

By: Hardcastle

H.B. No. 3816

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the authority of the board of directors of the Nocona
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 1081.060, Special
7 District Local Laws Code, is amended to read as follows:

8 Sec. 1081.060. ~~[APPOINTMENT OF]~~ STAFF AND EMPLOYEES.

9 SECTION 2. Section 1081.060, Special District Local Laws
10 Code, is amended by adding Subsection (b-1) and amending Subsection
11 (c) to read as follows:

12 (b-1) The board may employ physicians, but only as provided
13 by Section 1081.0605. The board may employ other health care
14 providers as the board considers necessary for the efficient
15 operation of the district.

16 (c) Except as provided by Section 1081.0605, the ~~[The]~~ board
17 may delegate to the chief executive officer the authority to hire
18 district employees, including technicians and nurses.

19 SECTION 3. Subchapter B, Chapter 1081, Special District
20 Local Laws Code, is amended by adding Section 1081.0605 to read as
21 follows:

22 Sec. 1081.0605. EMPLOYMENT OF PHYSICIANS. (a) The board
23 may employ a physician and retain all or part of the professional
24 income generated by the physician for medical services provided at

1 a hospital or other health care facility owned or operated by the
2 district if the board satisfies the requirements of this section.

3 (b) The board shall:

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

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

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

10 (1) policies relating to:

11 (A) credentialing and privileges;

12 (B) quality assurance;

13 (C) utilization review;

14 (D) peer review and due process; and

15 (E) medical decision-making; and

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

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

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

27 (f) The chief medical officer shall notify the Texas Medical

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

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

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

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

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

25 (k) The board may not delegate to the chief executive
26 officer of the district the authority to hire a physician.

27 (l) This section applies to medical services provided by a

1 physician at a hospital or other health care facility owned or
2 operated by the district.

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

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