

BILL ANALYSIS

Senate Research Center

S.B. 1895
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Health & Human Services
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In 2019, the Texas Legislature enacted S.B. 1259 to create criminal penalties for fertility fraud, which occurs when a doctor knowingly uses human reproductive material from a donor without the expressed consent of the patient. The most documented form of fertility fraud is perpetrated by a male physician, who, in performing an assisted reproduction procedure, replaces the consented-to reproductive material with his own.

A medical professional who chooses to violate a patient when she is at her most vulnerable should not be allowed to continue practicing medicine in this state. Unfortunately, due to a statute of limitations provision in the Texas Occupations Code, a doctor who commits fertility fraud may be able to keep his or her medical license. Section 154.051(d) of the Occupations Code currently prohibits the Texas Medical Board (TMB) from considering or acting on a complaint against a doctor involving care provided more than seven years before the date on which the complaint is received unless the care was provided to a minor. Fertility fraud is often not exposed until the adult child of a woman who had an assisted reproductive procedure uses a personal genetic identification kit. This discovery is usually well beyond the seven-year statute of limitations.

S.B. 1895 amends the time-frame provision in the Occupations Code to allow for complaints relating to fertility fraud to be considered or acted on by TMB. Specifically, the bill states that TMB can consider a complaint received within seven years of the date the care in question was provided or within two years from the date the complainant knew, or should have known, of the fertility fraud, whichever is later.

As proposed, S.B. 1895 amends current law relating to a Texas Medical Board complaint for a violation described by Section 22.011(b)(12), Penal Code.

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 154.051, Occupations Code, by amending Subsection (d) and adding Subsection (d-1), as follows:

(d) Prohibits the Texas Medical Board (TMB) from considering or acting on a complaint involving care provided more than seven years before the date on which the complaint is received by TMB unless the care was provided to a minor or the care involves a complaint under Subsection (d-1), rather than unless the care was provided to a minor.

(d-1) Prohibits TMB from considering or acting on a complaint involving an alleged violation of Section 22.011(b)(12) (relating to the provision that a health care services provider commits a sexual assault if the provider knowingly uses donated human reproductive material during an assisted reproduction procedure without the patient's consent), Penal Code, that occurred more than seven years before the date on which the

complaint is received by TMB or more than two years from the date the complainant knew or should have known of the facts giving rise to the complaint, whichever is later.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2021.