88R4409 SRA-F

By:  Oliverson H.B. No. 2982

A BILL TO BE ENTITLED

AN ACT

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

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

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

CHAPTER 74.  MANAGEMENT SERVICES ORGANIZATIONS FOR PHYSICIANS

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

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

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

(1)  facilities;

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

(3)  instruments and supplies other than prescription drugs;

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

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

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

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

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

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

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

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

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

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

(A)  a non-physician; or

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

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

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

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

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

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

(19)  the employment of persons who:

(A)  perform management services;

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

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

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

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

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

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

(b)  A management services organization may not:

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

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

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

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

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

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

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

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

(9)  own or control medical devices, pharmaceuticals, or drugs for use in patient treatment by a physician;

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

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

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

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

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

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

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

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

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

(1)  make copies of the management services agreement available for inspection by the Texas Medical Board at the main office of the physician or group of physicians; and

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

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

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