

OCCUPATIONS CODE
TITLE 3. HEALTH PROFESSIONS
SUBTITLE B. PHYSICIANS
CHAPTER 162. REGULATION OF PRACTICE OF MEDICINE

SUBCHAPTER A. REGULATION BY BOARD OF CERTAIN NONPROFIT HEALTH
CORPORATIONS

Sec. 162.001. CERTIFICATION BY BOARD. (a) The board by rule shall certify a health organization that:

(1) applies for certification on a form approved by the board; and

(2) presents proof satisfactory to the board that the organization meets the requirements of Subsection (b) or (c).

(b) The board shall approve and certify a health organization that:

(1) is a nonprofit corporation under the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes) organized to:

(A) conduct scientific research and research projects in the public interest in the field of medical science, medical economics, public health, sociology, or a related area;

(B) support medical education in medical schools through grants and scholarships;

(C) improve and develop the capabilities of individuals and institutions studying, teaching, and practicing medicine;

(D) deliver health care to the public; or

(E) instruct the general public in medical science, public health, and hygiene and provide related instruction useful to individuals and beneficial to the community;

(2) is organized and incorporated solely by persons licensed by the board; and

(3) has as its directors and trustees persons who are:

(A) licensed by the board; and

(B) actively engaged in the practice of medicine.

(c) The board shall certify a health organization to

contract with or employ physicians licensed by the board if the organization:

(1) is a nonprofit corporation under the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes) and Section 501(c)(3), Internal Revenue Code of 1986 (26 U.S.C. Sec. 501(c)(3)); and

(2) is organized and operated as:

(A) a migrant, community, or homeless health center under the authority of and in compliance with 42 U.S.C. Section 254b or 254c; or

(B) a federally qualified health center under 42 U.S.C. Section 1396d(1)(2)(B).

(c-1) Expired.

(c-2) Expired.

(c-3) Expired.

(c-4) The board shall certify a health organization to contract with or employ physicians licensed by the board if the organization:

(1) is a hospital district:

(A) recognized by a federal agency as a public entity eligible to receive a grant related to a community or federally qualified health center described by Subdivision (2); and

(B) created in a county with a population of more than 800,000 that was not included in the boundaries of a hospital district before September 1, 2003; and

(2) is organized and operated as:

(A) a migrant, community, or homeless health center under the authority of and in compliance with 42 U.S.C. Section 254b or 254c; or

(B) a federally qualified health center under 42 U.S.C. Section 1396d(1)(2)(B).

(c-5) This section applies to a hospital district described by Subsection (c-4) only in relation to the hospital district's operations as a community or federally qualified health center described by Subsection (c-4)(2).

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.033(a), eff. Sept. 1,

2001.

Amended by:

Acts 2005, 79th Leg., Ch. 601 (H.B. 1924), Sec. 1, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 164 (S.B. 1107), Sec. 8, eff. September 1, 2007.

Sec. 162.002. LIMITATION ON PHYSICIAN FEES. A physician who provides professional medical services for a health organization certified under Section 162.001(c) shall provide those services free of charge, or at a reduced fee commensurate with the patient's ability to pay, in compliance with 42 U.S.C. Section 254b or 254c.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.033(a), eff. Sept. 1, 2001.

Sec. 162.0021. INTERFERENCE WITH PHYSICIAN'S PROFESSIONAL JUDGMENT PROHIBITED. A health organization certified under Section 162.001(b) may not interfere with, control, or otherwise direct a physician's professional judgment in violation of this subchapter or any other provision of law, including board rules.

Added by Acts 2011, 82nd Leg., R.S., Ch. 670 (S.B. 1661), Sec. 1, eff. September 1, 2011.

Sec. 162.0022. HEALTH ORGANIZATION POLICIES. (a) A health organization certified under Section 162.001(b) shall adopt, maintain, and enforce policies to ensure that a physician employed by the health organization exercises independent medical judgment when providing care to patients.

(b) The policies adopted under this section must include policies relating to:

- (1) credentialing;
- (2) quality assurance;
- (3) utilization review; and
- (4) peer review.

(c) The policies adopted under this section, including any

amendments to the policies, must be developed by the board of directors or board of trustees, as applicable, of the health organization and approved by an affirmative vote.

