

OCCUPATIONS CODE

TITLE 3. HEALTH PROFESSIONS

SUBTITLE B. PHYSICIANS

CHAPTER 154. PUBLIC INTEREST INFORMATION AND COMPLAINT PROCEDURES

SUBCHAPTER A. PUBLIC INTEREST INFORMATION

Sec. 154.001. PUBLIC INTEREST INFORMATION. (a) The board shall prepare information of public interest describing the functions of the board and the procedures by which complaints are filed with and resolved by the board.

(b) The board shall make the information available to the public and appropriate state agencies.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 154.002. INFORMATION FOR PUBLIC DISSEMINATION. (a) The board shall prepare:

(1) an alphabetical list of the names of the license holders;

(2) an alphabetical list of the names of the license holders by the county in which the license holder's principal place of practice is located;

(3) a summary of the board's functions;

(4) a copy of this subtitle and a list of other laws relating to the practice of medicine;

(5) a copy of the board's rules;

(6) a statistical report each fiscal year to the legislature and the public that provides aggregate information about all complaints received by the board categorized by type of complaint, including administrative, quality of care, medical error, substance abuse, other criminal behavior, and the disposition of those complaints by category; and

(7) other information considered appropriate by the board.

(b) The board shall provide:

(1) a copy of the information prepared under Subsection (a) to each person who requests a copy; and

(2) copies of the information prepared under Subsection (a) to each public library in this state that requests the copies.

(c) The board shall make available on the board's Internet website a consumer guide to health care. The board shall include information in the guide concerning the billing and reimbursement of health care services provided by physicians, including information that advises consumers that:

(1) the charge for a health care service or supply will vary based on:

(A) the person's medical condition;

(B) any unknown medical conditions of the person;

(C) the person's diagnosis and recommended treatment protocols; and

(D) other factors associated with performance of the health care service;

(2) the charge for a health care service or supply may differ from the amount to be paid by the consumer or the consumer's third-party payor;

(3) the consumer may be personally liable for payment for the health care service or supply depending on the consumer's health benefit plan coverage; and

(4) the consumer should contact the consumer's health benefit plan for accurate information regarding the plan structure, benefit coverage, deductibles, copayments, coinsurance, and other plan provisions that may impact the consumer's liability for payment for the health care services or supplies.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 202, Sec. 6, eff. June 10, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 997 (S.B. [1731](#)), Sec. 7, eff. September 1, 2007.

Sec. 154.003. INFORMATION FOR PHYSICIANS. (a) The board shall disseminate at least twice a year and at other times determined necessary by the board information of significant interest to the physicians of this state. The information must

include summaries of:

- (1) disciplinary orders made against physicians licensed in this state;
 - (2) board activities and functions;
 - (3) pertinent changes in this subtitle or board rules;
- and
- (4) attorney general opinions.

(b) The requirements of this section are in addition to the reporting requirements imposed under Section [164.060](#).

(c) The board shall disseminate the information to:

- (1) each physician practicing in this state;
- (2) each health care entity and other board-designated health care institution operating in this state;
- (3) each member of a health-related legislative committee;
- (4) a member of the public who submits a written request; and
- (5) public libraries throughout this state.

(d) Except as provided by this subsection, the board shall publish information regarding errors in and reversals of disciplinary actions taken by the board. The information to be published under this subsection includes instances in which a disciplinary action initiated by the board is overturned by a court. The board shall disseminate the information under this subsection in the same format, size, style, and manner as the information regarding the original action by the board was disseminated. The board may not publish information under this subsection if the physician who was the subject of the disciplinary action requests that the information not be published.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 269 (S.B. [419](#)), Sec. 1.14, eff. September 1, 2005.

Sec. 154.004. DISCLOSURE OF DISCIPLINARY ORDERS. (a) On written request the board shall make available to the general public on payment of a reasonable fee to cover expenses and to

appropriate state agencies information that includes:

- (1) a summary of any previous disciplinary order by the board against a specific physician licensed in this state;
- (2) the date of the order; and
- (3) the current status of the order.

(b) If the board is not required under other state law to establish a toll-free telephone number, the board shall establish an eight-hour toll-free telephone number to make the information required by this section immediately available to any caller.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 154.005. PUBLIC PARTICIPATION. (a) The board shall develop and implement policies that provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the board's jurisdiction.

(b) The board shall prepare and maintain a written plan that describes how a person who does not speak English may be provided reasonable access to the board's programs.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 154.006. PHYSICIAN PROFILES. (a) The board shall create a profile of each physician licensed under this subtitle. The profile must:

- (1) include the information required by Subsection (b); and
- (2) be compiled in a format that makes the information contained in the profile easily available to the public.

