

Legislative Analysis



PLLC: PHYSICIANS & PHYSICIAN ASSISTANTS

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Senate Bill 26 as passed by the Senate
Senate Bill 27 as passed by the Senate
Senate Bill 28 as passed by the Senate
Sponsor: Sen. Tony Stamas
House Committee: Health Policy
Senate Committee: Health Policy

Complete to 6-28-10

A SUMMARY OF SENATE BILLS 26-28 AS REPORTED BY HOUSE COMMITTEE 5-11-10

Taken together, the bills would amend separate acts pertaining to a professional service corporation or professional limited liability company formed between physicians, podiatrists, and physician assistants (PAs); prohibit such entities from comprising only PAs; allow an exception, with some conditions, for PA-only PLLCs or professional service corporations in existence before the bill's effective date; and require certain disclosures on the license renewal form for PAs. The bills are tie-barred to each other.

Senate Bill 26 would amend the Public Health Code (MCL 333.17048) to do the following:

- Require – beginning on the bill's effective date – physicians or podiatrists who organized a professional service corporation or a professional limited liability company (PLLC) with physician assistants (PAs) to be shareholders in the same professional service corporation or members in the same PLLC as the physician assistants they supervise and require the supervising physicians to meet applicable requirements of their respective licensing acts.
- Require the physicians supervising PAs who, before the bill took effect, had organized a professional service corporation or a PLLC that had only PAs as shareholders or members to likewise meet applicable requirements of their respective licensing acts..
- Require the Department of Community Health to include on the license renewal form a space for a PA to disclose whether he or she was a shareholder in a professional service corporation or a member in a PLLC organized before the bill took effect.
- Require a PA who is a shareholder or member to disclose in the license renewal form whether any physicians or podiatrists were shareholders or members; the name and license number of the supervising physician or podiatrist; and whether

the supervising physician or podiatrist was a shareholder or member in the same professional service corporation or PLLC as the PA.

Senate Bills 27 and 28 would make identical changes to the Professional Service Corporation Act (MCL 450.222 and 450.224) and the Michigan Limited Liability Company Act (MCL 450.4902 and 450.4904), respectively, to do the following:

- Include services rendered by a physician assistant in the definition of "professional service."
- Allow physicians and podiatrists to organize a PLLC with other physicians and podiatrists licensed under the Public Health Code.
- Allow physicians and podiatrists to organize a professional corporation or a PLLC with PAs.
- Prohibit – beginning on the bills' effective date – physician assistants from organizing a professional corporation or PLLC that would have only PAs as shareholders.

FISCAL IMPACT:

The bills would have no fiscal impact on the state or local units of government.

BACKGROUND INFORMATION:

Currently, the Professional Service Corporation Act requires all shareholders of a professional corporation rendering professional services that are included within the Public Health Code to be licensed or legally authorized in the state to render the same professional service. For instance, allopathic physicians (M.D.s), osteopathic physicians (D.O.s), and podiatrists are allowed under the act to organize professional corporations with each other. However, though members of other licensed or regulated health professions may also organize professional corporations, each profession may only incorporate with other members of the same profession. Thus, under current law, a physician's assistant (PA) may only incorporate with other PAs.

According to committee testimony, an attorney general opinion from the mid-1990s allowed PAs to form a professional corporation with physicians. More recently, only corporations with only PAs or only physicians have been approved because under the underlined phrase above, PAs – though supervised by physicians – have not been considered to be rendering the "same professional service." The bills would amend various acts to specifically allow physicians, podiatrists, and PAs to jointly form professional corporations. In addition, the bill would disallow the formation of PA-only professional corporations.

Supporters maintain that enactment of the bills will restore the older interpretation and fix the problem of those corporations formed years ago that now operate outside the law. Supporters believe that allowing PAs to incorporate with physicians will not impede the supervisory role of those physicians. In addition, supporters believe that the change in the law will increase healthcare jobs and increase access to healthcare.

The professional association representing M.D.s opposes the legislation and has concerns regarding the inherent conflict between corporate ownership and professional obligations. For example, MSMS asks if the physician supervising a PA would have the same level of professional autonomy if that same physician were employed by a practice in which the PAs had majority ownership. In addition, could a supervising physician be outvoted by the very shareholders (PAs) he or she supervises in a meeting discussing the delivery of care? Though acknowledging Michigan has areas suffering acute shortages of health professionals, the MSMS believes that the legislation would apply in all circumstances, apply throughout the state, and "would undercut one of the underlying premises" of the Professional Service Corporation Act.

POSITIONS:

A representative of the Michigan Academy of Physician Assistants testified in support of the bill. (5-11-10)

The Department of Community Health indicated support for the bill. (5-11-10)

The Michigan Association of Health Plans indicated support for the bill. (5-11-10)

The Michigan State Medical Society (MSMS) submitted written testimony opposing the bill. (5-11-10)

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.