(d) The policies of the health organization must be drafted and interpreted in a manner that reserves the sole authority to engage in the practice of medicine to a physician participating in the health organization, regardless of the physician's employment status with the health organization.

Added by Acts 2011, 82nd Leg., R.S., Ch. 670 (S.B. 1661), Sec. 1, eff. January 1, 2012.

Sec. 162.0023. DISCIPLINARY ACTION RESTRICTION. A physician employed by a health organization certified under Section 162.001(b) retains independent medical judgment in providing care to patients, and the health organization may not discipline the physician for reasonably advocating for patient care.

Added by Acts 2011, 82nd Leg., R.S., Ch. 670 (S.B. 1661), Sec. 1, eff. September 1, 2011.

Sec. 162.0024. CONTRACTUAL WAIVER PROHIBITED. (a) The requirements of this subchapter may not be voided or waived by contract.

(b) Notwithstanding Subsection (a), a member of a health organization certified under Section 162.001(b) may establish ethical and religious directives and a physician may contractually agree to comply with those directives.

Added by Acts 2011, 82nd Leg., R.S., Ch. 670 (S.B. 1661), Sec. 1, eff. September 1, 2011.

Sec. 162.003. REFUSAL TO CERTIFY; REVOCATION; PENALTY. On a determination that a health organization commits a violation of this subtitle or is established, organized, or operated in violation of or with the intent to violate this subtitle, the board may:

(1) refuse to certify the health organization on application for certification by the organization under Section 162.001;

(2) revoke a certification made under Section [162.001](#) to that organization; or

(3) impose an administrative penalty against the health organization under Subchapter [A](#), Chapter [165](#).

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.033(a), eff. Sept. 1, 2001.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 670 (S.B. [1661](#)), Sec. 2, eff. September 1, 2011.

Acts 2019, 86th Leg., R.S., Ch. 771 (H.B. [1532](#)), Sec. 1, eff. September 1, 2019.

Sec. 162.004. PROCEDURES FOR AND DISPOSITION OF COMPLAINTS AGAINST CERTAIN HEALTH ORGANIZATIONS. (a) The board shall accept and process complaints against a health organization certified under Section [162.001](#)(b) for alleged violations of this subchapter or any other provision of this subtitle applicable to a health organization in the same manner as provided under Subchapter [B](#), Chapter [154](#), and the rules adopted under that subchapter, including the requirements to:

(1) maintain a system to promptly and efficiently act on complaints filed with the board;

(2) with respect to a health organization that is the subject of a complaint, notify the health organization that a complaint has been filed, disclose the nature of the complaint, and provide the health organization with an opportunity to respond to the complaint;

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

(4) establish methods by which physicians employed by a health organization are notified of the name, mailing address, and telephone number of the board for the purpose of directing complaints under this section to the board.

(b) Each complaint, adverse report, investigation file, other investigation report, and other investigative information in the possession of or received or gathered by the board or the

board's employees or agents relating to a health organization certified under Section 162.001(b) is privileged and confidential and is not subject to discovery, subpoena, or other means of legal compulsion for release to anyone other than the board or the board's employees or agents involved in the investigation or discipline of a health organization certified under Section 162.001(b).

(c) The board may dispose of a complaint or resolve the investigation of a complaint under this section in a manner provided under Subchapter A, Chapter 164, to the extent the board determines the provisions of that subchapter can be made applicable to a health organization certified under Section 162.001.

(d) This section does not require an individual to file or prohibit an individual from filing a complaint against a health organization certified under Section 162.001(b) directly with the health organization, alone or in connection with a complaint filed with the board under this section, relating to:

(1) the care or services provided by, or the policies of, the health organization; or

(2) an alleged violation by the health organization of this subchapter or any other provision of this subtitle applicable to the health organization.

Added by Acts 2019, 86th Leg., R.S., Ch. 771 (H.B. 1532), Sec. 2, eff. September 1, 2019.

Sec. 162.005. ANTI-RETALIATION POLICY. (a) A health organization certified under Section 162.001(b) shall develop, implement, and comply with an anti-retaliation policy for physicians under which the health organization may not terminate, demote, retaliate against, discipline, discriminate against, or otherwise penalize a physician for:

(1) filing in good faith a complaint under Section 162.004;

(2) cooperating in good faith with an investigation or proceeding of the board relating to a complaint filed under Section 162.004; or

(3) communicating to a patient in good faith what the physician reasonably believes to be the physician's best,

independent medical judgment.

