

BILL ANALYSIS

Senate Research Center

S.B. 292
By: Nelson
Health & Human Services
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

One of the lessons learned from Hurricanes Katrina, Rita, and Ike is the importance of communicating with critical personnel during natural disasters. In recognition of the key role physicians play in times of emergency, the Texas Medical Board (TMB) needs to be able to contact its physician-licensees in times of emergency.

S.B. 292 amends current law relating to the requirement that licensed physicians provide emergency contact information to TMB and to the creation of the Texas Physician Health Program.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Medical Board in SECTION 2 (Sections 167.003, 167.004, 167.006, 167.011, Occupations Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter A, Chapter 156, Occupations Code, by adding Section 156.006, as follows:

Sec. 156.006. EMERGENCY CONTACT INFORMATION. (a) Requires each license holder to submit to the Texas Medical Board (TMB) telephone numbers, fax numbers, and e-mail addresses, if available and as appropriate, that TMB is authorized to use to contact the license holder in an emergency.

(b) Requires a license holder who receives an initial registration permit to provide the information required under Subsection (a) not later than the 30th day after the date the permit is issued. Requires each license holder who applies to renew a registration permit to submit the information required under Subsection (a) with the renewal application.

(c) Requires a license holder to report to TMB any change in the information required under Subsection (a) not later than the 45th day after the date of the change.

(d) Provides that the information provided by a license holder under this section is confidential and is not subject to disclosure under Chapter 552 (Public Information), Government Code. Prohibits TMB from publishing, releasing, or making available information provided by a license holder under this section except as provided by Subsection (e).

(e) Authorizes TMB, in the event of a public health emergency declared or invoked by the governor, the Department of State Health Services, or a federal agency, to publish, release, or make available information provided by a license holder under this section for the sole purpose of disseminating information to a license holder, a designated city, county, state, or federal public health or emergency management official, or the Federation of State Medical Boards.

SECTION 2. (a) Amends Subtitle B, Title 3, Occupations Code, by adding Chapter 167, as follows:

CHAPTER 167. TEXAS PHYSICIAN HEALTH PROGRAM

Sec. 167.001. DEFINITIONS. Defines "committee," "governing board," "medical director," "physician assistant board," "program," and "program participant."

Sec. 167.002. MEDICAL DIRECTOR. (a) Requires TMB to appoint a medical director for the Texas Physician Health Program (program).

(b) Requires the medical director to be a physician licensed by TMB and have expertise in a field of medicine relating to disorders commonly affecting physicians or physician assistants, including substance abuse disorders.

(c) Requires the medical director to provide clinical and policy oversight for the program.

Sec. 167.003. GOVERNING BOARD. (a) Requires the president of TMB to appoint persons to serve on the governing board of the program. Requires the appointees to include physicians, physician assistants, and other related professionals with experience addressing health conditions commonly found in the population of monitored physicians or physician assistants.

(b) Requires the governing board to provide advice and counsel to TMB and establish policy and procedures for the operation and administration of the program.

(c) Requires TMB, with the advice and in consultation with the Texas Physician Assistance Board (physician assistant board) and Texas-based professional associations of physicians and physician assistants, to adopt rules relating to the appointment of members to the governing board, including length of terms, procedures for filling a vacancy, and conflict-of-interest provisions.

Sec. 167.004. PHYSICIAN HEALTH AND REHABILITATION ADVISORY COMMITTEE. (a) Requires the governing board to appoint physicians to the Physician Health and Rehabilitation Advisory Committee (committee) who have experience in disorders commonly affecting physicians or physician assistants.

(b) Requires the committee to assist the governing board by making recommendations on the request of the governing board.

(c) Requires TMB, with the advice and in consultation with the physician assistant board and Texas-based professional associations of physicians and physician assistants, to adopt rules relating to the appointment of members to the committee, including length of terms, procedures for filling a vacancy, and conflict-of-interest provisions.

(d) Provides that Chapter 2110 (State Agency Advisory Committees), Government Code, does not apply to the committee.

Sec. 167.005. TEXAS PHYSICIAN HEALTH PROGRAM. (a) Provides that the program is established to promote physician and physician assistant wellness and treatment of all health conditions that have the potential to compromise the physician's or physician assistant's ability to practice with reasonable skill and safety, including mental health issues, substance abuse issues, and addiction issues.

(b) Provides that the program is a confidential, nondisciplinary therapeutic program for physicians and physician assistants.

(c) Provides that the program is administratively attached to TMB.

Sec. 167.006. RULES. Requires TMB, with the advice of and in consultation with the governing board, committee, and Texas-based professional associations of physicians and physician assistants, to:

(1) adopt rules and policies as necessary to implement the program, including policies for assessments under the program and guidelines for the validity of a referral to the program; policies and guidelines for initial contacts used to determine if there is a need for a physician or physician assistant to complete a clinically appropriate evaluation or to enter treatment, including policies and guidelines for arrangements for that evaluation or treatment; and policies and guidelines for interventions conducted under the program; and

(2) define applicable guidelines for the management of substance abuse disorders, psychiatric disorders, and physical illnesses and impairments.

