

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 263
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Health & Human Services
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under current law, a physician who has been arrested or placed on deferred adjudication for child molestation may continue to practice medicine. In order for a physician's license to be suspended, the physician must be convicted of a felony related to child molestation.

Nationwide, medical boards revoke physicians' licenses at a rate of 10 percent, while Texas only revokes around five percent of licenses for sexual misconduct, including child molestation. Revocation of a medical license is required when a physician is convicted of violating some drug laws; however, current law includes no such requirements regarding child molestation crimes, as long as the offender is not sent to prison.

C.S.S.B. 263 would require the Texas Medical Board (TMB) to revoke a physician's license if the physician is placed on deferred adjudication for child molestation charges. In this case, a physician's license would be temporarily suspended or appropriately restricted until final disposition of the case. The bill would prohibit TMB from granting probation to a person who has had a license revoked, canceled, or suspended because of a felony conviction for child molestation unless substantial evidence has been presented that it would be in the best interest of the public to allow that person to continue to practice medicine.

C.S.S.B. 263 amends current law relating to the revocation, suspension, or restriction of the license of a physician placed on deferred adjudication community supervision or arrested for certain offenses.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Medical Board in SECTION 2 (Section 164.0595, Occupations Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 164.057, Occupations Code, by adding Subsection (c), as follows:

(c) Requires the Texas Medical Board (TMB) to revoke the license of a physician placed on deferred adjudication community supervision for an offense under Section 22.011(a)(2) (relating to the sexual assault of a child), 22.021(a)(1)(B) (relating to the aggravated sexual assault of a child), or 21.11 (Indecency With a Child), Penal Code.

SECTION 2. Amends Subchapter B, Chapter 164, Occupations Code, by adding Section 164.0595, as follows:

Sec. 164.0595. TEMPORARY SUSPENSION OR RESTRICTION OF LICENSE FOR CERTAIN ARRESTS. (a) Requires a disciplinary panel appointed under Section 164.059 (Temporary Suspension or Restriction of License) to temporarily suspend or restrict the license of a person arrested for an offense under Section 2.011(a)(2), 22.021(a)(1)(B), 21.02 (Continuous Sexual Abuse of Young Child or Children), or 21.11, Penal Code.

(b) Requires the disciplinary panel, before suspending or restricting a license under this section, to determine that the person arrested for an offense listed in Subsection (a) is the same person who holds a license issued by TMB.

(c) Provides that a suspension or restriction under this section remains in effect until the final disposition of the case.

(d) Provides that Sections 164.059(c) (relating to suspending or restricting a license without notice or hearing), (d) (relating to authorizing a disciplinary panel to hold a meeting by telephone conference call), (e) (relating to scheduling an informal compliance meeting), (f) (relating to filing a formal complaint for a license holder's inability to show compliance), and (g) (relating to the facts that may be used to temporarily suspend or restrict a license after a hearing) apply to a suspension or restriction under this section.

(e) Requires TMB to adopt rules to implement this section, including rules regarding evidence that serves as proof of final disposition of a case.

SECTION 3. Amends Section 164.102(b), Occupations Code, to prohibit TMB, except on an express determination, based on substantial evidence, that granting probation is in the best interests of the public and of the person whose license has been suspended, revoked, or canceled, from granting probation to a person whose license has been cancelled, revoked, or suspended because of a felony conviction under certain provisions, including any of the following Sections of the Penal Code: Sections 22.011(a)(2), 22.021(a)(1)(B), 21.02, or 21.11.

SECTION 4. (a) Makes application of Sections 164.057(c) and 164.0595, Occupations Code, as added by this Act, and Section 164.102, Occupations Code, as amended by this Act, prospective.

(b) Provides that an offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose.

SECTION 5. Effective date: September 1, 2011.