

Amend CSHB 3485 (Senate committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter B, Chapter 281, Health and Safety Code, is amended by adding Section 281.0282 to read as follows:

Sec. 281.0282. DALLAS COUNTY HOSPITAL DISTRICT; EMPLOYMENT OF HEALTH CARE PROVIDERS AND PHYSICIANS. (a) The board of the Dallas County Hospital District may appoint, contract for, or employ physicians, dentists, and other health care providers as the board considers necessary for the efficient operation of the district.

(b) The term of an employment contract entered into under this section may not exceed four years.

(c) This section may not be construed as authorizing the board of the Dallas County Hospital District to supervise or control the practice of medicine, as prohibited by Subtitle B, Title 3, Occupations Code.

(d) The authority granted to the board of the Dallas County Hospital District under Subsection (a) to employ physicians shall apply only as necessary for the district to fulfill the district's statutory mandate to provide medical care for the indigent and needy residents of the district as provided by Section 281.046.

(e) The Dallas County Hospital District shall establish a committee consisting of at least five actively practicing physicians who provide care in the district. The committee shall approve existing policies or adopt new policies, if no policies exist, to ensure that a physician who is employed by the district is exercising the physician's independent medical judgment in providing care to patients.

(f) The chair of the committee must be a member of the executive committee of the Dallas County Hospital District's medical staff.

(g) The policies adopted or approved by the committee shall include policies relating to credentialing, quality assurance, utilization review, peer review, medical decision-making, governance of the committee, and due process.

(h) Each member of a committee shall provide biennially to

the chief medical officer of the Dallas County Hospital District a signed, verified statement indicating that the committee member:

(1) is licensed by the Texas Medical Board;

(2) will exercise independent medical judgment in all committee matters, including matters relating to credentialing, quality assurance, utilization review, peer review, medical decision-making, and due process;

(3) will exercise the committee member's best efforts to ensure compliance with the Dallas County Hospital District's policies that are adopted or established by the committee; and

(4) will report immediately to the Texas Medical Board any action or event that the committee member reasonably and in good faith believes constitutes a compromise of the independent medical judgment of a physician in caring for a patient.

(i) The committee shall adopt rules requiring the disclosure of financial conflicts of interest by a committee member.

(j) For all matters relating to the practice of medicine, each physician employed by the board shall ultimately report to the chief medical officer of the Dallas County Hospital District.

SECTION _____. Chapter 311, Health and Safety Code, is amended by adding Subchapter E to read as follows:

SUBCHAPTER E. EMPLOYMENT OF PHYSICIANS BY CERTAIN HOSPITALS

Sec. 311.061. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a hospital located in a county with a population of 50,000 or less and operated by a governmental entity.

Sec. 311.062. EMPLOYMENT OF PHYSICIAN PERMITTED. (a) A hospital may employ a physician and retain all or part of the professional income generated by the physician for medical services provided at the hospital if the hospital:

(1) is certified by the Texas Medical Board under Section 162.001(d), Occupations Code;

(2) satisfies the requirements of Subchapter A, Chapter 162, Occupations Code, including Texas Medical Board rules; and

(3) satisfies the requirements of this subchapter.

(b) A hospital subject to this subchapter may continue to

employ any physicians employed by the hospital on or before the date of release of a federal decennial census that shows the county's population exceeds 50,000. The hospital may not employ a new physician after that date.

(c) The requirements of this subchapter and Subchapter A, Chapter 162, Occupations Code, may not be voided or waived by contract.

Sec. 311.063. HOSPITAL POLICIES. (a) A hospital shall adopt, maintain, and enforce policies to ensure that a physician employed under this subchapter whose professional income is retained under Section 311.062 exercises independent medical judgment when providing care to patients at the hospital.

(b) The policies adopted under this section must include policies relating to:

- (1) credentialing and privileges;
- (2) quality assurance;
- (3) utilization review;
- (4) peer review;
- (5) medical decision-making; and
- (6) due process.

(c) The policies adopted under this section, including any amendments to the policies, must be approved by the hospital governing board after input from the medical staff as appropriate.

(d) The policies adopted under this section must include the implementation of a complaint mechanism for processing and resolving complaints regarding interference or attempted interference with the physician's independent medical judgment. The policies must address the manner in which the public can access board complaint procedures.

(e) The policies of the hospital must be drafted and interpreted in a manner that reserves to physicians, including physicians employed and physicians not employed by the hospital, the sole authority to engage in the practice of medicine.

Sec. 311.064. CREDENTIALING AND PRIVILEGES. (a) A physician employed by a hospital under this subchapter is subject to the same standards and procedures regarding credentialing, peer review, quality of care, and privileges as a physician not employed

by the hospital.

(b) A hospital shall give equal consideration regarding the issuance of credentials and privileges to physicians employed by the hospital and physicians not employed by the hospital.

Sec. 311.065. OTHER HOSPITAL-PHYSICIAN RELATIONSHIPS. This subchapter may not be construed as altering, voiding, or prohibiting any relationship between a hospital and a physician, including a contract or arrangement with an approved nonprofit health corporation that is certified under Section 162.001(b), Occupations Code, and that holds a certificate of authority issued under Chapter 844, Insurance Code.

Sec. 311.066. MEDICAL STAFF BYLAWS. The medical staff bylaws of a hospital may not discriminate against or favor a physician based solely on the physician's employment status with the hospital, including emergency call or charity care obligations.