(b) A profile must contain the following information on each physician:

- (1) the name of each medical school attended and the dates of:
 - (A) graduation; or
 - (B) Fifth Pathway designation and completion of the Fifth Pathway Program;
- (2) a description of all graduate medical education in the United States or Canada;
- (3) any specialty certification held by the physician

and issued by a medical licensing board that is a member of the American Board of Medical Specialties or the Bureau of Osteopathic Specialists;

(4) the number of years the physician has actively practiced medicine in:

(A) the United States or Canada; and

(B) this state;

(5) the name of each hospital in this state in which the physician has privileges;

(6) the physician's primary practice location;

(7) the type of language translating services, including translating services for a person with impairment of hearing, that the physician provides at the physician's primary practice location;

(8) whether the physician participates in the Medicaid program;

(9) a description of any conviction for a felony, a Class A or Class B misdemeanor, or a Class C misdemeanor involving moral turpitude;

(10) a description of any charges reported to the board to which the physician has pleaded no contest, for which the physician is the subject of deferred adjudication or pretrial diversion, or in which sufficient facts of guilt were found and the matter was continued by a court;

(11) a description of any disciplinary action against the physician by the board;

(12) a description of any disciplinary action against the physician by a medical licensing board of another state;

(13) a description of the final resolution taken by the board on medical malpractice claims or complaints required to be opened by the board under Section [164.201](#);

(14) whether the physician's patient service areas are accessible to disabled persons, as defined by federal law;

(15) a description of any formal complaint against the physician initiated and filed under Section [164.005](#) and the status of the complaint; and

(16) a description of any medical malpractice claim

against the physician, not including a description of any offers by the physician to settle the claim, for which the physician was found liable, a jury awarded monetary damages to the claimant, and the award has been determined to be final and not subject to further appeal.

(c) Information required to be included under Subsection (b) that is not maintained by the board in the ordinary course of the board's duties shall be obtained from a physician at the time the physician renews the physician's license. In requesting information from the physician, the board shall:

(1) inform the physician that compliance with the request for information is mandatory;

(2) inform the physician of the date the information will be made available to the public; and

(3) instruct the physician about the requirements under Subsection (f) for the physician to obtain a copy of the physician's profile to make corrections.

(d) This section does not:

(1) prevent the board from providing explanatory information regarding the significance of categories in which malpractice settlements are reported; or

(2) require the board to disclose confidential settlement information.

(e) A pending malpractice claim or complaint, other than a claim disclosed under Subsection (b)(13), may not be disclosed to the public by the board. This subsection does not prevent the board from investigating and disciplining a physician on the basis of a pending medical malpractice claim or complaint.

(f) The board shall provide a physician with a copy of the physician's profile if the physician requests a copy at the time the physician renews the physician's license. If a copy is requested by a physician, the board shall provide the physician one month from the date the copy is provided to the physician to correct factual errors in the physician's profile.

(g) The board shall update the information contained in a physician's profile annually, except that information provided under Subsection (i) shall be updated not later than the 10th

working day after the date the formal complaint is filed or the board's order is issued. The board shall adopt a form that allows a physician to update information contained in a physician's profile. The form shall be made available on the Internet and in other formats as prescribed by board rule. The board may adopt rules concerning the type and content of additional information that may be included in a physician's profile.

(h) The board shall adopt rules as necessary to implement this section.

(i) In addition to the information required by Subsection (b), a profile must contain the text of a formal complaint filed under Section 164.005 against the physician or of a board order related to the formal complaint.

(j) Information included in a physician's profile under Subsections (b) and (i) may not include any patient identifying information.

(k) In the annual update of a physician's profile under Subsection (g), the board shall remove any record of a formal complaint required under Subsection (b)(15) or (i) if the complaint was dismissed more than five years before the date of the update and the complaint was dismissed as baseless, unfounded, or not supported by sufficient evidence that a violation occurred, or no action was taken against the physician's license as a result of the complaint. The board shall also remove any record of the investigation of medical malpractice claims or complaints required to be investigated by the board under Section 164.201 if the investigation was resolved more than five years before the date of the update and no action was taken against the physician's license as a result of the investigation.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 14.026(a), eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 202, Sec. 7, eff. June 10, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 607 (H.B. 732), Sec. 1, eff. September 1, 2009.

SUBCHAPTER B. COMPLAINT PROCEDURES

Sec. 154.051. COMPLAINT INITIATION. (a) The board by rule shall establish methods by which members of the public and license holders are notified of the name, mailing address, and telephone number of the board for the purpose of directing complaints to the board. The board may provide for that notice:

(1) on each registration form, application, or written contract for services of a person or entity regulated under this subtitle;

(2) on a sign prominently displayed in the place of business of each person or entity regulated under this subtitle; or

(3) in a bill for service provided by a person or entity regulated under this subtitle.

(b) The board shall list with its regular telephone number any toll-free telephone number established under other state law that may be called to present a complaint about a health professional.

