

TMB Legislative Update, 82nd Legislature, 2011

The legislation listed in this update is organized in to five categories: Enforcement, Licensure, Physician Employment & Business Organizations, Continuing Medical Education, and Other Health Care-Related Issues. In addition to the legislation listed below, HB 15 and SB 7, 1st Called Session, also affect the Texas Medical Board. A link to bill text, analysis, and additional bill information is provided for each bill.

Category I. Enforcement

Bill #	Key Points
HB 680	<ul style="list-style-type: none"> • Creates statute of limitations of 7 yrs for standard of care complaints (except in cases regarding minors) to match medical records retention requirements. • Eliminates anonymous complaints and requires TMB to provide respondent with name and address of complainant who is an insurance or pharmaceutical company. • Extends preliminary investigation timeline from 30 to 45 days. • Authorizes remedial plans as non-disciplinary actions. • Extends informal settlement conference (ISC) notice requirement to respondent from 30 to 45 days and increases rebuttal deadline from 5 days to 15 days prior to ISC. • Requires TMB to record an ISC proceeding upon respondent request. • Changes process for disposition of contested (SOAH) cases to clarify that only TMB has the authority to determine a sanction/penalty related to a SOAH PFD and TMB may issue the final order based only on ALJ's findings of fact and conclusions of law. <p style="text-align: center;">http://www.capitol.state.tx.us/BillLookup/History.aspx?LegSess=82R&Bill=HB680</p>
HB 1009	<p>Requires informed consent for physician to perform postmortem examination or autopsy, requires TMB to assist the Dept. of State Health Services with the development of the consent form.</p> <p style="text-align: center;">http://www.capitol.state.tx.us/BillLookup/History.aspx?LegSess=82R&Bill=HB1009</p>
SB 227	<p>Creates a new process by which TMB may issue a non-disciplinary remedial plan in lieu of an agreed order to a licensee for minor infractions of the Medical Practice Act or board rules.</p> <p style="text-align: center;">http://www.capitol.state.tx.us/BillLookup/Text.aspx?LegSess=82R&Bill=SB227</p>
SB 256	<p>Requires a private autopsy facility to post a notice for filing a complaint against a physician, requires TMB, by rule, to adopt a sample form of the notice and post the notice on the TMB website. Penalty for non-compliance is a Class C misdemeanor.</p> <p style="text-align: center;">http://www.capitol.state.tx.us/BillLookup/Text.aspx?LegSess=82R&Bill=SB256</p>

SB 263	<ul style="list-style-type: none"> • Requires TMB to revoke physician licensee placed on deferred adjudication community supervision for an offense related to the sexual or aggravated assault of a child, continuous sexual abuse of a child, or indecency with a child. • Authorizes TMB to suspend or restrict physician licensee for an arrest related to the sexual or aggravated assault of a child or indecency with a child. • Except on express determination, TMB may not grant probation to a licensee with revoked or suspended license due to felony conviction for any of the offenses listed above. <p>http://www.capitol.state.tx.us/BillLookup/Text.aspx?LegSess=82R&Bill=SB263</p>
Category II. Licensure	
HB 1380	<p>Changes the current graduate medical training requirement for graduates of foreign medical schools (IMGs) from three years to two years.</p> <p>http://www.capitol.state.tx.us/BillLookup/Text.aspx?LegSess=82R&Bill=HB1380</p>
SB 189	<p>Requires physician licensure applicants who are not citizens or permanent residents to agree to practice in a medically underserved area (MUA) or a Health Professional Shortage Area (HPSA) for three years as a condition of licensure. Does not prohibit issuance of licenses to non-citizens/non-permanent residents who will practice in graduate medical education (GME) programs not located in an MUA or HPSA. Authorizes TMB to adopt rules to implement statute and ensure compliance with MUA/HPSA agreements.</p> <p>http://www.capitol.state.tx.us/BillLookup/Text.aspx?LegSess=82R&Bill=SB189</p>
SB 867	<p>For each licensing examination administered by a state agency, the agency shall provide reasonable examination accommodations to an examinee diagnosed as having dyslexia. Each state agency shall adopt rules necessary to implement this section, including rules to establish the eligibility criteria an examinee must meet for accommodation under this section.</p> <p>http://www.capitol.state.tx.us/BillLookup/Text.aspx?LegSess=82R&Bill=SB867</p>
SB 1733	<p>A state agency that issues a license shall adopt rules for the issuance of the license to an applicant who is the spouse of a person serving on active duty as a member of the armed forces of the United States and: (1) holds a current license issued by another state that has licensing requirements that are substantially equivalent to the requirements for the license; or 2) within the five years preceding the application date held the license in this state that expired while the applicant lived in another state for at least six months. The rules adopted under this section must include provisions to allow alternative demonstrations of competency to meet the requirements for obtaining the license.</p> <p>http://www.capitol.state.tx.us/BillLookup/Text.aspx?LegSess=82R&Bill=SB1733</p>

