

TMB Legislative Update - 86th Legislative Session (2019)

Note: Bills are organized into three categories as delineated below. Bill text and background information for each bill is available via [Texas Legislature Online](#). The information provided below is for general information purposes only and is not intended to be a comprehensive description of each bill or a comprehensive listing of all bills related to the practice of medicine.

Bill # & Author	Subject	Key Provisions	Effective Date
CATEGORY 1 - LICENSING, ENFORCEMENT, & AGENCY ADMINISTRATION			
HOUSE BILLS			
HB 16 (Leach)	Abortion; physician- patient relationship	<ul style="list-style-type: none"> • Establishes a physician-patient relationship between a child born alive after an abortion and the physician who performed/attempted the abortion. • A physician who fails to provide appropriate medical treatment to a child born alive is liable to the state for a civil penalty of not less than \$100,000 and commits a third-degree felony offense. 	9/1/19
HB 1504 (Paddie)	Sunset Bill Highlights	<ul style="list-style-type: none"> • Continues the Texas Medical Board until 2031. • Authorizes a physician to receive a non-disciplinary remedial plan every five years instead of once per lifetime. • Requires TMB to remove remedial plan information from a physician's public profile unless it's related to the delivery of health care or more than one was issued for the same violation. • For all formal complaints filed at SOAH, requires removal of the complaint and any prior disciplinary action related to the complaint, from a physician's public profile within 10 days after TMB issues a final order resolving the formal complaint. • When formal complaints are initially filed at SOAH, a physician's public profile must be updated to include a copy of the complaint within 10 days of filing at SOAH. • Authorizes an expedited licensing process, and makes changes to licensing exam requirements, for certain out-of-state applicants. • Creates a new license type for radiology assistants. 	9/1/19
HB 1532 (Meyer)	Regulation of Non-Profit Health Organizations; Physician Independent Practice	<ul style="list-style-type: none"> • Requires TMB to develop a process for reviewing and investigating complaints against certified non-profit health organizations for alleged violations relating to the corporate practice of medicine and the ability of physicians to exercise independent judgment relating to the practice of medicine. • Requires non-profit organizations to develop anti-retaliation policies by December 31, 2019, and file specified biennial reports to TMB. • Requires TMB to publish specific information from each organization's biennial report on the TMB website by Jan. 1 of each year. • Starting Jan. 1, 2020, authorizes TMB to take action against an organization based on a determination that the organization failed to develop, implement, or comply with the required anti-retaliation policy. 	9/1/19

<p>HB 1899 (Bonnen)</p>	<p>Revocation or denial of health care professional license</p>	<p>Requires a licensing authority (including TMB) to immediately revoke a license on notification or deny an application for a health care professional license (including a physician) for an applicant who:</p> <ol style="list-style-type: none"> 1) is required to register as a sex offender; 2) has been previously convicted of or placed on deferred adjudication community supervision for the commission of a felony offense involving the use or threat of force; or 3) has been previously convicted of or placed on deferred adjudication community supervision for the commission of sexual assault, aggravated assault, aggravated sexual assault, or injury to a child, elderly individual, or disabled individual, in which the victim of the offense was a patient of the applicant and that was committed: <ol style="list-style-type: none"> a) when the applicant held a health care professional license in Texas or another state; and b) in the course of providing services within the scope of the applicant's license. 	<p>9/1/19</p>
<p>HB 2059 (Blanco)</p>	<p>Required human trafficking prevention training for physicians</p>	<ul style="list-style-type: none"> • Starting Sept. 1, 2020, requires all health care professionals whose practice includes direct patient care to complete a course on identifying and assisting victims of human trafficking as a criteria for license renewal. • Requires the Health & Human Services Commission to approve and post the training courses. • For physicians, TMB must designate the course as a medical ethics or professional responsibility course. 	<p>9/1/19</p>
<p>HB 2299 (Guerra)</p>	<p>Sports Team Physicians Licensing Exemption</p>	<p>Exempts sports team physicians from state licensing requirements if the physician:</p> <ol style="list-style-type: none"> 1) is employed as a team physician by a sports team visiting for a specific sporting event; 2) is licensed to practice in the team's home state; and 3) limits medical practice for the duration of the event to team members, coaches, staff, and their family members visiting for the event. 	<p>9/1/19</p>
<p>HB 3148 (Parker)</p>	<p>Investigational Adult Stem Cell Treatments</p>	<ul style="list-style-type: none"> • Effective September 1, 2027, requires the Department of State Health Services to establish and maintain an investigational stem cell registry. • Changes the affiliation/accreditation criteria for the institutional review boards (IRBs) that oversee investigational stem cell treatments. • Clarifies that a governmental entity is prohibited from interfering with the use of an authorized investigational stem cell treatment unless the treatment uses an adult stem cell product that is considered an adulterated or misbranded drug. • The bill adds clarifying language that: 1) state law doesn't prohibit a physician from using adult stem cells for their intended homologous use if the stem cells are: a) produced by a manufacturer registered by the FDA and b) commercially available; and 2) state law doesn't require an IRB to oversee treatment using adult stem cells registered by the FDA for their intended homologous use. 	<p>9/1/19</p>

