

By: Campos

H.B. No. 1873

A BILL TO BE ENTITLED

AN ACT

1
2 relating to patients' rights, consumer protection, and directives
3 for the provision of health care services; providing an
4 administrative penalty.

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

6 SECTION 1. Subchapter A, Chapter 166, Health and Safety
7 Code, is amended by adding Section 166.012 to read as follows:

8 Sec. 166.012. DIRECTIVE FOR PHYSICIAN DIAGNOSIS AND
9 TREATMENT. (a) A competent adult may execute a written directive
10 that:

11 (1) requires any diagnosis or treatment provided to
12 the adult to be provided only by a physician; and

13 (2) provides that if the adult is incompetent or
14 otherwise mentally or physically incapable of communication, only a
15 physician may diagnose and treat the adult.

16 (b) Except as provided by Subsection (c), the declarant must
17 sign the directive in the presence of two witnesses who qualify
18 under Section 166.003, at least one of whom must be a witness who
19 qualifies under Section 166.003(2). The witnesses must sign the
20 directive.

21 (c) The declarant, in lieu of signing in the presence of
22 witnesses, may sign the directive and have the signature
23 acknowledged before a notary public.

24 (d) A declarant shall notify the declarant's attending

1 physician of the existence of the written directive. If the
2 declarant is incompetent or otherwise mentally or physically
3 incapable of communication, another person may notify the attending
4 physician of the existence of the directive. The attending
5 physician shall make the directive a part of the declarant's
6 medical record.

7 (e) A directive described by Subsection (a) prevails over a
8 conflicting directive unless the conflicting directive is later
9 executed and states that the directive executed under this section
10 is revoked.

11 SECTION 2. Title 2, Health and Safety Code, is amended by
12 adding Subtitle J to read as follows:

13 SUBTITLE J. PROVISION OF HEALTH CARE SERVICES

14 CHAPTER 185. TEXAS PATIENTS' BILL OF RIGHTS

15 SUBCHAPTER A. GENERAL PROVISIONS

16 Sec. 185.001. DEFINITIONS. In this chapter:

17 (1) "Health care facility" means a facility licensed,
18 certified, registered, or otherwise authorized to administer
19 health care services, for profit or otherwise, to individuals in
20 this state in the ordinary course of business or professional
21 practice.

22 (2) "Health care practitioner" means an individual
23 licensed, certified, registered, or otherwise authorized to
24 administer health care services, for profit or otherwise, to
25 individuals in this state in the ordinary course of business or
26 practice.

27 (3) "Health care services" means services provided by

1 a health care practitioner to prevent, alleviate, cure, or heal
2 human illness or injury.

3 Sec. 185.002. PURPOSE. The purpose of this chapter is to
4 provide the necessary information for patients to make informed
5 decisions on health care services.

6 Sec. 185.003. APPLICABILITY. (a) Except as provided by
7 Subsection (b), this chapter applies to each health care facility
8 in this state, including hospitals, freestanding emergency medical
9 care facilities, hospital-owned outpatient clinics, urgent care
10 centers, and ambulatory surgical centers, and each health care
11 practitioner in this state.

12 (b) This chapter does not apply to a dentist, physical
13 therapist, or chiropractor.

14 Sec. 185.004. RULES. A state regulatory agency that issues
15 a license, certification, registration, or other authorization to a
16 health care facility or health care practitioner, including The
17 Texas Medical Board, Texas Physician Assistant Board, Texas Board
18 of Nursing, and executive commissioner, may adopt rules necessary
19 to implement this chapter.

