

## **BILL ANALYSIS**

Senate Research Center  
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C.S.S.B. 860  
By: Rodriguez  
Intergovernmental Relations  
4/6/2011  
Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Texas is one of only five states that continue to maintain a prohibition on the corporate practice of medicine. However, over the years, the Texas legislature has allowed certain non-physician entities to employ physicians, including private nonprofit medical schools; school districts; nonprofit health organizations certified by the Texas Medical Board; federally qualified health centers; and migrant, community, or homeless health centers. In addition, a number of hospital districts in the state have amended their enabling legislation to allow for direct employment of physicians. Finally, the State of Texas can and does employ physicians in a number of state institutions, including state academic medical centers, state hospitals, and state prisons.

The El Paso County Hospital District (district) serves the approximately 800,000 residents of El Paso County and the larger West Texas region. Notably, the district is the only Level I trauma center for the area. Over the last two decades, the district has established a network of neighborhood health clinics that primarily serve the uninsured residents of the county. However, El Paso County continues to suffer from significant health care professional shortages. In 2010, El Paso had 116.5 direct care physicians per 100,000 population while the statewide average was 162.3 physicians per 100,000 population. For dental care, El Paso County had 28 dentists per 100,000; the state average was 45 dentists per 100,000.

In addition to these existing shortages, nearly one in three El Pasoans are uninsured. Allowing the district to directly employ primary care and specialty professionals would serve as an effective tool to better meet the needs of the uninsured population while also reducing health care professional shortages in El Paso. A number of hospital districts in the state have amended their enabling legislation to allow for direct employment of physicians. Last session, the 81st Legislature passed legislation authorizing the Dallas County Hospital District to employ 145 physicians to staff its community health centers.

C.S.S.B. 860 would amend current law relating to the authority of the district to allow employment of physicians, dentists, and other health care providers. C.S.S.B. 860 limits employment contracts with these health care professionals to a term not to exceed four years. Finally, the bill includes a provision prohibiting the district from interfering with the practice of medicine.

C.S.S.B. 860 amends current law relating to the authority of the El Paso County Hospital District to appoint, contract for, or employ physicians, dentists, and other health care providers.

### **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 Subchapter B, Chapter 281, Health and Safety Code, by adding Section 281.0285, as follows:

Sec. 281.0285. EL PASO COUNTY HOSPITAL DISTRICT; EMPLOYMENT OF PHYSICIANS, DENTISTS, AND OTHER HEALTH CARE PROVIDERS. (a)

Authorizes the board of hospital managers of the El Paso County Hospital District (board) to appoint, contract for, or employ physicians, dentists, and other health care providers as the board considers necessary for the efficient operation of the district.

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

(c) Prohibits this section from being construed as authorizing the board to supervise or control the practice of medicine as prohibited by Subtitle B (Physicians), Title 3, Occupations Code, or to supervise or control the practice of dentistry as prohibited by Subtitle D (Dentists), Title 3, Occupations Code.

(d) Requires that the authority granted to the board under Subsection (a) to employ physicians apply as necessary for the district to fulfill the district's statutory mandate to provide medical care for the indigent and needy residents of the district as provided by Section 281.046 (District Responsibility for Medical and Hospital Care).

(e) Requires the medical executive committee of the district (committee), in accordance with bylaws adopted by the board, 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.

(f) Requires that the policies adopted by the committee under this section include policies relating to governance of the committee, credentialing, quality assurance, utilization review, peer review, medical decision-making, and due process; and rules requiring the disclosure of financial conflicts of interest by a member of the committee.

(g) Requires the committee and the board to jointly develop and implement a conflict management process to resolve any conflicts between the policies adopted under this section and a policy of the district.

(h) Requires a member of the committee who is a physician to provide biennially to the chair of the 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 committee matters, including matters relating to credentialing, quality assurance, utilization review, peer review, medical decision-making, and due process;

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

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

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