

BILL ANALYSIS

Senate Research Center

C.S.S.B. 1001
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

There are provisions in current law that limit the ability of health care practitioners to practice their professions. Current law allows some health care practitioners, but not others, to form business entities such as partnerships, professional associations, and professional limited liability companies. For instance, under the Business Organizations Code, physicians and podiatrists can join together to form a partnership, professional association, or professional limited liability company, and physicians, optometrists, and therapeutic optometrists can join together to form a professional association or professional limited liability company. However, other health care practitioners who are authorized under the Occupations Code to perform medical procedures are not authorized to form professional entities with physicians. This inequality prevents health care practitioners from fully collaborating with each other to provide the most appropriate and cost-effective care. There are also provisions in current law that prohibit discrimination in payment or reimbursement of health care practitioners, but those provisions are not being fully complied with by health benefit plans, which has the effect of limiting the ability of certain health care practitioners to fully practice their professions.

C.S.S.B. 1001 eliminates inequities and clarifies provisions in existing law with regard to the ability of health care practitioners to practice their professions and be reimbursed for services provided. To prevent state resources from being used to further limit the ability of health care practitioners to practice their professions as authorized by law, the bill also prohibits one health licensing agency from filing an injunction against the licensee of another health licensing agency if the agency that issued the license has determined the licensee's actions to be lawful and within the licensee's scope of practice.

C.S.S.B. 1001 amends current law relating to the practice of certain professions regulated under the Occupations Code.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Title 2, Occupations Code, by adding Chapter 60, as follows:

CHAPTER 60. ABILITY TO PRACTICE PROFESSION

Sec. 60.001. **PURPOSE.** Provides that the purpose of this chapter is to ensure that a person licensed under Title 3 (Health Professions) may practice the person's profession to the full extent authorized by law in accordance with the person's education, training, and licensing.

Sec. 60.002. **CERTAIN INJUNCTIONS PROHIBITED.** Prohibits a licensing authority created under Title 3 from instituting an action to enjoin a person licensed by another licensing authority created under Title 3 from engaging in certain conduct if that conduct has been determined by the licensing authority that issued the license to be lawful and within the scope of practice authorized by the person's license.

Sec. 60.003. COLLABORATION WITH OTHER LICENSEES. Provides that in accordance with the provisions of Title 3, a person licensed under a particular chapter of Title 3 is authorized to:

(1) collaborate with a person licensed under a different chapter of Title 3 in providing services to a client if each person performs only those services that the person is authorized under state law, rules, or regulations to perform; or

(2) use objective or subjective means to analyze, examine, evaluate, or otherwise determine the condition of the person's client for the purpose of providing services to the client that the person is authorized under state laws, rules or regulations to provide, or referring the client to an appropriate person licensed under Title 3 for the provision of services needed by the client.

Sec. 60.004. AUTHORITY TO FORM CERTAIN ENTITIES AND ASSOCIATIONS. Authorizes a person licensed under Subtitle C (Other Professions Performing Medical Procedures), Title 3 to form a partnership, professional association, or professional limited liability company with persons licensed under Subtitle B (Physicians), Title 3 of this code according to the procedures established in the Business Organizations Code.

Sec. 60.005. BILLING AND REIMBURSEMENT FOR SERVICES. (a) Authorizes a person licensed under Title 3 to use the same billing codes used by a person licensed under Chapter 453 (Physical Therapists) if the billing codes describe services that the person is authorized to provide under state law, rules, or regulations.

(b) Prohibits an entity that reimburses persons licensed under Title 3 for physical modalities and procedures covered under a health benefit plan from:

(1) denying payment or reimbursement for covered physical modalities and procedures because of the type of license held by the person, if the entity allows payment or reimbursement for the same services provided by a person licensed under a different chapter of Title 3, and the services are performed in strict compliance with state laws, rules, and regulations relating to that person's license;

(2) making payment or reimbursement for covered physical modalities and procedures that the person is authorized to provide under state law, rules, or regulations contingent on provision of those services by a person licensed under a different chapter of Title 3; or

(3) establishing other limitations on the provision of covered physical modalities and procedures by persons licensed under a particular chapter of Title 3 to provide those services that would prohibit a covered person from seeking the provision of covered physical modalities and procedures to an equal extent from any person licensed under Title 3 to provide those services.

(c) Provides that nothing in this section requires an entity to cover particular services or affects the ability of an entity to determine whether specific procedures for which payment or reimbursement is requested are medically necessary.

(d) Provides that this section does not apply to workers' compensation insurance coverage as defined by Section 401.011 (General Definitions), Labor Code, or a self-insured employee welfare benefit plan subject to the Employee Retirement Income Security Act of 1974 (29 U.S.C. Section 1001 et seq.)

SECTION 2. Effective date: September 1, 2011.