

By: Nelson, et al.
(Zerwas)

S.B. No. 18

Substitute the following for S.B. No. 18:

By: Martinez

C.S.S.B. No. 18

A BILL TO BE ENTITLED

1 AN ACT
2 relating to measures to support or enhance graduate medical
3 education in this state, including the transfer of certain assets
4 from the Texas Medical Liability Insurance Underwriting
5 Association to the permanent fund supporting graduate medical
6 education and the authority of the association to issue new
7 policies.

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

9 SECTION 1. Section 58A.001, Education Code, is amended to
10 read as follows:

11 Sec. 58A.001. DEFINITIONS [~~DEFINITION~~]. In this chapter:

12 (1) "Board" [~~"board"~~] means the Texas Higher
13 Education Coordinating Board.

14 (2) "Center" means the comprehensive health
15 professions resource center established under Chapter 105, Health
16 and Safety Code.

17 (3) "Community-based, ambulatory patient care center"
18 includes:

19 (A) a federally qualified health center, as
20 defined by Section 1905(1)(2)(B), Social Security Act (42 U.S.C.
21 Section 1396d(1)(2)(B));

22 (B) a community mental health center, as defined
23 by Section 1861(ff)(3)(B), Social Security Act (42 U.S.C. Section
24 1395x(ff)(3)(B));

1 (C) a rural health clinic, as defined by Section
2 1861(aa)(2), Social Security Act (42 U.S.C. Section 1395x(aa)(2));
3 and

4 (D) a teaching health center, as defined by 42
5 U.S.C. Section 2931-1(f)(3)(A).

6 (4) "First-year residency position" means a residency
7 position offering first year training in a graduate medical
8 education program.

9 (5) "Graduate medical education program" means a
10 nationally accredited post-doctor of medicine (M.D.) or
11 post-doctor of osteopathic medicine (D.O.) program that prepares
12 physicians for the independent practice of medicine in a specific
13 specialty area.

14 (6) "Hospital" means:

15 (A) a facility licensed as a hospital under
16 Chapter 241, Health and Safety Code, or as a mental hospital under
17 Chapter 577, Health and Safety Code; or

18 (B) a similar facility owned or operated by this
19 state or an agency of this state.

20 (7) "Medical school" means a public or independent
21 educational institution that awards a doctor of medicine (M.D.) or
22 doctor of osteopathic medicine (D.O.) degree.

23 (8) "Sponsoring institution" means the entity that
24 assumes the ultimate financial or academic responsibility for a
25 graduate medical education program.

26 (9) "Teaching hospital" means a hospital that:

27 (A) is formally affiliated with a medical school

1 for purposes of providing a graduate medical education program; or

2 (B) serves as the sponsoring institution for a
3 graduate medical education program.

4 SECTION 2. Subchapter A, Chapter 58A, Education Code, is
5 amended by adding Sections 58A.002 and 58A.003 to read as follows:

6 Sec. 58A.002. PERMANENT FUND SUPPORTING GRADUATE MEDICAL
7 EDUCATION. (a) In this section, "trust company" means the Texas
8 Treasury Safekeeping Trust Company.

9 (b) The permanent fund supporting graduate medical
10 education is a special fund in the treasury outside the general
11 revenue fund. The fund is composed of:

12 (1) money transferred or appropriated to the fund by
13 the legislature;

14 (2) gifts and grants contributed to the fund; and

15 (3) the returns received from investment of money in
16 the fund.

17 (c) The trust company shall administer the fund. The trust
18 company shall determine the amount available for distribution from
19 the fund, determined in accordance with a distribution policy that
20 is adopted by the comptroller and designed to preserve the
21 purchasing power of the fund's assets and to provide a stable and
22 predictable stream of annual distributions. Expenses of managing
23 the fund's assets shall be paid from the fund. Except as provided
24 by this section, money in the fund may not be used for any purpose.
25 Sections 403.095 and 404.071, Government Code, do not apply to the
26 fund.

27 (d) In managing the assets of the fund, through procedures

1 and subject to restrictions the trust company considers
2 appropriate, the trust company may acquire, exchange, sell,
3 supervise, manage, or retain any kind of investment that a prudent
4 investor, exercising reasonable care, skill, and caution, would
5 acquire or retain in light of the purposes, terms, distribution
6 requirements, and other circumstances of the fund then prevailing,
7 taking into consideration the investment of all the assets of the
8 fund rather than a single investment.

9 (e) The amount available for distribution from the fund may
10 be appropriated only:

11 (1) to the board to fund the programs created under
12 this chapter; or

13 (2) as otherwise directed by the legislature.

14 (f) A public or private institution of higher education or
15 other entity that may receive money under a program described by
16 Subsection (e) may solicit and accept gifts and grants to be
17 deposited to the credit of the fund. A gift or grant to the fund
18 must be distributed and appropriated for the purposes of the fund,
19 subject to any limitation or requirement placed on the gift or grant
20 by the donor or granting entity.

21 Sec. 58A.003. REDUCTION IN FUNDING. (a) The board shall
22 limit or withhold funding from any grant recipient under this
23 chapter that does not comply with reporting requirements or that
24 uses grant funds for a purpose not authorized by this chapter for
25 the grant awarded.