Sec. 167.007. OPERATION OF PROGRAM. (a) Requires that the program include provisions for continuing care, monitoring, and case management of potentially impairing health conditions, including provisions for cooperation with the evaluating or treating facility; ongoing monitoring for relapse, including random drug testing, consultations with other physician health and rehabilitation committees, work site monitors, and treating health professionals, including mental health professionals; and other physician and physician assistant health and rehabilitation programs to operate under an agreement with the program, using established guidelines to ensure uniformity and credibility of services throughout this state.

(b) Requires that the program ensure appropriate communications with TMB, the physician assistant board, other state licensing boards, and physician health and rehabilitation programs.

(c) Requires that the program use physicians or other health care professional experts or consultants, as appropriate, when necessary to evaluate, recommend solutions for, or resolve a medical dispute.

Sec. 167.008. REFERRALS TO PROGRAM. (a) Requires that the program accept a self-referral from a physician or physician assistant and referrals from an individual, a physician health and rehabilitation committee, a physician assistant organization, a state physician health program, a hospital or hospital system licensed in this state, a residency program, TMB, or the physician assistant board.

(b) Authorizes a physician or physician assistant to refer the physician or physician assistant to the program.

(c) Prohibits the program from accepting a referral, except as provided by TMB rules, for a violation of the standard of care as a result of drugs or alcohol or boundary violations with a patient or a patient's family.

Sec. 167.009. REFERRAL BY BOARD OR PHYSICIAN ASSISTANT BOARD AS PREREQUISITE FOR ISSUING OR MAINTAINING A LICENSE.

(a) Authorizes TMB or the physician assistant board, through an agreed order or after a contested proceeding, to make a referral to the program and require participation in the program by a specified physician or physician assistant as a prerequisite for issuing or maintaining a license under Chapter 155 (License to Practice Medicine) or 204 (Physician Assistants).

(b) Authorizes TMB or the physician assistant board to discipline a physician or physician assistant required to participate in the program under Subsection (a) who does not participate in the program.

(c) Provides that each program participant is individually responsible for payment of the participant's own medical costs, including any required evaluations, primary treatment, and continuing care.

Sec. 167.010. CONFIDENTIALITY. (a) Provides that each referral, proceeding, report, investigative file, record, or other information received, gathered, created, or maintained by the program or its employees, consultants, work site monitors, or agents relating to a physician or physician assistant is privileged and confidential and is not subject to disclosure under Chapter 552 (Public Information), Government Code, or to discovery, subpoena, or other means of legal compulsion for release to any person except as provided by this chapter.

(b) Authorizes the program, notwithstanding Subsection (a), to report to TMB or the physician assistant board, as appropriate, the name and pertinent information relating to impairment of a physician or physician assistant.

(c) Requires that the program, notwithstanding Subsection (a), make a report to TMB or the physician assistant board, as appropriate, regarding a physician or physician assistant if the medical director or the governing board determines that the physician or physician assistant poses a continuing threat to the public welfare. Requires that a report under this subsection, if requested by TMB or the physician assistant board, include all information in the possession or control of the program.

Sec. 167.011. FUNDING; FEES. (a) Provides that the Texas physician health program account is a special account in the general revenue fund. Authorizes funds in the account to be appropriated only to TMB for administration of the program.

(b) Requires TMB by rule to set and collect reasonable and necessary fees from program participants in amounts sufficient to offset, to the extent reasonably possible, the cost of administering this chapter.

(c) Requires each program participant to pay an annual fee to partially offset the cost of participation and monitoring services.

(d) Requires TMB to deposit fees collected under this section to the credit of the account established under Subsection (a).

(e) Authorizes TMB to grant a waiver to the fee imposed under Subsection (c). Requires TMB adopt rules relating to the issuance of a waiver under this subsection.

(b) Amends Subsection (d), Section 153.051, Occupations Code, to prohibit TMB from setting, charging, collecting, receiving, or depositing certain fees in excess of \$1,200 for an annual fee under Section 167.011(c) for a participant in the program. Makes nonsubstantive changes.

(c) Effective January 1, 2010:

Repealer: Section 164.202 (Rehabilitation Order), Occupations Code.

Repealer: Section 164.203 (Effect of Rehabilitation Order), Occupations Code.

Repealer: Section 164.204 (Audit of Rehabilitation Order), Occupations Code.

Repealer: Section 164.205 (Responsibilities of Private Medical Associations), Occupations Code.

Repealer: Section 204.305 (Rehabilitation Order), Occupations Code.

Repealer: Section 204.306 (Effect of Rehabilitation Order), Occupations Code.

Repealer: Section 204.307 (Audit of Rehabilitation Order), Occupations Code.

Repealer: Section 204.3075 (Responsibilities of Private Associations), Occupations Code.

(d) Provides that a rehabilitation order under Chapter 167 or 204, Occupations Code, entered into on or before January 1, 2010, is governed by the law as it existed immediately before that date, and that law is continued in effect for that purpose.

SECTION 3. Requires each person who holds a license to practice medicine under Chapter 155, Occupations Code, to make the initial submission to TMB of the information required by Section 156.006(a), Occupations Code, as added by this Act, not later than December 1, 2009.

SECTION 4. Effective date: September 1, 2009.