

SUBJECT: Regulating physicians who are outside the state

COMMITTEE: Public Health — committee substitute recommended

VOTE: 5 ayes — Berlanga, Hirschi, Glaze, Janek, McDonald
0 nays
4 absent — Coleman, Delisi, Maxey, Rodriguez

WITNESSES: For — Thomas Wheeler, Texas Society of Pathologists; Charles Yates, Chet Brooks, Texas Radiological Society; Terry Boucher, Texas Osteopathic Medicine Association; C.J. Francisco, Texas Medical Association
Against — None

DIGEST: CSHB 2669 would place under regulation by the Texas Board of Medical Examiners and subject to the Medical Practice Act physicians in another jurisdiction who through the use of any medium perform an act that is part of a patient care service initiated in this state and that would affect the diagnosis or treatment of the patient.
CSHB 2669 would not apply to a medical specialist located in another jurisdiction who provides only occasional or episodic consultation services on request to a person licensed in this state who practices the same medical specialty.

SUPPORTERS SAY: CSHB 2669 would protect the health and safety of patients whose care is influenced by the judgment of out-of-state or out-of-country physicians who act as consultants for patient diagnosis, care and treatment through the use of electronic media. The regulation of telemedicine technology in health assessments and delivery of care is an emergent public policy issue now being confronted by several states.
Texas has no mechanism to regulate or penalize out-of-state doctors whose opinion forms the basis for further medical action. Physicians often use electronic technology to send radiological films of Texas patients to an out-

of-state radiologist for consultation and interpretation. Pathology specimens are also sent routinely by some laboratories to out-of-state laboratories. Physicians also use cameras and other equipment to diagnose and treat cancers, lung disease, hypertension and heart disease. Yet the qualifications of these physicians are unknown by the board, and fraudulent or mistaken interpretations could not be penalized on behalf of Texas patients.

CSHB 2669 contains protections so that regulation would not hinder quality of care or the practice of medicine, especially in those areas in which the use of out-of-state physicians is a temporary or infrequently used measure. It is also written broadly enough to regulate physicians who will use computer-to-computer or telemedicine technologies not yet developed.

Any increased costs caused by licensure or permitting requirements and processes would most likely be small and would be greatly outweighed by patient protection benefits.

OPPONENTS
SAY:

CSHB 2669 is too broadly written to be effective and could add to the cost of health care. The provision that would exempt physicians who provide only occasional or episodic consultations is vague and could make regulation difficult. CSHB 2669 does not define "occasional or episodic" and does not specifically authorize the board to define it by rule. Many out-of-state physicians could be exempted from board regulation on the basis of this provision.

Licensure or permitting of certain out-of-state physicians will unnecessarily add to health care costs. Most physicians, hospitals or other providers only use out-of-state consultants who they trust or whose reputation and credentials have been assessed or assured by an entity they trust.

NOTES:

The committee substitute included in the scope of the bill use of electronic media, taking X-ray examinations or preparing pathological material for patient care service initiated in this state. It also added the exception for out-of-state medical specialists who provide only occasional or episodic consultation on request from practitioners of the same medical specialty.