

By: Estes
(King of Parker)

S.B. No. 1255

A BILL TO BE ENTITLED

AN ACT

relating to the employment of physicians by certain municipal hospital authorities.

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

SECTION 1. Subsection (b), Section 262.023, Health and Safety Code, is amended to read as follows:

(b) The board may delegate to the manager or executive director the authority to manage the hospital and to employ and discharge employees other than physicians hired in accordance with Section 262.0235.

SECTION 2. Subchapter C, Chapter 262, Health and Safety Code, is amended by adding Section 262.0235 to read as follows:

Sec. 262.0235. EMPLOYMENT OF PHYSICIANS. (a) This section applies only to an authority that is created by the governing body of a municipality with a population of less than 10,000 and that owns or operates a hospital with more than 50 licensed beds.

(b) The board of an authority may employ a physician and retain all or part of the professional income generated by the physician for medical services provided at a hospital or other health care facility owned or operated by the authority if the board satisfies the requirements of this section.

(c) The board of an authority shall:

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

1 (2) adopt, maintain, and enforce policies to ensure
2 that a physician employed by the authority exercises the
3 physician's independent medical judgment in providing care to
4 patients.

5 (d) The policies adopted under this section must include:

6 (1) policies relating to:

7 (A) credentialing and privileges;

8 (B) quality assurance;

9 (C) utilization review;

10 (D) peer review and due process; and

11 (E) medical decision-making; and

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

15 (e) The policies adopted under this section must be approved
16 by the medical staff of the authority. The medical staff of the
17 authority and the board shall jointly develop and implement a
18 conflict management policy to resolve any conflict between a
19 medical staff policy and a board policy.

20 (f) For all matters relating to the practice of medicine,
21 each physician employed by an authority shall ultimately report to
22 the chief medical officer of the authority.

23 (g) The chief medical officer shall notify the Texas Medical
24 Board that the board is employing physicians under this section and
25 that the chief medical officer is the board's designated contact
26 with the Texas Medical Board. The chief medical officer shall
27 immediately report to the Texas Medical Board any action or event

1 that the chief medical officer reasonably and in good faith
2 believes constitutes a compromise of the independent medical
3 judgment of a physician in caring for a patient.

4 (h) The board of an authority shall give equal consideration
5 regarding the issuance of medical staff membership and privileges
6 to physicians employed by the authority and physicians not employed
7 by the authority.

8 (i) A physician employed by an authority shall retain
9 independent medical judgment in providing care to patients and may
10 not be disciplined for reasonably advocating for patient care.

11 (j) If an authority provides professional liability
12 coverage for physicians employed by the authority, a physician
13 employed by the authority may participate in the selection of the
14 professional liability coverage, has the right to an independent
15 defense at the physician's own cost, and retains the right to
16 consent to the settlement of any action or proceeding brought
17 against the physician.

18 (k) If a physician employed by an authority enters into an
19 employment agreement that includes a covenant not to compete, the
20 agreement is subject to Section 15.50, Business & Commerce Code.

21 (l) The board of an authority may not delegate to the
22 manager or executive director of a hospital owned or operated by the
23 hospital authority the authority to hire a physician.

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

27 SECTION 3. This Act takes effect immediately if it receives

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1 a vote of two-thirds of all the members elected to each house, as
2 provided by Section 39, Article III, Texas Constitution. If this
3 Act does not receive the vote necessary for immediate effect, this
4 Act takes effect September 1, 2011.