(c) A person, including a partnership, association, corporation, or other entity, may file a complaint against a license holder with the board. The board may file a complaint on its own initiative.

(d) The board may not consider or act on a complaint involving care provided more than seven years before the date on which the complaint is received by the board unless the care was provided to a minor. If the care was provided to a minor, the board may not consider or act on a complaint involving the care after the later of:

(1) the date the minor is 21 years of age; or

(2) the seventh anniversary of the date of the care.

(e) On receipt of a complaint, the board may consider a previously investigated complaint to determine whether there is a pattern of practice violating this subtitle.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1349 (H.B. 680), Sec. 1, eff. September 1, 2011.

Sec. 154.052. RECORDS OF COMPLAINTS. The board shall maintain a system to promptly and efficiently act on complaints filed with the board. The board shall maintain information about:

- (1) the parties to the complaint;
- (2) the subject matter of the complaint;
- (3) a summary of the results of the review or investigation of the complaint; and
- (4) the disposition of the complaint.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 269 (S.B. 419), Sec. 1.15, eff. September 1, 2005.

Sec. 154.053. NOTIFICATION CONCERNING COMPLAINT. (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 nature of the complaint unless the notice would jeopardize an investigation.

(b) Each party shall be notified of the projected time requirements for pursuing the complaint. Each party to the complaint must be notified of a change in the schedule not later than the 14th day after the date the change is made unless the notice would jeopardize an investigation.

(c) The board shall periodically notify the parties to the complaint of the status of the complaint until final disposition unless the notice would jeopardize an investigation.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 269 (S.B. 419), Sec. 1.16, eff. September 1, 2005.

Sec. 154.0535. REQUIREMENTS FOR CERTAIN COMPLAINTS.

(a) In this section:

(1) "Anonymous complaint" means a complaint that lacks sufficient information to identify the source or the name of the person who filed the complaint.

(2) "Insurance agent" means a person licensed under

Chapter 4054, Insurance Code.

(3) "Insurer" means an insurance company or other entity authorized to engage in the business of insurance under Subtitle C, Title 6, Insurance Code.

(4) "Third-party administrator" means a person required to have a certificate of authority under Chapter 4151, Insurance Code.

(b) The board may not accept anonymous complaints.

(c) Notwithstanding any confidentiality requirements under Chapter 552, Government Code, this subtitle, or rules adopted under this subtitle, a complaint filed with the board by an insurance agent, insurer, pharmaceutical company, or third-party administrator against a physician must include the name and address of the insurance agent, insurer, pharmaceutical company, or third-party administrator filing the complaint. Not later than the 15th day after the date the complaint is filed with the board, the board shall notify the physician who is the subject of the complaint of the name and address of the insurance agent, insurer, pharmaceutical company, or third-party administrator who filed the complaint, unless the notice would jeopardize an investigation.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1349 (H.B. 680), Sec. 2, eff. September 1, 2011.

Sec. 154.054. COMPLAINT INFORMATION TO HEALTH CARE ENTITY. On written request, the board shall provide information to a health care entity regarding:

(1) a complaint filed against a license holder that was resolved after investigation by:

(A) a disciplinary order of the board; or

(B) an agreed settlement; and

(2) the basis of and current status of any complaint under active investigation that has been assigned by the executive director to a person authorized by the board to pursue legal action. Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 202, Sec. 8, eff. June 10, 2003.

Sec. 154.055. RELEASE OF COMPLAINT INFORMATION TO

LEGISLATIVE COMMITTEE. (a) On request from a legislative committee created under Subchapter B, Chapter 301, Government Code, the board shall release all information regarding a complaint against a physician to aid in a legitimate legislative inquiry. The board may release the information only to the members of the committee.

(b) In complying with a request under Subsection (a), the board may not identify the complainant or the patient and may reveal the identity of the affected physician only to the members of the committee.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 154.056. GENERAL RULES REGARDING COMPLAINT INVESTIGATION; DISPOSITION. (a) The board shall adopt rules concerning the investigation and review of a complaint filed with the board. The rules adopted under this section must:

(1) distinguish among categories of complaints and give priority to complaints that involve sexual misconduct, quality of care, and impaired physician issues;

(2) ensure that a complaint is not dismissed without appropriate consideration;

(3) require that the board be advised of the dismissal of a complaint and that a letter be sent to the person who filed the complaint and to the physician who was the subject of the complaint explaining the action taken on the complaint;

(4) ensure that a person who files a complaint has an opportunity to explain the allegations made in the complaint;

(5) prescribe guidelines concerning the categories of complaints that require the use of a private investigator and the procedures for the board to obtain the services of a private investigator;

(6) provide for an expert physician panel authorized under Subsection (e) to assist with complaints and investigations relating to medical competency; and

(7) require the review of reports filed with the National Practitioner Data Bank for any report of the termination, limitation, suspension, limitation in scope of practice, or

probation of clinical or hospital staff privileges of a physician by:

- (A) a hospital;
- (B) a health maintenance organization;
- (C) an independent practice association;
- (D) an approved nonprofit health corporation certified under Section 162.001; or
- (E) a physician network.

