

**SUBJECT:** Due process for medical staff hospital privileges

**COMMITTEE:** Public Health — favorable, without amendment

**VOTE:** 9 ayes — Gray, Coleman, Capelo, Delisi, Glaze, Hilderbran, Maxey,  
McClendon, Uresti

0 nays

**WITNESSES:** None

**BACKGROUND:** The Medical Practice Act requires due process in hospital consideration of a physician's application for or termination of medical staff membership and privileges.

Health and Safety Code, chapter 241, governing hospital licensure, requires that hospital processes for considering applications for medical staff membership also include procedural due process.

**DIGEST:** HB 2669 would require hospitals also to provide procedural due process when considering the renewal, modification, or revocation of medical staff membership.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house.

**SUPPORTERS SAY:** HB 2669 would enact no changes in hospital procedures but simply would conform provisions in hospital licensing laws with those in the Medical Practice Act.

Due process is important in terminations as well as in applications, because terminations that are the result of poor medical performance are reported to the National Practitioner Data Bank.

This bill is not intended to require due process for exclusive contract terminations that are not related to the performance of a doctor but are based on hospitals' business decisions.

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**OPPONENTS SAY:** This bill could be interpreted as requiring due process for contractual terminations — for example, when a hospital decides to cancel its exclusive contract with one anesthesiology group and contract with another. Such decisions are not based on the medical qualifications of a doctor but on business-related criteria. Numerous court decisions have found that due process is not required in the termination of exclusive contracts.

**NOTES:** SB 1132 by Madla, the companion bill with identical provisions, passed the Senate on April 8 and has been referred to the House Public Health Committee.