

1-1 By: Buckingham, et al. S.B. No. 1148  
1-2 (In the Senate - Filed February 28, 2017; March 7, 2017,  
1-3 read first time and referred to Committee on Business & Commerce;  
1-4 April 24, 2017, reported adversely, with favorable Committee  
1-5 Substitute by the following vote: Yeas 8, Nays 0; April 24, 2017,  
1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	Hancock	X		
1-10	Creighton	X		
1-11	Campbell	X		
1-12	Estes	X		
1-13	Nichols	X		
1-14	Schwertner	X		
1-15	Taylor of Galveston	X		
1-16	Whitmire		X	
1-17	Zaffirini	X		

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 1148 By: Campbell

1-19 A BILL TO BE ENTITLED  
1-20 AN ACT

1-21 relating to maintenance of certification by a physician or an  
1-22 applicant for a license to practice medicine in this state;  
1-23 authorizing a fee.

1-24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-25 SECTION 1. Subtitle F, Title 8, Insurance Code, is amended  
1-26 by adding Chapter 1461 to read as follows:

1-27 CHAPTER 1461. DISCRIMINATION AGAINST PHYSICIAN BASED ON  
1-28 MAINTENANCE OF CERTIFICATION

1-29 Sec. 1461.001. DEFINITIONS. In this chapter:

1-30 (1) "Enrollee" means an individual who is eligible to  
1-31 receive health care services under a managed care plan.

1-32 (2) "Maintenance of certification" has the meaning  
1-33 assigned by Section 151.002, Occupations Code.

1-34 (3) "Managed care plan" means a health benefit plan  
1-35 under which medical care services are provided to enrollees through  
1-36 contracts with physicians and that requires enrollees to use  
1-37 participating physicians or that provides a different level of  
1-38 coverage for enrollees who use participating physicians. The term  
1-39 includes a health benefit plan issued by:

1-40 (A) a health maintenance organization;

1-41 (B) a preferred provider benefit plan issuer; or

1-42 (C) any other entity that issues a health benefit  
1-43 plan, including an insurance company.

1-44 (4) "Participating physician" means a physician who  
1-45 has directly or indirectly contracted with a health benefit plan  
1-46 issuer to provide services to enrollees.

1-47 (5) "Physician" means a person licensed to practice  
1-48 medicine in this state.

1-49 Sec. 1461.002. APPLICABILITY. (a) This chapter applies to  
1-50 a physician regardless of whether the physician is a participating  
1-51 physician.

1-52 (b) This chapter applies to a person to whom a managed care  
1-53 plan issuer contracts to:

1-54 (1) process or pay claims;

1-55 (2) obtain the services of physicians to provide  
1-56 medical care services to enrollees; or

1-57 (3) issue verifications or preauthorizations.

1-58 Sec. 1461.003. DISCRIMINATION BASED ON MAINTENANCE OF  
1-59 CERTIFICATION. (a) Except as provided by Subsection (b), a  
1-60 managed care plan issuer may not differentiate between physicians

based on a physician's maintenance of certification in regard to:

- (1) paying the physician;
- (2) reimbursing the physician; or
- (3) directly or indirectly contracting with the physician to provide services to enrollees.

(b) A managed care plan issuer may differentiate between physicians based on a physician's maintenance of certification only:

(1) if the entity that administers the physician's maintenance of certification is certified under Chapter 170, Occupations Code; and

(2) after the issuer considers the physician's:

- (A) training;
- (B) experience;
- (C) competence; and
- (D) judgment.

(c) A managed care plan issuer may not differentiate between physicians based on the entity that administers a physician's maintenance of certification.

SECTION 2. Section 151.002(a), Occupations Code, is amended by adding Subdivision (6-b) to read as follows:

(6-b) "Maintenance of certification" means the satisfactory completion of periodic recertification requirements that are required for a physician to maintain certification after initial certification under a medical specialty member board, including the member boards of the American Board of Medical Specialties or the specialty certifying boards of the American Osteopathic Association.

SECTION 3. Subchapter A, Chapter 151, Occupations Code, is amended by adding Section 151.006 to read as follows:

Sec. 151.006. CERTIFICATION OF MEDICAL SPECIALTY. Notwithstanding any other law, a physician is considered a board-certified medical specialist in this state if the physician receives initial certification by a medical specialty board, regardless of the physician's maintenance of certification.

