

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 AND CONSTRUCTION OF

SUBCHAPTER. (a) This subchapter applies only to a hospital that employs or seeks to employ a physician and 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.

(b) This subchapter may not be construed as authorizing the governing body of a hospital to supervise or control the practice of medicine, as prohibited under Subtitle B, Title 3, Occupations Code.

Sec. 311.062. EMPLOYMENT OF PHYSICIANS PERMITTED; CONTRACT RESTRICTIONS. (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 satisfies the requirements of this subchapter.

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

3        (c) A hospital that is located in a county with a population  
4 of 50,000 or less and that is not a hospital described by Section  
5 311.061(a)(1) or (2) may continue to employ any physicians employed  
6 by the hospital on or before the date of release of a federal  
7 decennial census that shows the county's population exceeds 50,000.  
8 The hospital may not employ a new physician after that date.

9        Sec. 311.063. HOSPITAL DUTIES AND POLICIES. (a) A hospital  
10 that employs physicians under this subchapter shall:

11            (1) appoint a chief medical officer, who may be a  
12 member of the hospital's medical staff; and

13            (2) adopt, maintain, and enforce policies to ensure  
14 that a physician employed by the hospital exercises the physician's  
15 independent medical judgment in providing care to patients at the  
16 hospital.

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

18            (1) policies relating to:

19                    (A) credentialing;

20                    (B) quality assurance;

21                    (C) utilization review;

22                    (D) peer review; and

23                    (E) medical decision-making; and

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

27        (c) The policies adopted under this section must be approved

1 by the chief medical officer of the hospital.

2 (d) For all matters relating to the practice of medicine,  
3 each physician employed by a hospital under this subchapter shall  
4 ultimately report to the chief medical officer of the hospital.

5 Sec. 311.064. CONTRACTUAL WAIVER OR OTHER ACTION  
6 PROHIBITED. The requirements of this subchapter may not be voided  
7 or waived by contract.

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

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

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

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

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

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

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

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

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