

## **BILL ANALYSIS**

Senate Research Center  
85R2425 TSR-D

S.B. 833  
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Health & Human Services  
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As Filed

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

The corporate practice of medicine (CPOM) doctrine was developed by the American Medical Association in the 19th century to protect the integrity of the medical profession in several ways: first, by distinguishing between professional physicians and unqualified persons seeking to offer medical care, and, second, by restricting corporate influence on a physician's independent medical judgment. The doctrine in different iterations was incorporated into the laws of various states, and while many states have abandoned CPOM, Texas maintains the doctrine as a means to insulate the doctor-patient relationship from pecuniary pressures.

The CPOM doctrine in Texas law generally prohibits the employment of physicians by corporate entities. Chapter 162 (Regulation of Practice of Medicine), Occupations Code, specifies the types of entities that may employ physicians: certain nonprofit corporations providing health care (a migrant, community, or homeless health center and a federally qualified health center) and certain hospital districts. S.B. 1661, 82nd Legislature, Regular Session, 2011, made the first substantive amendments to Chapter 162 to protect the independent medical judgment of physicians employed by these entities. Specifically, it prohibited health organizations certified under Chapter 162 from interfering with a physician's medical judgment, required such health organizations to adopt and enforce policies to this effect, and prohibited health organizations from disciplining a physician for advocating on behalf of patient care.

S.B. 833 builds on this statutory language by explicitly applying the penalties in Section 162.003 (including revocation of certification under Chapter 162 or the imposition of an administrative penalty) to a health organization's interference with physician discretion. In addition, S.B. 833 adds affirmative reporting requirements to the Texas Medical Board (TMB) and the attorney general's office for chief medical officers and physicians who know of efforts by the health organization to interfere with a physician's independent medical judgment or discipline the physician for advocating on behalf of patient care. In addition, any person employed by or affiliated with the health organization who knows of a failure by the chief medical officer to report violations of Chapter 162, as it would be amended by S.B. 833, is required to report such a failure to TMB and the Office of the Attorney General.

As proposed, S.B. 833 amends current law relating to the regulation of certain health organizations certified by the Texas Medical Board.

### **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 Section 162.0021, Occupations Code, as follows:

Sec. 162.0021. INTERFERENCE WITH PHYSICIAN'S PROFESSIONAL JUDGMENT PROHIBITED. (a) Creates this subsection from existing text and makes no further changes to this subsection.

(b) Provides that a health organization (organization) that violates Subsection (a) (relating to prohibiting a certain organization from interfering with, controlling, or otherwise directing a physician's professional judgment in violation of certain provisions or rules) is subject to the penalties prescribed by Section 162.003 (Refusal to Certify; Revocation; Penalty), including the revocation of a certification issued under Section 162.001 (Certification by Board) to that organization.

(c) Requires a physician or chief medical officer who provides professional medical services for an organization that violates Subsection (a) to report the violation by the organization to the Texas Medical Board (TMB) and the Texas attorney general (attorney general) for investigation.

(d) Requires any person who is employed by or otherwise affiliated with an organization that violates Subsection (a) and is familiar with a chief medical officer's failure to report the violation as required by Subsection (c) to report to TMB and the attorney general the failure of the chief medical officer to report the violation.

(e) Provides that a chief medical officer, as a physician licensed by TMB, is accountable to TMB for the chief medical officer's failure to report.

SECTION 2. Amends Section 162.0023, Occupations Code, as follows:

Sec. 162.0023. DISCIPLINARY ACTION RESTRICTION. (a) Creates this subsection from existing text. Provides that a physician employed by or otherwise affiliated with an organization certified under Section 162.001(b) (relating to requiring TMB to approve and certify an organization that meets certain criteria) retains independent medical judgment in providing care to patients.

(b) Provides that an organization that violates Subsection (a) is subject to the penalties prescribed by Section 162.003, including the revocation of a certification issued under Section 162.001 to that organization.

(c) Requires a physician or chief medical officer who provides professional medical services for an organization that violates Subsection (a) to report the violation by the organization to TMB and the attorney general for investigation.

(d) Requires any person who is employed by or otherwise affiliated with an organization that violates Subsection (a) and is familiar with a chief medical officer's failure to report the violation as required by Subsection (c) to report to TMB and the attorney general the failure of the chief medical officer to report the violation.

(e) Provides that a chief medical officer, as a physician licensed by TMB, is accountable to TMB for the chief medical officer's failure to report.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2017.