

BILL ANALYSIS

C.S.H.B. 1227
By: Flynn
County Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

It has been suggested that as the health care marketplace has become more complex physicians are increasingly seeking employment opportunities as opposed to independent practice and that local residents would benefit from the Hunt Memorial Hospital District directly employing physicians. C.S.H.B. 1227 seeks to address these issues by authorizing the board of directors of the district to appoint, contract for, or employ physicians.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 1227 amends the Special District Local Laws Code to authorize the board of directors of the Hunt Memorial Hospital District to appoint, contract for, or employ physicians as the board considers necessary to provide medical services at a health care facility owned or operated by the district as provided by the bill's provisions. The bill 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 bill's requirements. The bill prohibits its provisions from being construed as authorizing the board to supervise or control the practice of medicine, as prohibited by the Medical Practice Act.

C.S.H.B. 1227 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, sets out requirements for such policies, and requires the policies to be approved by the medical staff of the district. The bill requires the chief medical officer and the board jointly to develop and implement a conflict management policy to resolve any conflict between a policy approved by the medical staff under the bill's provisions and any other district policy. The bill 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. The bill requires the chief medical officer to notify the Texas Medical Board (TMB) that the district is employing physicians under the bill's provisions and that the chief medical officer is the district's designated contact with the TMB. The bill requires the chief medical officer to immediately report to the 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.

C.S.H.B. 1227 requires the district's board of directors 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. The bill sets out the following with regard to a physician employed by the district:

- requires the physician to retain independent medical judgment in providing care to patients at a health care facility owned or operated by the district;
- prohibits a physician from being disciplined for reasonably advocating for patient care;
- authorizes a physician, if the district provides professional liability coverage, to participate in the selection of the professional liability coverage; and
- establishes that the physician has the right to an independent defense at the physician's own cost and retains the right to consent to the settlement of any action or proceeding brought against the physician.

The bill subjects an employment agreement entered into by a physician employed by the district that includes a covenant not to compete to Business & Commerce Code provisions relating to criteria for the enforceability of a covenant not to compete and any other applicable law.

EFFECTIVE DATE

September 1, 2019.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1227 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute includes provisions relating to:

- retention of professional income generated by a physician employed by the district;
- appointment of a chief medical officer;
- notification to the TMB that the district is employing physicians and that the chief medical officer is the designated contact;
- equal consideration regarding the issuance of medical staff membership and privileges;
- a physician retaining independent medical judgment and a prohibition against discipline for reasonably advocating for patient care;
- a physician's participation in the selection of professional liability coverage and related provisions; and
- employment agreements that include a covenant not to compete.

The substitute does not include provisions:

- capping the term of a physician's employment contract;
- relating the physician employment contracts to the district's indigent care obligations; and
- relating to the medical executive board and its powers and duties.

The substitute changes provisions relating to:

- the purpose for which the board may appoint, contract for, or employ physicians;
- the entity responsible for adopting policies under the bill's provisions and the content of the policies;
- conflict management;
- the individual responsible for reporting to the TMB an action or event that the individual believes constitutes a compromise of the independent medical judgment of a physician in caring for a patient; and
- the individual to whom a physician is required to ultimately report for all matters relating to the practice of medicine.