

BILL ANALYSIS

Senate Research Center
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S.B. 761
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Current law prohibiting the corporate practice of medicine prohibits a non-licensed person or entity from sharing in compensation paid to a physician for medical care services. Some charitable hospitals that have not charged for the services of the hospital or physicians have employed physicians directly for decades. With the advent of federal health care reform, or the creation of a state-run health insurance exchange, a great number of previously uninsured persons may become insured. A hospital which has provided only charity care may seek to participate in third-party reimbursements and share that income with doctors employed by the hospital.

S.B. 761 codifies certain hospitals' existing practice of employing physicians, and provides that the billing and receipt of third-party reimbursements does not affect the ability of those hospitals to employ physicians, so long as procedures remain in place to protect the physicians' independent medical judgment and the physician-patient relationship.

As proposed, S.B. 761 amends current law relating to the employment of physicians by certain hospitals associated with nonprofit fraternal organizations.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 311, Health and Safety Code, by adding Subchapter E, as follows:

SUBCHAPTER E. EMPLOYMENT OF PHYSICIANS BY CERTAIN HOSPITALS ASSOCIATED WITH NONPROFIT FRATERNAL ORGANIZATIONS

Sec. 311.061. **APPLICABILITY OF SUBCHAPTER.** Provides that this subchapter applies only to a hospital that employs or seeks to employ a physician, that primarily provides medical care to children younger than 18 years of age, and that is owned or operated by a nonprofit fraternal organization, or has a governing body the majority of members of which belong to a nonprofit fraternal organization.

Sec. 311.062. **EMPLOYMENT OF PHYSICIANS PERMITTED.** (a) Authorizes a hospital to employ a physician and retain all or part of the professional income generated by the physician for medical services provided at the hospital if the hospital satisfies the requirements of this subchapter.

(b) Provides that the billing and receipt of third-party reimbursement for medical care at a hospital does not affect the authority granted to the hospital under this section.

Sec. 311.063. **HOSPITAL DUTIES AND POLICIES.** (a) Requires a hospital that employs physicians under this subchapter to appoint a chief medical officer, who may be

a member of the hospital's medical staff and adopt, maintain, and enforce policies to ensure that a physician employed by the hospital exercises the physician's independent medical judgment in providing care to patients at the hospital.

(b) Requires that the policies adopted under this section include policies relating to credentialing, quality assurance, utilization review, peer review, and medical decision-making, and the implementation of a complaint mechanism to process and resolve complaints regarding interference or attempted interference with a physician's independent medical judgment.

(c) Requires that the policies adopted under this section be approved by the chief medical officer of the hospital.

(d) Requires each physician employed by a hospital under this subchapter, for all matters relating to the practice of medicine, to ultimately report to the chief medical officer of the hospital.

Sec. 311.064. CONSTRUCTION OF SUBCHAPTER. Prohibits this subchapter from being construed as authorizing the governing body of a hospital to supervise or control the practice of medicine as prohibited under Subtitle B (Physicians), Title 3, Occupations Code.

SECTION 2. Effective date: upon passage or September 1, 2011.