

Employed physician? There is autonomy!

As the practice of medicine goes through health care delivery changes, physicians are making decisions about which practice models are best for them. Understanding the types of practice models is critical in this decision-making process.

One of the model options is the Non-profit Health Organization (NPHO). More and more physicians are already participating or considering participating in this type of model.

An NPHO is a non-profit corporation (501(a)) that is certified by the [Texas Medical Board \(TMB\)](#). Texas Occupations Code and Texas Medical Board (TMB) rules authorize the TMB to approve and certify the types of health organizations.

Although the corporate practice of medicine is illegal in the state of Texas, some NPHOs are being deemed as a pseudo-employment practice model.

There are two types of NPHOs, 1) 162.001(b), and 2) 162.001(c). However, I will focus on the 162.001 (b) organizations. For more information on the 162.001 (c) organizations go to <http://www.tmb.state.tx.us/page/renewal-non-profits>.

Most NPHOs that “employ” physicians are considered 162.001(b) by the TMB (an example is a hospital 501(a) physician group). This type of non-profit health organization must follow specific rules in order to be re-certified every two years by the TMB. These rules are purposely mandated to assure autonomy in medical decision making by physicians as mandated by the Texas Medical Practice Act.

For example, NPHOs:

- Must be organized as nonprofit corporation.
- Must be incorporated and directed by physicians licensed by the TMB.
- Must have persons who are licensed by the TMB and actively engaged in the practice of medicine, without restrictions on their Texas medical license as its directors and trustees.
- The Director will:
 - Be licensed by the TMB
 - Be actively engaged in the practice of medicine
 - Exercise independent judgment
 - Comply with all relevant provisions of the law and rules
 - Report violations to the TMB
 - Report financial relationships
- All credentialing, quality assurance, utilization review and peer review policies shall be made exclusively by the Board of Directors.

- Policies must reserve 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.
- A "[Notice Concerning Complaints Regarding Non-Profit Health Organizations](#)" must be posted, in English and Spanish, in a prominent location at each site of health-care delivery and readily visible to patients or potential patients.
- The administrative side of the corporation may be handled by non-physician officers, but all medical decisions and the overall medical policies of the organization must be made by physicians.
- Keep the TMB informed of changes in their by-laws and boards of directors.
- File detailed reports every two years to maintain their certification.

It is important for those physicians who are "employed" through a 501(a), 162.00(b) type health organization, to know your entitlements that protect your ability to care for your patients. Some are:

- May not interfere with, control, or otherwise direct a physician's professional judgement in violation of this type of health organization or any other provision of law, including TMB board rules.
- Retain independent medical judgement in providing care to patients, and the health organization may not discipline the physician for reasonably advocating for patient care.
- Cannot void or waive 162.001 (b) language by contract. However, a member in the health organization may establish ethical and religious directives and a physician may contractually agree to comply with those directives.
- Violation of this law may warrant an administrative penalty by the TMB.

Violations or concerns can be filed with the TMB.

If you feel there are violations or other concerns within a NPHO, you may file a complaint through the TMB.

- [TMB Complaint Process](#)

The Harris County Medical Society supports the clinical autonomy of all physicians no matter which practice model you decide is best for you and your family.