

BILL ANALYSIS

Senate Research Center

C.S.S.B. 941
By: Armbrister
Health Services
5/5/1999
Committee Report (Substituted)

DIGEST

Currently, Article 1528n, V.T.C.S., prohibits persons holding different licenses from forming a limited liability company. Specifically, this statute provides that a professional limited liability company organized under this Act may not render more than one kind or professional service. A similar restraint is found in Article 1528e, V.T.C.S., which authorizes a professional corporation to be organized under this Act only for the purpose of rendering one specific type of professional service and services ancillary thereto. Article 1528f, V.T.C.S., has a general requirement that all members of an association be licensed to perform the type of professional service for which the association was formed, but also allows doctors of medicine and osteopathy and podiatrists to form a jointly-owned association to perform a professional service in line with their scope of practice. C.S.S.B. 941 would provide an exception to allow multidisciplinary groups of mental health providers, other than physicians, to form a jointly owned association or incorporate to perform a professional service in line with their scope of practice similar to the exception granted to doctors of medicine and osteopathy and podiatrists.

PURPOSE

As proposed, C.S.S.B. 941 sets forth the authority of mental health providers, other than physicians, to form certain jointly owned entities.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 4, Article 1528e, V.T.C.S. (The Texas Professional Corporation Act), to provide that no professional corporation organized under this Act shall render more than one kind of professional service, except as provided by Subsection (b). Authorizes professionals, other than physicians, engaged in related mental health fields, such as psychology, clinical social work, licensed professional counseling, and licensed marriage and family therapy, to form a professional corporation under this Act to perform professional services that fall within the scope of practice of those practitioners. Provides that the authority of each of the practitioners is limited by the scope of practice of the respective practitioners and none can exercise control over the other's clinical authority granted by their respective licenses either through agreements, bylaws, directives, financial incentives, or other arrangements that would assert control over treatment decisions made by the practitioner, when professionals engaged in related mental health fields form a corporation under this Act. Provides that the state agencies exercising regulatory control over professions to which this subsection applies continue to exercise regulatory authority over the respective licenses of the professional. Makes conforming changes.

SECTION 2. Amends Section 2(B), Article 1528f, V.T.C.S. (The Texas Professional Association Act), to authorize professionals, other than physicians, engaged in related mental health fields such as psychology, clinical social work, licensed professional counseling, and licensed marriage and family therapy to form an association that is jointly owned by those practitioners to perform professional services that fall within the scope of practice of those practitioners. Provides that the authority of each of the practitioners is limited by the scope of practice of the respective practitioners and one can exercise control over the other's clinical authority granted by their respective licenses, either through agreements, bylaws, directives, financial incentives, or other arrangements that would assert control over treatment decisions made by the practitioner, when doctors of medicine, osteopathy, and podiatry or mental health professionals form an association that is jointly owned by those practitioners. Provides that the state agencies exercising regulatory control over professions to which this subdivision applies continue to exercise regulatory

authority over their respective licenses. Deletes text regarding the Texas State Board of Medical Examiners and Texas State Board of Podiatric Medical Examiners. Makes conforming changes.

SECTION 3. Amends Article 11.01A, Article 1528n, V.T.C.S. (Texas Limited Liability Company Act), to require the articles of organization of a professional limited liability company to include a statement, except as provided by Subdivision (3) of this subsection. Authorizes professionals, other than physicians, engaged in related mental health fields such as psychology, clinical social work, licensed professional counseling, and licensed marriage and family therapy to organize a professional limited liability company that is jointly owned by those practitioners to perform a professional service that falls within the scope of practice of those practitioners. Provides that the authority of each of the practitioners is limited by the scope of practice of the respective practitioners and none can exercise control over the other's clinical authority granted by their respective licenses, either through agreements, bylaws, directives, financial incentives, or other arrangements that would assert control over treatment decisions made by the practitioners, when mental health professionals organize a professional limited liability company that is jointly owned by those practitioners. Provides that the state agencies exercising regulatory control over professions to which this subdivision applies continue to exercise regulatory authority over their respective licenses. Deletes text prohibiting a professional limited liability company from rendering more than one kind of service. Makes conforming and nonsubstantive changes.

SECTION 4. Emergency clause.

Effective date: upon passage.

SUMMARY OF COMMITTEE CHANGES

SECTION 1.

Amends Section 4, Article 1528e, V.T.C.S., to authorize professionals, other than physicians, engaged in related mental health fields, such as psychology, clinical social work, licensed professional counseling, and licensed marriage and family therapy, to form a professional corporation under this Act to perform professional services that fall within the scope of practice of those practitioners. Deletes text regarding psychiatry from the list of professions.

SECTION 2.

Amends Section 2(B), Article 1528f, V.T.C.S., to authorize professionals, other than physicians, engaged in related mental health fields such as psychology, clinical social work, licensed professional counseling, and licensed marriage and family therapy to form an association that is jointly owned by those practitioners to perform professional services that fall within the scope of practice of those practitioners. Deletes text regarding psychiatry from the list of professions.

SECTION 3.

Amends Article 11.01A, Article 1528n, V.T.C.S., to authorize professionals, other than physicians, engaged in related mental health fields such as psychology, clinical social work, licensed professional counseling, and licensed marriage and family therapy to organize a professional limited liability company that is jointly owned by those practitioners to perform a professional service that falls within the scope of practice of those practitioners. Deletes text regarding psychiatry from the list of professions.