

BILL ANALYSIS

Senate Research Center

H.B. 2098
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State Affairs
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Certain sources assert that business partnerships between physicians and physician assistants (PAs) provide positive benefits to their patients, the community, and to the physicians and PAs themselves and that such partnerships are a key solution to the shortage of physicians and PAs in rural and other underserved areas. H.B. 2098 seeks to recognize the contributions of PAs to health care by allowing PAs, at their physician's discretion, to be minority partners in their physicians' practice groups, which could attract even more PAs to those areas and be a valuable recruiting tool in all practice settings.

H.B. 2098 amends current law relating to the authority of physicians and physician assistants to form certain entities.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Medical Board in SECTION 4 (Section 162.053, Occupations Code) of this bill.

Rulemaking authority is expressly granted to the Texas Physician Assistant Board in SECTION 5 (Section 204.209, Occupations Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter B, Chapter 22, Business Organizations Code, by adding Section 22.0561, as follows:

Sec. 22.0561. CORPORATIONS FORMED BY PHYSICIANS AND PHYSICIAN ASSISTANTS. (a) Authorizes physicians licensed under Subtitle C (Other Professions Performing Medical Procedures), Title 3, Occupations Code, and physician assistants (PAs) licensed under Chapter 204 (Physician Assistants), Occupations Code, to form a corporation to perform a professional service that falls within the scope of practice of those practitioners and consists of:

- (1) carrying out research in the public interest in medical science, medical economics, public health, sociology, or a related field;
- (2) supporting medical education in medical schools through grants or scholarships;
- (3) developing the capabilities of individuals or institutions studying, teaching, or practicing medicine or acting as a PA;
- (4) delivering health care to the public; or
- (5) instructing the public regarding medical science, public health, hygiene, or a related matter.

(b) Prohibits a PA from being an officer of a domestic nonprofit corporation subject to this chapter (corporation).

(c) Prohibits a PA from contracting with or employing a physician to be a supervising physician of the PA or of any physician in the corporation.

(d) Provides that the authority of each practitioner is limited by the scope of practice of the respective practitioners. Requires an organizer of the entity to be a physician and ensure that a physician or physicians control and manage the entity.

(e) Provides that nothing in this section may be construed to allow the practice of medicine by someone not licensed as a physician under Subtitle B (Physicians), Title 3, Occupations Code, or to allow a person not licensed as a physician to direct the activities of a physician in the practice of medicine.

(f) Authorizes a PA or a combination of PAs to have only a minority ownership interest in an entity created under this section. Prohibits the ownership interest of an individual PA from being equal to or exceeding the ownership interest of any individual physician owner. Prohibits a PA or combination of PAs from interfering with the practice of medicine by a physician owner or the supervision of PAs by a physician owner.

(g) Provides that the Texas Medical Board (TMB) and the Texas Physician Assistant Board (PAB) continue to exercise regulatory authority over their respective license holders according to applicable law. Provides that, to the extent of a conflict between Subtitle B, Title 3, Occupations Code, and Chapter 204, Occupations Code, or any rules adopted under those statutes, Subtitle B, Title 3, or a rule adopted under that subtitle controls.

SECTION 2. Amends Subchapter B, Chapter 152, Business Organizations Code, by adding Section 152.0551, as follows:

Sec. 152.0551. PARTNERSHIPS FORMED BY PHYSICIANS AND PHYSICIAN ASSISTANTS. (a) Authorizes physicians licensed under Subtitle B, Title 3, Occupations Code, and PAs licensed under Chapter 204, Occupations Code, to create a partnership to perform a professional service that falls within the scope of practice of those practitioners.

(b) Prohibits a PA from being a general partner or participating in the management of the partnership.

(c) Prohibits a PA from contracting with or employing a physician to be a supervising physician of the PA or of any physician in the partnership.

(d) Provides that the authority of each of the practitioners is limited by the scope of practice of the respective practitioners. Requires an organizer of the entity to be a physician and ensure that a physician or physicians control and manage the entity.

