

BILL ANALYSIS

Senate Research Center

S.B. 1148
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under Texas law, physicians licensed to practice medicine in the state are required to meet rigorous Continued Medical Education (CME) standards, including specific training related to a physician's specialty, in order to renew their licenses.

In addition to holding a Texas medical license, there are many physicians who have also met the requirements to be recognized as a board-certified specialist by the American Board of Medical Specialties (ABMS) or the American Osteopathic Board (AOB). Until recently, these specialists were issued a lifetime certification. However, in recent years, the ABMS and the AOB have begun requiring physicians to undergo an additional recertification process, known as maintenance of certification (MOC), in order to maintain national board certifications.

When the ABMS and AOB switched from issuing lifetime certifications to time-limited certifications, it exempted physicians who were board certified prior to a certain date from having to recertify. Moreover, each specialty board under the ABMS and AOB has the authority to develop its own criteria for recertification, meaning requirements such as exam cost, time allowed between recertification periods, and the percentage of applicants who can even qualify for recertification may vary greatly from board to board.

The inconsistency in testing requirements between specialty boards, combined with the unequal regulations placed on physicians based solely on their initial board certification date, has created a disparate, arbitrary system to the detriment of the medical community.

Interested parties have also expressed serious concerns over the high costs associated with the recertification process, including testing fees and materials, time away from practice, travel, and lost revenue. Meanwhile, research has consistently shown the recertification process does not improve patient outcomes or treatments because it relies more on high-stakes testing than clinical practice.

While physicians are not required to complete MOCs as a condition of state licensure, many hospitals, employers, and public and private payers require MOC as a condition for working with a physician, thereby creating a de facto mandate on physicians.

S.B. 1148 seeks to address this mandate by stipulating a physician's initial board certification is sufficient to be considered a board-certified specialist in Texas for the purposes of licensure, employment, reimbursement, or admitting privileges at a hospital in this state. (Original Author's / Sponsor's Statement of Intent)

S.B. 1148 amends current law relating to maintenance of certification by a physician or an applicant for a license to practice medicine in this state.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the Texas Medical Board is modified in SECTION 5 (Section 156.001, Occupations Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subtitle F, Title 8, Insurance Code, by adding Chapter 1461, as follows:

CHAPTER 1461. DISCRIMINATION AGAINST PHYSICIAN BASED ON MAINTENANCE OF CERTIFICATION

Sec. 1461.001. DEFINITIONS. Defines "enrollee," "maintenance of certification," "managed care plan," "participating physician," and "physician."

Sec. 1461.002. APPLICABILITY. (a) Provides that this chapter applies to a physician regardless of whether the physician is a participating physician.

(b) Provides that this chapter applies to a person with whom a managed care plan issuer (issuer) contracts to process or pay claims, obtain the services of physicians to provide health care services to enrollees, or issue verifications or preauthorizations.

Sec. 1461.003. DISCRIMINATION BASED ON MAINTENANCE OF CERTIFICATION. (a) Prohibits an issuer, except as provided by Subsection (b), from differentiating between physicians based solely on a physician's maintenance of certification (MOC) in regard to paying the physician, reimbursing the physician, or directly or indirectly contracting with the physician to provide services to enrollees.

(b) Authorizes an issuer to differentiate between physicians based on a physician's MOC only if the designation under law or certification or accreditation by a national certifying or accrediting organization of an entity described by Section 151.0515(a), Occupations Code, is contingent on the entity requiring a specific MOC by physicians seeking staff privileges or credentialing at the entity.

SECTION 2. Amends Section 151.002(a), Occupations Code, by adding Subdivision (6-b) to define "maintenance of certification."

SECTION 3. Amends Subchapter B, Chapter 151, Occupations Code, by adding Section 151.0515, as follows:

Sec. 151.0515. DISCRIMINATION BASED ON MAINTENANCE OF CERTIFICATION. (a) Prohibits certain entities, except as otherwise provided by this section, from differentiating between physicians based on a physician's MOC.

(b) Authorizes an entity described by Subsection (a) to differentiate between physicians based on a physician's MOC if certain conditions are met.

(c) Authorizes an entity described by Subsection (a) to differentiate between physicians based on a physician's MOC if the voting physician members of the entity's organized medical staff vote to authorize the differentiation.

(d) Authorizes an authorization described by Subsection (c) to:

(1) be made only by the voting physician members of the entity's organized medical staff and not by the entity's governing body, administration, or any other person;

(2) subject to Subsection (e), establish terms applicable to the entity's differentiation, including appropriate grandfathering provisions and limiting the differentiation to certain medical specialties; and

(3) be rescinded at any time by a vote of the voting physician members of the entity's organized medical staff.

(e) Prohibits terms established under Subsection (d)(2) from conflicting with an MOC requirement applicable to the entity's designation under law or certification or accreditation by a national certifying or accrediting organization.

SECTION 4. Amends Section 155.003, Occupations Code, by amending Subsection (d) and adding Subsection (d-1), as follows:

(d) Creates an exception under Subsection (d-1).

(d-1) Prohibits the Texas Medical Board (TMB) from requiring MOC by an applicant for the applicant to be eligible for a license under this chapter (License to Practice Medicine).

SECTION 5. Amends Section 156.001, Occupations Code, by adding Subsection (f), to prohibit TMB from adopting a rule requiring MOC by a license holder for the license holder to be eligible for an initial or renewal registration permit.

SECTION 6. Effective date: January 1, 2018.