

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 3876
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Health & Human Services
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, the State Board of Dental Examiners (board) regulates licensed dentists, but has little to no jurisdiction over dental clinics or dental organizations that employ dentists to perform dental services. As a result, dentists who are no longer employed by a dental organization have encountered problems obtaining their patient records from their former employers. The inability to obtain patient records from dental organizations prevents the board from properly investigating complaints filed by members of the public and prevents formerly employed dentists from properly answering questions regarding the care rendered to dental patients.

C.S.H.B. 3876 requires a dental organization to designate a dental license holder as a dental custodian of records who will be responsible for providing records to the State Board of Dental Examiners and to any dentist who has patient records that are maintained by the dental organization. This bill also provides civil and criminal penalties for the failure to designate a dental custodian and for the failure to provide dental records as required.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the State Board of Dental Examiners in SECTION 1 (Section 258.0511, Occupations Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter B, Chapter 258, Occupations Code, by adding Section 258.0511, as follows:

Sec. 258.0511. ACCESS TO DENTAL RECORDS. (a) Requires an owner, shareholder, partner, or executive officer of a clinic or other entity that provides dental services for the public to designate a license holder as the dental custodian of records to provide records to the State Board of Dental Examiners (board) or a dentist who has provided dental treatment and to comply with other law regulating dental patient records.

(b) Requires the dental custodian of records, on demand, to give access to the board and produce for the board all records or other evidence related to the investigation or prosecution of an alleged violation of this subtitle (Dentistry) or another law regulating the practice of dentistry in this state.

(c) Requires the board to adopt rules regarding the designation and duties of a dental custodian of records.

(d) Provides that Section 264.101 (Civil Penalty) applies to a violation of this section.

SECTION 2. Amends Subchapter D, Chapter 264, Occupations Code, by adding Section 264.152, as follows:

Sec. 264.152. CRIMINAL PENALTY: DENTAL RECORDS ACCESS. (a) Provides that a person commits an offense if the person violates Section 258.0511.

(b) Provides that an offense under this section is a Class B misdemeanor, notwithstanding Section 264.151 (Criminal Penalty).

(c) Provides that if it is shown at the trial of an offense under this section that the defendant was previously convicted under this section, the offense is a Class A misdemeanor.

SECTION 3. Amends Chapter 254, Occupations Code, by adding Section 254.018, as follows:

Sec. 254.018. EXPERT TESTIMONY. Prohibits a member of the board from serving as an expert witness in a suit involving a health care liability claim against a dentist for injury to or death of a patient unless the member receives approval from the board or an executive committee of the board to serve as an expert witness.

SECTION 4. Effective date: September 1, 2007.