

By: Zedler

H.B. No. 1924

A BILL TO BE ENTITLED

AN ACT

relating to the investigation and resolution of complaints filed against physicians.

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

SECTION 1. Section 154.053(a), Occupations Code, is amended to read as follows:

(a) The board shall notify a physician who is the subject of a complaint filed with the board that a complaint has been filed and shall notify the physician of the specific allegations made in ~~[nature of]~~ the complaint unless the notice would jeopardize an investigation.

SECTION 2. Sections 164.003(c) and (f), Occupations Code, are amended to read as follows:

(c) An affected physician is entitled to:

(1) reply to the staff's presentation; ~~and~~

(2) present the facts the physician reasonably believes the physician could prove by competent evidence or qualified witnesses at a hearing; and

(3) cross-examine any expert relied on in the staff's presentation.

(f) The notice required by Subsection (b)(2) must be accompanied by a written statement of the specific ~~[nature of the]~~ allegations made in the complaint, the specific statute, rule, or standard of care alleged to be violated, and the information the

1 board intends to use at the meeting. If the board does not provide
2 the statement or information at that time, the license holder may
3 use that failure as grounds for rescheduling the informal meeting.
4 If the complaint includes an allegation that the license holder has
5 violated the standard of care, the notice must include a copy of the
6 report by the expert physician reviewer. The license holder must
7 provide to the board the license holder's rebuttal at least five
8 business days before the date of the meeting in order for the
9 information to be considered at the meeting.

10 SECTION 3. Section 164.0032, Occupations Code, is amended
11 by amending Subsections (d), (f), and (g) and adding Subsection
12 (g-1) to read as follows:

13 (d) The panel and board employees shall provide an
14 opportunity for the affected physician and the physician's
15 authorized representative to:

16 (1) reply to the board employees' presentation;
17 (2) cross-examine any expert relied on in the board
18 employees' presentation; and

19 (3) [~~to~~] present oral and written statements and facts
20 that the physician and representative reasonably believe could be
21 proven by competent evidence at a formal hearing.

22 (f) The panel shall recommend the dismissal of the complaint
23 or allegations or, if the panel determines that the affected
24 physician has violated a statute, [~~or~~] board rule, or standard of
25 care, the panel may recommend board action and terms for an informal
26 settlement of the case.

27 (g) The panel's recommendations under Subsection (f) must

1 be made in a written order and presented to the affected physician
2 and the physician's authorized representative. The order must
3 state each specific act the panel has determined is a violation and
4 what statute, board rule, or standard of care the act violates if
5 the panel determines that the affected physician has violated a
6 statute, board rule, or standard of care.

7 (g-1) The physician may accept the proposed settlement
8 within the time established by the panel at the informal meeting.
9 If the physician rejects the proposed settlement or does not act
10 within the required time, the board may proceed with the filing of a
11 formal complaint with the State Office of Administrative Hearings.

12 SECTION 4. Section 164.005(f), Occupations Code, is amended
13 to read as follows:

14 (f) A formal complaint must allege with reasonable
15 certainty each specific act relied on by the board to constitute a
16 violation of a specific statute, ~~[or]~~ rule, or standard of care.
17 The formal complaint must be specific enough to:

18 (1) enable a person of common understanding to know
19 what is meant by the formal complaint; and

20 (2) give the person who is the subject of the formal
21 complaint notice of each particular act alleged to be a violation of
22 a specific statute, ~~[or]~~ rule, or standard of care.

23 SECTION 5. Sections 154.053 and 164.005, Occupations Code,
24 as amended by this Act, apply only to a complaint filed on or after
25 the effective date of this Act. A complaint filed before that date
26 is governed by the law in effect on the date the complaint was
27 filed, and the former law is continued in effect for that purpose.

1 SECTION 6. Sections 164.003 and 164.0032, Occupations Code,
2 as amended by this Act, apply only to an informal proceeding
3 concerning a complaint filed on or after the effective date of this
4 Act. An informal proceeding concerning a complaint filed before
5 that date is governed by the law in effect on the date the complaint
6 was filed, and the former law is continued in effect for that
7 purpose.

8 SECTION 7. This Act takes effect September 1, 2011.