

Legislative Update, 81st Legislature, 2009

1. HB 449 - laser hair removal facilities. Took effect 9/1/09.
<http://www.legis.state.tx.us/BillLookup/Text.aspx?LegSess=81R&Bill=HB449>

Key points

- a. Laser hair removal (LHR) facilities must be certified by the Texas Department of State Health Services
 - b. LHR facilities must have a written contract with a consulting physician who:
 - i. establishes protocols
 - ii. audits LHR facility protocols and operations
 - iii. is available for emergency consultations
 - c. A person may not operate a laser or pulsed light device for the practice of medicine unless the person is:
 - i. a physician
 - ii. acting under a physician's order
 - iii. otherwise authorized by law
2. HB 732 - removal of certain information on physician profiles. Took effect 9/1/09.
<http://www.legis.state.tx.us/BillLookup/Text.aspx?LegSess=81R&Bill=HB732>

Key points

- a. The Board is required to remove any record of a formal complaint filed at the State Office of Administrative Hearings if the complaint was dismissed more than five years before the date of the update; and
 - i. the complaint was dismissed as baseless, unfounded or not supported by the evidence; or
 - ii. no action was taken against the physician's license as a result of the complaint.
 - b. The Board is required to remove any record of an investigation of medical malpractice claims or complaints that the board is required to investigate under Section 164.201 (3 suits in five years) if:
 - i. The investigation was resolved more than five years before the date of the update; and
 - ii. No action was taken against the physician's license as a result of the investigation.
3. HB 963 - **Criminal History Evaluation Letters Related to Occupational License Eligibility**. Related rules to be in effect by 9/1/10.
<http://www.legis.state.tx.us/BillLookup/Text.aspx?LegSess=81R&Bill=HB963>

Key Points

- a. Persons may request that the Board provide criminal history evaluation letters regarding their eligibility for a license based on the criminal history background
- b. The Board may charge a fee for the evaluation letter.

4. HB 1888 - Standards Required for Certain Rankings of Physicians by Health Benefit Plans. Took effect 9/1/09.
<http://www.legis.state.tx.us/BillLookup/Text.aspx?LegSess=81R&Bill=HB1888>

Key Points

- a. Health insurance plans may not rank or otherwise classify physicians based on performance unless:
 - i. the rankings/classifications conform to nationally recognized standards;
 - ii. the standards and measurements are disclosed to each affected physician before any evaluation period
 - iii. each affect physician is given the opportunity to dispute the ranking
 - b. Physicians may not require or request that a patient of the physician enter into an agreement under which the patient agrees not to:
 - i. Rank or otherwise evaluate the physician
 - ii. Participate in surveys regarding the physician; or
 - iii. In any way comment on the patient's opinion of the physician
5. HB 3674 - Licensing Requirements for Foreign-Trained Applicants.- Took effect 9/1/09.
<http://www.legis.state.tx.us/BillLookup/Text.aspx?LegSess=81R&Bill=HB3674>

Key Points

- a. Applicants for licensure who have graduated from schools outside the U.S. or Canada may:
 - i. present proof of specialty board certification by a specialty board organization acceptable to the Board in lieu of having to demonstrate that the medial education was substantially equivalent to that obtained at a Texas medical school
 - ii. present proof of two years of graduate training in the U.S. or Canada approved by the board and at least one year of graduate medical training outside the U.S. or Canada that was approved for advance standing by a specialty board organization approved the Board in lieu of obtaining three years of graduate medical training in the U.S. or Canada approved by the Board.
6. SB 202 - [Provisional Licenses for Physicians Practicing in Medically Underserved Areas](#). Applies to applications for provisional licenses on or after 1/1/10.
<http://www.legis.state.tx.us/BillLookup/Text.aspx?LegSess=81R&Bill=SB202>

Key Points

- a. Applicants for licensure may obtain provisional licenses while waiting for their application for full licensure to be completed if the physician:
 - i. is licensed in good standing as a physician in another state
 - ii. Passed a licensing examination within the required number of attempts
 - iii. Submits to a criminal background check
 - iv. Is sponsored by a person licensed as a Texas physician with whom the provisional license holder will practice
- b. Applicants who are granted provisional licenses may practice only at locations:

- i. Designated by the federal government as a health professional shortage area; or
 - ii. Designated by the federal or state government as a medically underserved area.
 - c. Provisional licenses are valid for 270 days
- 7. SB 292 - Provision of Emergency Contact Information; Creation of the Texas Physician Health Program.

