

By: Duncan

S.B. No. 1500

A BILL TO BE ENTITLED

AN ACT

relating to the employment of physicians by certain hospitals.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. 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 that:

(1) is designated as a critical access hospital under the authority of and in compliance with 42 U.S.C. Section 1395i-4;

(2) is a sole community hospital, as that term is defined by 42 U.S.C. Section 1395ww(d)(5)(D)(iii); or

(3) is located in a county with a population of 50,000 or less.

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.

(b) A hospital located in a county with a population of 50,000 or less 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.

Sec. 311.063. HOSPITAL POLICIES. (a) A hospital shall

1 adopt and maintain policies to ensure that a physician employed
2 under this subchapter whose professional income is retained under
3 Section 311.062 exercises independent medical judgment when
4 providing care to patients at the hospital.

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

- 7 (1) credentialing;
- 8 (2) quality assurance;
- 9 (3) utilization review;
- 10 (4) peer review;
- 11 (5) medical decision-making; and
- 12 (6) due process.

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

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

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

1 SECTION 2. Section 162.001, Occupations Code, is amended by
2 adding Subsection (d) to read as follows:

3 (d) The board shall certify a health organization to employ
4 physicians licensed by the board if the organization:

5 (1) is a critical access hospital under the authority
6 of and in compliance with 42 U.S.C. Section 1395i-4;

7 (2) is a sole community hospital, as that term is
8 defined by 42 U.S.C. Section 1395ww(d)(5)(D)(iii); or

9 (3) is located in a county with a population of 50,000
10 or less.

11 SECTION 3. Subchapter A, Chapter 162, Occupations Code, is
12 amended by adding Section 162.004 to read as follows:

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

16 (1) a physician shall retain independent medical
17 judgment in providing care to patients at the organization and may
18 not be penalized for reasonably advocating for patient care;

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

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

24 (4) an organization may not include a non-compete
25 clause on termination in a physician employment contract; and

26 (5) a physician who has privileges at the organization
27 and is employed by the hospital and a physician who is not employed

1 by the hospital must be given equal consideration and treatment in
2 the creation and execution of all medical staff bylaw provisions
3 regardless of the physician's employer.

4 SECTION 4. This Act takes effect September 1, 2009.