

1-1 By: Patrick S.B. No. 848
1-2 (In the Senate - Filed February 22, 2011; March 1, 2011,
1-3 read first time and referred to Committee on Health and Human
1-4 Services; April 21, 2011, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 6, Nays 3;
1-6 April 21, 2011, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 848 By: Patrick

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to ambulatory surgical centers and to the provision of
1-11 services at those centers by certain designated physician groups.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Section 243.002, Health and Safety Code, is
1-14 amended by amending Subdivision (3) and adding Subdivisions (3-a),
1-15 (3-b), and (5) to read as follows:

1-16 (3) "Department" means the [Texas] Department of State
1-17 Health Services.

1-18 (3-a) "Designated physician group" means any business
1-19 entity formed exclusively by one or more physicians licensed to
1-20 practice medicine in this state, including a professional
1-21 association, a professional corporation, a professional limited
1-22 liability company, or a professional limited liability
1-23 partnership, that has entered into a use agreement.

1-24 (3-b) "Facility" means the physical premises that the
1-25 department determines constitute an ambulatory surgical center.

1-26 (5) "Use agreement" means a written executed agreement
1-27 between a licensed ambulatory surgical center and a designated
1-28 physician group under which the ambulatory surgical center allows
1-29 the designated physician group to use its facility to provide
1-30 ambulatory surgical center services on a part-time basis to the
1-31 designated physician group's patients.

1-32 SECTION 2. The heading to Section 243.003, Health and
1-33 Safety Code, is amended to read as follows:

1-34 Sec. 243.003. LICENSE REQUIRED; USE AGREEMENTS.

1-35 SECTION 3. Section 243.003, Health and Safety Code, is
1-36 amended by amending Subsection (c) and adding Subsections (d)
1-37 through (i) to read as follows:

1-38 (c) Except as provided by Subsection (d), a [A] license is
1-39 not transferable or assignable.

1-40 (d) Except as provided by Subsection (e) and subject to
1-41 Subsection (f), an ambulatory surgical center may share its license
1-42 under a sublicense agreement with one or more designated physician
1-43 groups that is entered into under the terms of a use agreement, if:

1-44 (1) the ambulatory surgical center:

1-45 (A) remains responsible for ensuring that the
1-46 facility and all surgical and other ambulatory surgical center
1-47 services provided in the facility by any designated physician group
1-48 comply with this chapter and applicable department rules; and
1-49 (B) at least annually, provides the department
1-50 with:

1-51 (i) a list of the designated physician
1-52 groups with which the ambulatory surgical center has entered into
1-53 use agreements; and

1-54 (ii) any other information that the
1-55 department requires by rule about the designated physician groups
1-56 or use agreements; and

1-57 (2) the designated physician group notifies each
1-58 patient to whom the group provides ambulatory surgical center
1-59 services at the facility that the group has a financial
1-60 relationship through a use agreement with the ambulatory surgical
1-61 center and of the impact of that agreement on the network status of
1-62 the ambulatory surgical center services provided.

1-63 (e) A use agreement under Subsection (d) may not cover a
1-64 transaction paid for under the Medicare or Medicaid program.

1-65 (f) A use agreement entered into under this section must
1-66 comply with all applicable federal laws and regulations.

2-1 (g) Fees under a use agreement entered into under this
 2-2 chapter must be equal to the fair market value of the use of the
 2-3 facility under the agreement, consistent with Chapter 102,
 2-4 Occupations Code.

2-5 (h) Notwithstanding any other law, an insurer or other
 2-6 entity authorized under the Insurance Code or any other law to offer
 2-7 a health benefit plan is not required to contract or prohibited from
 2-8 contracting with a designated physician group that is operating
 2-9 under a use agreement.

2-10 (i) The department by rule shall prescribe minimum
 2-11 requirements for a use agreement entered into under this chapter.

2-12 SECTION 4. Section 843.002, Insurance Code, is amended by
 2-13 adding Subdivision (1-a) and amending Subdivision (24) to read as
 2-14 follows:

2-15 (1-a) "Ambulatory surgical center" means a facility
 2-16 licensed under Chapter 243, Health and Safety Code, and includes a
 2-17 designated physician group operating under a use agreement entered
 2-18 into under that chapter.

2-19 (24) "Provider" means:

2-20 (A) a person, other than a physician, who is
 2-21 licensed or otherwise authorized to provide a health care service
 2-22 in this state, including:

2-23 (i) a chiropractor, registered nurse,
 2-24 pharmacist, optometrist, registered optician, or acupuncturist; or
 2-25 (ii) a pharmacy, hospital, ambulatory
 2-26 surgical center, or other institution or organization;

2-27 (B) a person who is wholly owned or controlled by
 2-28 a provider or by a group of providers who are licensed or otherwise
 2-29 authorized to provide the same health care service; or

2-30 (C) a person who is wholly owned or controlled by
 2-31 one or more hospitals and physicians, including a
 2-32 physician-hospital organization.

2-33 SECTION 5. Section 1301.001, Insurance Code, is amended by
 2-34 amending Subdivisions (1) and (4) and adding Subdivision (1-a) to
 2-35 read as follows:

2-36 (1) "Ambulatory surgical center" means a facility
 2-37 licensed under Chapter 243, Health and Safety Code, and includes a
 2-38 designated physician group operating under a use agreement entered
 2-39 into under that chapter.

2-40 (1-a) "Health care provider" means a practitioner,
 2-41 institutional provider, or other person or organization that
 2-42 furnishes health care services and that is licensed or otherwise
 2-43 authorized to practice in this state. The term does not include a
 2-44 physician.

2-45 (4) "Institutional provider" means an ambulatory
 2-46 surgical center, a hospital, a nursing home, or another [other]
 2-47 medical or health-related service facility that provides care for
 2-48 the sick or injured or other care that may be covered in a health
 2-49 insurance policy.

2-50 SECTION 6. Section 401.011, Labor Code, is amended by
 2-51 adding Subdivision (4-a) and amending Subdivision (20) to read as
 2-52 follows:

2-53 (4-a) "Ambulatory surgical center" means a facility
 2-54 licensed under Chapter 243, Health and Safety Code, and includes a
 2-55 designated physician group operating under a use agreement entered
 2-56 into under that chapter.

2-57 (20) "Health care facility" means a hospital,
 2-58 ambulatory surgical center, emergency clinic, outpatient clinic,
 2-59 or other facility providing health care.

2-60 SECTION 7. The change in law made by this Act applies only
 2-61 to a use agreement under Section 243.003, Health and Safety Code, as
 2-62 amended by this Act, that is entered into on or after the effective
 2-63 date of this Act. A use agreement entered into before the effective
 2-64 date of this Act is governed by the law in effect immediately before
 2-65 that date, and that law is continued in effect for that purpose.

2-66 SECTION 8. This Act takes effect September 1, 2011.

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