

1-1 By: J. Davis of Harris (Senate Sponsor - Uresti) H.B. No. 2098
1-2 (In the Senate - Received from the House May 11, 2011;
1-3 May 12, 2011, read first time and referred to Committee on State
1-4 Affairs; May 21, 2011, reported favorably by the following vote:
1-5 Yeas 6, Nays 2; May 21, 2011, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the authority of physicians and physician assistants to
1-9 form certain entities.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Subchapter B, Chapter 22, Business Organizations
1-12 Code, is amended by adding Section 22.0561 to read as follows:

1-13 Sec. 22.0561. CORPORATIONS FORMED BY PHYSICIANS AND
1-14 PHYSICIAN ASSISTANTS. (a) Physicians licensed under Subtitle B,
1-15 Title 3, Occupations Code, and physician assistants licensed under
1-16 Chapter 204, Occupations Code, may form a corporation to perform a
1-17 professional service that falls within the scope of practice of
1-18 those practitioners and consists of:

1-19 (1) carrying out research in the public interest in
1-20 medical science, medical economics, public health, sociology, or a
1-21 related field;

1-22 (2) supporting medical education in medical schools
1-23 through grants or scholarships;

1-24 (3) developing the capabilities of individuals or
1-25 institutions studying, teaching, or practicing medicine or acting
1-26 as a physician assistant;

1-27 (4) delivering health care to the public; or

1-28 (5) instructing the public regarding medical science,
1-29 public health, hygiene, or a related matter.

1-30 (b) A physician assistant may not be an officer of the
1-31 corporation.

1-32 (c) A physician assistant may not contract with or employ a
1-33 physician to be a supervising physician of the physician assistant
1-34 or of any physician in the corporation.

1-35 (d) The authority of each practitioner is limited by the
1-36 scope of practice of the respective practitioner. An organizer of
1-37 the entity must be a physician and ensure that a physician or
1-38 physicians control and manage the entity.

1-39 (e) Nothing in this section may be construed to allow the
1-40 practice of medicine by someone not licensed as a physician under
1-41 Subtitle B, Title 3, Occupations Code, or to allow a person not
1-42 licensed as a physician to direct the activities of a physician in
1-43 the practice of medicine.

1-44 (f) A physician assistant or combination of physician
1-45 assistants may have only a minority ownership interest in an entity
1-46 created under this section. The ownership interest of an
1-47 individual physician assistant may not equal or exceed the
1-48 ownership interest of any individual physician owner. A physician
1-49 assistant or combination of physician assistants may not interfere
1-50 with the practice of medicine by a physician owner or the
1-51 supervision of physician assistants by a physician owner.

1-52 (g) The Texas Medical Board and the Texas Physician
1-53 Assistant Board continue to exercise regulatory authority over
1-54 their respective license holders according to applicable law. To
1-55 the extent of a conflict between Subtitle B, Title 3, Occupations
1-56 Code, and Chapter 204, Occupations Code, or any rules adopted under
1-57 those statutes, Subtitle B, Title 3, or a rule adopted under that
1-58 subtitle controls.

1-59 SECTION 2. Subchapter B, Chapter 152, Business
1-60 Organizations Code, is amended by adding Section 152.0551 to read
1-61 as follows:

1-62 Sec. 152.0551. PARTNERSHIPS FORMED BY PHYSICIANS AND
1-63 PHYSICIAN ASSISTANTS. (a) Physicians licensed under Subtitle B,
1-64 Title 3, Occupations Code, and physician assistants licensed under

2-1 Chapter 204, Occupations Code, may create a partnership to perform
 2-2 a professional service that falls within the scope of practice of
 2-3 those practitioners.

2-4 (b) A physician assistant may not be a general partner or
 2-5 participate in the management of the partnership.

2-6 (c) A physician assistant may not contract with or employ a
 2-7 physician to be a supervising physician of the physician assistant
 2-8 or of any physician in the partnership.

2-9 (d) The authority of each practitioner is limited by the
 2-10 scope of practice of the respective practitioner. An organizer of
 2-11 the entity must be a physician and ensure that a physician or
 2-12 physicians control and manage the entity.

2-13 (e) Nothing in this section may be construed to allow the
 2-14 practice of medicine by someone not licensed as a physician under
 2-15 Subtitle B, Title 3, Occupations Code, or to allow a person not
 2-16 licensed as a physician to direct the activities of a physician in
 2-17 the practice of medicine.

2-18 (f) A physician assistant or combination of physician
 2-19 assistants may have only a minority ownership interest in an entity
 2-20 created under this section. The ownership interest of an
 2-21 individual physician assistant may not equal or exceed the
 2-22 ownership interest of any individual physician owner. A physician
 2-23 assistant or combination of physician assistants may not interfere
 2-24 with the practice of medicine by a physician owner or the
 2-25 supervision of physician assistants by a physician owner.

