

By: Duncan

S.B. No. 1661

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of health organizations certified by the Texas Medical Board; imposing an administrative penalty.

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

SECTION 1. Subchapter A, Chapter 162, Occupations Code, is amended by adding Sections 162.0021, 162.0022, 162.0023, and 162.0024 to read as follows:

Sec. 162.0021. INTERFERENCE WITH PHYSICIAN'S PROFESSIONAL JUDGMENT PROHIBITED. A health organization certified under Section 162.001(b) may not interfere with, control, or otherwise direct a physician's professional judgment in violation of this subchapter or any other provision of law, including board rules.

Sec. 162.0022. HEALTH ORGANIZATION POLICIES. (a) A health organization certified under Section 162.001(b) shall adopt, maintain, and enforce policies to ensure that a physician employed by the health organization exercises independent medical judgment when providing care to patients.

(b) The policies adopted under this section must include policies relating to:

- (1) credentialing;
- (2) quality assurance;
- (3) utilization review; and
- (4) peer review.

(c) The policies adopted under this section, including any

1 amendments to the policies, must be developed by the board of
2 directors or board of trustees, as applicable, of the health
3 organization and approved by an affirmative vote.

4 (d) The policies of the health organization must be drafted
5 and interpreted in a manner that reserves the sole authority to
6 engage in the practice of medicine to a physician participating in
7 the health organization, regardless of the physician's employment
8 status with the health organization.

9 Sec. 162.0023. DISCIPLINARY ACTION RESTRICTION. A
10 physician employed by a health organization certified under Section
11 162.001(b) retains independent medical judgment in providing care
12 to patients, and the health organization may not discipline the
13 physician for reasonably advocating for patient care.

14 Sec. 162.0024. CONTRACTUAL WAIVER PROHIBITED. (a) The
15 requirements of this subchapter may not be voided or waived by
16 contract.

17 (b) Notwithstanding Subsection (a), a member of a health
18 organization certified under Section 162.001(b) may establish
19 ethical and religious directives and a physician may contractually
20 agree to comply with those directives.

21 SECTION 2. Section 162.003, Occupations Code, is amended to
22 read as follows:

23 Sec. 162.003. REFUSAL TO CERTIFY; REVOCATION; PENALTY. On
24 a determination that a health organization is established,
25 organized, or operated in violation of or with the intent to violate
26 this subtitle, the board may:

27 (1) [~~may~~] refuse to certify the health organization on

1 application for certification by the organization under Section
2 162.001; ~~and~~

3 (2) ~~shall~~ revoke a certification made under Section
4 162.001 to that organization; or

5 (3) impose an administrative penalty against the
6 health organization under Subchapter A, Chapter 165.

7 SECTION 3. (a) Except as provided by Subsection (b) of
8 this section, this Act takes effect September 1, 2011.

9 (b) Section 162.0022, Occupations Code, as added by this
10 Act, takes effect January 1, 2012.