

SENATE BILL 3263

By Bell

AN ACT to amend Tennessee Code Annotated, Title 63 and Title 68, Chapter 11, relative to the employment of physicians by nursing homes or affiliates of nursing homes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 68-11-205, is amended by adding the following as a new subsection:

(f)

(1) Notwithstanding this section or any other law, nothing shall prohibit an employing entity from employing a physician; provided, however, that the employment relationship between the physician and the employing entity is evidenced by a written contract, job description or documentation, containing language which does not restrict the physician from exercising independent medical judgment in diagnosing and treating patients. The employment of physicians authorized by this subsection is subject to the following conditions:

(A) The employed physician must have completed residency training in internal medicine, family medicine, primary care, geriatric medicine or gerontology, or a related medical specialty area, or have become board certified in one of those medical specialties;

(B) An employing entity shall not restrict or interfere with medically appropriate diagnostic or treatment decisions. In the event that there is any dispute relating to this subdivision (f)(1)(B), the employing entity shall have the burden of proof;

(C) An affiliate of a nursing home that employs physicians shall not engage in any business other than the employment of physicians, the management of physicians and health care facilities, the ownership of property and facilities used in the provision of health care services;

(D) If a physician, in connection with a claim for breach of contract or other dispute related to § 63-6-204, establishes in a court of competent jurisdiction or other forum, including in a peer review action or arbitration proceeding, that the conditions of § 63-6-204 have been violated by the employing entity, the physician shall be entitled to recover the physician's cost of litigation, arbitration or peer review defense and a reasonable attorney's fee;

(E) An employing entity shall not restrict or interfere with patient referral decisions in a manner that unnecessarily increases the cost to the patient of the medical services provided; and

(F) The written contract between an employing entity and the physician, in addition to the other items required by this subsection, shall include the name and location of each site where the physician may see patients.

(2) Employing entities shall not restrict the employed physician's right to practice medicine upon the termination or conclusion of the employment relationship, except an employing entity may only restrict the employed physician from entering into another employment relationship with another employing entity, provided such restriction complies with § 63-1-148.

(3) For purposes of this subsection (f):

(A) "Affiliate" of a nursing home means an entity that, through ownership or management relationship, is directly or indirectly controlled by, or is under common control with, a nursing home;

(B) "Employing entity" means a nursing home, or an affiliate of such a nursing home, that employs one (1) or more physicians.

"Employing entity" does not mean, however, a health maintenance organization licensed under title 56, chapter 32; and

(C) "Nursing home" means a nursing home licensed as such under this chapter.

SECTION 2. Tennessee Code Annotated, Section 63-6-204, is amended by adding the following new subsection:

( ) Notwithstanding the restrictions contained in this section, a nursing home or affiliate of a nursing home may employ a physician pursuant to § 68-11-205.

SECTION 3. This act shall take effect July 1, 2012, the public welfare requiring it.