(b) On a determination that a health organization certified under Section 162.001(b) has failed to develop, implement, or comply with a policy described by Subsection (a), the board may take any action allowed under this subtitle or board rule applicable to a health organization.

Added by Acts 2019, 86th Leg., R.S., Ch. 771 (H.B. 1532), Sec. 2, eff. September 1, 2019.

Sec. 162.006. BIENNIAL REPORT REQUIRED FOR CERTAIN HEALTH ORGANIZATIONS. (a) Each health organization certified under Section 162.001(b) shall file with the board 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 biennial report must include:

(1) a statement signed and verified by the president or chief executive officer of the health organization that:

(A) provides the name and mailing address of:

(i) the health organization;

(ii) each member of the health organization, except that if the health organization has no members, a statement indicating that fact;

(iii) each member of the board of directors of the health organization; and

(iv) each officer of the health organization; and

(B) discloses any change in the composition of the board of directors since the date of the most recent biennial report;

(2) a statement signed and verified by the president or chief executive officer of the health organization that:

(A) indicates whether the health organization's certificate of formation or bylaws were amended since the date of the most recent biennial report;

(B) if applicable, provides a concise explanation of the amendments and states whether the amendments

were recommended or approved by the board of directors; and

(C) has attached to the statement a copy of the organization's current certificate of formation and bylaws if a copy is not already on file with the board;

(3) a statement from each current director of the health organization, signed and verified by the director:

(A) stating that the director is licensed by the board to practice medicine, is actively engaged in the practice of medicine, and has no restrictions on the director's license;

(B) stating that the director will, as a director:

(i) exercise independent judgment in all matters, specifically including matters relating to credentialing, quality assurance, utilization review, peer review, and the practice of medicine;

(ii) exercise best efforts to cause the health organization to comply with all relevant provisions of this subtitle and board rules; and

(iii) immediately report to the board any action or event the director reasonably and in good faith believes constitutes a violation or attempted violation of this subtitle or board rules;

(C) identifying and concisely explaining the nature of each financial relationship the director has, if any, with a member, another director, or a supplier of the health organization or an affiliate of those persons; and

(D) stating that the director has disclosed all financial relationships described by Paragraph (C); and

(4) a statement signed and verified by the president or chief executive officer of the health organization indicating that the health organization is in compliance with the requirements for continued certification provided by this subtitle and board rules.

(b) A health organization required to submit a biennial report under Subsection (a) shall submit with the report a fee in the amount prescribed by board rule.

(c) Not later than January 1 of each year, the board shall

publish on the board's Internet website the information provided to the board in each statement under Subsection (a)(1).

(d) Information provided to the board in each statement under Subsections (a)(2), (3), and (4) is public information subject to disclosure under Chapter 552, Government Code.

(e) The board may adopt rules necessary to implement this section.

Added by Acts 2019, 86th Leg., R.S., Ch. 771 (H.B. 1532), Sec. 2, eff. September 1, 2019.

SUBCHAPTER B. AUTHORITY TO FORM CERTAIN ENTITIES

Sec. 162.051. AUTHORITY TO FORM CERTAIN JOINTLY OWNED ENTITIES. (a) Except as provided by Section 165.155, a physician and an optometrist or therapeutic optometrist may, for a purpose described by Subsection (b), organize, jointly own, and manage any legal entity, including:

(1) a partnership under the Texas Revised Partnership Act (Article 6132b-1.01 et seq., Vernon's Texas Civil Statutes);

(2) a limited partnership under the Texas Revised Limited Partnership Act (Article 6132a-1, Vernon's Texas Civil Statutes); and

(3) a limited liability company under the Texas Limited Liability Company Act (Article 1528n, Vernon's Texas Civil Statutes).

(b) An entity authorized under Subsection (a) may:

(1) own real property, other physical facilities, or equipment for the delivery of health care services or management;

(2) lease, rent, or otherwise acquire the use of real property, other physical facilities, or equipment for the delivery of health care services or management; or

(3) employ or otherwise use a person who is not a physician, optometrist, or therapeutic optometrist for the delivery of health care services or management.

