

1-1 By: Meyer (Senate Sponsor - Hughes) H.B. No. 1532
 1-2 (In the Senate - Received from the House May 2, 2019;
 1-3 May 3, 2019, read first time and referred to Committee on Health &
 1-4 Human Services; May 20, 2019, reported favorably by the following
 1-5 vote: Yeas 9, Nays 0; May 20, 2019, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			

1-17 A BILL TO BE ENTITLED
 1-18 AN ACT

1-19 relating to the regulation of certain health organizations
 1-20 certified by the Texas Medical Board; providing an administrative
 1-21 penalty; authorizing a fee.

1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-23 SECTION 1. Section 162.003, Occupations Code, is amended to
 1-24 read as follows:

1-25 Sec. 162.003. REFUSAL TO CERTIFY; REVOCATION; PENALTY. On
 1-26 a determination that a health organization commits a violation of
 1-27 this subtitle or is established, organized, or operated in
 1-28 violation of or with the intent to violate this subtitle, the board
 1-29 may:

1-30 (1) refuse to certify the health organization on
 1-31 application for certification by the organization under Section
 1-32 162.001;

1-33 (2) revoke a certification made under Section 162.001
 1-34 to that organization; or

1-35 (3) impose an administrative penalty against the
 1-36 health organization under Subchapter A, Chapter 165.

1-37 SECTION 2. Subchapter A, Chapter 162, Occupations Code, is
 1-38 amended by adding Sections 162.004, 162.005, and 162.006 to read as
 1-39 follows:

1-40 Sec. 162.004. PROCEDURES FOR AND DISPOSITION OF COMPLAINTS
 1-41 AGAINST CERTAIN HEALTH ORGANIZATIONS. (a) The board shall accept
 1-42 and process complaints against a health organization certified
 1-43 under Section 162.001(b) for alleged violations of this subchapter
 1-44 or any other provision of this subtitle applicable to a health
 1-45 organization in the same manner as provided under Subchapter B,
 1-46 Chapter 154, and the rules adopted under that subchapter, including
 1-47 the requirements to:

1-48 (1) maintain a system to promptly and efficiently act
 1-49 on complaints filed with the board;

1-50 (2) with respect to a health organization that is the
 1-51 subject of a complaint, notify the health organization that a
 1-52 complaint has been filed, disclose the nature of the complaint, and
 1-53 provide the health organization with an opportunity to respond to
 1-54 the complaint;

1-55 (3) ensure that a complaint is not dismissed without
 1-56 appropriate consideration; and

1-57 (4) establish methods by which physicians employed by
 1-58 a health organization are notified of the name, mailing address,
 1-59 and telephone number of the board for the purpose of directing
 1-60 complaints under this section to the board.

1-61 (b) Each complaint, adverse report, investigation file,

2-1 other investigation report, and other investigative information in
 2-2 the possession of or received or gathered by the board or the
 2-3 board's employees or agents relating to a health organization
 2-4 certified under Section 162.001(b) is privileged and confidential
 2-5 and is not subject to discovery, subpoena, or other means of legal
 2-6 compulsion for release to anyone other than the board or the board's
 2-7 employees or agents involved in the investigation or discipline of
 2-8 a health organization certified under Section 162.001(b).

2-9 (c) The board may dispose of a complaint or resolve the
 2-10 investigation of a complaint under this section in a manner
 2-11 provided under Subchapter A, Chapter 164, to the extent the board
 2-12 determines the provisions of that subchapter can be made applicable
 2-13 to a health organization certified under Section 162.001.

2-14 (d) This section does not require an individual to file or
 2-15 prohibit an individual from filing a complaint against a health
 2-16 organization certified under Section 162.001(b) directly with the
 2-17 health organization, alone or in connection with a complaint filed
 2-18 with the board under this section, relating to:

2-19 (1) the care or services provided by, or the policies
 2-20 of, the health organization; or

2-21 (2) an alleged violation by the health organization of
 2-22 this subchapter or any other provision of this subtitle applicable
 2-23 to the health organization.

2-24 Sec. 162.005. ANTI-RETALIATION POLICY. (a) A health
 2-25 organization certified under Section 162.001(b) shall develop,
 2-26 implement, and comply with an anti-retaliation policy for
 2-27 physicians under which the health organization may not terminate,
 2-28 demote, retaliate against, discipline, discriminate against, or
 2-29 otherwise penalize a physician for:

2-30 (1) filing in good faith a complaint under Section
 2-31 162.004;

2-32 (2) cooperating in good faith with an investigation or
 2-33 proceeding of the board relating to a complaint filed under Section
 2-34 162.004; or

2-35 (3) communicating to a patient in good faith what the
 2-36 physician reasonably believes to be the physician's best,
 2-37 independent medical judgment.

