

## **BILL ANALYSIS**

Senate Research Center  
86R13873 MM-F

S.B. 1635  
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Higher Education  
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As Filed

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

Historically, medical and dental student residents at public institutions (and at Baylor College of Medicine) have been considered state employees for purposes of determining liability and immunity in civil tort claims. In 2017, however, the Supreme Court of Texas in *Marino v. Lenoir* ruled against a UT Health Houston resident's claim of state immunity. As a result, the legislature amended state law to expressly provide that a resident engaged in graduate medical education in a public or nonprofit hospital in association with a public medical or dental unit is an employee of a state agency.

Ambiguities and complications, however, remain in statute. Specifically, the statute includes the term "nonprofit hospital," which, unlike "public hospital," is not defined in the chapter to include other nonprofit facilities besides hospitals (e.g. clinics). Accordingly, there is a possibility that the liability and immunity protections for residents might not apply to those who are training and working in nonprofit clinics and other settings not classified as hospitals. What's more, current law requires the Department of State Health Services to approve filed contractual agreements between medical and dental schools and the graduate medical education clinical sites. These contracts are often approved pro forma and often lapse while the parties review and renew them. This leaves open the possibility that a resident could be training and working under a technically lapsed contract and thus would not be afforded the liability and immunity protections provided under the statutes.

S.B. 1635 would define "nonprofit hospital" to include nonprofit clinics and other facilities and would eliminate the required filing of resident program site contracts with the Department of State Health Services. What's more, S.B. 1635 would define "medical and dental unit" to also include The University of Texas at Austin Dell Medical School (UTA-DMS), The University of Texas Rio Grande Valley Medical School (UTRGV), and The University of Texas Health Science Center at Tyler (UTHSCT).

As proposed, S.B. 1635 amends current law relating to medical and dental clinical education in public and nonprofit hospitals.

### **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 Section 61.003(5), Education Code, as follows:

(5) Defines "medical and dental unit" to include the University of Houston College of Medicine, the Dell Medicine School at The University of Texas at Austin, the School of Medicine at The University of Texas Rio Grande Valley, and The University of Texas Health Science Center at Tyler. Removes The University of Texas Health Science Center--South Texas and its component institutions, if established under Subchapter N (The University of Texas Health Science Center--South Texas), Chapter 74, from the definition of "medical and dental unit."

SECTION 2. Amends Section 312.002, Health and Safety Code, by adding Subdivision (4-a) to define "nonprofit hospital."

SECTION 3. Amends Section 312.004(a), (c), and (e), Health and Safety Code, as follows:

(a) Authorizes certain entities, including nonprofit hospitals, to make and perform contracts among each other for the coordinated or cooperative clinical education of the students, interns, residents, and fellows enrolled at the units or schools.

(c) Authorizes certain entities to contract with the owner or operator of a public or nonprofit hospital for the clinical education of students, interns, residents, and fellows enrolled at the unit or school.

(e) Authorizes the contract to provide for the coordinated, cooperative, or exclusive assignment of the interns, residents, fellows, faculty, and associated health care professionals of the participating medical and dental units and supported medical or dental schools to provide or perform health or dental services or research at a public or nonprofit hospital, rather than at a public hospital.

SECTION 4. Amends Section 312.006(a), Health and Safety Code, to make a conforming change.

SECTION 5. Amends Section 312.007, Health and Safety Code, by adding Subsection (d), as follows:

(d) Provides that regardless of whether the medical and dental unit complies with the provisions of Sections 312.003 (Agreement Required), 312.004 (Contracts For Coordination or Cooperation), or 312.005 (Approval of Contracts), the limitations on liability provided by this section apply to certain individuals participating in the coordinated or cooperative education under Section 312.004 of certain individuals participating in a training program sponsored by the medical and dental unit.

SECTION 6. Effective date: upon passage or September 1, 2019.