

By: Hughes

S.B. No. 1985

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.

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 HEALTH ORGANIZATIONS. (a) The board shall accept and

1 process complaints against a health organization certified under
2 Section 162.001(b) for alleged violations of this subchapter or any
3 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) notify the health organization that is the subject
10 of a complaint filed with the board, disclose the nature of the
11 complaint, and provide the health organization with an opportunity
12 to respond to the complaint;

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

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

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

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

6 (d) Nothing in this Section shall be construed to either
7 sanction or prohibit an individual from, separately or
8 contemporaneously with a complaint to the board, initiating a
9 complaint directly to the health organization certified under
10 Section 162.001(b) relating to:

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

13 (2) alleged violations of this subchapter; or

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

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

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

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

27 (3) communicates to a patient in good faith regarding

1 what he or she reasonably believes to be the physician's best,
2 independent medical judgment.

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

8 Sec. 162.006. REPORTING REQUIREMENTS FOR HEALTH
9 ORGANIZATIONS. (a) Each health organization certified under
10 Section 162.001(b) shall file with the board a biennial report in
11 September of each odd numbered year if certified in an odd numbered
12 year, and in September of each even numbered year if certified in an
13 even numbered year, and the biennial report shall include the
14 following:

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

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

19 (B) indicating the names and mailing addresses
20 of:

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

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

24 (3) members of the board of directors; and

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

27 (2) a statement signed and verified by the president

1 or chief executive officer attaching a copy of the current
2 certificate of incorporation and by-laws of the health organization
3 if not already on file with the board and indicating:

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

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

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

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

13 (A) is licensed by the board;

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

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

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

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

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

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

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

16 (b) On January 1 of each year, the board shall
17 electronically publish all materials described in subsection
18 (a)(1) for each health organization certified under Section
19 162.001(b). The information described in subsections (a)(2)-(4) is
20 public information available to members of the public under Chapter
21 552, Government Code.

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

24 SECTION 3. Section 162.003, Occupations Code, as amended by
25 this Act, and Sections 162.004 and 162.005, Occupations Code, as
26 added by this Act, apply only to a violation by a health
27 organization that occurs on or after the effective date of this Act.

1 A violation that occurs before the effective date of this Act is
2 governed by the law in effect on the date the violation occurred,
3 and the former law is continued in effect for that purpose.

4 SECTION 4. This Act takes effect September 1, 2019.