20 SUBCHAPTER B. PATIENT RIGHTS

21 Sec. 185.051. RIGHTS RELATED TO HEALTH CARE PRACTITIONERS.

22 A patient in this state has the right to:

23 (1) be informed of the type of license a health care
24 practitioner holds by viewing a photo identification worn by the
25 practitioner in accordance with Section 185.102;

26 (2) be informed about whether a supervising physician
27 is present at the health care facility at the time the patient

1 receives health care services at the facility;

2 (3) decline health care services provided by a
3 nonphysician health care practitioner and instead request that a
4 physician provide the health care services within a reasonable
5 time;

6 (4) be informed in advance of the patient's health care
7 appointment of the health care practitioner scheduled to provide
8 health care services to the patient;

9 (5) avoid any penalty for the patient's refusal to
10 accept provision of health care services by a nonphysician health
11 care practitioner;

12 (6) be provided an initial consultation only with a
13 specialist who is a physician;

14 (7) be informed of the identity of the physician
15 supervising each nonphysician health care practitioner involved in
16 providing health care services to the patient; and

17 (8) be provided accurate health care information that
18 is not misleading or deceptive in a manner prohibited under Section
19 102.0015, Occupations Code.

20 Sec. 185.052. RIGHTS RELATED TO INFORMED CONSENT. (a) A
21 patient in this state has the right to:

22 (1) receive a clearly readable and intelligible copy
23 of all consent to treat forms before the patient is asked to sign
24 those forms;

25 (2) receive and execute a one-page document
26 authorizing only a physician to diagnose and treat the patient;

27 (3) receive simplified paperwork that does not require

1 the patient to enter duplicate information on multiple forms;

2 (4) execute an advance directive under Section 166.012
3 requiring that only a physician diagnose and treat the patient,
4 including when the patient is unable to communicate; and

5 (5) receive documentation with a clear explanation of
6 each proposed health care service, including medications, and any
7 practicable alternatives to each service.

8 (b) A reference on an electronic device to a consent to
9 treat form or another document that the patient has not received
10 does not satisfy the requirements of Subsection (a)(1).

11 Sec. 185.053. RIGHTS RELATED TO TREATMENT. A patient in
12 this state has the right to:

13 (1) if practicable, have an advocate, including a
14 family member or other individual, present with the patient during
15 the provision of health care services;

16 (2) receive an easily understandable summary of the
17 health care services provided to the patient;

18 (3) for hospitalized patients, have an accurate active
19 medication list maintained at all times while the patient remains
20 hospitalized; and

21 (4) as applicable, receive documentation stating that
22 the patient's treatment is deviating from the standard of care
23 because of cost, health benefit plan coverage, or hospital supply
24 shortage.

25 Sec. 185.054. RIGHTS RELATED TO BILLING. A patient in this
26 state has the right to receive:

27 (1) if practicable, a written estimate of the cost of

1 health care services, including the cost of directly paying the
2 health care practitioner or health care facility that provides the
3 services rather than paying through a health benefit plan;

4 (2) written notice on whether the patient's health
5 benefit plan covers a health care service;

6 (3) a written disclosure on whether any health care
7 practitioner who may provide health care services to the patient is
8 an independent contractor who bills separately; and

9 (4) a reduced price for health care services provided
10 by a nonphysician health care practitioner.

11 SUBCHAPTER C. REQUIREMENTS FOR HEALTH CARE FACILITIES AND
12 PRACTITIONERS

13 Sec. 185.101. PROHIBITED ABRIDGEMENT OF RIGHTS OR VIOLATION
14 OF RULES. A health care facility or health care practitioner may
15 not abridge a right described by Subchapter B or violate a rule
16 adopted under this chapter.

17 Sec. 185.102. PHOTO IDENTIFICATION REQUIREMENTS FOR HEALTH
18 CARE PRACTITIONERS. (a) While providing health care services to a
19 patient, a health care practitioner shall wear a clearly visible
20 photo identification that identifies the practitioner's
21 occupational license, certification, registration, or other
22 authorization issued under Title 3, Occupations Code, or the
23 occupational license, certification, registration, or other
24 authorization for which the practitioner is training under that
25 title.

26 (b) The photo identification must clearly state the health
27 care practitioner's occupation and may not abbreviate the

1 occupation.

2 (c) The photo identification for a health care practitioner
3 who is training to hold a license, certification, registration, or
4 other authorization under Title 3, Occupations Code, must identify
5 the practitioner as a student, resident, or fellow.