SECTION 4. Subchapter B, Chapter 151, Occupations Code, is amended by adding Section 151.0515 to read as follows:

Sec. 151.0515. DISCRIMINATION BASED ON MAINTENANCE OF CERTIFICATION. (a) Except as provided by Subsection (b), a hospital, institution, or program that is licensed by this state, is operated by this state or a political subdivision of this state, or directly or indirectly receives state financial assistance may not differentiate between physicians based on a physician's maintenance of certification.

(b) An entity described by Subsection (a) may differentiate between physicians based on a physician's maintenance of certification only:

(1) if the entity that administers the physician's maintenance of certification is certified under Chapter 170; and

(2) after the entity considers the physician's:

- (A) training;
- (B) experience;
- (C) competence; and
- (D) judgment.

(c) An entity described by Subsection (a) may not differentiate between physicians based on the entity that administers a physician's maintenance of certification.

(d) A state agency, including the Health and Human Services Commission and the Department of State Health Services, may not require a hospital or other provider to require maintenance of certification by a physician.

SECTION 5. Section 155.003, Occupations Code, is amended by amending Subsection (d) and adding Subsection (d-1) to read as follows:

(d) Except as provided by Subsection (d-1), in ~~[In]~~ addition to the other requirements prescribed by this subtitle, the board may require an applicant to comply with other requirements that the board considers appropriate.

(d-1) The board may not require maintenance of

certification by an applicant for the applicant to be eligible for a license under this chapter.

SECTION 6. Section 156.001, Occupations Code, is amended by adding Subsection (f) to read as follows:

(f) The board may not adopt a rule requiring maintenance of certification by a license holder for the license holder to be eligible for an initial or renewal registration permit.

SECTION 7. Subtitle B, Title 3, Occupations Code, is amended by adding Chapter 170 to read as follows:

CHAPTER 170. ENTITY CERTIFICATION TO PROVIDE MAINTENANCE OF CERTIFICATION

Sec. 170.001. CERTIFICATE TO PROVIDE MAINTENANCE OF CERTIFICATION. (a) The board shall establish a process to issue a certificate authorizing an entity to provide maintenance of certification for physicians.

(b) The board by rule shall establish the minimum number of continuing medical education hours that are required for maintenance of certification in a particular medical specialty by an entity under this chapter.

Sec. 170.002. FEES. The board may set a reasonable application fee for a certificate under this chapter.

Sec. 170.003. APPLICATION FOR CERTIFICATE. (a) The board shall prescribe the form of an application for a certificate under this chapter.

(b) The application must require the applicant to provide:

- (1) the applicant's legal name, mailing address, telephone number, and business address;
- (2) the particular practice area in which the applicant will offer maintenance of certification;
- (3) the requirements the applicant will impose on a physician for maintenance of certification; and
- (4) the amount of any fees the applicant will charge a physician for maintenance of certification.

Sec. 170.004. ISSUANCE OF CERTIFICATE. The board shall issue a certificate under this chapter to an applicant that:

- (1) submits an application on the form prescribed by the board under Section 170.003;
- (2) pays the required fee; and
- (3) demonstrates to the satisfaction of the board that the applicant's maintenance of certification program complies with Sections 170.005 and 170.006.

Sec. 170.005. REQUIREMENTS FOR MAINTENANCE OF CERTIFICATION. A maintenance of certification program provided by a holder of a certificate under this chapter:

- (1) must require a physician seeking maintenance of certification to complete at least the minimum number of continuing medical education hours set by board rule under Section 170.001(b); and
- (2) other than continuing medical education hours, may not require a physician initially certified by the entity to complete any educational or testing requirement, including periodic testing, proprietary self-assessment, or peer evaluation.

Sec. 170.006. PRACTICE IMPROVEMENT PROGRAM. (a) A holder of a certificate under this chapter shall administer a practice improvement program to encourage continued improvement within the medical profession.

(b) A practice improvement program under Subsection (a) must focus on recent scientific developments, improving patient safety, patient or population health outcomes, access to health care, and patient experience, and increasing value in the health care system.

Sec. 170.007. ADVERTISING AS BOARD-CERTIFIED SPECIALIST. A physician who holds current maintenance of certification from a certificate holder under this chapter may advertise that the physician is a board-certified specialist in the area of medical specialty in which the physician holds the maintenance of certification.

SECTION 8. The Texas Medical Board shall adopt rules to implement Chapter 170, Occupations Code, as added by this Act, not

4-1 later than September 1, 2018.

4-2 SECTION 9. This Act takes effect January 1, 2018.

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