86R15556 TSR-D

By:  Meyer H.B. No. 1532

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of certain health organizations certified by the Texas Medical Board; providing an administrative penalty; authorizing a fee.

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

SECTION 1.  Section 162.003, Occupations Code, is amended to read as follows:

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.

SECTION 2.  Subchapter A, Chapter 162, Occupations Code, is amended by adding Sections 162.004, 162.005, and 162.006 to read as follows:

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.

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.

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.

SECTION 3.  Section 162.003, Occupations Code, as amended by this Act, and Section 162.004, Occupations Code, as added by this Act, apply only to a violation by a health organization that occurs on or after the effective date of this Act. A violation that occurs before the effective date of this Act is governed by the law in effect on the date the violation occurred, and the former law is continued in effect for that purpose.

SECTION 4.  Not later than December 31, 2019, a health organization certified under Section 162.001(b), Occupations Code, shall develop the anti-retaliation policy required by Section 162.005, Occupations Code, as added by this Act.

SECTION 5.  (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 2019.

(b)  Section 162.005(b), Occupations Code, as added by this Act, takes effect January 1, 2020.