

By: Zedler

H.B. No. 179

Substitute the following for H.B. No. 179:

By: Crownover

C.S.H.B. No. 179

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 provide notice to ~~[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 nature of the complaint]~~ unless the notice would jeopardize an investigation. The notice must include:

(1) the specific allegations made in the complaint;

and

(2) a copy of the complaint that has been redacted to remove the name of the complainant.

SECTION 2. Section 154.0561, Occupations Code, is amended by adding Subsection (e) to read as follows:

(e) Each physician on an expert physician panel authorized under Section 154.056(e) who is reviewing a complaint must practice in the same specialty as the physician who is the subject of the complaint.

SECTION 3. Section 164.003(f), Occupations Code, is amended to read as follows:

(f) The notice required by Subsection (b)(2) must be

1 accompanied by a written statement of the specific factual [~~nature~~  
2 ~~of the~~] allegations, the specific statute, rule, or standard of  
3 care alleged to be violated, [~~and~~] the information the board  
4 intends to use at the meeting, and the credentials of any expert the  
5 board intends to rely on at the meeting. If the board does not  
6 provide the statement or information at that time, the license  
7 holder may use that failure as grounds for rescheduling the  
8 informal meeting. If the complaint includes an allegation that the  
9 license holder has violated the standard of care, the notice must  
10 include a copy of the report by the expert physician reviewer and a  
11 statement explaining exactly how the standard of care was violated.  
12 The license holder must provide to the board the license holder's  
13 rebuttal at least 15 business days before the date of the meeting in  
14 order for the information to be considered at the meeting.

15 SECTION 4. Section [164.0032](#), Occupations Code, is amended  
16 by amending Subsections (f) and (g) and adding Subsection (g-1) to  
17 read as follows:

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

23 (g) The panel's recommendations under Subsection (f) must  
24 be made in a written order and presented to the affected physician  
25 and the physician's authorized representative. The order must  
26 state the specific basis for the order, including the specific  
27 statute, board rule, or standard of care that each act violates.

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

6        SECTION 5. Section 164.005(f), Occupations Code, is amended  
7 to read as follows:

8        (f) A formal complaint must allege with reasonable  
9 certainty each specific act relied on by the board to constitute a  
10 violation of a specific statute, ~~or~~ rule, or standard of care.  
11 The formal complaint must be specific enough to:

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

14            (2) give the person who is the subject of the formal  
15 complaint notice of each particular act alleged to be a violation of  
16 a specific statute, ~~or~~ rule, or standard of care.

17        SECTION 6. Sections 154.053, 154.0561, and 164.005,  
18 Occupations Code, as amended by this Act, apply only to a complaint  
19 filed on or after the effective date of this Act. A complaint filed  
20 before that date is governed by the law in effect on the date the  
21 complaint was filed, and the former law is continued in effect for  
22 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. This Act takes effect September 1, 2015.