



Physicians Caring for Texans

House Committee on Public Health
Written Testimony on Senate Bill 268 by Sen. Charles Perry
Texas Medical Association
May 12, 2025

The Texas Medical Association (TMA), representing more than 59,000 physician and medical student members across the state, appreciates the opportunity to submit comments in respectful *opposition* to Senate Bill 268.

We appreciate the benefit of sharing a copy of a complaint with another licensing agency when the complaint is against that agency's licensee, as would be required under SB 268. We also respect a licensing agency's authority to make disciplinary decisions over its licensees for a violation of a law within the scope of that agency's enforcement powers.

However, we have serious concerns with the language in subsection (b) of the bill. In particular, we are concerned that subsection (b) would be construed as limiting certain agencies' longstanding statutory authority to issue cease-and-desist orders and assess administrative penalties for violations of state licensing laws.

For many years, the Texas Medical Board (TMB)¹ has had authority to issue cease and desist orders, after notice and opportunity for a hearing, to prevent non-physicians from engaging in or threatening to engage in the unauthorized practice of medicine or from engaging in other violations of the Texas Medical Practice Act, related laws and rules. TMB can also assess an administrative penalty against such violators for noncompliance with a cease-and-desist order.

These powers serve an important patient safety function, allowing TMB to act swiftly when someone is engaging in, or threatening to engage in, the unauthorized practice of medicine. Certain other agencies have similar statutorily granted powers to issue cease-and-desist orders, including the Board of Nursing, the Physician Assistant Board, the Behavioral Health Executive Council, and the State Board of Pharmacy.²

Historically, TMB has utilized its cease-and-desist authority to address the unlicensed practice of medicine both by those who have no health practitioner license and by those who are licensed as a health care practitioner by another licensing entity in this state yet exceed the scope of their license.

SB 268 could seriously undermine this historic enforcement framework as applied to health care practitioners who are licensed by another licensing agency and put the well-being of our Texas patients at serious risk.

¹ See Tex. Occ. Code § 165.052.

² See e.g., Tex. Occ. Code §§ 204.353, 301.471, 507.403, and 566.052

To highlight some of our concerns with the potential negative impact the bill may have on the current enforcement structure, we provide two examples that are based on actual previous cease-and-desist orders.

In one, TMB issued a cease-and-desist order prohibiting the unlicensed practice of medicine based on a complaint against a chiropractor who administered injections of Spascupreel and Cortisone to a patient in his chiropractic practice from a supply prescribed to him by his treating physician.³

In the other, TMB issued a cease-and-desist order prohibiting the unlicensed practice of medicine based on a complaint that a chiropractor advertised as a “board-certified functional neurologist” and the “only board-certified functional neurologist in [West Texas] and one of only 500 doctors worldwide to hold this elite title.” The chiropractor publicly commented on medical conditions, including anxiety and depression, and how the chiropractor treats them.⁴

In both of these situations, if SB 268 were to be misapplied to prohibit cease-and-desist orders, TMB would have its hands tied, effectively preventing it from acting until the Texas Board of Chiropractic Examiners referred the complaint back to TMB.

Such a delay (which may be indefinite if the original licensing entity fails to ever refer the complaint back) could negatively impact Texas patients. It also could undermine the Texas Legislature’s carefully constructed scope-of-practice laws, which have been designed to ensure that only individuals with appropriate training, education and experience provide care to Texas’ patients. Patient safety must be paramount.

Our above concerns are amplified because the language in subsection (b) leaves the referring agency with complete discretion. If a disagreement arises regarding the referral between the agencies, the resulting delay puts our patients in danger when someone is acting outside the scope of their state-issued license.

For the foregoing reasons, we are respectfully opposed to SB 268. We urge that the language be revised to address our concerns raised today.

Thank you very much for the opportunity to comment. Should you have any questions, please do not hesitate to contact Michelle Romero, TMA associate vice president of Public Affairs, by email at michelle.romero@texmed.org.

³ See TMB Cease-and-Desist Order, S. Ahee, available at <https://www.dmagazine.com/healthcare-business/2014/05/north-texas-docs-disciplined-by-texas-medical-board-may-2014-edition/>.

⁴ See TMB Cease-and-Desist Order, M. Posey, D.C., No License, Abilene (Aug. 27, 2019), available at <https://www.tmb.state.tx.us/dl/87D21C34-179E-C8F8-CB29-1AB1BE160DE9>.