26 (b) The board shall seek reimbursement with respect to any
27 grant funds that are not used for purposes authorized by this

1 chapter for the grant awarded.

2 SECTION 3. Section [58A.022](#), Education Code, is amended to
3 read as follows:

4 Sec. 58A.022. GRADUATE MEDICAL EDUCATION PLANNING AND
5 PARTNERSHIP GRANTS. (a) The board shall award one-time graduate
6 medical education planning and partnership grants to hospitals,
7 medical schools, and community-based, ambulatory patient care
8 centers [~~entities~~] located in this state that seek to develop new
9 graduate medical education programs with first-year residency
10 positions, regardless of whether the grant recipient currently
11 offers or has previously offered [+

12 [~~(1) have never had~~] a graduate medical education
13 program with first-year residency positions [~~; and~~

14 [~~(2) are eligible for Medicare funding of graduate~~
15 ~~medical education~~].

16 (b) The board shall award graduate medical education
17 planning and partnership grants on a competitive basis according to
18 criteria adopted by the board. The board shall determine the number
19 of grants awarded and the amount of each grant consistent with any
20 conditions provided by legislative appropriation. A grant received
21 under this section must be used for the purpose of planning a new
22 graduate medical education program with [~~additional~~] first-year
23 residency positions.

24 (c) A hospital, medical school, or community-based,
25 ambulatory patient care center [~~An application for a planning grant~~
26 ~~for a state fiscal year must be submitted to the board not later~~
27 ~~than July 15 preceding that fiscal year. Not later than August 15,~~

1 ~~the board shall make decisions about grant awards for the following~~
2 ~~state fiscal year.~~

3 ~~[(d) An entity]~~ that is awarded a graduate medical education
4 planning and partnership grant and that establishes new first-year
5 residency positions after receipt of the grant is eligible to apply
6 for additional funds under Section 58A.024 for each such position
7 established, as provided by appropriation.

8 (d) A hospital, medical school, or community-based,
9 ambulatory patient care center may partner with an existing
10 graduate medical education program or sponsoring institution for
11 purposes of planning a new graduate medical education program using
12 grant funds awarded under this section.

13 SECTION 4. Section 58A.023, Education Code, is amended to
14 read as follows:

15 Sec. 58A.023. GRANTS FOR UNFILLED RESIDENCY POSITIONS.

16 (a) The board shall award grants to graduate medical education
17 programs to enable those programs to fill first-year residency
18 positions that are accredited but unfilled as of July 1, 2013
19 ~~[first-year residency positions]~~. The board shall determine the
20 number of grants awarded and the amount of each grant consistent
21 with any conditions provided by legislative appropriation.

22 (b) A grant received under this section must be expended to
23 support:

- 24 (1) resident stipends and benefits; and
25 (2) other [the] direct resident costs to the program[
26 ~~including the resident stipend and benefits]~~.

27 (c) A grant application must include proof of the accredited

1 but unfilled positions to which the application applies. [~~An~~
2 ~~application for a grant must be submitted to the board not later~~
3 ~~than October 1 preceding the period for which the grant is made.~~
4 ~~The board shall make decisions about grant awards not later than~~
5 ~~January 1 preceding the grant period.]~~

6 (d) The board may distribute a grant amount for a residency
7 position only on receiving verification that the applicable
8 residency position has been filled.

9 (e) Grant amounts are awarded under this section for the
10 duration of the period in which the resident who initially fills the
11 residency position continues to hold that position [~~two consecutive~~
12 ~~state fiscal years. For each first-year residency position for~~
13 ~~which a program receives an initial grant amount in a fiscal year,~~
14 ~~the board shall award the program an equal grant amount for the~~
15 ~~following fiscal year].~~

16 SECTION 5. Section 58A.024, Education Code, is amended to
17 read as follows:

18 Sec. 58A.024. GRANTS FOR PROGRAM EXPANSION OR NEW PROGRAM.

19 (a) The board shall award grants to enable new or existing
20 graduate medical education programs to increase the number of
21 first-year residency positions [~~or to provide for the establishment~~
22 ~~of new graduate medical education programs with first-year~~
23 ~~residency positions]. The board shall determine the number of~~

24 grants awarded and the amount of each grant consistent with any
25 conditions provided by legislative appropriation.

26 (b) [~~A grant received under this section must be expended to~~
27 ~~support the direct resident costs to the program, including the~~

1 ~~resident stipend and benefits.~~

2 ~~[(c)]~~ A grant application must include a plan for receiving
3 accreditation for the increased number of positions or for the new
4 program, as applicable. ~~[An application for a grant must be
5 submitted to the board not later than October 1 preceding the period
6 for which the grant is made. The board shall make decisions about
7 grant awards not later than January 1 preceding the grant period.]~~

8 (c) ~~[(d)]~~ The board may distribute a grant amount for a
9 residency position only on receiving verification that the
10 applicable residency position has been filled.

