

By: Zedler

H.B. No. 286

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. Section 164.003(f), Occupations Code, is amended to read as follows:

(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 board intends to use at the meeting, and the identity and credentials of any expert the board intends to rely on at the meeting. If the board does not provide the statement or information at that time, the license holder may use that failure as grounds for rescheduling the informal meeting. If the complaint includes an allegation that the license holder has violated the standard of care, the notice must include a copy of the report by the expert

1 physician reviewer. The license holder must provide to the board  
2 the license holder's rebuttal at least 15 business days before the  
3 date of the meeting in order for the information to be considered at  
4 the meeting.

5 SECTION 3. Section 164.0032, Occupations Code, is amended  
6 by amending Subsections (f) and (g) and adding Subsection (g-1) to  
7 read as follows:

8 (f) The panel shall recommend the dismissal of the complaint  
9 or allegations or, if the panel determines that the affected  
10 physician has violated a statute, ~~or~~ board rule, or standard of  
11 care, the panel may recommend board action and terms for an informal  
12 settlement of the case.

13 (g) The panel's recommendations under Subsection (f) must  
14 be made in a written order and presented to the affected physician  
15 and the physician's authorized representative. The order must  
16 state each specific act the panel has determined is a violation and  
17 the specific statute, board rule, or standard of care the act  
18 violates if the panel determines that the affected physician has  
19 violated a statute, board rule, or standard of care.

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

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

27 (f) A formal complaint must allege with reasonable

1 certainty each specific act relied on by the board to constitute a  
2 violation of a specific statute, ~~[or]~~ rule, or standard of care.

3 The formal complaint must be specific enough to:

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

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

9 SECTION 5. Subchapter A, Chapter 164, Occupations Code, is  
10 amended by adding Section 164.0061 to read as follows:

11 Sec. 164.0061. ADDITIONAL CHARGE OR ALLEGED VIOLATION. In  
12 a formal complaint filed under Section 164.005 or in a contested  
13 case before the State Office of Administrative Hearings, the board  
14 may not add a charge or alleged violation to the complaint or case  
15 unless the board has attempted to resolve the additional charge or  
16 alleged violation through an informal proceeding under Section  
17 164.003.

18 SECTION 6. Sections 154.053 and 164.005, Occupations Code,  
19 as amended by this Act, apply only to a complaint filed on or after  
20 the effective date of this Act. A complaint filed before that date  
21 is governed by the law in effect on the date the complaint was  
22 filed, and the former law is continued in effect for that purpose.

23 SECTION 7. Sections 164.003 and 164.0032, Occupations Code,  
24 as amended by this Act, apply only to an informal proceeding  
25 concerning a complaint filed on or after the effective date of this  
26 Act. An informal proceeding concerning a complaint filed before  
27 that date is governed by the law in effect on the date the complaint

1 was filed, and the former law is continued in effect for that  
2 purpose.

3       SECTION 8. Section 164.0061, Occupations Code, as added by  
4 this Act, applies only to a formal hearing that commences on or  
5 after the effective date of this Act. A formal hearing that  
6 commences before that date is governed by the law in effect at the  
7 time the hearing commenced, and the former law is continued in  
8 effect for that purpose.

9       SECTION 9. This Act takes effect September 1, 2013.