

- SUBJECT:** Employment of physicians by certain nonprofit hospitals
- COMMITTEE:** Public Health — committee substitute recommended
- VOTE:** 9 ayes — Kolkhorst, Naishtat, Alvarado, Coleman, S. Davis, V. Gonzales, Laubenberg, Schwertner, Zerwas
- 0 nays
- 2 absent — S. King, Truitt
- SENATE VOTE:** On final passage, March 24 — 31-0, on Local and Uncontested Calendar
- WITNESSES:** For — J.C. Montgomery, Karl Rathjen, Texas Scottish Rite Hospital for Children; (*Registered, but did not testify*: Charles Bailey, Texas Hospital Association; Dan Finch, Texas Medical Association; Chris Yanas, Teaching Hospitals of Texas; Mike McKinney; David Holt)
- Against — None
- BACKGROUND:** Current law prohibits the corporate practice of medicine, which prevents most hospitals from directly employing physicians.
- DIGEST:** CSSB 761 would allow certain nonprofit hospitals that provided medical care to children under the age of 18 to bill or receive third-party reimbursements and directly hire physicians.
- The hospital would have to appoint a chief medical officer who would be the Texas Medical Board's contact for all complaints related to any interference with a physician's independent medical judgment. The hospital would have to adopt policies that included guidelines on credentialing, quality assurance, utilization review, peer review, medical decision-making, and procedures to process and resolve complaints regarding interference with a physician's independent medical judgment. The chief medical officer would have to approve the policies and immediately report any interference with a physician's independent medical judgment to the Texas Medical Board.

If there were a conflict between a policy approved by the chief medical officer and any other hospital policy, a conflict management process would have to be jointly developed to resolve it.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2011.

**SUPPORTERS
SAY:**

These challenging economic times make it difficult for certain nonprofit hospitals to recruit and retain qualified physicians through charitable donations alone. With more Texans likely to be insured under a future state health insurance exchange, CSSB 761 would allow these hospitals to collect third-party reimbursements in order to attract, hire, and compensate physicians who would provide medical care for children.

The bill would place the practice of medicine in the hands of medical staff and the chief medical officer, and under the regulatory authority of the Texas Medical Board. It contains sufficient protections to deter interference with a physician's independent medical judgment and would therefore protect quality patient care.

Finally, the House already has approved several bills during this session allowing certain other hospitals to employ physicians, all of which were filed for similar reasons.

**OPPONENTS
SAY:**

Physicians should not work directly for a hospital because it could influence, interfere with, or prevent their responsible care for a patient. Collecting third-party reimbursements could influence patient care and impair the physician's independent judgment.

NOTES:

The committee substitute differs from the Senate-passed version by adding provisions designating the chief medical officer as the Texas Medical Board's contact and requiring the joint development of a conflict management process if needed.