

By: Oliverson

H.B. No. 2982

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the authorization of certain agreements between  
3 management services organizations and physicians.

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

5 SECTION 1. Subtitle A, Title 5, Business & Commerce Code, is  
6 amended by adding Chapter 74 to read as follows:

7 CHAPTER 74. MANAGEMENT SERVICES ORGANIZATIONS FOR PHYSICIANS

8 Sec. 74.001. DEFINITION. In this chapter, "physician"  
9 means an individual licensed to practice medicine in this state.

10 Sec. 74.002. AGREEMENTS WITH MANAGEMENT SERVICES  
11 ORGANIZATIONS. A physician or group of physicians, whether or not  
12 incorporated, may enter into a written agreement with a management  
13 services organization for management and administrative services.

14 Sec. 74.003. SERVICES PROVIDED BY MANAGEMENT SERVICES  
15 ORGANIZATIONS. (a) A management services organization, under the  
16 terms of a management services agreement, may provide the following  
17 for a physician or group of physicians:

18 (1) facilities;

19 (2) medical supplies and equipment, other than an item  
20 considered a medical device by the United States Food and Drug  
21 Administration;

22 (3) instruments and supplies other than prescription  
23 drugs;

24 (4) business, office, and other nonmedical equipment;

1           (5) repair, maintenance, renovation, or replacement  
2 services for any facility or equipment;

3           (6) accounting, payroll, bookkeeping, budget,  
4 investment, tax compliance, and similar financial services;

5           (7) information and information systems and services,  
6 provided that patient records in the systems are owned and freely  
7 accessed by the physician;

8           (8) billing and collection services for the  
9 physician's fees and charges;

10           (9) the collection or sale of the physician's accounts  
11 receivable;

12           (10) advertising, marketing, and public relations  
13 services in compliance with rules adopted by the Texas Medical  
14 Board;

15           (11) payer and other relevant contract negotiation,  
16 drafting, and similar services;

17           (12) receptionist, scheduling, messaging, and similar  
18 coordination services;

19           (13) assistance in obtaining licenses and  
20 registration permits necessary to operate a medical practice that  
21 may be obtained by:

22                   (A) a non-physician; or

23                   (B) a physician, if the Texas Medical Board  
24 approves the method of payment for the license or registration  
25 permit renewal paid by the management services organization;

26           (14) recruiting, continuing education, training,  
27 legal assistance, and logistical peer review services;

1           (15) insurance, purchasing, and claims services,  
2 which may include maintaining the physician and the physician's  
3 medical personnel on the same insurance policies and benefit plans  
4 as the management services organization;

5           (16) consulting, business, and financial planning  
6 services;

7           (17) establishment of prices to be charged to the  
8 physician's patients for goods and supplies, other than for drugs  
9 or medical devices, that are provided or managed by the management  
10 services organization;

11           (18) assistance in the collection, analysis, and  
12 submission of quality and patient satisfaction information to  
13 physicians, other providers, regulatory agencies, and  
14 accreditation bodies;

15           (19) the employment of persons who:

16                   (A) perform management services;

17                   (B) are physicians who perform administrative  
18 and management services but not the practice of medicine;

19                   (C) perform management, administrative,  
20 clerical, receptionist, secretarial, bookkeeping, accounting,  
21 payroll, billing, collection, and other functions; or

22                   (D) are medical or other personnel, provided that  
23 a physician who is present at the practice location that engages in  
24 the practice of medicine at the location has the right to:

25                           (i) control the medically related  
26 procedures, duties, and performance of the medical and other  
27 personnel; and

1                    (ii) suspend for medically related reasons  
2 the medical and other personnel, unless the suspension is contrary  
3 to legal requirements or rules; and

4                    (20) any other nonclinical service that is not  
5 prohibited by Subsection (b).

6            (b) A management services organization may not:

7                    (1) control or intervene in a physician's practice of  
8 medicine;

9                    (2) employ a physician, either by employment agreement  
10 or by independent contractor agreement, to practice medicine;

11                    (3) dictate or otherwise make final decisions on the  
12 compensation of a physician for the practice of medicine;

13                    (4) control or intervene in a physician's diagnosis,  
14 treatment, correction, change, manipulation, relief, or prevention  
15 of disease, deformity, defect, injury, or other physical condition,  
16 including the prescription, dosage determination, or  
17 administration of a drug, biologic, anesthetic, apparatus, medical  
18 device, or other therapeutic or diagnostic substance or technique;

19                    (5) control or intervene in a physician's selection or  
20 use of a type or quality of medical supply or pharmaceutical to be  
21 used in the practice of medicine;

22                    (6) determine the amount of time a physician may spend  
23 with a patient;

24                    (7) own drugs, unless the drugs are owned in  
25 compliance with applicable state or federal law;

26                    (8) own the medical records of a physician's patients;

27                    (9) own or control medical devices, pharmaceuticals,

1 or drugs for use in patient treatment by a physician;

2 (10) dictate or otherwise make final decisions on fees  
3 to be charged by a physician;

4 (11) mandate compliance with specific professional  
5 standards, protocols, or practice guidelines relating to the  
6 practice of medicine;

7 (12) place limitations or conditions on patient  
8 communications that are clinical in nature;

9 (13) require a physician to make referrals in  
10 violation of applicable state law; or

11 (14) penalize a physician for reporting violations of  
12 a law regulating the practice of medicine.

13 (c) Notwithstanding Subsection (b)(11), a management  
14 services organization may mandate compliance with legal and other  
15 requirements necessary to practice medicine in this state.

16 (d) A physician or an entity in which physicians are the  
17 sole owners, shareholders, or partners may perform the activities  
18 described by Subsection (b).

19 Sec. 74.004. FEES FOR MANAGEMENT SERVICES. A management  
20 services organization may charge a physician or group of physicians  
21 a flat, fair market-based management fee for the provision of  
22 management services.

23 Sec. 74.005. DISCLOSURE OF CONTRACT. (a) A physician or a  
24 group of physicians that enters into a management services  
25 agreement with a management services organization shall:

26 (1) make copies of the management services agreement  
27 available for inspection by the Texas Medical Board at the main

1 office of the physician or group of physicians; and  
2 (2) if the board opens an investigation against the  
3 physician or group of physicians, make available to the board  
4 copies of the management services agreement.

5 (b) A copy of a management services agreement produced under  
6 this section is governed by Subtitle B, Title 3, Occupations Code,  
7 and is confidential and not subject to disclosure under Chapter  
8 552, Government Code.

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