11 (d) ~~[(e)]~~ Grant amounts are awarded under this section for
12 the duration of the period in which the resident who initially fills
13 the residency position continues to hold that position ~~[three~~
14 ~~consecutive state fiscal years. For each first-year residency~~
15 ~~position for which a program receives an initial grant amount in a~~
16 ~~fiscal year, the board shall award the program an equal grant amount~~
17 ~~for the following two fiscal years].~~

18 SECTION 6. Subchapter B, Chapter 58A, Education Code, is
19 amended by adding Sections 58A.0245 and 58A.0246 to read as
20 follows:

21 Sec. 58A.0245. CRITICAL SHORTAGE LEVELS. (a) If the board
22 determines that the number of first-year residency positions
23 proposed by eligible applicants under Sections 58A.023 and 58A.024
24 exceeds the number of first-year residency positions for which
25 grant funding under those sections is appropriated, in awarding
26 grants under those sections the board shall prioritize the awarding
27 of new grants to medical specialties determined by the board to be

1 at critical shortage levels.

2 (b) In determining critical shortage levels under this
3 section, the board shall consider:

4 (1) the available results of research conducted by the
5 center under Section 105.009, Health and Safety Code;

6 (2) other relevant research and criteria, including
7 research and criteria related to the designation of health
8 professional shortage areas; and

9 (3) research performed by other appropriate entities.

10 Sec. 58A.0246. CONTINUATION OF GRANTS AWARDED FOR 2015
11 STATE FISCAL YEAR. The board shall award additional grants to fund
12 eligible graduate medical education programs that, for the state
13 fiscal year ending on August 31, 2015, received a grant awarded
14 under Section 58A.023 or 58A.024 or under Section 61.511, as that
15 section existed immediately before September 1, 2015, if those
16 programs continue to meet the applicable grant requirements that
17 existed at the time of the initial award.

18 SECTION 7. Chapter 105, Health and Safety Code, is amended
19 by adding Section 105.009 to read as follows:

20 Sec. 105.009. RESEARCH REGARDING GRADUATE MEDICAL
21 EDUCATION SYSTEM. (a) The comprehensive health professions
22 resource center shall conduct research:

23 (1) to identify all medical specialties and
24 subspecialties that are at critical shortage levels in this state,
25 together with the geographic location of the physicians in those
26 specialties and subspecialties; and

27 (2) regarding the overall supply of physicians in this

1 state and any other issues that are relevant to the status of the
2 state's graduate medical education system and the ability of that
3 system to meet the current and future health care needs of this
4 state.

5 (b) Not later than May 1 of each even-numbered year, the
6 council shall report the results of the center's research to the
7 Legislative Budget Board, the Texas Higher Education Coordinating
8 Board, the office of the governor, and the standing committees of
9 each house of the legislature with primary jurisdiction over state
10 finance or appropriations.

11 SECTION 8. Chapter 2203, Insurance Code, is amended by
12 adding Subchapter J to read as follows:

13 SUBCHAPTER J. TRANSFER OF ASSETS; SUSPENSION OF NEW BUSINESS

14 Sec. 2203.451. TRANSFER OF ASSETS. (a) Not later than the
15 90th day after the effective date of this section, the department
16 shall complete an actuarial study to determine the amount of assets
17 necessary for:

18 (1) the association's known and unknown insurance
19 claims and costs associated with those claims; and

20 (2) administrative expenses of the association,
21 including liabilities for employee retirement plans.

22 (b) The association shall cooperate with the department in
23 completing the actuarial study required by Subsection (a).

24 (c) Not later than the 60th day after the date on which the
25 department completes the actuarial study required by Subsection
26 (a), the association shall transfer the amount of association
27 assets not necessary for the purposes described by Subsection (a)

1 to the permanent fund supporting graduate medical education
2 established under Section 58A.002, Education Code. If that fund is
3 not in existence on the date of transfer, the association shall
4 transfer the assets to an account created by the comptroller
5 outside of the state treasury, and the comptroller shall hold the
6 assets in trust pending creation of the fund.

7 Sec. 2203.4515. SUSPENSION OF NEW BUSINESS. (a) Promptly
8 after the completion of the actuarial study required by Section
9 2203.451, the commissioner, after notice and hearing, shall
10 determine whether a necessity exists to suspend the association's
11 authority to issue new insurance policies pending a future
12 enactment by the legislature that becomes law or the expiration of
13 this subchapter under Section 2203.452, whichever occurs earlier.

14 (b) If the commissioner determines that a necessity
15 described by Subsection (a) exists, the commissioner shall order
16 the association to cease issuing new policies immediately, and the
17 association may not issue a new policy before the expiration of this
18 subchapter under Section 2203.452 unless authorized by a law that
19 takes effect before the expiration of this subchapter.

20 (c) Notwithstanding any order under this section, the
21 association may continue to renew policies in effect immediately
22 before the effective date of the order in accordance with the
23 association's plan of operation.

24 Sec. 2203.452. EXPIRATION OF SUBCHAPTER. This subchapter
25 expires September 1, 2017.

26 SECTION 9. The following provisions of the Education Code
27 are repealed:

1 (1) Section [58A.025](#); and

2 (2) Section [61.511](#).

3 SECTION 10. This Act takes effect September 1, 2015.