

## **BILL ANALYSIS**

Senate Research Center

C.S.S.B. 848  
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Health & Human Services  
4/20/2011  
Committee Report (Substituted)

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

An ambulatory surgical center (ASC) is a licensed health care facility most frequently utilized for minor outpatient medical procedures. These facilities may, at times, have surgical space that is not scheduled for use. To utilize the unscheduled space, many ASCs use a business model where they enter into a contract, or use agreement, with a physician who needs to schedule a procedure.

This issue is not addressed in current law, but the practice has been a common business model for many years.

C.S.S.B. 848 amends current law relating to ambulatory surgical centers and to the provision of services at those centers by certain designated physician groups.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Department of State Health Services in SECTION 3 (Section 243.003, Health and Safety Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 243.002, Health and Safety Code, by amending Subdivision (3) to redefine "department," and adding Subdivisions (3-a), (3-b), and (5) to define "designated physician group," "facility," and "use agreement," respectively.

SECTION 2. Amends the heading to Section 243.003, Health and Safety Code, to read as follows:

Sec. 243.003. LICENSE REQUIRED; USE AGREEMENTS.

SECTION 3. Amends Section 243.003, Health and Safety Code, by amending Subsection (c) and adding Subsections (d) through (i), as follows:

(c) Provides that, except as provided by Subsection (d), a license is not transferable or assignable.

(d) Authorizes an ambulatory surgical center, except as provided by Subsection (e) and subject to Subsection (f), to share its license under a sublicense agreement with one or more designated physician groups that is entered into under the terms of a use agreement, if:

(1) the ambulatory surgical center:

(A) remains responsible for ensuring that the facility and all surgical and other ambulatory surgical center services provided in the facility by any designated physician group comply with this chapter and applicable Department of State Health Services (DSHS) rules; and

(B) at least annually, provides DSHS with:

(i) a list of the designated physician groups with which the ambulatory surgical center has entered into use agreements; and

(ii) any other information that DSHS requires by rule about the designated physician groups or use agreements; and

(2) the designated physician group notifies each patient to whom the group provides ambulatory surgical center services at the facility that the group has a financial relationship through a use agreement with the ambulatory surgical center and of the impact of that agreement on the network status of the ambulatory surgical center services provided.

(e) Prohibits a use agreement under Subsection (d) from covering a transaction paid for under the Medicare or Medicaid program.

(f) Requires that a use agreement entered into under this section comply with all applicable federal laws and regulations.

(g) Requires that fees under a use agreement entered into under this chapter be equal to the fair market value of the use of the facility under the agreement, consistent with Chapter 102 (Solicitation of Patients), Occupations Code.

(h) Provides that, notwithstanding any other law, an insurer or other entity authorized under the Insurance Code or any other law to offer a health benefit plan is not required to contract or prohibited from contracting with a designated physician group that is operating under a use agreement.

(i) Requires DSHS by rule to prescribe minimum requirements for a use agreement entered into under this chapter.

SECTION 4. Amends Section 843.002, Insurance Code, by adding Subdivision (1-a) to define "ambulatory surgical center" and amending Subdivision (24) to redefine "provider."

SECTION 5. Amends Section 1301.001, Insurance Code, by amending Subdivisions (1) and (4) and adding Subdivision (1-a), to define "ambulatory surgical center," to redefine "institutional provider," and to make a nonsubstantive change.

SECTION 6. Amends Section 401.011, Labor Code, by adding Subdivision (4-a) to define "ambulatory surgical center" and amending Subdivision (20) to redefine "health care facility."

SECTION 7. Provides that the change in law made by this Act applies only to a use agreement under Section 243.003, Health and Safety Code, as amended by this Act, that is entered into on or after the effective date of this Act. Provides that a use agreement entered into before the effective date of this Act is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

SECTION 8. Effective date: September 1, 2011.