

1-1 By: Estes S.B. No. 1255
1-2 (In the Senate - Filed March 8, 2011; March 16, 2011, read
1-3 first time and referred to Committee on Agriculture and Rural
1-4 Affairs; April 13, 2011, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 3, Nays 0;
1-6 April 13, 2011, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1255 By: Estes

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the employment of physicians by certain municipal
1-11 hospital authorities.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Subsection (b), Section 262.023, Health and
1-14 Safety Code, is amended to read as follows:

1-15 (b) The board may delegate to the manager or executive
1-16 director the authority to manage the hospital and to employ and
1-17 discharge employees other than physicians hired in accordance with
1-18 Section 262.0235.

1-19 SECTION 2. Subchapter C, Chapter 262, Health and Safety
1-20 Code, is amended by adding Section 262.0235 to read as follows:

1-21 Sec. 262.0235. EMPLOYMENT OF PHYSICIANS. (a) This section
1-22 applies only to an authority that is created by the governing body
1-23 of a municipality with a population of less than 10,000 and that
1-24 owns or operates a hospital with more than 50 licensed beds.

1-25 (b) The board of an authority may employ a physician and
1-26 retain all or part of the professional income generated by the
1-27 physician for medical services provided at a hospital or other
1-28 health care facility owned or operated by the authority if the board
1-29 satisfies the requirements of this section.

1-30 (c) The board of an authority shall:

1-31 (1) appoint a chief medical officer for the authority
1-32 who has been recommended by the medical staff of the authority; and

1-33 (2) adopt, maintain, and enforce policies to ensure
1-34 that a physician employed by the authority exercises the
1-35 physician's independent medical judgment in providing care to
1-36 patients.

1-37 (d) The policies adopted under this section must include:

1-38 (1) policies relating to:

1-39 (A) credentialing and privileges;

1-40 (B) quality assurance;

1-41 (C) utilization review;

1-42 (D) peer review and due process; and

1-43 (E) medical decision-making; and

1-44 (2) the implementation of a complaint mechanism to
1-45 process and resolve complaints regarding interference or attempted
1-46 interference with a physician's independent medical judgment.

1-47 (e) The policies adopted under this section must be approved
1-48 by the medical staff of the authority. The medical staff of the
1-49 authority and the board shall jointly develop and implement a
1-50 conflict management policy to resolve any conflict between a
1-51 medical staff policy and a board policy.

1-52 (f) For all matters relating to the practice of medicine,
1-53 each physician employed by an authority shall ultimately report to
1-54 the chief medical officer of the authority.

1-55 (g) The chief medical officer shall notify the Texas Medical
1-56 Board that the board is employing physicians under this section and
1-57 that the chief medical officer is the board's designated contact
1-58 with the Texas Medical Board. The chief medical officer shall
1-59 immediately report to the Texas Medical Board any action or event
1-60 that the chief medical officer reasonably and in good faith
1-61 believes constitutes a compromise of the independent medical
1-62 judgment of a physician in caring for a patient.

1-63 (h) The board of an authority shall give equal consideration

2-1 regarding the issuance of medical staff membership and privileges
2-2 to physicians employed by the authority and physicians not employed
2-3 by the authority.

2-4 (i) A physician employed by an authority shall retain
2-5 independent medical judgment in providing care to patients and may
2-6 not be disciplined for reasonably advocating for patient care.

2-7 (j) If an authority provides professional liability
2-8 coverage for physicians employed by the authority, a physician
2-9 employed by the authority may participate in the selection of the
2-10 professional liability coverage, has the right to an independent
2-11 defense at the physician's own cost, and retains the right to
2-12 consent to the settlement of any action or proceeding brought
2-13 against the physician.

2-14 (k) If a physician employed by an authority enters into an
2-15 employment agreement that includes a covenant not to compete, the
2-16 agreement is subject to Section 15.50, Business & Commerce Code.

2-17 (l) The board of an authority may not delegate to the
2-18 manager or executive director of a hospital owned or operated by the
2-19 hospital authority the authority to hire a physician.

2-20 (m) This section may not be construed as authorizing the
2-21 board to supervise or control the practice of medicine as
2-22 prohibited under Subtitle B, Title 3, Occupations Code.

2-23 SECTION 3. This Act takes effect immediately if it receives
2-24 a vote of two-thirds of all the members elected to each house, as
2-25 provided by Section 39, Article III, Texas Constitution. If this
2-26 Act does not receive the vote necessary for immediate effect, this
2-27 Act takes effect September 1, 2011.

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