

## **BILL ANALYSIS**

Senate Research Center

S.B. 1661  
By: Duncan  
State Affairs  
4/1/2011  
As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Texas is one of only five states that continues to explicitly define or actively enforce some form of prohibition on the corporate practice of medicine. However, exemptions have been granted to certain types of organizations that allow for the employment of physicians. Employment of physicians is allowed for health organizations established by the provisions of Chapter 162 (Regulation of Practice of Medicine), Occupations Code, and certified by the Texas Medical Board. Current law requires these health organizations to be organized and incorporated solely by physicians.

Currently, there are no provisions providing protections for the independent medical judgment of physicians employed by these types of health organizations. S.B. 1661 establishes protections prohibiting health organizations employing physicians from interfering with, controlling, or otherwise directing a physician's professional judgment.

As proposed, S.B. 1661 amends current law relating to health organizations certified by the Texas Medical Board under Subchapter A, Chapter 162, 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 Subchapter A, Chapter 162, Occupations Code, by adding Sections 162.004-162.006, as follows:

Sec. 162.004. **NON-INTERFERENCE WITH PHYSICIAN PROFESSIONAL JUDGMENT.** Prohibits a health organization certified under Section 162.001(b) (requiring the Texas Medical Board (TMB) to approve and certify certain health organizations) from interfering with, controlling, or otherwise directing a physician's professional judgment in contravention of this subchapter, or any other provision of law, including TMB rules.

Sec. 162.005. **NO CONTRACTUAL WAIVER.** Prohibits the requirements of this subchapter from being voided or waived by contract.

Sec. 162.006. **HEALTH ORGANIZATION POLICIES.** (a) Requires a health organization certified under Section 162.001(b) to adopt, maintain, and enforce policies to ensure that a physician employed by the health organization exercises independent medical judgment when providing care to patients.

(b) Requires that the policies adopted under this section include policies relating to credentialing and privileges, quality assurance, utilization review, peer review, medical decision-making, due process, and delegation of authority.

(c) Requires that the policies adopted under this section, including any amendments to the policies, be approved by an affirmative vote of the medical

staff of the health organization prior to adoption by the board of directors of the health organization.

(d) Requires that the policies adopted under this section include the implementation of a complaint mechanism for processing and resolving complaints regarding interference or attempted interference with the physician's independent medical judgment. Requires that the policies address the manner in which the public can access TMB complaint procedures.

(e) Requires that the policies and bylaws of the health organization be drafted and interpreted in a manner that reserves the sole authority to engage in the practice of medicine to the physicians on the medical staff, regardless of the physician's employment status with the health organization.

(f) Requires that the policies and bylaws adopted or approved by the medical staff control and prevail in the event of a conflict with any other policies of the health organization.

SECTION 2. Effective date: September 1, 2011.