

SUBJECT: Authorizing Maverick County Hospital District to hire physicians directly

COMMITTEE: County Affairs — favorable, without amendment

VOTE: 5 ayes — R. Allen, Casteel, Naishtat, Olivo, Otto

0 nays

4 absent — W. Smith, Coleman, Farabee, Laney

WITNESSES: For — Don Spaulding, Maverick County Hospital District
(*Registered, but did not testify*: David Pearson, Texas Organization of Rural and Community Hospitals; Dinah Welsh, Texas Hospital Association)

Against — None

BACKGROUND: Occupations Code, title 3, the Texas Medical Practice Act, prohibits the “corporate practice of medicine,” a legal doctrine that generally prohibits non-physicians from practicing medicine, which can limit the employment of physicians. In most cases, a non-physician entity, such as a corporation, is prohibited from directly employing physicians. At some hospitals, physicians may be contractors and not direct employees. Public health departments, the state Department of State Health Services, and teaching hospitals are among the organizations expressly exempted from the prohibition and may directly employ physicians.

The Maverick County Hospital District was created in 1965 and is managed by a board of directors that is authorized to hire employees for various positions, excluding physicians. Hospital districts have limited liability. The Maverick County Hospital District has a maximum liability of \$100,000.

DIGEST: HB 1456 would allow the Maverick County Hospital District board to employ medical professionals at its discretion. It would not require the board to supervise medical practices.

The bill would take effect September 1, 2005

SUPPORTERS
SAY:

HB 1456 would enable Maverick County to recruit more physicians to this underserved area by enabling the hospital district to employ them directly and confer the district's limited liability to them. The county needs additional physicians but has a difficult time recruiting them because medical malpractice rates are particularly high along the border. Since 2000, Maverick County has lost 17 physicians and is a designated Health Professional Shortage Area. Of its 50,000 residents, approximately 40 percent are below the federal poverty level and a large majority are uninsured, underinsured, or Medicaid or Medicare recipients.

The bill would not erode the prohibition against the corporate practice of medicine because it would be very limited in scope. The Maverick County Hospital District board has a majority of physician board members and it is required to abide by guidelines developed in the public's best interest. It is not akin to a "corporation" hiring physicians and compromising care because the hospital district does not seek to make a profit. The prohibition on the corporate practice of medicine guards against conflicts that would not arise within the hospital district.

Already, other institutions that are similar to a hospital district can hire physicians directly. A federally qualified health center, public health department, and medical schools can employ them to carry out those organizations' goals of promoting public health.

OPPONENTS
SAY:

The prohibition against the corporate practice of medicine would be compromised if the law became riddled with exceptions. Even if exempting this hospital district would not involve very many physicians, it would weaken the general prohibition. Also, it is likely that if Maverick County obtained an exemption, other similarly stretched counties would not be far behind. Texas should be wary of permitting non-physicians to make medical decisions that affect Texas patients.

OTHER
OPPONENTS
SAY:

This bill is too limited in scope and should permit all hospital districts to employ physicians directly. Doctors who treat patients in any hospital district – not just those in Maverick County – deserve the protection offered by this bill. Permitting all hospital districts to employ doctors directly would not change the prohibition against the corporate practice of medicine. That doctrine is vital in preventing companies that are not health care organizations from operating without physician involvement in making medical decisions. Hospital districts simply do not fall into that group.

NOTES: The companion bill, SB 1027 by Madla, passed Senate on the Local and Uncontested Calendar on April 28 and was reported favorably, without amendment, by the House County Affairs Committee on May 9.