6 Sec. 185.103. INFORMATION REGARDING NONPHYSICIAN HEALTH
7 CARE PRACTITIONERS. A health care facility employing nonphysician
8 health care practitioners at a facility location shall clearly post
9 in each patient waiting area at the location and on all
10 advertisements for health care services provided at the location
11 that:

12 (1) health care services are provided by nonphysician
13 health care practitioners; and

14 (2) the patient has the right to be informed of the
15 identity of the supervising physician of any nonphysician health
16 care provider who provides health care services to the patient.

17 Sec. 185.104. PROVISION OF TRAINING INFORMATION. A health
18 care facility in this state shall post the differences in training
19 requirements for the health care practitioners employed by the
20 facility on the facility's Internet website and in each of the
21 facility's patient waiting areas.

22 SUBCHAPTER D. ENFORCEMENT

23 Sec. 185.151. REPORT. A patient may report a violation of a
24 right described by Subchapter B to:

25 (1) the state regulatory agency that issues a license,
26 certification, registration, or other authorization to a health
27 care practitioner, including:

1 (A) the Texas Medical Board for physicians;

2 (B) the Texas Physician Assistant Board for
3 physician assistants; and

4 (C) the Texas Board of Nursing for nurses; and

5 (2) the state regulatory agency that issues a license,
6 certification, registration, or other authorization to a health
7 care facility, including the commission.

8 Sec. 185.152. ADMINISTRATIVE PENALTY. (a) A state
9 regulatory agency for a health care facility or health care
10 practitioner, including the Texas Medical Board, the Texas
11 Physician Assistant Board, the Texas Board of Nursing, and the
12 commission, may impose an administrative penalty against a person
13 regulated by the agency who violates this chapter or a rule adopted
14 under this chapter.

15 (b) The assessed penalty may not be less than \$100 or more
16 than \$10,000 for each violation. Each day of a violation that
17 occurs before the day on which the person receives written notice of
18 the violation does not constitute a separate violation and shall be
19 considered one violation. Each day of a continuing violation that
20 occurs after the day on which the person receives written notice of
21 the violation constitutes a separate violation.

22 SECTION 3. Subchapter A, Chapter 102, Occupations Code, is
23 amended by adding Section 102.0015 to read as follows:

24 Sec. 102.0015. REQUIREMENTS AND PROHIBITED PRACTICES
25 RELATED TO QUALIFICATIONS IN ADVERTISEMENTS. (a) A person may not
26 make a deceptive or misleading statement or engage in a deceptive or
27 misleading act in advertising health care services that

1 misrepresents:

2 (1) whether the person holds a license, certification,
3 registration, or other authorization issued by this state to
4 provide the services; or

5 (2) the person's education, training, or clinical
6 expertise.

7 (b) A person who is advertising health care services
8 provided by the person shall disclose in the advertisement the
9 applicable license, certification, registration, or other
10 authorization under which the person is authorized to provide the
11 services.

12 SECTION 4. Section 102.008, Occupations Code, is amended to
13 read as follows:

14 Sec. 102.008. DISCIPLINARY ACTION. A violation of Section
15 102.001, 102.0015, or 102.006 is grounds for disciplinary action by
16 the regulatory agency that issued a license, certification, or
17 registration to the person who committed the violation.

18 SECTION 5. Each state regulatory agency that issues a
19 license, certification, registration, or other authorization to a
20 health care practitioner or health care facility, including the
21 Texas Medical Board, Texas Physician Assistant Board, Texas Board
22 of Nursing, and executive commissioner of the Health and Human
23 Services Commission, shall adopt rules necessary to implement
24 Chapter 185, Health and Safety Code, as added by this Act, not later
25 than January 1, 2024.

26 SECTION 6. Chapter 185, Health and Safety Code, as added by
27 this Act, applies to the provision of health care services on or

1 after January 1, 2024.

2 SECTION 7. This Act takes effect September 1, 2023.