

BILL ANALYSIS

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S.B. 1001
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

There are provisions in current law that limit the ability of health care practitioners to practice their professions. Current law allows some health care practitioners, but not others, to form business entities such as partnerships, professional associations, and professional limited liability companies. For instance, under the Business Organizations Code, physicians and podiatrists can join together to form a partnership, professional association, or professional limited liability company, and physicians, optometrists, and therapeutic optometrists can join together to form a professional association or professional limited liability company. However, other health care practitioners who are authorized under the Occupations Code to perform medical procedures are not authorized to form professional entities with physicians. This inequality prevents health care practitioners from fully collaborating with each other to provide the most appropriate and cost-effective care. There are also provisions in current law that prohibit discrimination in payment or reimbursement of health care practitioners, but those provisions are not being fully complied with by health benefit plans, which has the effect of limiting the ability of certain health care practitioners to fully practice their professions.

The purpose of S.B. 1001 is to eliminate inequities and clarify provisions in existing law with regard to the ability of health care practitioners to practice their professions and be reimbursed for services provided. To prevent state resources from being used to further limit the ability of health care practitioners to practice their professions as authorized by law, the bill also prohibits one health licensing agency from participating in a lawsuit against another health licensing agency.

As proposed, S.B. 1001 amends current law relating to discrimination and restraint of trade against certain persons regulated under the Occupations Code.

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 15.05, Business and Commerce Code, by adding Subsections (e-1), (e-2), (e-3), (e-4), and (f-1) and amending Subsections (g) and (i), as follows:

(e-1) Provides that, notwithstanding Titles 4 (Miscellaneous Commercial Provisions) and 7 (Receipts, Documents of Title, and Other Instruments), Business Organizations Code, it is unlawful to prohibit any person licensed under Subtitle C (Other Professions Performing Medical Procedures), Title 3 (Health Professions), Occupations Code, from forming a partnership, professional association, or professional limited liability company with persons licensed under Subtitle B (Physicians), Title 3, Occupations Code.

(e-2) Provides that with regard to a person licensed under a chapter of Title 3, Occupations Code, who is authorized under state law, rules, or regulations to provide services covered under an insurance policy, it is unlawful for an insurer to:

(1) deny payment or reimbursement for the services solely because the services are provided by a person licensed under a particular chapter of Title 3,

Occupations Code, if the services are performed in strict compliance with state laws, rules, and regulations relating to that person's license, and the insurer allows payment or reimbursement for the same services provided by a person licensed under a different chapter of Title 3, Occupations Code;

(2) make payment or reimbursement for particular services that the person is authorized to provide under state law, rules, or regulations contingent on provision of those services by a person licensed under a different chapter of Title 3, Occupations Code; or

(3) establish a cap on annual expenditures for or number of visits to a person licensed to provide covered services under a particular chapter of Title 3, Occupations Code, that would prohibit the insured from seeking the provision of covered services from a person licensed to provide covered services under that chapter of Title 3, Occupations Code, to the same extent that the insured may seek the provision of covered services by a person licensed to provide those services under a different chapter of Title 3, Occupations Code.

(e-3) Provides that it is unlawful for a licensing or regulatory entity created under Title 3, Occupations Code, to file, join, serve as an amicus curiae, or otherwise participate in a lawsuit against another licensing or regulatory entity created under Title 3, Occupations Code, for any purpose, including the purpose of preventing persons licensed under a particular chapter of Title 3, Occupations Code, from providing services that those persons have been legally trained and licensed by the state to perform.

(e-4) Provides that notwithstanding any other law, it is unlawful to prevent by any means a person licensed under a particular chapter of Title 3, Occupations Code, from:

(1) collaborating with a person licensed under a different chapter of Title 3, Occupations Code, in providing services to a client if each person performs only those services that the person is authorized under state law, rules, or regulations to perform; or

(2) using objective or subjective means to diagnose, analyze, examine, or evaluate the condition of the person's client for the purpose of providing services to the client that the person is authorized under state laws, rules, or regulations to provide; or referring the client to an appropriate person licensed under another chapter of Title 3, Occupations Code, for the provision of services needed by the client.

(f-1) Provides that notwithstanding any other law, it is not lawful for a person licensed under another chapter of Title 3, Occupations Code, to use the same billing codes used by a person licensed under Chapter 453 (Physical Therapists), Occupations Code, if the billing codes describe services that the person is authorized under state law, rules, or regulations to provide.

(g) Requires that except as provided by Subsections (e-3) and (e-4), nothing in this section applies to actions required or affirmatively approved by any statute of this state or of the United States or by a regulatory agency of this state or of the United States duly acting under any constitutional or statutory authority vesting the agency with such power.

(i) Redefines "professional services" for purposes of this subsection.

SECTION 2. Effective date: September 1, 2011.