(c) Only a physician, optometrist, or therapeutic optometrist may own an interest in an entity authorized under Subsection (a). This subsection does not prohibit an entity from

making one or more payments to an owner's estate following the owner's death under an agreement with the owner or as otherwise authorized or required by law.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 14.033(a), eff. Sept. 1, 2001.

Sec. 162.052. NOTICE OF CERTAIN OWNERSHIP INTERESTS. (a) In this section, "niche hospital" has the meaning assigned by Section 105.002.

(b) A physician shall notify the Department of State Health Services of any ownership interest held by the physician in a niche hospital.

(c) Subsection (b) does not apply to an ownership interest in publicly available shares of a registered investment company, such as a mutual fund, that owns publicly traded equity securities or debt obligations issued by a niche hospital or an entity that owns the niche hospital.

(d) The board, in consultation with the Department of State Health Services, shall adopt rules governing the form and content of the notice required by Subsection (b).

Added by Acts 2005, 79th Leg., Ch. 836 (S.B. 872), Sec. 2, eff. September 1, 2005.

Sec. 162.053. JOINTLY OWNED ENTITIES WITH PHYSICIAN ASSISTANTS. (a) A physician who jointly owns an entity with a physician assistant shall report annually to the board the ownership interest and other information required by board rule.

(b) The board shall assess a fee for processing each report required by Subsection (a).

(c) A report filed under Subsection (a) is public information for purposes of Chapter 552, Government Code.

Added by Acts 2011, 82nd Leg., R.S., Ch. 782 (H.B. 2098), Sec. 4, eff. June 17, 2011.

SUBCHAPTER C. ANESTHESIA IN OUTPATIENT SETTING

Sec. 162.101. DEFINITION. In this subchapter, "outpatient

setting" means a facility, clinic, center, office, or other setting that is not part of a licensed hospital or a licensed ambulatory surgical center.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 14.033(a), eff. Sept. 1, 2001.

Sec. 162.102. RULES. (a) The board by rule shall establish the minimum standards for anesthesia services provided in an outpatient setting by a person licensed by the board.

(b) The rules adopted under this section must be designed to protect the health, safety, and welfare of the public and include requirements relating to:

(1) general anesthesia, regional anesthesia, and monitored anesthesia care;

(2) patient evaluation, diagnosis, counseling, and preparation;

(3) patient monitoring to be performed and equipment to be used during a procedure and during post-procedure monitoring;

(4) emergency procedures, drugs, and equipment, including education, training, and certification of personnel, as appropriate, and including protocols for transfers to a hospital;

(5) the documentation necessary to demonstrate compliance with this subchapter; and

(6) the period in which protocols or procedures covered by rules of the board shall be reviewed, updated, or amended.

(c) The board shall cooperate with the Texas Board of Nursing in the adoption of rules under this subchapter to eliminate, to the extent possible, conflicts between the rules adopted by each board.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 14.033(a), eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 889 (H.B. [2426](#)), Sec. 34, eff. September 1, 2007.

Sec. 162.103. APPLICABILITY. Rules adopted by the board

under this subchapter do not apply to:

(1) an outpatient setting in which only local anesthesia, peripheral nerve blocks, or both are used in a total dosage amount that does not exceed 50 percent of the recommended maximum safe dosage per outpatient visit;

(2) a licensed hospital, including an outpatient facility of the hospital that is located separate from the hospital;

(3) a licensed ambulatory surgical center;

(4) a clinic located on land recognized as tribal land by the federal government and maintained or operated by a federally recognized Indian tribe or tribal organization as listed by the United States secretary of the interior under 25 U.S.C. Section 479a-1 or as listed under a successor federal statute or regulation;

(5) a facility maintained or operated by a state or local governmental entity;

(6) a clinic directly maintained or operated by the United States; or

(7) an outpatient setting accredited by:

(A) The Joint Commission relating to ambulatory surgical centers;

(B) the American Association for Accreditation of Ambulatory Surgery Facilities; or

(C) the Accreditation Association for Ambulatory Health Care.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 14.033(a), eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 269 (S.B. 419), Sec. 1.31, eff. September 1, 2005.

Acts 2013, 83rd Leg., R.S., Ch. 596 (S.B. 978), Sec. 1, eff. September 1, 2013.

