

BILL ANALYSIS

Senate Research Center

S.B. 1236
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Intergovernmental Relations
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, hospitals must hire physicians through third parties called 501(a) organizations. The primary purpose of hiring doctors through 501(a) organizations is to prevent physicians from having to establish a private practice.

Under the Employee Retirement Income Security Act of 1974 (ERISA), the 501(a) organization under which Hunt Memorial Hospital (HMH) currently hires doctors will be required to offer a small member plan to cover physicians rather than the broader plan offered by HMH.

Small member plans would result in lesser quality health insurance benefits offered by HMH to their physicians, making it difficult for them to compete with urban health systems in Dallas to attract high-caliber doctors.

S.B. 1236 would allow the board of HMH to directly hire physicians. The bill would apply only to HMH, so it specifies the powers, duties, and practices for direct hiring of doctors. The doctors at HMH support direct employment through the hospital. Directly hiring physicians would allow hospitals to provide more competitive benefits and salaries to their doctors. (Original Author's/Sponsor's Statement of Intent)

S.B. 1236 amends current law relating to authority of the Hunt Memorial Hospital District to appoint, contract for, or employ physicians.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the board of directors of the Hunt Memorial Hospital District in SECTION 1 (Section 1044.0605, Special District Local Laws Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter B, Chapter 1044, Special District Local Laws Code, by adding Section 1044.0605, as follows:

Sec. 1044.0605. EMPLOYMENT OF PHYSICIANS. (a) Authorizes the board of directors of the Hunt Memorial Hospital District (board; district) to appoint, contract for, or employ physicians as the board considers necessary to provide medical services at a health facility owned or operated by the district as provided by this section. Authorizes the board to retain all or part of the professional income generated by a physician employed by the district for those medical services if the board satisfies the requirements of this section.

(b) Prohibits this section from being construed as authorizing the board to supervise or control the practice of medicine, as prohibited by Subtitle B (Physicians), Title 3, Occupations Code.

(c) Requires the board to appoint a chief medical officer for the district who has been recommended by the medical staff of the district, and to adopt, maintain, and enforce policies to ensure that a physician employed by the district exercises the

physician's independent medical judgment in providing care to patients at health care facilities owned or operated by the district.

(d) Requires the policies adopted under this section to include:

(1) policies relating to credentialing and privileges, quality assurance, utilization review, peer review and due process, and medical decision-making; and

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

(e) Requires the policies adopted under this section to be approved by the medical staff of the district. Requires the chief medical officer and the board to jointly develop and implement a conflict management policy to resolve any conflict between a policy approved by the medical staff under this section and any other district policy.

(f) Requires each physician employed by the district, for all matters relating to the practice of medicine, to ultimately report to the chief medical officer of the district.

(g) Requires the chief medical officer to notify the Texas Medical Board (TMB) that the district is employing physicians under this section and that the chief medical officer is the district's designated contact with TMB. Requires the chief medical officer to immediately report to TMB any action or event that the chief medical officer reasonably and in good faith believes constitutes a compromise of the independent medical judgment of a physician in caring for a patient.

(h) Requires the board to give equal consideration regarding the issuance of medical staff membership and privileges to physicians employed by the district and physicians not employed by the district.

(i) Requires a physician employed by the district to retain independent medical judgment in providing care to patients at a health care facility owned or operated by the district and prohibits the physician from being disciplined for reasonably advocating for patient care.

(j) Authorizes a physician employed by the district, if the district provides professional liability coverage for physicians employed by the district, to participate in the selection of the professional liability coverage, provides that the physician has the right to an independent defense at the physician's own cost, and provides that the physician retains the right to consent to the settlement of any action or proceeding brought against the physician.

(k) Provides that, if a physician employed by the district enters into an employment agreement that includes a covenant not to compete, the agreement is subject to Section 15.50 (Criteria For Enforceability of Covenants Not to Compete), Business & Commerce Code, and any other applicable law.

SECTION 2. Effective date: September 1, 2019.