

BILL ANALYSIS

C.S.H.B. 1532
By: Meyer
Public Health
Committee Report (Substituted)

BACKGROUND AND PURPOSE

There are concerns that certified nonprofit health care organizations are attempting to direct the manner in which patient care is provided, thereby subjecting physicians sometimes to unreasonable directives and certain punishment by administrative leadership despite protections that are already in place. C.S.H.B. 1532 seeks to further protect these physicians from such interference.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Medical Board in SECTION 2 of this bill.

ANALYSIS

C.S.H.B. 1532 amends the Occupations Code to include committing a violation of the Medical Practice Act among the grounds on which the Texas Medical Board (TMB) may refuse to certify, revoke the certification of, or impose an administrative penalty against a nonprofit health organization. The bill requires the TMB to accept and process complaints against a certified nonprofit health corporation for alleged violations of statutory provisions relating to the regulation of nonprofit health corporations or any other provision of the Medical Practice Act applicable to a health organization in the same manner as provided by state law and TMB rules for other complaints filed with the TMB and specifies certain requirements with which the TMB must comply.

C.S.H.B. 1532 makes privileged and confidential each complaint, adverse report, investigation file, other investigation report, and other investigative information in the possession of or received or gathered by the TMB or TMB employees or agents relating to a certified nonprofit health corporation and establishes that such information is not subject to discovery, subpoena, or other means of legal compulsion for release to anyone other than the TMB or TMB employees or agents involved in the investigation or discipline of a certified nonprofit health corporation. The bill authorizes the TMB to dispose of a complaint or resolve the investigation of a complaint in a manner provided under state law regarding TMB general disciplinary authority, to the extent the TMB determines the law can be made applicable to a certified nonprofit health corporation. The bill expressly does not require an individual to file or prohibit an individual from filing a complaint against a certified nonprofit health corporation directly with the corporation, alone or in connection with a complaint filed with the TMB, relating to the care or services provided by, or the policies of, the corporation or an alleged violation by the corporation of statutory provisions relating to nonprofit health corporations or any other provision of the Medical Practice Act applicable to the corporation.

C.S.H.B. 1532 requires a certified nonprofit health corporation to develop, implement, and comply with an anti-retaliation policy for physicians under which the corporation may not terminate, demote, retaliate against, discipline, discriminate against, or otherwise penalize a physician for the following acts:

- filing a complaint in good faith under the bill's provisions;
- cooperating in good faith with an investigation or proceeding of the TMB relating to a complaint filed under the bill's provisions; or
- communicating to a patient in good faith what the physician reasonably believes to be the physician's best, independent medical judgment.

The bill requires a certified nonprofit health corporation to develop an anti-retaliation policy not later than December 31, 2019. Effective January 1, 2020, the bill authorizes the TMB, on a determination that a corporation has failed to develop, implement, or comply with such a policy, to take any action allowed under the Medical Practice Act or TMB rule applicable to a health organization.

C.S.H.B. 1532 requires each certified nonprofit health corporation to file with the TMB a biennial report in September of each odd-numbered year if the organization was certified in an odd-numbered year or in September of each even-numbered year if the organization was certified in an even-numbered year. The bill sets out the required contents of the report and requires a certified nonprofit health corporation to submit with the report a fee in the amount prescribed by TMB rule. The bill requires the TMB to publish certain information provided in such a report on the TMB website not later than January 1 of each year and establishes that the other information provided in the report is public information subject to disclosure under state public information law. The bill authorizes the TMB to adopt rules necessary to implement these provisions relating to the report.

EFFECTIVE DATE

Except as otherwise provided, September 1, 2019.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1532 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute revises provisions relating to the procedures for and disposition of complaints against certified nonprofit health corporations as follows:

- expands the requirements for the processing of complaints to which the bill expressly subjects the TMB;
- does not include an authorization for the TMB to adopt rules as necessary to implement the provisions; and
- specifies that the provisions do not require or prohibit an individual from filing certain complaints against a certified nonprofit health corporation directly with the corporation.

The substitute revises provisions relating to prohibited retaliation by a certified nonprofit health corporation as follows:

- changes the prohibition against a corporation penalizing a person, a person's family member, or a person's partner because the person engages in certain acts to a requirement for a corporation to develop, implement, and comply with an anti-retaliation policy for physicians under which the corporation may not penalize a physician for engaging in certain acts;

- revises the acts with respect to which retaliation is prohibited;
- includes a provision, which takes effect January 1, 2020, authorizing the TMB to take action against a corporation that fails to develop, implement, or comply with an anti-retaliation policy; and
- does not include the following:
 - a prohibition against a corporation prohibiting, restricting, or discouraging a person from taking the applicable actions;
 - a provision granting immunity from civil liability for a report made in good faith; and
 - requiring an employment contract between a corporation and a physician to contain a provision requiring the corporation to comply with the applicable requirements.

The substitute includes provisions that do the following:

- require each certified nonprofit health corporation to file a biennial report containing certain information with the TMB and to submit with the report a fee in the amount prescribed by TMB rule;
- require the TMB to publish on its website certain information provided in the report;
- subject certain other information in the report to disclosure under state public information law; and
- authorize the TMB to adopt rules necessary to implement the bill's provisions relating to the report.