



Physicians Caring for Texans

House Committee on Public Health
Oral Testimony on House Bill 724 by Rep. Donna Howard (D-Austin)
Tilden Childs III, MD, for Texas Medical Association
May 1, 2023

Honorable Chair Klick and esteemed Members:

My name is Dr. Tilden Childs, and I am a radiologist from Fort Worth and chair of the Texas Medical Association's Council on Legislation. Thank you for the opportunity to testify today on behalf of myself and TMA, in respectful opposition to House Bill 724.

I will begin by noting 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 HB 724 would require. We also respect a licensing agency's authority – within the scope of its enforcement powers – to make disciplinary decisions over its licensees for a violation of a law. However, we have serious concerns with the language in subsection (b) of the bill.

First, we are concerned subsection (b) could erroneously be construed as limiting certain agencies' long-standing statutory authority to issue cease-and-desist orders for violations of state licensing laws.

For many years, the Texas Medical Board has had authority to issue cease and desist orders to prevent non-physicians from engaging in, or threatening to engage in, the unauthorized practice of medicine or other violations of the Texas Medical Practice Act or related laws and rules.

This power serves an important patient-safety function, allowing TMB to act swiftly in these situations. Certain other agencies, such as the Board of Nursing and State Board of Pharmacy, have similar statutorily granted powers.

Here are two examples from actual previous cease-and-desist orders that highlight how HB 724 could undermine this historic enforcement framework regarding health care practitioners who are licensed by another licensing agency.

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. The drugs were prescribed to the chiropractor by his own treating physician.

In the other, TMB issued a cease-and-desist order prohibiting the unlicensed practice of medicine because 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.”

In both situations, if HB 724 is broadly construed, TMB would effectively be prevented from acting unless and until the Texas Board of Chiropractic Examiners referred the complaint back to the medical board. The associated delay could be indefinite if no referral was made, potentially putting Texas patients at risk.

Our second concern regarding subsection (b) is it is not clear how the bill’s restrictions on licensing entity disciplinary actions would apply to someone who is licensed with both TMB and another agency.

For these reasons, we are opposed to HB 724 as filed. We urge that the language be revised to address our concerns if the bill progresses.

Thank you very much for the opportunity to testify. I am happy to answer any questions.