

By: Oliverson

H.B. No. 4100

A BILL TO BE ENTITLED

AN ACT

relating to prohibited retaliation against a physician or health care provider for reporting certain violations or taking certain actions with respect to the provision of health care services; providing a civil remedy.

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

SECTION 1. Subtitle H, Title 4, Health and Safety Code, is amended by adding Chapter 332 to read as follows:

CHAPTER 332. PROHIBITED RETALIATION AGAINST HEALTH CARE PROVIDERS

Sec. 332.001. DEFINITIONS. In this chapter:

(1) "Health care facility" means a public or private organization, corporation, partnership, sole proprietorship, association, agency, network, joint venture, or other entity that provides health care services to patients. The term includes a hospital, clinic, medical center, ambulatory surgical center, private physician's office, pharmacy, nursing home, laboratory or diagnostic facility, infirmary, dispensary, medical school, nursing school, pharmacy school, or medical training facility.

(2) "Health care provider" means a nurse, nurse aide, medical assistant, hospital employee, allied health professional, counselor, therapist, laboratory technician, clinic employee, nursing home employee, pharmacist, pharmacy employee, researcher, medical, pharmacy, or nursing school student, professional, paraprofessional, or, without regard to whether the person holds a

1 license, any other person who furnishes or assists in the
2 furnishing of a health care service.

3 (3) "Health care service" means any phase of patient
4 medical care or treatment. The term includes:

5 (A) examination, testing, diagnosis, referral,
6 prognosis, dispensing or administering a drug or device, ancillary
7 research, instruction, therapy, treatment, and preparing for or
8 performing a surgery or procedure; and

9 (B) record-making procedures, preparation of
10 treatment notes, and any other care or treatment rendered by a
11 physician, health care provider, or health care facility.

12 (4) "Physician" means an individual licensed to
13 practice medicine in this state.

14 Sec. 332.002. RETALIATION PROHIBITED. (a) A person,
15 including a health care facility, a political subdivision of this
16 state, a public official of this state, the Texas Medical Board or
17 another agency of this state, or a medical school or other
18 institution that conducts education or training programs for health
19 care providers may not take an adverse action against a physician or
20 health care provider because the physician or provider:

21 (1) except as prohibited by law, testifies, assists,
22 or participates in or is preparing to testify, assist, or
23 participate in a proceeding to present information about:

24 (A) any act or omission that the physician or
25 provider reasonably believes relates to a violation of a law, rule,
26 regulation, or ethical guideline with respect to the provision of
27 health care services;

1 (B) treatment practices or methods that may put
2 patient health at risk;

3 (C) a substantial and specific danger to public
4 health or safety;

5 (D) gross mismanagement or waste of funds; or

6 (E) abuse of authority;

7 (2) provides, causes to be provided, or is preparing
8 to provide or cause to be provided information described by
9 Subdivision (1) to:

10 (A) the physician's or provider's employer;

11 (B) the attorney general, the Health and Human
12 Services Commission, or any state agency charged with protecting
13 patients with respect to the provision of health care services and
14 public health and safety; or

15 (C) the United States Department of Health and
16 Human Services, the Office of Civil Rights of the United States
17 Department of State, or any other federal agency charged with
18 protecting patients with respect to the provision of health care
19 services and public health and safety; or

20 (3) engages in speech, expression, or association that
21 is protected from government interference, unless it is shown by
22 clear and convincing evidence that the physician's or provider's
23 speech, expression, or association was the direct cause of physical
24 harm to an individual with whom the physician or provider had a
25 practitioner-patient relationship during the three years
26 immediately preceding the incident of physical harm.

27 (b) Violations under this section include discrimination

against or taking an adverse action with regard to:

(1) licensure;

(2) certification;

(3) employment terms, benefits, seniority status, promotion, or transfer;

(4) staff appointments or other privileges;

(5) denial of admission or participation in a program for which the physician or health care provider is otherwise eligible;

(6) imposition of a burden in the terms or conditions of employment;

(7) denial of aid, assistance, or benefits;

(8) conditional receipt of the aid, assistance, or benefits; or

(9) coercion or disqualification of the physician or provider receiving aid, assistance, or benefits.

Sec. 332.003. CIVIL REMEDIES. (a) A physician or health care provider who is injured by a violation of this chapter may bring a civil action against another person, entity, or political subdivision of this state that violates this chapter. A physician or provider who brings an action under this section may obtain:

(1) injunctive relief;

(2) damages incurred by the physician or provider, including:

(A) actual damages for all psychological, emotional, and physical injuries resulting from the violation of this chapter, as applicable;

1 (B) court costs; and
2 (C) reasonable attorney's fees; or
3 (3) both injunctive relief and damages.
4 (b) Governmental immunity is waived and abolished to the
5 extent of liability under this section.

6 SECTION 2. This Act takes effect September 1, 2025.