

By: J. Davis of Harris

H.B. No. 2098

A BILL TO BE ENTITLED

AN ACT

relating to the authority of physicians and physician assistants to form certain entities.

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

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

Sec. 22.0561. CORPORATIONS FORMED BY PHYSICIANS AND PHYSICIAN ASSISTANTS. (a) Physicians licensed under Subtitle B, Title 3, Occupations Code, and physician assistants licensed under Chapter 204, Occupations Code, may form a corporation to perform a professional service that falls within the scope of practice of those practitioners and consists of:

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

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

(3) developing the capabilities of individuals or institutions studying, teaching, or practicing medicine or acting as a physician assistant;

(4) delivering health care to the public; or

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

(b) A physician assistant may not be an officer of the

1 corporation.

2 (c) A physician assistant may not contract with or employ a
3 physician to be a supervising physician of the physician assistant
4 or of any physician in the corporation.

5 (d) The authority of each practitioner is limited by the
6 scope of practice of the respective practitioner. An organizer of
7 the entity must be a physician and ensure that a physician or
8 physicians control and manage the entity.

9 (e) Nothing in this section may be construed to allow the
10 practice of medicine by someone not licensed as a physician under
11 Subtitle B, Title 3, Occupations Code, or to allow a person not
12 licensed as a physician to direct the activities of a physician in
13 the practice of medicine.

14 (f) A physician assistant or combination of physician
15 assistants may have only a minority ownership interest in an entity
16 created under this section. The ownership interest of an individual
17 physician assistant may not equal or exceed the ownership interest
18 of any individual physician owner. A physician assistant or
19 combination of physician assistants may not interfere with the
20 practice of medicine by a physician owner or the supervision of
21 physician assistants by a physician owner.

22 (g) The Texas Medical Board and the Texas Physician
23 Assistant Board continue to exercise regulatory authority over
24 their respective license holders according to applicable law. To
25 the extent of a conflict between Subtitle B, Title 3, Occupations
26 Code, and Chapter 204, Occupations Code, or any rules adopted under
27 those statutes, Subtitle B, Title 3, or a rule adopted under that

1 subtitle controls.

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

5 Sec. 152.0551. PARTNERSHIPS FORMED BY PHYSICIANS AND
6 PHYSICIAN ASSISTANTS. (a) Physicians licensed under Subtitle B,
7 Title 3, Occupations Code, and physician assistants licensed under
8 Chapter 204, Occupations Code, may create a partnership to perform
9 a professional service that falls within the scope of practice of
10 those practitioners.

11 (b) A physician assistant may not be a general partner or
12 participate in the management of the partnership.

13 (c) A physician assistant may not contract with or employ a
14 physician to be a supervising physician of the physician assistant
15 or of any physician in the partnership.

16 (d) The authority of each practitioner is limited by the
17 scope of practice of the respective practitioner. An organizer of
18 the entity must be a physician and ensure that a physician or
19 physicians control and manage the entity.

20 (e) Nothing in this section may be construed to allow the
21 practice of medicine by someone not licensed as a physician under
22 Subtitle B, Title 3, Occupations Code, or to allow a person not
23 licensed as a physician to direct the activities of a physician in
24 the practice of medicine.

25 (f) A physician assistant or combination of physician
26 assistants may have only a minority ownership interest in an entity
27 created under this section. The ownership interest of an individual

1 physician assistant may not equal or exceed the ownership interest
2 of any individual physician owner. A physician assistant or
3 combination of physician assistants may not interfere with the
4 practice of medicine by a physician owner or the supervision of
5 physician assistants by a physician owner.

6 (g) The Texas Medical Board and the Texas Physician
7 Assistant Board continue to exercise regulatory authority over
8 their respective license holders according to applicable law. To
9 the extent of a conflict between Subtitle B, Title 3, Occupations
10 Code, and Chapter 204, Occupations Code, or any rules adopted under
11 those statutes, Subtitle B, Title 3, or a rule adopted under that
12 subtitle controls.