(e) Provides that nothing in this section may be construed to allow the practice of medicine by someone not licensed as a physician under Subtitle B, Title 3, Occupations Code, or to allow a person not licensed as a physician to direct the activities of a physician in the practice of medicine.

(f) Authorizes a PA or combination of PAs to have only a minority ownership interest in an entity created under this section. Prohibits the ownership interest of an individual PA from equaling or exceeding the ownership interest of any individual physician owner. Prohibits a PA or combination of PAs from interfering with the practice of medicine by a physician owner or the supervision of PAs by a physician owner.

(g) Provides that TMB and PAB continue to exercise regulatory authority over their respective license holders according to applicable law. Provides that, to the extent of a conflict between Subtitle B, Title 3, Occupations Code, and Chapter 204, Occupations Code, or any rules adopted under those statutes, Subtitle B, Title 3, or a rule adopted under that subtitle controls.

SECTION 3. Amends Section 301.012, Occupations Code, by adding Subsections (a-1), (a-2), (a-3), (a-4), (a-5), (a-6), and (a-7), as follows:

(a-1) Authorizes persons licensed as physicians under Subtitle B, Title 3, Occupations Code, and persons licensed as PAs under Chapter 204, Occupations Code, to form and own a professional association or a professional limited liability company to perform professional services that fall within the scope of practice of those practitioners.

(a-2) Prohibits a PA from being an officer in the professional association or limited liability company.

(a-3) Prohibits a PA from contracting with or employing a physician to be a supervising physician of the PA or of any physician in the professional association or limited liability company.

(a-4) Provides that the authority of each practitioner is limited by the scope of practice of the respective practitioner. Requires an organizer of the entity to be a physician and ensure that a physician or physicians control and manage the entity.

(a-5) Provides that nothing in this section may be construed to allow the practice of medicine by someone not licensed as a physician under Subtitle B, Title 3, Occupations Code, or to allow a person not licensed as a physician to direct the activities of a physician in the practice of medicine.

(a-6) Authorizes a PA or a combination of PAs to have only a minority ownership interest in an entity created under this section. Prohibits the ownership interest of an individual PA from equaling or exceeding the ownership interest of any individual physician owner. Prohibits a PA or combination of PAs from interfering with the practice of medicine by a physician owner or the supervision of PAs by a physician owner.

(a-7) Provides that TMB and PAB continue to exercise regulatory authority over their respective license holders according to applicable law. Provides that, to the extent of a conflict between Subtitle B, Title 3, Occupations Code, and Chapter 204, Occupations Code, or any rules adopted under those statutes, Subtitle B, Title 3, or a rule adopted under that subtitle controls.

SECTION 4. Amends Subchapter B, Chapter 162, Occupations Code, by adding Section 162.053, as follows:

Sec. 162.053. JOINTLY OWNED ENTITIES WITH PHYSICIAN ASSISTANTS. (a) Requires a physician who jointly owns an entity with a PA to report annually to TMB the ownership interest and other information required by TMB rule.

(b) Requires TMB to assess a fee for processing each report required by Subsection (a).

(c) Provides that a report filed under Subsection (a) is public information for purposes of Chapter 552 (Public Information), Government Code.

SECTION 5. Amends Subchapter E, Chapter 204, Occupations Code, by adding Section 204.209, as follows:

Sec. 204.209. JOINTLY OWNED ENTITIES WITH PHYSICIANS. (a) Requires a PA who jointly owns an entity with a physician to report annually to PAB the ownership interest and other information required by PAB rule.

(b) Requires PAB to assess a fee for processing each report required by Subsection (a).

(c) Provides that a report filed under Subsection (a) is public information for purposes of Chapter 552, Government Code.

SECTION 6. Provides that the restrictions on ownership interests in Sections 22.0561, 152.0551, and 301.012, Business Organizations Code, apply to an ownership interest acquired on or after the effective date of this Act. Provides that an ownership interest acquired before the effective date of this Act is governed by the law in effect at the time the interest was acquired, and the former law is continued in effect for that purpose.

SECTION 7. Effective date: upon passage or September 1, 2011.