

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 1690
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Intergovernmental Relations
3/26/2019
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under the Corporate Practice of Medicine doctrine, hospitals are not permitted to employ physicians without legislative authority. Instead, physicians may be employed through a physician-owned group or a nonprofit healthcare organization under Texas Medical Board oversight. The legislature has granted authority to employ physicians to rural hospitals and a number of hospital districts.

The Lubbock County Hospital District desires to employ physicians for hospital-based services. The bill is limited to radiologists, hospitalists, and emergency center physicians. Requiring the formation of a nonprofit healthcare organization would result in additional expense and administrative burdens. It would be necessary, for a new organization or an existing one, to build the infrastructure (billing software, expert coders, and personnel) for the organization to bill hospital-based services. In addition, all corporate functions would have to be addressed: payroll, benefit plans, managed care contracting, and general administrative services.

S.B. 1690 follows that of prior acts authorizing various hospital districts to employ physicians, including safeguards to preserve independent medical judgment.

Authorizing the hospital district to directly employ the physicians:

Allows UMC to utilize existing resources to operate hospital-based professional services.

Allows UMC to enter into managed care contracts on behalf of the physician group, avoiding the possibility that the hospital is in a payor plan but the physicians are not. Otherwise, the physicians must enter into these agreements individually. This is particularly important as the district's ACO (accountable care organization) and CIN (clinically integrated network) enters into value-based contracts with managed care organizations.

Allows UMC to bill, collect, and retain professional fees.

Allows the physicians to participate in UMC employee benefits such as the health plan and retirement plans.

Committee Sub:

The substitute:

Removes references to "other health care facilities." The bill is now limited to just hospitals.

Clarifies the limited positions that the hospital district would be able to directly employ:

- Emergency medicine
- Hospitalists
- Radiologists

The non-compete line has also been removed.

C.S.S.B. 1690 amends current law relating to the authority of the Lubbock County Hospital District of Lubbock County, Texas, to employ physicians.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the medical executive committee of the Lubbock County Hospital District of Lubbock County, Texas, in SECTION 1 (Section 1053.0601, Special District Local Laws Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter B, Chapter 1053, Special District Local Laws Code, by adding Section 1053.0601, as follows:

Sec. 1053.0601. EMPLOYMENT OF PHYSICIANS TO PROVIDE CERTAIN HOSPITAL-BASED SERVICES. (a) Defines "hospital-based services" for purposes of this section.

(b) Authorizes the board of hospital managers of the Lubbock County Hospital District of Lubbock County, Texas (board; district), to employ physicians as the board considers necessary to provide hospital-based services at a hospital 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 such hospital-based services if the board satisfies the requirements of this section.

(c) Prohibits the term of an employment contract entered into under this section from exceeding five years.

(d) Prohibits this section from being construed as authorizing the board to:

(1) supervise or control the practice of medicine, as prohibited by Subtitle B (Physicians), Title 3 (Health Professions), Occupations Code; or

(2) employ physicians for any purpose other than the provision of hospital-based services at a hospital owned or operated by the district.

(e) Requires the authority granted to the board under Subsection (b) to employ physicians to apply as necessary for the district to fulfill the district's statutory mandate to provide medical and hospital care for district residents, including needy and indigent residents, as provided by Sections 1053.101 (District Responsibility) and 1053.104 (Hospital System).

(f) Requires the medical executive committee of the district 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.

(g) Requires the policies adopted by the medical executive committee under this section to include certain policies and to include rules requiring the disclosure of financial conflicts of interest by a member of the medical executive committee.

(h) Requires the medical executive committee and the board to jointly develop and implement a conflict management process to resolve any conflict between a policy adopted by the medical executive committee under this section and a policy of the district.

(i) Requires a member of the medical executive committee who is a physician to provide biennially to the chair of the medical executive committee a signed, verified statement indicating that the committee member:

(1) is licensed by the Texas Medical Board (TMB);

(2) will exercise independent medical judgment in all medical executive committee matters, including certain enumerated matters;

(3) will exercise the committee member's best efforts to ensure compliance with the policies that are adopted or established by the medical executive committee; and

(4) will report immediately to TMB any action or event that the committee member reasonably and in good faith believes constitutes a compromise of the independent medical judgment of a physician in caring for a patient.

(j) Requires each physician employed by the district, for all matters relating to the practice of medicine, to ultimately report to the chair of the medical executive committee for the district.

SECTION 2. Effective date: upon passage or September 1, 2019.