Sec. 311.067. FAIR PROCESS; PEER REVIEW. (a) Termination of a physician's employment by a hospital is subject to a fair review process.

(b) A hospital that employs physicians shall provide peer review and quality assurance through a multi-hospital peer review agreement, an external independent peer review organization, or an internal peer review process approved by the hospital governing board with appropriate input from the medical staff.

Sec. 311.068. REFERRAL OF PATIENTS. (a) In this section, "referral" means referral for admissions, diagnostic tests and procedures, surgeries, or other health care services.

(b) An employment agreement entered into between a physician and a hospital under this subchapter:

(1) must state that the hospital may not set goals regarding referrals; and

(2) may not set, as a condition of employment, the volume or number of referrals that must be made.

Sec. 311.069. NONRETALIATION REQUIREMENTS. (a) A hospital may not terminate, retaliate against, or otherwise penalize a person who reports in good faith to the hospital or the Texas Medical Board a violation or attempted violation of this subchapter, Subchapter A, Chapter 162, Occupations Code, or Texas

Medical Board rules.

(b) A hospital may not prohibit, restrict, or discourage a physician from communicating with the hospital or advocating for a patient regarding medically appropriate health care.

(c) A physician who makes a report under this section:

(1) is immune from civil liability for a report made in good faith; and

(2) may not be disciplined by the Texas Medical Board for any corporate practice of medicine violation related to the reported action, event, or policy.

Sec. 311.070. LIABILITY. (a) In this section:

(1) "Governmental unit" has the meaning assigned by Section 101.001, Civil Practice and Remedies Code.

(2) "Governmental hospital" means a hospital that is owned or operated by a governmental unit.

(3) "Health care liability claim" has the meaning assigned by Section 74.001, Civil Practice and Remedies Code.

(b) Chapters 101 and 108, Civil Practice and Remedies Code, do not apply in an action in which final judgment is rendered in a health care liability claim against a physician employed under this subchapter by a governmental hospital.

(c) A physician's civil liability is limited to a maximum amount of \$250,000 for each single occurrence of bodily injury or death in an action in which final judgment is rendered in a health care liability claim against a physician employed under this subchapter by a governmental hospital.

(d) A governmental hospital shall maintain professional liability insurance or a plan of self-insurance covering each physician employed by the hospital in the amount of \$250,000 for each single occurrence of bodily injury or death.

SECTION _____. Section 162.001, Occupations Code, is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

(a) The board by rule shall certify a health organization that:

(1) applies for certification on a form approved by the board; ~~and~~

(2) presents proof satisfactory to the board that the organization meets the requirements of Subsection (b), ~~(c)~~, or (d); and

(3) states that the health organization has consulted with the organization's medical staff before filing an application for certification under Subsection (d), if appropriate.

(d) The board shall certify a health organization to employ physicians licensed by the board if the organization is in compliance with Subchapter E, Chapter 311, Health and Safety Code, and this subchapter, including board rules.

SECTION _____. Subchapter A, Chapter 162, Occupations Code, is amended by adding Sections 162.004-162.007 to read as follows:

Sec. 162.004. EMPLOYER AND EMPLOYEE REQUIREMENTS. The following requirements apply to an organization certified under Section 162.001(d) that employs physicians:

(1) the organization shall ensure that each physician retains independent medical judgment in providing care to patients at the organization and may not be penalized for reasonably advocating for patient care;

(2) the organization shall provide a certain portion of medical services free of charge, or at a reduced fee commensurate with a patient's ability to pay;

(3) a physician employed by the organization shall participate in the provision of services under Subdivision (2);

(4) an organization may not include or enforce a noncompete clause in a physician employment contract or condition privileges on the continuation or termination of an employment contract; and

(5) a physician who has privileges at the organization and is employed by the hospital and a physician who is not employed by the hospital must be given equal consideration and treatment in the creation and execution of all medical staff bylaw provisions regardless of the physician's employer.

Sec. 162.005. FEES; ENFORCEMENT. (a) The board may charge a reasonable fee as necessary for the certification of an organization under Section 162.001(d) and for the investigation, review, and enforcement of the organization's compliance with this

subchapter and Subchapter E, Chapter 311, Health and Safety Code.

(b) The board may adopt and impose fines and administrative remedies, including the revocation of certification under Section 162.003, for a violation of this subchapter or Subchapter E, Chapter 311, Health and Safety Code.

Sec. 162.006. BIENNIAL COMPLIANCE STATEMENT. When an organization applies for certification, and every two years after that date, an organization seeking certification under Section 162.001(d) shall provide to the board a compliance statement signed by the organization's chief executive officer attesting that the organization is in compliance with all requirements for certification and continued certification, including the requirements of this subchapter and Subchapter E, Chapter 311, Health and Safety Code.

Sec. 162.007. DOCUMENTS IN SUPPORT OF CERTIFICATION AND BIENNIAL COMPLIANCE STATEMENTS. (a) An organization shall submit to the board at the time application for certification under Section 162.001(d) is made a copy of the hospital's policies, bylaws, and medical staff bylaws that demonstrate compliance with the requirements of this subchapter and Subchapter E, Chapter 311, Health and Safety Code.

(b) An organization certified under Section 162.001(d) shall submit to the board as part of the organization's biennial compliance statement copies of any changes or amendments to the hospital's bylaws, policies, and medical staff bylaws that were submitted to the board after the organization's initial approved application for certification.