

SUBJECT: Prohibiting maintenance of certification requirements for physicians

COMMITTEE: Public Health — committee substitute recommended

VOTE: 8 ayes — Price, Sheffield, Burkett, Coleman, Guerra, Klick, Oliverson,
Zedler

1 nay — Cortez

2 absent — Arévalo, Collier

SENATE VOTE: On final passage, April 27 — 31-0

WITNESSES: For — Steven Croft, Association of American Physicians and Surgeons,
Texas Chapter; Sheila Page, Texas Association of American Physicians
and Surgeons; Kim Monday, Texas Medical Association; Sara Austin;
(*Registered, but did not testify*: Christine Yanas, Methodist Healthcare
Ministries of South Texas; Dan Hinkle, Texas Academy of Family
Physicians; Bobby Hillert, Texas Orthopaedic Association)

Against — Barry Smith, American Board of Medical Specialists; George
Wendel, American Board of Obstetrics and Gynecology; Mary Brandt and
Subhasis Misra, American College of Surgeons; Daniel Dent, South Texas
Chapter of American College of Surgeons; Donald Phillips; (*Registered,
but did not testify*: Maureen Milligan, Teaching Hospitals of Texas; Joe
Garcia, University Health System)

On — Cesar Lopez, Texas Hospital Association; Scott Freshour, Texas
Medical Board; Adam Smith, Texas Osteopathic Medical Association;
(*Registered, but did not testify*: Juliana Kerker, American Congress of
Obstetricians and Gynecologists-Texas District)

DIGEST: CSSB 1148 would prohibit certain hospitals, health facilities, and
managed care insurance plan issuers from differentiating between
physicians based on whether the physician had maintained his or her
board certification through periodic recertification. The bill also would

prohibit the Texas Medical Board (TMB) from requiring maintenance of certification as a condition for physician licensure or registration, and would require TMB to study whether to recognize an entity to provide maintenance of certification for Texas physicians.

Discrimination based on maintenance of certification. The bill would prohibit the following facilities from differentiating between physicians based on a physician's maintenance of his or her board certification, as defined by the bill:

- state-licensed hospitals, state-licensed health facilities, and private mental health hospitals, if the facility or hospital had an organized medical staff or a process for credentialing physicians;
- state-owned or state-operated hospitals; or
- an institution or program that was owned, operated, or licensed by the state or a political subdivision of the state, including an institution or program that received state financial assistance, if the institution or program had an organized medical staff or a process for credentialing physicians on its staff.

The bill would prohibit a managed care insurance plan issuer from differentiating between physicians based on whether the physician had maintained his or her board certification with regard to:

- paying the physician;
- reimbursing the physician; or
- directly or indirectly contracting with the physician to provide services to enrollees.

Exceptions for national certification requirements. The bill would allow a managed care insurance plan issuer, a hospital, or health facility to differentiate between physicians based on a physician's maintenance of certification only if the hospital or facility's legal designation, certification, or accreditation by a national certifying or accrediting organization of a hospital or health facility was contingent on the hospital or facility requiring a specific maintenance of board certification for

physicians seeking staff privileges or credentialing at the hospital or facility.

Study. The bill would require TMB to use existing funds to study, in consultation with state agencies and groups chosen by the board, whether to recognize an entity to provide maintenance of certification for Texas physicians. The study would begin no later than January 1, 2018, and its results would be posted on TMB's website. If the study found that TMB needed to recognize an entity to provide certification maintenance, SB 1148 would authorize the board to develop and implement a program to recognize such entities.

Licensure requirements. The bill would prohibit TMB from requiring maintenance of certification as a requirement for registering with the board or being licensed to practice medicine.

Effective dates. The bill would take effect January 1, 2018.

SUPPORTERS
SAY:

CSSB 1148 would prohibit hospitals and health plans from requiring physicians to complete burdensome and expensive maintenance of certification requirements as a condition of practicing at a hospital or being reimbursed by a health insurance plan. Maintenance of board certification is a relatively new requirement to practice at many hospitals and facilities that is in addition to annual continuing education required by the Texas Medical Board (TMB) as part of the physician licensing process.

Hospitals and health plans should not be allowed to discriminate against licensed physicians who have a board certification but choose not to spend thousands of dollars to complete additional maintenance of certification requirements, which may be required for each specialty in which they are board certified. Many physicians who were board-certified before the 1990s were grandfathered in under these new maintenance of certification requirements, creating a tiered system in which younger physicians have to spend thousands of dollars on maintenance of certification to practice at a hospital or be reimbursed, but older physicians do not. Maintenance of

certification has not been proven to improve the quality of patient treatment, and hospitals already allow older physicians to practice at their facilities without this requirement.

The bill would require TMB, rather than the Legislature, to study whether to designate an entity to provide maintenance of certification because the board, as the physician-licensing agency, is better equipped to conduct the study. The bill would require the board to consult with state agencies and other entities to avoid conflicts of interest.

The bill also would allow exceptions to the prohibitions against discrimination related to maintenance of certification if a hospital or facility needed to require physician maintenance of certification as a condition of the facility's national certification or accreditation.

**OPPONENTS
SAY:**

CSSB 1148 would undo existing rules that hospitals have adopted related to credentialing requirements for physicians who practice at those hospitals. Hospitals have an interest in having the most highly trained physicians on their staff, and facilities should be allowed to require maintenance of certification if they believe it improves the quality of treatment for their patients.

The bill should require the Legislature to complete the study related to maintenance of certification because it would present a conflict of interest for the Texas Medical Board.