Sec. 162.104. REGISTRATION REQUIRED. (a) The board shall require each physician who administers anesthesia or performs a surgical procedure for which anesthesia services are provided in an

outpatient setting to register with the board on a form prescribed by the board and to pay a fee to the board in an amount established by the board.

(b) The board shall coordinate the registration required under this section with the registration required under Chapter 156 so that the times of registration, payment, notice, and imposition of penalties for late payment are similar and provide a minimum of administrative burden to the board and to physicians.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 14.033(a), eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 202, Sec. 25, eff. June 10, 2003.

Sec. 162.105. COMPLIANCE WITH ANESTHESIA RULES. (a) A physician who practices medicine in this state and who administers anesthesia or performs a surgical procedure for which anesthesia services are provided in an outpatient setting shall comply with the rules adopted under this subchapter.

(b) The board may require a physician to submit and comply with a corrective action plan to remedy or address any current or potential deficiencies with the physician's provision of anesthesia in an outpatient setting in accordance with this subtitle or rules of the board.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 14.033(a), eff. Sept. 1, 2001.

Sec. 162.106. INSPECTIONS. (a) The board may conduct inspections of a physician's equipment and office procedures that relate to the provision of anesthesia in an outpatient setting as necessary to enforce this subchapter.

(b) The board may establish a risk-based inspection process in which the board conducts inspections based on the length of time since:

(1) the equipment and outpatient setting were last inspected; and

(2) the physician submitted to inspection.

(c) The board may contract with another state agency or qualified person to conduct the inspections.

(d) Unless it would jeopardize an ongoing investigation, the board shall provide at least five business days' notice before conducting an on-site inspection under this section.

(e) The board shall maintain a record of the outpatient settings in which physicians provide anesthesia.

(f) A physician who provides anesthesia in an outpatient setting shall inform the board of any other physician with whom the physician shares equipment used to administer anesthesia.

(g) This section does not require the board to make an on-site inspection of a physician's office.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 14.033(a), eff. Sept. 1, 2001.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1231 (H.B. 1504), Sec. 9, eff. September 1, 2019.

Sec. 162.107. REQUESTS FOR INSPECTION AND ADVISORY OPINION.

(a) The board may consider a request by a physician for an on-site inspection. The board, on payment of a fee established by the board, may conduct the inspection and issue an advisory opinion.

(b) An advisory opinion issued by the board under this section is not binding on the board. Except as provided by Subsection (c), the board may take any action under this subtitle relating to the situation addressed by the advisory opinion that the board considers appropriate.

(c) A physician who requests and relies on an advisory opinion of the board may use the opinion as mitigating evidence in an action or proceeding to impose an administrative penalty or assess a civil penalty under this subtitle. On receipt of proof of reliance on an advisory opinion, the board or court, as appropriate, shall consider the reliance and mitigate imposition of an administrative penalty or assessment of a civil penalty accordingly.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 14.033(a), eff. Sept. 1, 2001.

SUBCHAPTER D. PHYSICIAN CREDENTIALING

Sec. 162.151. DEFINITIONS. In this subchapter:

(1) "Core credentials data" means:

(A) name and other demographic data;

(B) professional education;

(C) professional training;

(D) licenses; and

(E) Educational Commission for Foreign Medical Graduates certification.

(2) "Credentials verification organization" means an organization that is certified or accredited and organized to collect, verify, maintain, store, and provide to health care entities a health care practitioner's verified credentials data, including all corrections, updates, and modifications to that data. For purposes of this subdivision, "certified" or "accredited" includes certification or accreditation by a nationally recognized accreditation organization.

(3) "Health care entity" means:

(A) a health care facility or other health care organization licensed or certified to provide approved medical and allied health services in this state;

(B) an entity licensed by the Texas Department of Insurance as a prepaid health care plan or health maintenance organization or as an insurer to provide coverage for health care services through a network of providers; or

(C) a health care provider entity accepting delegated credentialing functions from a health maintenance organization.

(4) "Physician" means a holder of or applicant for a license under this subtitle as a medical doctor or doctor of osteopathy.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 14.033(a), eff. Sept. 1, 2001.

Sec. 162.152. ASSOCIATIONS. Each provision of this subchapter that applies to a health care entity also applies to an association that represents federally qualified health centers.

For purposes of this section, "federally qualified health center" has the meaning assigned by 42 U.S.C. Section 1396d(1)(2)(B), as amended.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 14.033(a), eff. Sept. 1, 2001.

