

By: Hardcastle

H.B. No. 3809

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the authority of the board of directors of the Muenster
3 Hospital District to employ physicians and other health care
4 providers.

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

6 SECTION 1. The heading to Section 1067.059, Special
7 District Local Laws Code, is amended to read as follows:

8 Sec. 1067.059. [~~APPOINTMENT AND RECRUITMENT OF~~] STAFF AND
9 EMPLOYEES.

10 SECTION 2. Section 1067.059, Special District Local Laws
11 Code, is amended by amending Subsection (b) and adding Subsection
12 (b-1) to read as follows:

13 (b) The board may employ technicians, nurses, health care
14 providers other than physicians, and other employees as considered
15 necessary for the efficient operation of the district [~~hospital~~] or
16 may provide that the district administrator has the authority to
17 admit or employ those persons.

18 (b-1) The board may employ physicians, but only as provided
19 by Section 1067.0595.

20 SECTION 3. Subchapter B, Chapter 1067, Special District
21 Local Laws Code, is amended by adding Section 1067.0595 to read as
22 follows:

23 Sec. 1067.0595. EMPLOYMENT OF PHYSICIANS. (a) The board
24 may employ a physician and retain all or part of the professional

1 income generated by the physician for medical services provided at
2 a hospital or other health care facility owned or operated by the
3 district if the board satisfies the requirements of this section.

4 (b) The board shall:

5 (1) appoint a chief medical officer for the district
6 who has been recommended by the medical staff of the district; and

7 (2) adopt, maintain, and enforce policies to ensure
8 that a physician employed by the district exercises the physician's
9 independent medical judgment in providing care to patients.

10 (c) The policies adopted under this section must include:

11 (1) policies relating to:

12 (A) credentialing and privileges;

13 (B) quality assurance;

14 (C) utilization review;

15 (D) peer review and due process; and

16 (E) medical decision-making; and

17 (2) the implementation of a complaint mechanism to
18 process and resolve complaints regarding interference or attempted
19 interference with a physician's independent medical judgment.

20 (d) The policies adopted under this section must be approved
21 by the district medical staff. The district medical staff and the
22 board shall jointly develop and implement a conflict management
23 policy to resolve any conflict between a medical staff policy and a
24 board policy.

25 (e) For all matters relating to the practice of medicine,
26 each physician employed by the district shall ultimately report to
27 the chief medical officer of the district.

1 (f) The chief medical officer shall notify the Texas Medical
2 Board that the board is employing physicians under this section and
3 that the chief medical officer is the board's designated contact
4 with the Texas Medical Board. The chief medical officer shall
5 immediately report to the Texas Medical Board any action or event
6 that the chief medical officer reasonably and in good faith
7 believes constitutes a compromise of the independent medical
8 judgment of a physician in caring for a patient.

9 (g) The board shall give equal consideration regarding the
10 issuance of medical staff membership and privileges to physicians
11 employed by the district and physicians not employed by the
12 district.

13 (h) A physician employed by the district shall retain
14 independent medical judgment in providing care to patients and may
15 not be disciplined for reasonably advocating for patient care.

16 (i) If the district provides professional liability
17 coverage for physicians employed by the district, a physician
18 employed by the district may participate in the selection of the
19 professional liability coverage, has the right to an independent
20 defense at the physician's own cost, and retains the right to
21 consent to the settlement of any action or proceeding brought
22 against the physician.

23 (j) If a physician employed by the district enters into an
24 employment agreement that includes a covenant not to compete, the
25 agreement is subject to Section 15.50, Business & Commerce Code.

26 (k) The board may not delegate to the district administrator
27 the authority to hire a physician.

1 (1) This section applies to medical services provided by a
2 physician at a hospital or other health care facility owned or
3 operated by the district.

4 (m) This section may not be construed as authorizing the
5 board to supervise or control the practice of medicine as
6 prohibited under Subtitle B, Title 3, Occupations Code.

7 SECTION 4. This Act takes effect immediately if it receives
8 a vote of two-thirds of all the members elected to each house, as
9 provided by Section 39, Article III, Texas Constitution. If this
10 Act does not receive the vote necessary for immediate effect, this
11 Act takes effect September 1, 2011.