Category III. Physician Employment & Business Organizations

SB 761	<p>Authorizes employment of physicians by hospitals associated with nonprofit fraternal organizations primarily providing medical care to children. The chief medical officer (CMO) shall immediately report to TMB any action that the CMO reasonably and in good faith believes constitutes a compromise of physician's independent medical judgment.</p> <p>http://www.capitol.state.tx.us/BillLookup/Text.aspx?LegSess=82R&Bill=SB761</p>
SB 894	<ul style="list-style-type: none">• Authorizes critical access and sole community hospitals, and hospitals in counties of 50,000 population or less, to directly hire physicians.• Requires adoption of policies to ensure that physicians are able to exercise independent medical judgment when providing care to patients.• A hospital's chief medical officer (CMO) must notify TMB that the hospital is employing physicians, and the CMO shall immediately report to TMB any action or event that the CMO believes constitutes a compromise of the independent medical judgment of a physician in caring for a patient. <p>http://www.capitol.state.tx.us/BillLookup/Text.aspx?LegSess=82R&Bill=SB894</p>
SB 1661	<p>Requires currently certified non-profit health organizations to adopt and enforce policies to ensure that physicians employed by the organization exercise independent medical judgment when providing care to patients. A physician employed by this type of health organization retains independent medical judgment in providing care to patients, and the health organization may not discipline the physician for reasonably advocating for patient care.</p> <p>http://www.capitol.state.tx.us/BillLookup/Text.aspx?LegSess=82R&Bill=SB1661</p>
SB 311	<p>Authorizes board of directors of the Ochiltree County Hospital District to employ physicians and other health care providers. The chief medical officer will report immediately to TMB any action or event that the chief medical officer reasonably and in good faith believes constitutes a compromise of the independent medical judgment of a physician in caring for a patient.</p> <p>http://www.capitol.state.tx.us/BillLookup/Text.aspx?LegSess=82R&Bill=SB311</p>
HB 1568	<p>The board of the Harris County Hospital District may appoint, contract for, or employ physicians as the board considers necessary for the efficient operation of the district. A member of the medical executive board who is a physician shall report immediately to TMB any action or event that the board member reasonably and in good faith believes constitutes a compromise of the independent medical judgment of a physician in caring for a patient. The commissioners' court of a county with a population of 3.3 million or more may appoint, contract for, or employ physicians to provide health care services to inmates in the custody of the sheriff.</p> <p>http://www.capitol.state.tx.us/BillLookup/Text.aspx?LegSess=82R&Bill=HB1568</p>

HB 2098	<p>Authorizes physicians and physician assistants (PAs) to create, form, or own corporations, partnerships, professional associations, or professional limited liability companies. A physician assistant or combination of physician assistants may have only a minority ownership interest. Both physicians and PAs who jointly own an entity must report annually to TMB the ownership interest and other information required by board rule. TMB shall assess a fee for processing each report.</p> <p>http://www.capitol.state.tx.us/BillLookup/Text.aspx?LegSess=82R&Bill=HB2098</p>
HB 2351	<p>A physician employed by the Bexar County Hospital District under this section must practice with a nonprofit health organization certified by TMB and created by the Bexar County Hospital District. The term of an employment contract may not exceed four years.</p> <p>http://www.capitol.state.tx.us/BillLookup/Text.aspx?LegSess=82R&Bill=HB2351</p>
Category IV. Continuing Medical Education	
SB 1360 (HB 2975)	<ul style="list-style-type: none"> • A physician whose practice includes the treatment of tick-borne diseases is encouraged to take continuing medical education (CME) in the treatment of tick-borne diseases. • TMB shall adopt rules to establish the content of and approval requirements for CME relating to the treatment of tick-borne diseases. • In adopting rules, TMB shall seek input from affected parties and review relevant courses, including courses that have been approved in other states. • TMB shall consider a physician 's participation in an approved CME course if: (1) the physician is being investigated regarding the physician 's selection of clinical care for the treatment of tick-borne diseases; and (2) the physician completed the course not more than two years before the start of the investigation. <p>http://www.capitol.state.tx.us/BillLookup/Text.aspx?LegSess=82R&Bill=SB1360</p> <p>http://www.capitol.state.tx.us/BillLookup/Text.aspx?LegSess=82R&Bill=HB2975</p>

Category V. Other Health Care-Related Issues

HB 300	<ul style="list-style-type: none">• Amends Health & Safety Code to direct all covered entities to comply with HIPAA standards regarding access to and use of protected health information.• Requires a health care provider to provide a person's electronic health record within 15 business days of receiving a request for the information if a health care provider has a system capable of fulfilling the request. Prohibits a covered entity from disclosing protected health information to any person in exchange for direct or indirect remuneration, with certain exemptions.• Authorizes HHSC, in consultation with DSHS, TMB and TDI to, by rule, recommend a standard electronic format for the release of requested health records.• Directs HHSC, in consultation with DSHS, TMB, and TDI, to provide a report to the legislature on new developments in safeguarding protected health information.• Directs HHSC, with the Texas Health Services Authority and TMB, to review issues regarding security and accessibility of protected health information maintained by "unsustainable" covered entities (assumed to mean a covered entity that goes out of business). <p>http://www.capitol.state.tx.us/BillLookup/Text.aspx?LegSess=82R&Bill=HB300</p>
SB 594	<p>Amends Health & Safety Code to allow Schedule II drugs to be prescribed with an electronic prescription, to match changes to federal law. The bill would also affect the Department of Public Safety (DPS) related to the collection of prescription drug data.</p> <p>http://www.capitol.state.tx.us/BillLookup/Text.aspx?LegSess=82R&Bill=SB594</p>
SB 1273	<p>Amends the Texas Controlled Substances Act to make improvements to the Texas Prescription Monitoring Program. Removes the current requirement that the DPS registration number be included on prescriptions written for controlled substances. When a registrant obtains a DPS registration number they must provide their DEA number within 45 days from the receipt of the DPS number. Also requires prescription data currently sent to DPS by the 15th day of the preceding month to be sent to DPS by the 7th day.</p> <p>http://www.capitol.state.tx.us/BillLookup/Text.aspx?LegSess=82R&Bill=SB1273</p>