

By: Lucio III

H.B. No. 1126

Substitute the following for H.B. No. 1126:

By: Davis of Harris

C.S.H.B. No. 1126

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the finality of an administrative law judge's decision
3 in a contested case involving disciplinary action against a
4 physician.

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

6 SECTION 1. Sections 164.007(a) and (a-1), Occupations Code,
7 are amended to read as follows:

8 (a) The board by rule shall adopt procedures governing
9 formal disposition of a contested case under Chapter 2001,
10 Government Code. A formal hearing shall be conducted by an
11 administrative law judge employed by the State Office of
12 Administrative Hearings. After receiving the administrative law
13 judge's findings of fact and conclusions of law, the board shall
14 dispose of the contested case by issuing a final order based on the
15 administrative law judge's findings of fact and conclusions of law
16 [~~determine the charges on the merits~~].

17 (a-1) Notwithstanding Section 2001.058(e), Government
18 Code, the [The] board may not change a finding of fact or conclusion
19 of law or vacate or modify an order of the administrative law judge.
20 The board may obtain judicial review of any finding of fact or
21 conclusion of law issued by the administrative law judge as
22 provided by Section 2001.058(f)(5), Government Code. For each
23 case, the board has the sole authority and discretion to determine
24 the appropriate action or sanction, and the administrative law

1 judge may not make any recommendation regarding the appropriate
2 action or sanction [~~only if the board makes a determination~~
3 ~~required by Section 2001.058(e), Government Code~~].

4 SECTION 2. Sections 164.007(a) and (a-1), Occupations Code,
5 as amended by this Act, apply only to a contested case for which an
6 administrative law judge employed by the State Office of
7 Administrative Hearings issues written findings of fact and
8 conclusions of law on or after the effective date of this Act. A
9 contested case for which an administrative law judge employed by
10 the State Office of Administrative Hearings issues written findings
11 of fact and conclusions of law before the effective date of this Act
12 is governed by the law in effect on the date the findings of fact and
13 conclusions of law were issued, and the former law is continued in
14 effect for that purpose.

15 SECTION 3. This Act takes effect September 1, 2009.