

By: Turner of Harris, Laubenberg

H.B. No. 2706

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the authority of physicians and chiropractors to form  
3 certain entities.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Subchapter B, Chapter 22, Business Organizations  
6 Code, is amended by adding Section 22.0561 to read as follows:

7 Sec. 22.0561. CORPORATIONS FORMED BY PHYSICIANS AND  
8 CHIROPRACTORS. (a) Physicians licensed by the Texas Medical Board  
9 and chiropractors licensed by the Texas Board of Chiropractic  
10 Examiners may form a corporation that is jointly owned, managed,  
11 and controlled by those practitioners to perform a professional  
12 service that falls within the scope of practice of those  
13 practitioners and consists of:

14 (1) carrying out research in the public interest in  
15 medical science, medical economics, public health, sociology, or a  
16 related field;

17 (2) supporting medical education in medical schools  
18 through grants or scholarships;

19 (3) developing the capabilities of individuals or  
20 institutions studying, teaching, or practicing medicine or  
21 chiropractic;

22 (4) delivering health care to the public; or

23 (5) instructing the public regarding medical science,  
24 public health, hygiene, or a related matter.

1       (b) When physicians and chiropractors form a corporation  
2 that is jointly owned by those practitioners, the authority of each  
3 of the practitioners is limited by the scope of practice of the  
4 respective practitioners and none can exercise control over the  
5 other's clinical authority granted by their respective licenses,  
6 either through agreements, the certificate of formation or bylaws  
7 of the corporation, directives, financial incentives, or other  
8 arrangements that would assert control over treatment decisions  
9 made by the practitioner. The Texas Medical Board and the Texas  
10 Board of Chiropractic Examiners continue to exercise regulatory  
11 authority over their respective licenses.

12       SECTION 2. Subchapter B, Chapter 152, Business  
13 Organizations Code, is amended by adding Section 152.0551 to read  
14 as follows:

15       Sec. 152.0551. PARTNERSHIPS FORMED BY PHYSICIANS AND  
16 CHIROPRACTORS. (a) Physicians licensed by the Texas Medical Board  
17 and chiropractors licensed by the Texas Board of Chiropractic  
18 Examiners may create a partnership that is jointly owned by those  
19 practitioners to perform a professional service that falls within  
20 the scope of practice of those practitioners.

21       (b) When physicians and chiropractors create a partnership  
22 that is jointly owned by those practitioners, the authority of each  
23 of the practitioners is limited by the scope of practice of the  
24 respective practitioners and none can exercise control over the  
25 other's clinical authority granted by their respective licenses,  
26 either through agreements, bylaws, directives, financial  
27 incentives, or other arrangements that would assert control over

1 treatment decisions made by the practitioner.

2 (c) The Texas Medical Board and the Texas Board of  
3 Chiropractic Examiners continue to exercise regulatory authority  
4 over their respective licenses.

5 SECTION 3. Section 301.012, Business Organizations Code, is  
6 amended by adding Subsection (a-1) and amending Subsection (f) to  
7 read as follows:

8 (a-1) Persons licensed as physicians by the Texas Medical  
9 Board and persons licensed as chiropractors by the Texas Board of  
10 Chiropractic Examiners may jointly form and own a professional  
11 association or a professional limited liability company to perform  
12 professional services that fall within the scope of practice of  
13 those practitioners.

14 (f) When doctors of medicine, osteopathy, and podiatry,  
15 [~~or~~] doctors of medicine, osteopathy, and optometry or therapeutic  
16 optometry, [~~or~~] mental health professionals, or physicians and  
17 chiropractors form a professional entity as provided by Subsections  
18 (a), (a-1), (b), and (c), the authority of each of the practitioners  
19 is limited by the scope of practice of the respective practitioners  
20 and none can exercise control over the other's clinical authority  
21 granted by their respective licenses, either through agreements,  
22 bylaws, directives, financial incentives, or other arrangements  
23 that would assert control over treatment decisions made by the  
24 practitioner.

25 SECTION 4. Article 2.01, Texas Non-Profit Corporation Act  
26 (Article 1396-2.01, Vernon's Texas Civil Statutes), is amended by  
27 amending Subsection B and adding Subsections E and F to read as

1 follows:

2 B. This Act shall not apply to any corporation, nor may any  
3 corporation be organized under this Act or obtain authority to  
4 conduct its affairs in this State under this Act:

5 (1) If any one or more of its purposes for the conduct  
6 of its affairs in this State is expressly forbidden by any law of  
7 this State.

8 (2) If any one or more of its purposes for the conduct  
9 of its affairs in this State is to engage in any activity which  
10 cannot lawfully be engaged in without first obtaining a license  
11 under the authority of the laws of this State to engage in such  
12 activity and such license cannot lawfully be granted to a  
13 corporation, except as provided by Subsections [~~Subsection~~] C and  
14 F.

15 (3) If any one or more of its purposes for the conduct  
16 of its affairs in this State is to organize Group Hospital Service,  
17 Rural Credit Unions, Agricultural and Livestock Pools, Mutual Loan  
18 Corporations, Co-operative Credit Associations, Farmers'  
19 Co-operative Societies, Co-operative Marketing Act Corporations,  
20 Rural Electric Co-operative Corporations, Telephone Co-operative  
21 Corporations, or fraternal organizations operating under the lodge  
22 system and heretofore or hereafter incorporated under Articles 1399  
23 through 1407, both inclusive, of Revised Civil Statutes of Texas,  
24 1925.

