

By: Turner of Harris

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.