Sec. 162.153. STANDARDIZED CREDENTIALS VERIFICATION PROGRAM. (a) The board shall develop standardized forms and guidelines for and administer:

(1) the collection, verification, correction, updating, modification, maintenance, and storage of information relating to physician credentials; and

(2) the release of that information to health care entities or designated credentials verification organizations authorized by the physician to receive that information.

(b) Except as provided by Subsection (c), a physician whose core credentials data is submitted to the board is not required to resubmit the data when applying for practice privileges with a health care entity.

(c) A physician shall:

(1) provide to the board any correction, update, or modification of the physician's core credentials data not later than the 30th day after the date the data on file is no longer accurate; and

(2) resubmit the physician's core credentials data annually if the physician did not submit a correction, update, or modification during the preceding year.

(d) A health care entity that employs, contracts with, or credentials physicians must use the board to obtain core credentials data for items for which the board is designated or accepted as a primary source by a national accreditation organization. A health care entity may act through its designated credentials verification organization.

(e) This section does not restrict the authority of a health care entity to approve or deny an original or renewal application for hospital staff membership, clinical privileges, or managed care network participation.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 14.033(a), eff. Sept. 1, 2001.

Sec. 162.154. FURNISHING OF DATA TO HEALTH CARE ENTITY. Not later than the 15th business day after the date the board receives a request for the data, the board shall make available to a health care entity or its designated credentials verification organization all core credentials data it collects on a physician, including any correction, update, or modification of that data, if authorized by the physician.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 14.033(a), eff. Sept. 1, 2001.

Sec. 162.155. REVIEW OF DATA BY PHYSICIAN. (a) Before releasing a physician's core credentials data from its data bank for the first time, the board shall provide to the affected physician 15 business days to review the data and request reconsideration or resolution of errors in or omissions from the data. The board shall include with the data any change or clarification made by the physician.

(b) The board shall notify a physician of any change to the physician's core credentials data when a change is made or initiated by a person other than the physician.

(c) A physician may request to review the physician's core credentials data collected at any time after the initial release of information. The board is not required to hold, release, or modify any information because of the request.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 14.033(a), eff. Sept. 1, 2001.

Sec. 162.156. DATA DUPLICATION PROHIBITED. (a) A health care entity may not collect or attempt to collect duplicate core credentials data from a physician if the information is already on file with the board. This section does not restrict the right of a health care entity to request additional information not included in the core credentials data on file with the board that is necessary for the entity to credential the physician. A health care

entity or its designated credentials verification organization may collect any additional information required by the health care entity's credentialing process from a primary source of that information.

(b) A state agency may not collect or attempt to collect duplicate core credentials data from a physician if the information is already on file with the board. This section does not restrict the right of a state agency to request additional information not included in the core credentials data on file with the board that the agency considers necessary for its specific credentialing purposes.

(c) The board by rule may except from Subsections (a) and (b) a request for core credentials data that is necessary for a health care entity to provide temporary privileges during the credentialing process.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 14.033(a), eff. Sept. 1, 2001.

Sec. 162.157. IMMUNITY. A health care entity or its designated credentials verification organization is immune from liability arising from its reliance on data furnished by the board under this subchapter.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 14.033(a), eff. Sept. 1, 2001.

Sec. 162.158. RULES. The board shall adopt rules as necessary to develop and implement the standardized credentials verification program established by this subchapter.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 14.033(a), eff. Sept. 1, 2001.

Sec. 162.159. CONFIDENTIALITY. The information collected, maintained, or stored by the board under this subchapter is privileged and confidential and not subject to discovery, subpoena, or other means of legal compulsion for its release or to disclosure under Chapter 552, Government Code, except as otherwise provided by this subchapter.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 14.033(a), eff. Sept. 1, 2001.

Sec. 162.160. USE OF INDEPENDENT CONTRACTOR. The board may contract with an independent contractor to collect, verify, maintain, store, or release information. The contract must provide for board oversight and for the confidentiality of the information. If the board contracts with an independent entity that is not a governmental unit to carry out this subchapter, the independent entity is not immune from liability.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 14.033(a), eff. Sept. 1, 2001.

Sec. 162.161. FEES. (a) The board shall prescribe and assess fees in amounts necessary to cover its cost of operating under and administering this subchapter.

