

By: Patrick

S.B. No. 2151

A BILL TO BE ENTITLED

AN ACT

relating to ambulatory surgical centers and to the provision of services at those centers by certain designated physician groups.

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

SECTION 1. Section 243.002, Health and Safety Code, is amended by amending Subdivision (3) and adding Subdivisions (3-a), (3-b), and (5) to read as follows:

(3) "Department" means the [~~Texas~~] Department of State Health Services.

(3-a) "Designated physician group" means any business entity formed exclusively by one or more physicians licensed to practice medicine in this state, including a professional association, a professional corporation, a professional limited liability company, or a professional limited liability partnership, that has entered into a use agreement.

(3-b) "Facility" means the physical premises that the department determines constitutes an ambulatory surgical center.

(5) "Use agreement" means a written executed agreement between a licensed ambulatory surgical center and a designated physician group under which the ambulatory surgical center allows the designated physician group to use its facility to provide ambulatory surgical center services on a part-time basis to the designated physician group's patients.

SECTION 2. The heading to Section 243.003, Health and

1 Safety Code, is amended to read as follows:

2 Sec. 243.003. LICENSE REQUIRED; USE AGREEMENTS.

3 SECTION 3. Section 243.003, Health and Safety Code, is
4 amended by amending Subsection (c) and adding Subsections (d), (e),
5 (f), and (g) to read as follows:

6 (c) Except as provided by Subsection (d), a [A] license is
7 not transferable or assignable.

8 (d) Except as provided by Subsection (e), an ambulatory
9 surgical center may share its license under a sublicense agreement
10 with one or more designated physician groups that is entered into
11 under the terms of a use agreement, if the ambulatory surgical
12 center:

13 (1) remains responsible for ensuring that the facility
14 and all surgical and other ambulatory surgical center services
15 provided in the facility by any designated physician group comply
16 with this chapter and applicable department rules; and

17 (2) at least annually, provides the department with:

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

21 (B) any other information that the department
22 requires by rule about the designated physician groups or use
23 agreements.

24 (e) A use agreement under Subsection (d) may not cover a
25 transaction paid for under the Medicare or Medicaid health program.

26 (f) A use agreement entered into under this section must
27 comply with all applicable federal laws and regulations.

1 (g) The department by rule shall prescribe minimum
2 requirements for a use agreement entered into under this chapter.

3 SECTION 4. Section 843.002, Insurance Code, is amended by
4 adding Subdivision (1-a) and amending Subdivision (24) to read as
5 follows:

6 (1-a) "Ambulatory surgical center" means a facility
7 licensed under Chapter 243, Health and Safety Code, and includes a
8 designated physician group operating under a use agreement entered
9 into under that chapter.

10 (24) "Provider" means:

11 (A) a person, other than a physician, who is
12 licensed or otherwise authorized to provide a health care service
13 in this state, including:

14 (i) a chiropractor, registered nurse,
15 pharmacist, optometrist, registered optician, or acupuncturist;
16 or

17 (ii) a pharmacy, hospital, ambulatory
18 surgical center, or other institution or organization;

19 (B) a person who is wholly owned or controlled by
20 a provider or by a group of providers who are licensed or otherwise
21 authorized to provide the same health care service; or

22 (C) a person who is wholly owned or controlled by
23 one or more hospitals and physicians, including a
24 physician-hospital organization.

25 SECTION 5. Section 1301.001, Insurance Code, is amended by
26 amending Subdivisions (1) and (4) and adding Subdivision (1-a) to
27 read as follows:

1 (1) "Ambulatory surgical center" means a facility
2 licensed under Chapter 243, Health and Safety Code, and includes a
3 designated physician group operating under a use agreement entered
4 into under that chapter.

5 (1-a) "Health care provider" means a practitioner,
6 institutional provider, or other person or organization that
7 furnishes health care services and that is licensed or otherwise
8 authorized to practice in this state. The term does not include a
9 physician.

10 (4) "Institutional provider" means an ambulatory
11 surgical center, a hospital, a nursing home, or another [~~other~~]
12 medical or health-related service facility that provides care for
13 the sick or injured or other care that may be covered in a health
14 insurance policy.

15 SECTION 6. Section 401.011, Labor Code, is amended by
16 adding Subdivision (4-a) and amending Subdivision (20) to read as
17 follows:

18 (4-a) "Ambulatory surgical center" means a facility
19 licensed under Chapter 243, Health and Safety Code, and includes a
20 designated physician group operating under a use agreement entered
21 into under that chapter.

22 (20) "Health care facility" means a hospital,
23 ambulatory surgical center, emergency clinic, outpatient clinic,
24 or other facility providing health care.

25 SECTION 7. The change in law made by this Act applies only
26 to a use agreement under Section 243.003, Health and Safety Code, as
27 amended by this Act, that is entered into on or after the effective

1 date of this Act. A use agreement entered into before the effective
2 date of this Act is governed by the law in effect immediately before
3 that date, and that law is continued in effect for that purpose.

4 SECTION 8. This Act takes effect September 1, 2009.

COMMITTEE AMENDMENT NO. 1

Amend S.B. No. 2151, as engrossed, as follows:

(1) In SECTION 3 of the bill, in added Section 243.003(d), Health and Safety Code (page 2, line 8), strike "by Subsection (e)" and substitute "by Subsections (e) and (f)".

(2) In SECTION 3 of the bill, in added Section 243.003(f), Health and Safety Code (page 2, line 27), strike "regulations." and substitute "regulations, including Stark laws and anti-kickback laws and regulations. This chapter may not be construed as:

(1) repealing or modifying, or creating an exception or affirmative defense to, Chapter 102, Occupations Code, or other applicable anti-kickback law or regulation; or

(2) authorizing or relieving any person from civil or criminal liability for any kickback or other act or omission prohibited by those laws or regulations."

(3) In SECTION 3 of the bill, in added Section 243.003(g), Health and Safety Code (page 3, line 2), strike "this chapter." and substitute "this chapter, which must be consistent with the state and federal laws and regulations described by Subsection (f)."