

BILL ANALYSIS

S.B. 1661
By: Duncan
Public Health
Committee Report (Unamended)

BACKGROUND AND PURPOSE

While Texas is one of the few states that continues to enforce some form of prohibition on the corporate practice of medicine, exemptions have been granted that allow certain types of health organizations certified by the Texas Medical Board to employ physicians. Current law does not adequately provide for the protection of the independent medical judgment of a physician employed by these types of health organizations, however. S.B. 1661 seeks to establish such protections by prohibiting certain health organizations employing physicians from interfering with, controlling, or otherwise directing a physician's professional judgment.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

S.B. 1661 amends the Occupations Code to prohibit a health organization approved and certified by the Texas Medical Board that, among other requirements, is a nonprofit organization under the Texas Non-Profit Corporation Act organized for certain purposes relating to the study or practice of medicine from interfering with, controlling, or otherwise directing a physician's professional judgment in violation of provisions relating to the regulation of such organizations or any other provision of law, including board rules.

S.B. 1661 requires such a health organization to adopt, maintain, and enforce policies to ensure that a physician employed by the health organization exercises independent medical judgment when providing care to patients, including policies relating to credentialing, quality assurance, utilization review, and peer review.

S.B. 1661 requires the policies, including any amendments to the policies, to be developed by the board of directors or board of trustees, as applicable, of the health organization and approved by an affirmative vote. The bill requires the policies to be drafted and interpreted in a manner that reserves the sole authority to engage in the practice of medicine to a physician participating in the health organization, regardless of the physician's employment status with the health organization. The bill makes its provisions relating to health organization policies effective January 1, 2012.

S.B. 1661 establishes that a physician employed by such a health organization retains independent medical judgment in providing care to patients and prohibits the health organization from disciplining the physician for reasonably advocating for patient care. The bill prohibits the requirements established by the provisions of law relating to the regulation of certain nonprofit health corporations certified by the board from being voided or waived by contract. The bill authorizes a member of such a health organization to establish ethical and religious directives and authorizes a physician to contractually agree to comply with those directives.

S.B. 1661 authorizes, rather than requires, the board to revoke the board's certification of a health organization on a determination that the organization is established, organized, or operated in violation of or with the intent to violate the Medical Practice Act and includes the imposition of an administrative penalty against the health organization as provided by the Medical Practice Act in the actions the board is authorized to take on such a determination.

EFFECTIVE DATE

Except as otherwise provided, September 1, 2011.