<p>HB 3703 (Klick)</p>	<p>Dispensing, Administration & Use of Low- THC Cannabis</p>	<ul style="list-style-type: none"> • Expands the current compassionate use program to include more medical conditions for which a physician can prescribe low-THC cannabis to a patient. • Changes the qualifications for a prescribing physician to correspond with the expansion of authorized medical conditions for treatment. • Requires the Department of State Health Services to adopt rules by December 1, 2019, designating incurable neurodegenerative diseases for which patients may be prescribed low-THS cannabis. 	<p>6/14/19</p>
<p>SENATE BILLS</p>			
<p>SB 24 (Lucio)</p>	<p>Abortion; Provision of informational materials</p>	<p>Adds clarifying language to existing requirements that a physician or physician's designee, who will be performing an abortion, must provide - in person - informational materials developed by the Department of State Health Services to a pregnant woman.</p>	<p>9/1/19</p>
<p>SB 683 (Buckingham)</p>	<p>Prescription Monitoring Program (PMP)</p>	<p>Contains a provision authorizing physicians to request information on the prescribing activity of an individual to whom the practitioner has delegated prescribing authority.</p>	<p>9/1/19</p>
<p>SB 1264 (Hancock)</p>	<p>Consumer Protections from Balance Billing</p>	<ul style="list-style-type: none"> • Authorizes TMB to take disciplinary action against, and adopt rules as necessary related to, a physician for violating state balance billing prohibitions. • Authorizes the Attorney General, upon referral by a regulatory agency, to bring civil action to enjoin a health care practitioner or entity from violating state balance billing prohibitions. • Amends the Insurance Code to apply mandatory mediation only to health benefit claims by out-of-network providers that are facilities. • Changes the initiator of a mediation request from the insurance enrollee (patient) to an out-of-network provider or a health benefit plan issuer/administrator. Requires the Texas Department of Insurance (TDI) to select a mediator. • Establishes an arbitration program to resolve claim disputes from out-of-network providers who are not a facility. • Authorizes an arbitrator to determine the reasonable amount for services provided to an enrollee (insured patient) by an out-of-network provider. • Requires all parties to participate in an informal settlement teleconference prior to the arbitration process. • Applies to a health care service provided on or after January 1, 2020. 	<p>9/1/19</p>

CATEGORY 2 - OPIOID PRESCRIBING & PRESCRIPTION MONITORING PROGRAM (PMP)