<http://www.legis.state.tx.us/BillLookup/Text.aspx?LegSess=81R&Bill=SB292>

Key Points

- a. Emergency Contact Information
 - i. Not later than December 1, 2009, licensees must submit the Board their telephone phone numbers, fax numbers, and email addresses (if available and as appropriate) to be used by the Board to contact licensees in an emergency
 - ii. Emergency contact information is confidential and not subject to disclosure under the Public Information Act
 - iii. In cases of declared public health emergencies, the emergency contact information may be used to disclose information to licensees, public or federal health or emergency management entities, and the Federation of State Medical Boards
 - b. Texas Physician Health Program
 - i. Program established to promote physician and physician assistant wellness and the treatment of all health conditions that have the potential to compromise the physician's or physician assistant's ability to practice, including mental health, substance abuse, and addiction issues.
 - ii. The board or the physician assistant board is to make referrals to the program and to require participation in the program as a prerequisite for issuing or maintaining a license to practice medicine.
 - iii. The bill authorizes the board to set and collect a fee for the administration of the program not to exceed \$1,200 for a program participant in addition to costs of required terms of a program participant's agreement.
 - iv. Effective January 1, 2010, the bill repeals several provisions relating to rehabilitation orders placed on physicians and physician assistants as a prerequisite for issuing a license. All other provisions take effect September 1, 2009.
8. SB 381 - Authority of Physicians to Delegate to Certain Pharmacists the Implementation and Modification of a Patient's Drug Therapy. Took effect 9/1/09
- <http://www.legis.state.tx.us/BillLookup/Text.aspx?LegSess=81R&Bill=SB381>

Key Points

Physicians may delegate to a pharmacist the implementation and modification of a patient's drug therapy, including the authority to sign a prescription drug order for dangerous drugs under certain conditions

9. SB 532 -Physician Delegation of Prescriptive Authority to Physician Assistants or Advanced Practice Nurses. Took effect 9/1/09 with rules to be implemented by 1/31/10.

<http://www.legis.state.tx.us/BillLookup/Text.aspx?LegSess=81R&Bill=SB532>

Key Points

<http://www.tmb.state.tx.us/professionals/2009PrescriptiveDelegationChanges.pdf>

10. SB 911 - Certification and Regulation of Pain Management Clinics

<http://www.legis.state.tx.us/BillLookup/Text.aspx?LegSess=81R&Bill=SB911>

Key Points

- a. Unless exempted by law, by 9/1/10, pain management clinics must be certified every two years by the Board.
 - b. A pain management clinic must be owned and operated by a medical director who is a physician who practices in Texas under an unrestricted license. Took effect 9/1/09.
 - c. The owner or operator of a pain management clinic must be onsite at 33% of the clinics total operating hours and review at least 33% of all patient files. Took effect 9/1/09.
11. SB1225 - Faculty Temporary Licenses to Practice Medicine. Took effect 6/19/09
- <http://www.legis.state.tx.us/BillLookup/Text.aspx?LegSess=81R&Bill=SB1225>

Key Points

- a. Allows the Board to issue faculty temporary licenses to physicians employed at least at the level of an assistant professor and be working full time at:
 - i. An institutional sponsor of a graduate medical education program accredited by the Accreditation Council for Graduate Medical Education (ACGME)
 - ii. A nonprofit health corporation certified by the Board and affiliated with a graduate medical education program accredited by the ACGME.
12. SB1984 - Certification of persons in certain counties as eligible for disabled parking privileges. Took Effect 6/19/09.
- <http://www.legis.state.tx.us/BillLookup/Text.aspx?LegSess=81R&Bill=SB1984#>

Key Point -Amends the Transportation Code to permit physician assistants to prescribe handicap parking placards to persons living in counties with populations of 125,000 or less.

13. HB2256 - Mediation of Out-of-Network Health Benefit Claim Disputes. Took Effect 6/19/09 (Applies to applicable claims filed on or after 9/1/10).

<http://www.legis.state.tx.us/BillLookup/History.aspx?LegSess=81R&Bill=HB2256>

Key Points

- a. Establishes a mandatory mediation process for settling out-of-network health benefit claims of at least \$1,000 excluding certain adjustments for which an enrollee is responsible to a facility-based physician. This excludes copayments, deductibles, and coinsurance, including the amount unpaid by the administrator or insurer.
- b. A facility-based physician means a radiologist, anesthesiologist, pathologist, emergency department physician, or neonatologist who has clinical privileges at a particular facility and who provides services to patients under those privileges.
- c. Applies to preferred provider benefit plans and administrators of health benefits plans, other than HMOs.
- d. Parties to mediation must first participate in informal settlement conferences to attempt to settle disputes before mediations. If mediation were unsuccessful, then the matter would be set for a trial by a special judge.
- e. Mediation is not required for charges for care provided at the request of an enrollee in an emergency, if the enrollee signs a disclosure from the physician that explains the amounts for which the enrollee could be responsible.
- f. Once a facility-based physician receives notice of a request for mediation, the physician may not pursue collection of the bill.
- g. Mediation agreements provide the total amount for which an enrollee would be responsible to pay to the physician and any agreements made between the insurer and physician. Mediation agreements are confidential.
- h. An enrollee who participates in mediation may file a complaint with the Texas Medical Board against the physician for improper billing, if the enrollee is not satisfied with the mediated agreement.
- i. A mediator shall report a physician to the Texas Medical Board for bad faith mediation for which the Board may impose an administrative penalty.
- j. A facility-based physician who provides services to an insured would have to notify the patient of the mandatory mediation process.