

## **BILL ANALYSIS**

C.S.S.B. 761  
By: West  
Public Health  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Currently, certain charitable hospitals are prohibited from sharing in compensation paid to a physician for medical care services at the hospital. Some charitable hospitals that have not charged for the services of the hospital or physicians have employed physicians directly for decades. With the advent of federal health care reform and the possible creation of a state-run health insurance exchange, a great number of previously uninsured persons may become insured. Interested parties contend that a charitable hospital may seek to participate in third-party reimbursements and share that income with doctors employed by the hospital.

C.S.S.B. 761 seeks to authorize certain charitable hospitals to employ physicians, to provide that the billing and receipt of third-party reimbursements for medical care does not affect the ability of those hospitals to employ physicians, and to establish certain procedures to protect a physician's independent medical judgment and the physician-patient relationship.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.S.B. 761 amends the Health and Safety Code to authorize a hospital to 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 satisfies the requirements of the bill's provisions. The bill makes its provisions applicable only to a hospital that employs or seeks to employ a physician, that primarily provides medical care to children younger than 18 years of age, and that is owned or operated by a nonprofit fraternal organization or has a governing body the majority of members of which belong to a nonprofit fraternal organization. The bill establishes that the billing and receipt of third-party reimbursement for medical care at a hospital does not affect the authority granted to the hospital under the bill's provisions.

C.S.S.B. 761 requires a hospital that employs physicians under the bill's provisions to appoint a chief medical officer, who may be a member of the hospital's medical staff; adopt, maintain, and enforce policies to ensure that a physician employed by the hospital exercises the physician's independent medical judgment in providing care to patients at the hospital; and designate the chief medical officer as the contact for the Texas Medical Board for all matters relating to complaints regarding interference or attempted interference with a physician's independent medical judgment or any other matter under the bill's provisions. The bill requires the person appointed as chief medical officer to report the person's appointment to the Texas Medical Board. The bill requires the policies adopted by a hospital to ensure that a physician employed by the hospital exercises the physician's independent medical judgment in providing care to patients at the hospital to include policies relating to credentialing, quality assurance, utilization review, peer review, and medical decision-making and to include the implementation of a complaint mechanism to process and resolve complaints regarding interference or attempted

interference with a physician's independent medical judgment. The bill requires the adopted policies to be approved by the chief medical officer.

C.S.S.B. 761 requires a conflict management process to be jointly developed and implemented to resolve a conflict in the event of a conflict between a policy approved by the chief medical officer and any other policy of the hospital. The bill requires each physician employed by a hospital under the bill's provisions, for all matters relating to the practice of medicine, to ultimately report to the chief medical officer of the hospital and requires the chief medical officer to immediately report to the Texas Medical Board any action or event that the chief medical officer reasonably and in good faith believes constitutes a compromise of the independent medical judgment of a physician in caring for a patient. The bill prohibits its provisions from being construed as authorizing the governing body of a hospital to supervise or control the practice of medicine as prohibited under the Medical Practice Act.

#### **EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, September 1, 2011.

#### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

C.S.S.B. 761 contains a provision not included in the original requiring a hospital that employs physicians under the bill's provisions to designate the chief medical officer as the contact for the Texas Medical Board for all matters relating to complaints regarding interference or attempted interference with a physician's independent medical judgment or any other matter under the substitute's provisions. The substitute contains a provision not included in the original requiring the person appointed as chief medical officer to report the person's appointment to the Texas Medical Board.

C.S.S.B. 761 differs from the original by requiring a conflict management process to be jointly developed and implemented to resolve a conflict in the event of a conflict between a policy approved by the chief medical officer and any other policy of the hospital, whereas the original requires the policies adopted and approved by the chief medical officer of the hospital to ensure that a physician employed by the hospital exercises the physician's independent medical judgment in providing care to patients at the hospital to control and prevail in the event of a conflict with any other policies of a hospital under the bill's provisions.