

1-1 By: Duncan S.B. No. 1661
1-2 (In the Senate - Filed March 11, 2011; March 23, 2011, read
1-3 first time and referred to Committee on State Affairs;
1-4 April 13, 2011, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 9, Nays 0; April 13, 2011,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1661 By: Duncan

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the regulation of health organizations certified by the
1-11 Texas Medical Board; imposing an administrative penalty.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Subchapter A, Chapter 162, Occupations Code, is
1-14 amended by adding Sections 162.0021, 162.0022, 162.0023, and
1-15 162.0024 to read as follows:

1-16 Sec. 162.0021. INTERFERENCE WITH PHYSICIAN'S PROFESSIONAL
1-17 JUDGMENT PROHIBITED. A health organization certified under Section
1-18 162.001(b) may not interfere with, control, or otherwise direct a
1-19 physician's professional judgment in violation of this subchapter
1-20 or any other provision of law, including board rules.

1-21 Sec. 162.0022. HEALTH ORGANIZATION POLICIES. (a) A health
1-22 organization certified under Section 162.001(b) shall adopt,
1-23 maintain, and enforce policies to ensure that a physician employed
1-24 by the health organization exercises independent medical judgment
1-25 when providing care to patients.

1-26 (b) The policies adopted under this section must include
1-27 policies relating to:

- 1-28 (1) credentialing;
1-29 (2) quality assurance;
1-30 (3) utilization review; and
1-31 (4) peer review.

1-32 (c) The policies adopted under this section, including any
1-33 amendments to the policies, must be developed by the board of
1-34 directors or board of trustees, as applicable, of the health
1-35 organization and approved by an affirmative vote.

1-36 (d) The policies of the health organization must be drafted
1-37 and interpreted in a manner that reserves the sole authority to
1-38 engage in the practice of medicine to a physician participating in
1-39 the health organization, regardless of the physician's employment
1-40 status with the health organization.

1-41 Sec. 162.0023. DISCIPLINARY ACTION RESTRICTION. A
1-42 physician employed by a health organization certified under Section
1-43 162.001(b) retains independent medical judgment in providing care
1-44 to patients, and the health organization may not discipline the
1-45 physician for reasonably advocating for patient care.

1-46 Sec. 162.0024. CONTRACTUAL WAIVER PROHIBITED. (a) The
1-47 requirements of this subchapter may not be voided or waived by
1-48 contract.

1-49 (b) Notwithstanding Subsection (a), a member of a health
1-50 organization certified under Section 162.001(b) may establish
1-51 ethical and religious directives and a physician may contractually
1-52 agree to comply with those directives.

1-53 SECTION 2. Section 162.003, Occupations Code, is amended to
1-54 read as follows:

1-55 Sec. 162.003. REFUSAL TO CERTIFY; REVOCATION; PENALTY. On
1-56 a determination that a health organization is established,
1-57 organized, or operated in violation of or with the intent to violate
1-58 this subtitle, the board may:

1-59 (1) [~~may~~] refuse to certify the health organization on
1-60 application for certification by the organization under Section
1-61 162.001; [~~and~~]

1-62 (2) [~~shall~~] revoke a certification made under Section
1-63 162.001 to that organization; or

2-1 (3) impose an administrative penalty against the
2-2 health organization under Subchapter A, Chapter 165.

2-3 SECTION 3. (a) Except as provided by Subsection (b) of
2-4 this section, this Act takes effect September 1, 2011.

2-5 (b) Section 162.0022, Occupations Code, as added by this
2-6 Act, takes effect January 1, 2012.

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