(b) The board may waive a fee for a state agency that is required to obtain core credentials data from the board and that Section 162.156 prohibits from collecting duplicate data.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 14.033(a), eff. Sept. 1, 2001.

Sec. 162.162. GIFTS, GRANTS, AND DONATIONS. In addition to any fees paid to the board or money appropriated to the board, the board may receive and accept a gift, grant, donation, or other thing of value from any source, including the United States or a private source.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 14.033(a), eff. Sept. 1, 2001.

SUBCHAPTER E. EMPLOYMENT OF PHYSICIAN BY PRIVATE MEDICAL SCHOOL

Sec. 162.201. EMPLOYMENT OF PHYSICIAN PERMITTED. A private nonprofit medical school that is certified under Section 162.203, that is accredited by the Liaison Committee on Medical Education, and that was appropriated funds by the legislature in the 75th Legislature, Regular Session, 1997, may retain, in fulfilling its

educational mission, all or part of the professional income generated by a physician for medical services if the physician is employed as a faculty member of the school and provides medical services as part of the physician's responsibilities.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 14.033(a), eff. Sept. 1, 2001.

Sec. 162.202. COMMITTEE ESTABLISHED BY SCHOOL. (a) A private medical school subject to this subchapter shall establish a committee consisting of at least five actively practicing physicians who provide care in the clinical program of the private medical school. The committee shall approve existing policies, or adopt new policies if none exist, to ensure that a physician whose professional income is retained under Section [162.201](#) is exercising the physician's independent medical judgment in providing care to patients in the school's clinical programs.

(b) The policies adopted under this section must include policies relating to credentialing, quality assurance, utilization review, peer review, medical decision-making, governance of the committee, and due process.

(c) Each member of a committee under this section shall provide to the board biennially a signed and verified statement indicating that the member:

(1) is licensed by the board;

(2) will exercise independent medical judgment in all committee matters, specifically in matters relating to credentialing, quality assurance, utilization review, peer review, medical decision-making, and due process;

(3) will exercise the member's best efforts to ensure compliance with the private medical school's policies that are adopted or established by the committee; and

(4) shall report immediately to the board any action or event that the member reasonably and in good faith believes constitutes a compromise of the independent judgment of a physician in caring for a patient in the private medical school's clinical program or in carrying out the member's duties as a committee member.

(d) The board shall adopt rules requiring the disclosure of financial conflicts of interest by a committee member.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 14.033(a), eff. Sept. 1, 2001.

Sec. 162.203. CERTIFICATION OF SCHOOL BY BOARD. (a) A private school that retains a physician's professional income under Section 162.201 must be certified by the board as being in compliance with this subchapter.

(b) The board shall prescribe an application form to be provided to the school and may adopt rules as necessary to administer this subchapter.

(c) The board may prescribe and assess a fee for the certification of a school and for investigation and review of the school in an amount not to exceed the fee assessed on an organization described by Section 162.001.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 14.033(a), eff. Sept. 1, 2001.

Sec. 162.204. BIENNIAL REPORT. A private medical school certified under Section 162.203 shall provide to the board a biennial report certifying that the school is in compliance with this subchapter.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 14.033(a), eff. Sept. 1, 2001.

Sec. 162.205. SUSPENSION OR REVOCATION OF CERTIFICATION. If the board determines at any time that a private medical school certified under Section 162.203 has failed to comply with this subchapter, the board may suspend or revoke the school's certification.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 14.033(a), eff. Sept. 1, 2001.

Sec. 162.206. LIMITATION ON SCHOOL'S AUTHORITY. A private medical school's authority to retain a physician's professional income does not apply to a physician providing care in a facility

owned or operated by the school that is established outside the school's historical geographical service area as it existed June 19, 1999.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 14.033(a), eff. Sept. 1, 2001.

Sec. 162.207. APPLICATION OF SUBCHAPTER. This subchapter does not:

(1) affect the reporting requirements under Section [160.003](#); or

(2) apply to a private medical school certified under this subchapter if all or substantially all of the school's assets are sold.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 14.033(a), eff. Sept. 1, 2001.

