

SUBJECT: Physician or dentist employment by Federally Qualified Health Centers

COMMITTEE: Public Health — favorable, without amendment

VOTE: 7 ayes — Berlanga, Hirschi, Coleman, Glaze, Janek, Maxey, Rodriguez

0 nays

2 absent — Delisi, McDonald

WITNESSES: For — Alfred Gilchrist, Texas Medical Association; Jose Camacho, Texas Association of Community Health Centers

Against — None

BACKGROUND: A Federally Qualified Health Center (FQHC) is a type of provider recognized by the federal Medicaid and Medicare programs and includes providers that receive federal grants as migrant, community and homeless centers. In 1990 and 1991 the Medicare and Medicaid programs recognized as "look-alike" FQHCs other health care centers that provide care to the poor but do not receive federal grants as migrant, community and homeless health centers (42 USC sec. 1396d(1)(2)(B)). Texas has six "look-alike" FQHCs (in Austin, El Paso, San Antonio, Leakey, Burnet and Richmond) and 34 FQHCs.

The Medical Practice Act and case law prohibit the corporate practice of medicine — entities not licensed by the medical board may not practice medicine or employ physicians. However the practice act allows the state to approve and certify certain nonprofit health corporations, including migrant, community or homeless health centers, to contract with or employ physicians.

The Dental Practice Act prohibits the corporate practice of dentistry. Earlier this session, in legislation reenacting the state dental board (SB 18 by Moncrief), the Legislature amended the act to allow the dental board to certify migrant, community or homeless centers to contract with or employ dentists.

DIGEST: HB 2021 would amend the Medical Practice Act to allow "look-alike" FQHCs to contract or employ physicians and would amend the Dentist Practice Act to allow "look-alike" FQHCs to contract with or employ dentists.

SUPPORTERS SAY: HB 2021 would clear up an unforeseen inconsistency between state and federal laws that arose when federal Medicare and Medicaid laws were changed to authorize reimbursement for "look-alike" FQHCs. HB 2021 proposes a narrow exception to the prohibition against the corporate practice of medicine and would be consistent with existing exceptions.

HB 2021 would allow tax dollars to be spent more efficiently. FQHCs are reimbursed by Medicare and Medicaid for each encounter a patient has with a provider. The federal reimbursement formula includes provider, administrative and overhead costs in the "per encounter" payment. "Look alike" FQHCs and providers currently must draw up contracts and arrangements that can be legally questioned or that may over-reimburse a provider with a substantial portion of the Medicaid or Medicare payment in order to avoid the appearance of provider employment.

OPPONENTS SAY: No apparent opposition.