

By: Zedler

H.B. No. 537

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the investigation and resolution of complaints filed
3 against physicians.

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

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

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

12 SECTION 2. Section 164.003(f), Occupations Code, is amended
13 to read as follows:

14 (f) The notice required by Subsection (b)(2) must be
15 accompanied by a written statement of the specific factual ~~[nature~~
16 ~~of the]~~ allegations, the specific statute, rule, or standard of
17 care alleged to be violated, [and] the information the board
18 intends to use at the meeting, and the credentials of any expert the
19 board intends to rely on at the meeting. If the board does not
20 provide the statement or information at that time, the license
21 holder may use that failure as grounds for rescheduling the
22 informal meeting. If the complaint includes an allegation that the
23 license holder has violated the standard of care, the notice must
24 include a copy of the report by the expert physician reviewer. The

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

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

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

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

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

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

24 (f) A formal complaint must allege with reasonable
25 certainty each specific act relied on by the board to constitute a
26 violation of a specific statute, ~~or~~ rule, or standard of care.

27 The formal complaint must be specific enough to:

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

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

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

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

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

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

27 SECTION 8. Section 164.0061, Occupations Code, as added by

1 this Act, applies only to a formal hearing that commences on or
2 after the effective date of this Act. A formal hearing that
3 commences before that date is governed by the law in effect at the
4 time the hearing commenced, and the former law is continued in
5 effect for that purpose.

6 SECTION 9. This Act takes effect September 1, 2017.