2-26 (g) The Texas Medical Board and the Texas Physician
 2-27 Assistant Board continue to exercise regulatory authority over
 2-28 their respective license holders according to applicable law. To
 2-29 the extent of a conflict between Subtitle B, Title 3, Occupations
 2-30 Code, and Chapter 204, Occupations Code, or any rules adopted under
 2-31 those statutes, Subtitle B, Title 3, or a rule adopted under that
 2-32 subtitle controls.

2-33 SECTION 3. Section 301.012, Business Organizations Code, is
 2-34 amended by adding Subsections (a-1), (a-2), (a-3), (a-4), (a-5),
 2-35 (a-6), and (a-7) to read as follows:

2-36 (a-1) Persons licensed as physicians under Subtitle B,
 2-37 Title 3, Occupations Code, and persons licensed as physician
 2-38 assistants under Chapter 204, Occupations Code, may form and own a
 2-39 professional association or a professional limited liability
 2-40 company to perform professional services that fall within the scope
 2-41 of practice of those practitioners.

2-42 (a-2) A physician assistant may not be an officer in the
 2-43 professional association or limited liability company.

2-44 (a-3) A physician assistant may not contract with or employ
 2-45 a physician to be a supervising physician of the physician
 2-46 assistant or of any physician in the professional association or
 2-47 limited liability company.

2-48 (a-4) The authority of each practitioner is limited by the
 2-49 scope of practice of the respective practitioner. An organizer of
 2-50 the entity must be a physician and ensure that a physician or
 2-51 physicians control and manage the entity.

2-52 (a-5) Nothing in this section may be construed to allow the
 2-53 practice of medicine by someone not licensed as a physician under
 2-54 Subtitle B, Title 3, Occupations Code, or to allow a person not
 2-55 licensed as a physician to direct the activities of a physician in
 2-56 the practice of medicine.

2-57 (a-6) A physician assistant or combination of physician
 2-58 assistants may have only a minority ownership interest in an entity
 2-59 created under this section. The ownership interest of an
 2-60 individual physician assistant may not equal or exceed the
 2-61 ownership interest of any individual physician owner. A physician
 2-62 assistant or combination of physician assistants may not interfere
 2-63 with the practice of medicine by a physician owner or the
 2-64 supervision of physician assistants by a physician owner.

2-65 (a-7) The Texas Medical Board and the Texas Physician
 2-66 Assistant Board continue to exercise regulatory authority over
 2-67 their respective license holders according to applicable law. To
 2-68 the extent of a conflict between Subtitle B, Title 3, Occupations
 2-69 Code, and Chapter 204, Occupations Code, or any rules adopted under

3-1 those statutes, Subtitle B, Title 3, or a rule adopted under that
3-2 subtitle controls.

3-3 SECTION 4. Subchapter B, Chapter 162, Occupations Code, is
3-4 amended by adding Section 162.053 to read as follows:

3-5 Sec. 162.053. JOINTLY OWNED ENTITIES WITH PHYSICIAN
3-6 ASSISTANTS. (a) A physician who jointly owns an entity with a
3-7 physician assistant shall report annually to the board the
3-8 ownership interest and other information required by board rule.

3-9 (b) The board shall assess a fee for processing each report
3-10 required by Subsection (a).

3-11 (c) A report filed under Subsection (a) is public
3-12 information for purposes of Chapter 552, Government Code.

3-13 SECTION 5. Subchapter E, Chapter 204, Occupations Code, is
3-14 amended by adding Section 204.209 to read as follows:

3-15 Sec. 204.209. JOINTLY OWNED ENTITIES WITH PHYSICIANS.

3-16 (a) A physician assistant who jointly owns an entity with a
3-17 physician shall report annually to the physician assistant board
3-18 the ownership interest and other information required by physician
3-19 assistant board rule.

3-20 (b) The physician assistant board shall assess a fee for
3-21 processing each report required by Subsection (a).

3-22 (c) A report filed under Subsection (a) is public
3-23 information for purposes of Chapter 552, Government Code.

3-24 SECTION 6. The restrictions on ownership interests in
3-25 Sections 22.0561, 152.0551, and 301.012, Business Organizations
3-26 Code, apply to an ownership interest acquired on or after the
3-27 effective date of this Act. An ownership interest acquired before
3-28 the effective date of this Act is governed by the law in effect at
3-29 the time the interest was acquired, and the former law is continued
3-30 in effect for that purpose.

3-31 SECTION 7. This Act takes effect immediately if it receives
3-32 a vote of two-thirds of all the members elected to each house, as
3-33 provided by Section 39, Article III, Texas Constitution. If this
3-34 Act does not receive the vote necessary for immediate effect, this
3-35 Act takes effect September 1, 2011.

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