

BILL ANALYSIS

C.S.H.B. 3310
By: Capelo
Public Health
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Public hospitals and hospital districts have a duty to provide publically-funded indigent health care. These hospitals and districts use local tax funds to treat enrollees who have experienced personal injury caused by another person's negligence or wrong. These enrollees subsequently file tort claim actions to recover accident or health insurance coverage benefits available to them for such acts of negligence and wrong. Often, these enrollees do not inform the hospitals or districts of these actions. When the enrollee recovers the funds, these hospitals and districts are not repaid for the costs of services provided with public funds. Although hospitals have lien laws available to them, there are hospital districts in the state who contract their services to other facilities because they no longer operate their hospitals. These districts pay those facilities for indigent health care, but are not able to recover the funds spent on the care of the indigent enrollees who recover from accident or health insurance coverage. Unlike county-funded indigent care programs, before the 78th Legislature, state law did not give public hospitals and hospital districts the right of subrogation.

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

This bill amends the Health and Safety Code, Chapter 61, by adding Section 61.067, as follows:

(a) Provides that the filing of an application for or receipt of services constitutes an assignment of the applicant's or recipient's right of recovery from: personal insurance; other sources; or another person for personal injury caused by the other person's negligence or wrong.

(b) A person who applies for or receives services shall inform the public hospital or hospital district, at the time of application or at any time during eligibility, of any unsettled tort claim that may affect health care needs and of any private accident or health insurance coverage or similar coverage that is or may become available. An applicant or eligible resident shall inform the public hospital or hospital district of any injury that is caused by the act or failure to act of some other person. An applicant or eligible resident shall inform the public hospital or hospital district as required by this subsection not later than the 10th day after the date the person learns of the person's insurance coverage, tort claim, or potential cause of action.

(c) A claim for damages for personal injury does not constitute grounds for denying or discontinuing services under this chapter.

(d) This section creates a separate and distinct cause of action in favor of the public hospital, hospital district or physician with staff privileges at either a public hospital or appropriate hospital within the hospital district. In addition the public hospital, hospital district or physician may, without written consent, take direct civil action in any court of competent jurisdiction. A suit brought under this section need not be ancillary to or dependent on any other action.

(e) The public hospital's or hospital district's right of recovery is limited to the amount of the cost of services paid by the public hospital or hospital district. Other subrogation rights granted under this section are limited to the cost of the services provided, including services provided by physicians..

(f) An applicant or eligible resident who knowingly and intentionally fails to disclose the information required by Subsection (b) commits a Class C misdemeanor.

(g) An applicant or eligible resident who knowingly and intentionally fails to disclose the information required by Subsection (b) is subject to denial of services under this chapter following an administrative hearing.

(h) Procedures established by a public hospital or hospital district for administrative hearings under this section must provide for appropriate due process, including procedures for appeals.

EFFECTIVE DATE

September 1, 2003

COMPARISON OF ORIGINAL TO SUBSTITUTE

CSHB 3310 differs from the original bill by amending subsections (d), and (e) of section 61.067, of the Health and Safety Code, by creating a separate cause of action for a physician with staff privileges at either a public hospital or appropriate hospital within the hospital district. In addition the substitute limits the subrogation rights granted to physicians to the amount of the cost of services provided.