25 (4) If any one or more of its purposes for the conduct  
26 of its affairs in this State is to operate a bank under the banking  
27 laws of this State or to operate an insurance company of any type or

1 character that operates under the insurance laws of this State.

2 E. Physicians licensed by the Texas Medical Board and  
3 chiropractors licensed by the Texas Board of Chiropractic Examiners  
4 may organize a nonprofit corporation under this Act that is jointly  
5 owned, managed, and controlled by those practitioners to perform a  
6 professional service that falls within the scope of practice of  
7 those practitioners and consists of:

8 (1) carrying out research in the public interest in  
9 medical science, medical economics, public health, sociology, or a  
10 related field;

11 (2) supporting medical education in medical schools  
12 through grants or scholarships;

13 (3) developing the capabilities of individuals or  
14 institutions studying, teaching, or practicing medicine or  
15 chiropractic;

16 (4) delivering health care to the public; or

17 (5) instructing the public regarding medical science,  
18 public health, hygiene, or a related matter.

19 F. When physicians and chiropractors organize a nonprofit  
20 corporation that is jointly owned by those practitioners, the  
21 authority of each of the practitioners is limited by the scope of  
22 practice of the respective practitioners and none can exercise  
23 control over the other's clinical authority granted by their  
24 respective licenses, either through agreements, articles of  
25 incorporation, bylaws, directives, financial incentives, or other  
26 arrangements that would assert control over treatment decisions  
27 made by the practitioner. The Texas Medical Board and the Texas

1 Board of Chiropractic Examiners continue to exercise regulatory  
2 authority over their respective licenses.

3 SECTION 5. Subsection (B), Section 2, Texas Professional  
4 Association Act (Article 1528f, Vernon's Texas Civil Statutes), is  
5 amended by adding Subdivision (2-a) and amending Subdivision (4) to  
6 read as follows:

7 (2-a) Physicians licensed by the Texas Medical Board  
8 and chiropractors licensed by the Texas Board of Chiropractic  
9 Examiners may form an association that is jointly owned by those  
10 practitioners to perform a professional service that falls within  
11 the scope of practice of those practitioners.

12 (4) When doctors of medicine, osteopathy, and  
13 podiatry, ~~or~~ mental health professionals, or physicians and  
14 chiropractors form an association that is jointly owned by those  
15 practitioners, the authority of each of the practitioners is  
16 limited by the scope of practice of the respective practitioners  
17 and none can exercise control over the other's clinical authority  
18 granted by their respective licenses, either through agreements,  
19 bylaws, directives, financial incentives, or other arrangements  
20 that would assert control over treatment decisions made by the  
21 practitioner. The state agencies exercising regulatory control  
22 over professions to which this subdivision applies continue to  
23 exercise regulatory authority over their respective licenses.

24 SECTION 6. Subsection A, Article 11.01, Texas Limited  
25 Liability Company Act (Article 1528n, Vernon's Texas Civil  
26 Statutes), is amended by amending Subdivision (2) and adding  
27 Subdivision (5) to read as follows:

1           (2) Except as provided by Subdivisions (3) ~~and~~ (4) ~~and~~  
2 and (5) of this subsection, a professional limited liability  
3 company:

4           (a) may be organized under this Act only for the  
5 purpose of rendering one specific type of professional service and  
6 ancillary services; and

7           (b) may not render more than one kind of  
8 professional service.

9           (5) Physicians licensed by the Texas Medical Board and  
10 chiropractors licensed by the Texas Board of Chiropractic Examiners  
11 may organize a professional limited liability company that is  
12 jointly owned by those practitioners to perform a professional  
13 service that falls within the scope of practice of those  
14 practitioners. When physicians and chiropractors organize a  
15 professional limited liability company that is jointly owned by  
16 those practitioners, the authority of each of the practitioners is  
17 limited by the scope of practice of the respective practitioners  
18 and none can exercise control over the other's clinical authority  
19 granted by their respective licenses, either through agreements,  
20 bylaws, directives, financial incentives, or other arrangements  
21 that would assert control over treatment decisions made by the  
22 practitioner. The Texas Medical Board and the Texas Board of  
23 Chiropractic Examiners continue to exercise regulatory authority  
24 over their respective licenses.

25           SECTION 7. Section 2.02, Texas Revised Partnership Act  
26 (Article 6132b-2.02, Vernon's Texas Civil Statutes), is amended by  
27 adding Subsection (f) to read as follows:

1       (f) Authority of Physicians and Chiropractors to Create  
2 Partnership. Physicians licensed by the Texas Medical Board and  
3 chiropractors licensed by the Texas Board of Chiropractic Examiners  
4 may create a partnership that is jointly owned by those  
5 practitioners to perform a professional service that falls within  
6 the scope of practice of those practitioners. When physicians and  
7 chiropractors create a partnership that is jointly owned by those  
8 practitioners, the authority of each of the practitioners is  
9 limited by the scope of practice of the respective practitioners  
10 and none can exercise control over the other's clinical authority  
11 granted by their respective licenses, either through agreements,  
12 bylaws, directives, financial incentives, or other arrangements  
13 that would assert control over treatment decisions made by the  
14 practitioner. The Texas Medical Board and the Texas Board of  
15 Chiropractic Examiners continue to exercise regulatory authority  
16 over their respective licenses.

17       SECTION 8. This Act takes effect immediately if it receives  
18 a vote of two-thirds of all the members elected to each house, as  
19 provided by Section 39, Article III, Texas Constitution. If this  
20 Act does not receive the vote necessary for immediate effect, this  
21 Act takes effect September 1, 2009.