13 SECTION 3. Section 301.012, Business Organizations Code, is
14 amended by adding Subsections (a-1), (a-2), (a-3), (a-4), (a-5),
15 (a-6), and (a-7) to read as follows:

16 (a-1) Persons licensed as physicians under Subtitle B,
17 Title 3, Occupations Code, and persons licensed as physician
18 assistants under Chapter 204, Occupations Code, may form and own a
19 professional association or a professional limited liability
20 company to perform professional services that fall within the scope
21 of practice of those practitioners.

22 (a-2) A physician assistant may not be an officer in the
23 professional association or limited liability company.

24 (a-3) A physician assistant may not contract with or employ
25 a physician to be a supervising physician of the physician
26 assistant or of any physician in the professional association or
27 limited liability company.

1 (a-4) The authority of each practitioner is limited by the
2 scope of practice of the respective practitioner. An organizer of
3 the entity must be a physician and ensure that a physician or
4 physicians control and manage the entity.

5 (a-5) Nothing in this section may be construed to allow the
6 practice of medicine by someone not licensed as a physician under
7 Subtitle B, Title 3, Occupations Code, or to allow a person not
8 licensed as a physician to direct the activities of a physician in
9 the practice of medicine.

10 (a-6) A physician assistant or combination of physician
11 assistants may have only a minority ownership interest in an entity
12 created under this section. The ownership interest of an individual
13 physician assistant may not equal or exceed the ownership interest
14 of any individual physician owner. A physician assistant or
15 combination of physician assistants may not interfere with the
16 practice of medicine by a physician owner or the supervision of
17 physician assistants by a physician owner.

18 (a-7) The Texas Medical Board and the Texas Physician
19 Assistant Board continue to exercise regulatory authority over
20 their respective license holders according to applicable law. To
21 the extent of a conflict between Subtitle B, Title 3, Occupations
22 Code, and Chapter 204, Occupations Code, or any rules adopted under
23 those statutes, Subtitle B, Title 3, or a rule adopted under that
24 subtitle controls.

25 SECTION 4. Subchapter B, Chapter 162, Occupations Code, is
26 amended by adding Section 162.053 to read as follows:

27 Sec. 162.053. JOINTLY OWNED ENTITIES WITH PHYSICIAN

1 ASSISTANTS. (a) A physician who jointly owns an entity with a
2 physician assistant shall report annually to the board the
3 ownership interest and other information required by board rule.

4 (b) The board shall assess a fee for processing each report
5 required by Subsection (a).

6 (c) A report filed under Subsection (a) is public
7 information for purposes of Chapter 552, Government Code.

8 SECTION 5. Subchapter E, Chapter 204, Occupations Code, is
9 amended by adding Section 204.209 to read as follows:

10 Sec. 204.209. JOINTLY OWNED ENTITIES WITH PHYSICIANS. (a)
11 A physician assistant who jointly owns an entity with a physician
12 shall report annually to the physician assistant board the
13 ownership interest and other information required by physician
14 assistant board rule.

15 (b) The physician assistant board shall assess a fee for
16 processing each report required by Subsection (a).

17 (c) A report filed under Subsection (a) is public
18 information for purposes of Chapter 552, Government Code.

19 SECTION 6. The restrictions on ownership interests in
20 Sections 22.0561, 152.0551, and 301.012, Business Organizations
21 Code, apply to an ownership interest acquired on or after the
22 effective date of this Act. An ownership interest acquired before
23 the effective date of this Act is governed by the law in effect at
24 the time the interest was acquired, and the former law is continued
25 in effect for that purpose.

26 SECTION 7. This Act takes effect immediately if it receives
27 a vote of two-thirds of all the members elected to each house, as

H.B. No. 2098

1 provided by Section 39, Article III, Texas Constitution. If this
2 Act does not receive the vote necessary for immediate effect, this
3 Act takes effect September 1, 2011.