<p>HB 2174 (Zerwas)</p>	<p>Controlled Substance Prescribing: Electronic Prescribing and Required CME</p>	<ul style="list-style-type: none"> • Beginning January 1, 2021, requires mandatory electronic prescribing (e-prescribing) for controlled substances. • Authorizes waivers to be issued by appropriate regulatory agencies based on specific criteria (economic hardship, technological limitations, etc). Requires waiver rules to be adopted by appropriate agencies and include basic criteria set by the Pharmacy Board. • Requires prescribers to complete two continuing education hours related to prescribing and monitoring controlled substances which may count toward ethics requirements. • The continuing education must be obtained no later than September 1, 2021. • Limits opioid prescribing for acute pain to 10 days with no refills. 	<p>9/1/19</p>
<p>HB 2454 (Price)</p>	<p>Pain Management & Prescribing CME</p>	<ul style="list-style-type: none"> • Beginning January 1, 2021, requires a physician practicing direct patient care to complete at least two hours of continuing education in safe/effective pain management related to prescribing opioids. • The hours are required to be completed in each of the first two renewal periods following initial license registration with two hours to be completed no later than the first anniversary of initial registration. Thereafter, a physician must complete at least two hours every eight years. • A physician who holds a license on January 1, 2021, must complete at least two hours in each of the two renewal periods after that date. This requirement expires January 1, 2026. • Requires PAs and advanced practice registered nurses, who have entered into a prescriptive authority agreement with a physician, to complete annually at least two hours of continuing education regarding safe/effective pain management related to opioid prescribing. 	<p>9/1/19</p>
<p>HB 3284 (Sheffield)</p>	<p>Prescription Monitoring Program (PMP) Requirements</p>	<ul style="list-style-type: none"> • Beginning March 1, 2020, requires prescribers to check patient history in the PMP before prescribing opioids, benzodiazepines, barbituates, or carisprodol (this changed from the original September 1, 2019 start date). • Authorizes patients to request their PMP information as well as a record of practitioners that have accessed patient information. • Requires penalties for misuse of PMP information and creates criminal offenses related to unauthorized disclosure or misrepresentation in obtaining information. 	<p>9/1/19</p>
<p>HB 3285 (Sheffield)</p>	<p>Substance Abuse Prevention Initiatives & Programs</p>	<ul style="list-style-type: none"> • Requires prescribers or dispensers of opioids to annually attend at least one hour of continuing education in best practices, alternative treatment options, and multi-modal approaches to pain management. The requirement expires August 31, 2023. • Requires Pharmacy Board to adopt rules to establish the content of the continuing education. • Requires TMB to assist the Statewide Behavioral Health Coordinating Council with strategies to address substance abuse issues. Requires the Health & Human Services Commission to develop a statewide public awareness campaign on the risks of opioid misuse and to collect data on opioid overdose deaths and co-occurrence of substance use disorders and mental illness. 	<p>9/1/19</p>

CATEGORY 3 - HEALTH CARE DELIVERY & PRACTICE (delegation, medical records, etc.)

<p>HB 278 (Oliverson)</p>	<p>Prescriptive Authority Agreements</p>	<p>For physicians who have a prescriptive authority agreement with a physician assistant and/or advanced practice registered nurse, streamlines requirements by:</p> <ul style="list-style-type: none"> • removing existing requirement for face-to-face meetings between a physician and a physician assistant (PA) or advanced practice registered nurse (APRN); and • requiring meetings to take place once a month in a manner determined by the physician and the PA or APRN. 	<p>9/1/19</p>
<p>HB 531 (Miller)</p>	<p>Medical Records - Sexual Assault Victims</p>	<ul style="list-style-type: none"> • Prohibits a physician from destroying a medical record from the forensic medical exam of a sexual assault victim until the 20th anniversary of the date the record was created. • Only applies to records created on or after March 1, 2020. 	<p>9/1/19</p>
<p>SB 1056 (Zaffirini)</p>	<p>Physician Delegation to Pharmacists - Drug Therapy Protocol</p>	<ul style="list-style-type: none"> • Clarifies that a physician's delegation to a pharmacist for implementation of a patient's drug therapy under a protocol must follow a diagnosis, initial patient assessment, and drug therapy order by the physician; • Requires the pharmacist to maintain a copy of the protocol for inspection until the seventh anniversary of the expiration date of the protocol. 	<p>9/1/19</p>
<p>SB 1742 (Menendez)</p>	<p>Health Insurance - prior authorization and utilization review</p>	<ul style="list-style-type: none"> • Requires health insurers to make online information about required preauthorization for health care services readily accessible for enrollees, physicians, providers, and the general public. • Mandates that utilization reviews be conducted by a Texas-licensed physician in the same or similar specialty as the physician requesting the service or procedure. • Requires health plan directories to clearly identify which physician specialties are in-network at network facilities. 	<p>9/1/19</p>