(b) The board shall:

- (1) dispose of each complaint in a timely manner; and
- (2) establish a schedule for conducting each phase of a complaint that is under the control of the board not later than the 30th day after the date the board receives the complaint.

(c) The executive director shall notify the board of a complaint that is unresolved after the time prescribed by the board for resolving the complaint so that the board may take necessary action on the complaint.

(d) The board shall adopt other rules as appropriate to administer this subchapter.

(e) The board by rule shall provide for an expert physician panel appointed by the board to assist with complaints and investigations relating to medical competency by acting as expert physician reviewers. Each member of the expert physician panel must be licensed to practice medicine in this state. The rules adopted under this subsection must include provisions governing the composition of the panel, qualifications for membership on the panel, length of time a member may serve on the panel, grounds for removal from the panel, the avoidance of conflicts of interest, including situations in which the affected physician and the panel member live or work in the same geographical area or are competitors, and the duties to be performed by the panel. The board's rules governing grounds for removal from the panel must include providing for the removal of a panel member who is repeatedly delinquent in reviewing complaints and in submitting reports to the board. The board's rules governing appointment of expert physician panel members to act as expert physician reviewers must include a requirement that the board randomly select, to the

extent permitted by Section 154.058(b) and the conflict of interest provisions adopted under this subsection, panel members to review a complaint.

(f) In the board rules adopted under Subsection (a)(3), the board shall require that the letter informing the person who filed the complaint of the dismissal of the complaint include an explanation of the reason the complaint was dismissed.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 202, Sec. 9, eff. June 10, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 269 (S.B. 419), Sec. 1.17, eff. September 1, 2005.

Sec. 154.0561. PROCEDURES FOR EXPERT PHYSICIAN REVIEW. (a) A physician on the expert physician panel authorized by Section 154.056(e) who is selected to review a complaint shall:

(1) determine whether the physician who is the subject of the complaint has violated the standard of care applicable to the circumstances; and

(2) issue a preliminary written report of that determination.

(b) A second expert physician reviewer shall review the first physician's preliminary report and other information associated with the complaint. If the second expert physician agrees with the first expert physician, the first physician shall issue a final written report on the matter.

(c) If the second expert physician does not agree with the conclusions of the first expert physician, a third expert physician reviewer shall review the preliminary report and information and decide between the conclusions reached by the first two expert physicians. The final written report shall be issued by the third physician or the physician with whom the third physician concurs.

(d) In reviewing a complaint, the expert physician reviewers assigned to examine the complaint may consult and communicate with each other about the complaint in formulating their opinions and reports.

Added by Acts 2005, 79th Leg., Ch. 269 (S.B. 419), Sec. 1.18, eff.

September 1, 2005.

Sec. 154.057. CONDUCT OF INVESTIGATION; USE OF INVESTIGATORS AS PEACE OFFICERS. (a) Except as otherwise provided by this subchapter, each investigation of a complaint filed under this subtitle shall be conducted by the board or by a person authorized by the board to conduct the investigation.

(b) The board shall complete a preliminary investigation of the complaint not later than the 45th day after the date of receiving the complaint. The board shall first determine whether the physician constitutes a continuing threat to the public welfare. On completion of the preliminary investigation, the board shall determine whether to officially proceed on the complaint. If the board fails to complete the preliminary investigation in the time required by this subsection, the board's official investigation of the complaint is considered to commence on that date.

(c) The board may commission investigators as peace officers to enforce this subtitle. An investigator commissioned as a peace officer under this subsection may not carry a firearm or exercise the powers of arrest.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 269 (S.B. 419), Sec. 1.19, eff. September 1, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 1349 (H.B. 680), Sec. 3, eff. September 1, 2011.

Sec. 154.058. DETERMINATION OF MEDICAL COMPETENCY. (a) Each complaint against a physician that requires a determination of medical competency shall be reviewed initially by a board member, consultant, or employee with a medical background considered sufficient by the board.

(b) If the initial review under Subsection (a) indicates that an act by a physician falls below an acceptable standard of care, the complaint shall be reviewed by an expert physician panel authorized under Section 154.056(e) consisting of physicians who

practice in the same specialty as the physician who is the subject of the complaint or in another specialty that is similar to the physician's specialty.

(c) The expert physician panel shall report in writing the panel's determinations based on the review of the complaint under Subsection (b). The report must specify the standard of care that applies to the facts that are the basis of the complaint and the clinical basis for the panel's determinations, including any reliance on peer-reviewed journals, studies, or reports.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 202, Sec. 10, eff. June 10, 2003.