit the disclosure of information contained in a closed fraud and abuse investigative case file or information contained in a

fraud and abuse investigative case file relating to a case that has been resolved by settlement, unless disclosure is otherwise prohibited by law.

(i) Provides that for the purposes of this section, a fraud and abuse investigation is any formal inquiry of the office that is based upon a certain fraud suspicion or claim.

SECTION 4. Amends Subchapter D, Chapter 1001, Health and Safety Code, by adding Section 1001.0711, as follows:

Sec. 1001.0711. SCHOOL HEALTH ADVISORY COMMITTEE. (a) Requires the Department of State Health Services (department) by rule to establish a School Health Advisory Committee (committee) to provide assistance to the council in establishing a leadership role for the department in support for and delivery of coordinated school health programs and school health services.

(b) Requires the committee to include at least one representative from specific state agencies.

(c) Provides that Section 2110.008 (Duration of Advisory Committees), Government Code, does not apply to a committee created under this section.

SECTION 5. Amends Section 604.154(a), Occupations Code, to require the Texas Board of Health to establish for the renewal of a certificate uniform continuing education requirements of not less than six or more than 12 continuing education hours annually, rather than for each renewal period.

[While the statutory reference in this bill is to the Texas Board of Health, the previous amendment affects the Health and Human Services Commission, as the successor agency to the Texas Board of Health.]

SECTION 6. Repealer: Chapter 111 (Interagency Council on Pharmaceuticals Bulk Purchasing) and Sections 431.116(e) (Average Manufacturer Price) and 431.208 (Reporting of Purchase Price), Health and Safety Code.

SECTION 7. Provides that the Interagency Council on Pharmaceuticals Bulk Purchasing is abolished on the effective date of this Act.

SECTION 8. (a) Requires the Department of State Health Services to adopt rules to establish the School Health Advisory Committee as provided by Section 1001.0711, Health and Safety Code, as added by this Act, no later than January 1, 2006.

(b) Makes application of this Act prospective.

(c) Authorizes delay of implementation until necessary federal waivers or authorizations are obtained.

SECTION 9. Effective date: upon passage or September 1, 2005.