2-38 (b) On a determination that a health organization certified
 2-39 under Section 162.001(b) has failed to develop, implement, or
 2-40 comply with a policy described by Subsection (a), the board may take
 2-41 any action allowed under this subtitle or board rule applicable to a
 2-42 health organization.

2-43 Sec. 162.006. BIENNIAL REPORT REQUIRED FOR CERTAIN HEALTH
 2-44 ORGANIZATIONS. (a) Each health organization certified under
 2-45 Section 162.001(b) shall file with the board a biennial report in
 2-46 September of each odd-numbered year if the organization was
 2-47 certified in an odd-numbered year or in September of each
 2-48 even-numbered year if the organization was certified in an
 2-49 even-numbered year. The biennial report must include:

2-50 (1) a statement signed and verified by the president
 2-51 or chief executive officer of the health organization that:

2-52 (A) provides the name and mailing address of:

2-53 (i) the health organization;

2-54 (ii) each member of the health
 2-55 organization, except that if the health organization has no
 2-56 members, a statement indicating that fact;

2-57 (iii) each member of the board of directors
 2-58 of the health organization; and

2-59 (iv) each officer of the health
 2-60 organization; and

2-61 (B) discloses any change in the composition of
 2-62 the board of directors since the date of the most recent biennial
 2-63 report;

2-64 (2) a statement signed and verified by the president
 2-65 or chief executive officer of the health organization that:

2-66 (A) indicates whether the health organization's
 2-67 certificate of formation or bylaws were amended since the date of
 2-68 the most recent biennial report;

2-69 (B) if applicable, provides a concise

3-1 explanation of the amendments and states whether the amendments
3-2 were recommended or approved by the board of directors; and

3-3 (C) has attached to the statement a copy of the
3-4 organization's current certificate of formation and bylaws if a
3-5 copy is not already on file with the board;

3-6 (3) a statement from each current director of the
3-7 health organization, signed and verified by the director:

3-8 (A) stating that the director is licensed by the
3-9 board to practice medicine, is actively engaged in the practice of
3-10 medicine, and has no restrictions on the director's license;

3-11 (B) stating that the director will, as a
3-12 director:

3-13 (i) exercise independent judgment in all
3-14 matters, specifically including matters relating to credentialing,
3-15 quality assurance, utilization review, peer review, and the
3-16 practice of medicine;

3-17 (ii) exercise best efforts to cause the
3-18 health organization to comply with all relevant provisions of this
3-19 subtitle and board rules; and

3-20 (iii) immediately report to the board any
3-21 action or event the director reasonably and in good faith believes
3-22 constitutes a violation or attempted violation of this subtitle or
3-23 board rules;

3-24 (C) identifying and concisely explaining the
3-25 nature of each financial relationship the director has, if any,
3-26 with a member, another director, or a supplier of the health
3-27 organization or an affiliate of those persons; and

3-28 (D) stating that the director has disclosed all
3-29 financial relationships described by Paragraph (C); and

3-30 (4) a statement signed and verified by the president
3-31 or chief executive officer of the health organization indicating
3-32 that the health organization is in compliance with the requirements
3-33 for continued certification provided by this subtitle and board
3-34 rules.

3-35 (b) A health organization required to submit a biennial
3-36 report under Subsection (a) shall submit with the report a fee in
3-37 the amount prescribed by board rule.

3-38 (c) Not later than January 1 of each year, the board shall
3-39 publish on the board's Internet website the information provided to
3-40 the board in each statement under Subsection (a)(1).

3-41 (d) Information provided to the board in each statement
3-42 under Subsections (a)(2), (3), and (4) is public information
3-43 subject to disclosure under Chapter 552, Government Code.

3-44 (e) The board may adopt rules necessary to implement this
3-45 section.

3-46 SECTION 3. Section 162.003, Occupations Code, as amended by
3-47 this Act, and Section 162.004, Occupations Code, as added by this
3-48 Act, apply only to a violation by a health organization that occurs
3-49 on or after the effective date of this Act. A violation that occurs
3-50 before the effective date of this Act is governed by the law in
3-51 effect on the date the violation occurred, and the former law is
3-52 continued in effect for that purpose.

3-53 SECTION 4. Not later than December 31, 2019, a health
3-54 organization certified under Section 162.001(b), Occupations Code,
3-55 shall develop the anti-retaliation policy required by Section
3-56 162.005, Occupations Code, as added by this Act.

3-57 SECTION 5. (a) Except as provided by Subsection (b) of this
3-58 section, this Act takes effect September 1, 2019.

3-59 (b) Section 162.005(b), Occupations Code, as added by this
3-60 Act, takes effect January 1, 2020.

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