SUBCHAPTER F. DIRECT PRIMARY CARE

Sec. 162.251. DEFINITIONS. In this subchapter:

(1) "Direct fee" means a fee charged by a physician to a patient or a patient's designee for primary medical care services provided by, or to be provided by, the physician to the patient. The term includes a fee in any form, including a:

- (A) monthly retainer;
- (B) membership fee;
- (C) subscription fee;
- (D) fee paid under a medical service agreement;

or

- (E) fee for a service, visit, or episode of care.

(2) "Direct primary care" means a primary medical care service provided by a physician to a patient in return for payment in accordance with a direct fee. The term includes telemedicine medical services and telehealth services, as those terms are defined by Section [111.001](#), provided using a technology platform.

(3) "Medical service agreement" means a signed written agreement under which a physician agrees to provide direct primary care services for a patient in exchange for a direct fee for a

period of time that is entered into by the physician and:

- (A) the patient;
- (B) the patient's legal representative, guardian, or employer on behalf of the patient; or
- (C) the patient's legal representative's or guardian's employer on behalf of the patient.

(4) "Physician" includes a professional association or professional limited liability company owned entirely by an individual licensed under this subtitle.

(5) "Primary medical care service" means a routine or general health care service of the type provided at the time a patient seeks preventive care or first seeks health care services for a specific health concern, is a patient's main source for regular health care services, and includes:

- (A) promoting and maintaining mental and physical health and wellness;
 - (B) preventing disease;
 - (C) screening, diagnosing, and treating acute or chronic conditions caused by disease, injury, or illness;
 - (D) providing patient counseling and education;
- and
- (E) providing a broad spectrum of preventive and curative health care over a period of time.

Added by Acts 2015, 84th Leg., R.S., Ch. 165 (H.B. 1945), Sec. 1, eff. May 28, 2015.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 964 (S.B. 670), Sec. 4, eff. September 1, 2019.

Sec. 162.252. APPLICABILITY OF SUBCHAPTER. This subchapter does not apply to workers' compensation insurance coverage as defined by Section 401.011, Labor Code.

Added by Acts 2015, 84th Leg., R.S., Ch. 165 (H.B. 1945), Sec. 1, eff. May 28, 2015.

Sec. 162.253. DIRECT PRIMARY CARE NOT INSURANCE. (a) A physician providing direct primary care is not an insurer or health

maintenance organization, and the physician is not subject to regulation by the Texas Department of Insurance for the direct primary care.

(b) A medical service agreement is not health or accident insurance or coverage under Title 8, Insurance Code, and is not subject to regulation by the Texas Department of Insurance.

(c) A physician is not required to obtain a certificate of authority under the Insurance Code to market, sell, or offer a medical service agreement or provide direct primary care.

(d) A physician providing direct primary care does not violate Section [1204.055](#), Insurance Code.

Added by Acts 2015, 84th Leg., R.S., Ch. 165 (H.B. [1945](#)), Sec. 1, eff. May 28, 2015.

Sec. 162.254. BILLING INSURER OR HEALTH MAINTENANCE ORGANIZATION PROHIBITED. A physician may not bill an insurer or health maintenance organization for direct primary care that is paid under a medical service agreement.

Added by Acts 2015, 84th Leg., R.S., Ch. 165 (H.B. [1945](#)), Sec. 1, eff. May 28, 2015.

Sec. 162.255. INTERFERENCE PROHIBITED. (a) The board or another state agency may not prohibit, interfere with, initiate a legal or administrative proceeding against, or impose a fine or penalty against:

(1) a physician solely because the physician provides direct primary care; or

(2) a person solely because the person pays a direct fee for direct primary care.

(b) A health insurer, health maintenance organization, or health care provider as that term is defined by Section [105.001](#) may not prohibit, interfere with, or initiate a legal proceeding against:

(1) a physician solely because the physician provides direct primary care; or

(2) a person solely because the person pays a direct fee for direct primary care.

Added by Acts 2015, 84th Leg., R.S., Ch. 165 (H.B. [1945](#)), Sec. 1, eff. May 28, 2015.

Sec. 162.256. REQUIRED DISCLOSURE. A physician providing direct primary care shall provide written or electronic notice to the patient that a medical service agreement for direct primary care is not insurance, prior to entering into the agreement.

Added by Acts 2015, 84th Leg., R.S., Ch. 165 (H.B. [1945](#)), Sec. 1, eff. May 28, 2015.