By:  Hughes S.B. No. 1985

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.

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 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) notify the health organization that is the subject of a complaint filed with the board, 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)  Nothing in this Section shall be construed to either sanction or prohibit an individual from, separately or contemporaneously with a complaint to the board, initiating a complaint directly to the health organization certified under Section 162.001(b) relating to:

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

(2) alleged violations of this subchapter; or

(3) any other provision of this subtitle applicable to a health organization.

Sec. 162.005.  ANTI-RETALIATION POLICY. (a)  A health organization shall develop, implement, and comply with an anti-retaliation policy extending to physicians that provides the health organization may not terminate, demote, retaliate against, discipline, discriminate against, or otherwise penalize a person, because the person:

(1)  files reasonably and in good faith a complaint under Section 162.004;

(2)  cooperates, reasonably and in good faith, in an investigation or proceeding of the board relating to a complaint filed under Section 162.004; or

(3)  communicates to a patient in good faith regarding what he or she reasonably believes to be the physician's best, independent medical judgment.

(b)  On a determination that a health organization has failed to adopt, implement, or comply with a policy as described in subsection (a), the board may exercise all remedies available against a health organization allowed under this subchapter or rules of the board.

Sec. 162.006.  REPORTING REQUIREMENTS FOR 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 certified in an odd numbered year, and in September of each even numbered year if certified in an even numbered year, and the biennial report shall include the following:

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

(A)  indicating the name and mailing address of the health organization;

(B)  indicating the names and mailing addresses of:

(1) all members or that there are no members;

(2) the chief executive officer, if any, president, secretary and treasurer;

(3) members of the board of directors; and

(C)  disclosing any changes in the composition of the board of directors since the last biennial report.

(2)  a statement signed and verified by the president or chief executive officer attaching a copy of the current certificate of incorporation and by-laws of the health organization if not already on file with the board and indicating:

(A)  whether or not the by-laws or articles of incorporation of the health organization have been revised since the last biennial report;

(B)  whether or not such revisions, if any, were recommended or approved by the board of directors; and

(C)  a concise explanation of such revisions, if any;

(3)  statements signed and verified by each current member of the board of directors indicating that such director:

(A)  is licensed by the board;

(B)  is actively engaged in the practice of medicine and has no restrictions on his or her Texas medical license;

(C)  will, as a director, exercise independent judgement in all matters and, specifically, matters relating to credentialing, quality assurance, utilization review, peer review, and the practice of medicine;

(D)  will, as a director, exercise best efforts to cause the health organization to comply with all relevant provisions of this subtitle and board rules;

(E)  will, as a director, immediately report to the board any action or event which such director reasonably and in good faith believes constitutes a violation or attempted violation of this subtitle or board rules; and

(F)  has disclosed the identity of all of such director's financial relationships, if any, which such director has with any member of the health organization, any other director, any supplier of the health organization or any affiliate of any member of the health organization, other director, or supplier of the health organization and provided a concise explanation of the nature of each such financial relationship within such director's statement;

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

(5)  a fee in the amount and form specified by the board relating to registration and renewal fees.

(b)  On January 1 of each year, the board shall electronically publish all materials described in subsection (a)(1) for each health organization certified under Section 162.001(b). The information described in subsections (a)(2)-(4) is public information available to members of the public under Chapter 552, Government Code.

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

SECTION 3.  Section 162.003, Occupations Code, as amended by this Act, and Sections 162.004 and 162.005, 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.  This Act takes effect September 1, 2019.