

By: Meyer

H.B. No. 1532

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the regulation of certain health organizations  
3 certified by the Texas Medical Board; providing an administrative  
4 penalty; authorizing a fee.

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

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

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

13 (1) refuse to certify the health organization on  
14 application for certification by the organization under Section  
15 162.001;

16 (2) revoke a certification made under Section 162.001  
17 to that organization; or

18 (3) impose an administrative penalty against the  
19 health organization under Subchapter A, Chapter 165.

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

23 Sec. 162.004. PROCEDURES FOR AND DISPOSITION OF COMPLAINTS  
24 AGAINST CERTAIN HEALTH ORGANIZATIONS. (a) The board shall accept

1 and process complaints against a health organization certified  
2 under Section 162.001(b) for alleged violations of this subchapter  
3 or any other provision of this subtitle applicable to a health  
4 organization in the same manner as provided under Subchapter B,  
5 Chapter 154, and the rules adopted under that subchapter, including  
6 the requirements to:

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

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

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

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

20           (b) Each complaint, adverse report, investigation file,  
21 other investigation report, and other investigative information in  
22 the possession of or received or gathered by the board or the  
23 board's employees or agents relating to a health organization  
24 certified under Section 162.001(b) is privileged and confidential  
25 and is not subject to discovery, subpoena, or other means of legal  
26 compulsion for release to anyone other than the board or the board's  
27 employees or agents involved in the investigation or discipline of

1 a health organization certified under Section 162.001(b).

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

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

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

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

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

23 (1) filing in good faith a complaint under Section  
24 162.004;

25 (2) cooperating in good faith with an investigation or  
26 proceeding of the board relating to a complaint filed under Section  
27 162.004; or

1           (3) communicating to a patient in good faith what the  
2 physician reasonably believes to be the physician's best,  
3 independent medical judgment.

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

9           Sec. 162.006. BIENNIAL REPORT REQUIRED FOR CERTAIN HEALTH  
10 ORGANIZATIONS. (a) Each health organization certified under  
11 Section 162.001(b) shall file with the board a biennial report in  
12 September of each odd-numbered year if the organization was  
13 certified in an odd-numbered year or in September of each  
14 even-numbered year if the organization was certified in an  
15 even-numbered year. The biennial report must include:

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

18                   (A) provides the name and mailing address of:

19                           (i) the health organization;

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

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

25                           (iv) each officer of the health  
26 organization; and

27                   (B) discloses any change in the composition of

1 the board of directors since the date of the most recent biennial  
2 report;

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

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

8 (B) if applicable, provides a concise  
9 explanation of the amendments and states whether the amendments  
10 were recommended or approved by the board of directors; and

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

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

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

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

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

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

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

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

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

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

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

19                    (c) Not later than January 1 of each year, the board shall  
20 publish on the board's Internet website the information provided to  
21 the board in each statement under Subsection (a)(1).

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

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

27                    SECTION 3. Section 162.003, Occupations Code, as amended by

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

7 SECTION 4. Not later than December 31, 2019, a health  
8 organization certified under Section 162.001(b), Occupations Code,  
9 shall develop the anti-retaliation policy required by Section  
10 162.005, Occupations Code, as added by this Act.

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

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