

BILL ANALYSIS

S.B. 891
By: Duncan
Insurance
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Current law allows the joint underwriting association (JUA) to write professional (medical) liability insurance coverage for physicians and certain health care providers, including not-for profit and for-profit nursing homes. The Long Term Care Legislative Oversight Committee found during the interim that, according to nursing home facilities' testimony, insurance companies are unwilling to write a general liability policy that is not paired with a professional liability policy. S.B. 891 allows JUA to write general liability policies in connection with medical liability coverage issued by JUA.

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

SECTION 1. Amends Section 3, Article 21.49-3, Insurance Code, by adding Subsection (d), to authorize the joint underwriting association (JUA) to provide general liability insurance coverage to be issued in connection with medical liability insurance issued by JUA.

SECTION 2. Reenacts and amends Section 4A, Article 21.49-3, Insurance Code, as amended by Chapters 921 and 1284, Acts of the 77th Legislature, Regular Session, 2001, as follows:

Sec. 4A. POLICYHOLDER'S STABILIZATION RESERVE FUND FOR PHYSICIANS AND HEALTH CARE PROVIDERS OTHER THAN FOR-PROFIT AND NOT-FOR-PROFIT NURSING HOMES.

(a) Creates a policyholder's stabilization reserve fund for physicians and health care providers, other than for-profit and not-for-profit nursing homes, which shall be administered as provided herein and in the plan of operation of JUA. Provides that the stabilization reserve fund created by this section is separate and distinct from the stabilization reserve fund for for-profit and not-for-profit nursing homes created by Section 4B of this article.

(b) Requires each policyholder to pay annually into the stabilization reserve fund a charge, the amount of which shall be established annually by advisory directors chosen by health care providers, other than for-profit and not-for-profit nursing homes, and physicians eligible for insurance in JUA in accordance with the plan of operation. Requires the charge to be in proportion to each premium payment due for liability insurance through the association. Requires such charge to be separately stated in the policy, but prohibits the charge from constituting a part of premiums or being subject to premium taxation, servicing fees, acquisition costs, or any other such charges.

(c) Requires the stabilization reserve fund to be collected and administered by the association and treated as a liability of the association along with and in the same manner as premium and loss reserves. Requires the fund to be valued annually by the board of directors as of the close of the last preceding year. [Subsections (d) and (e) as amended by Acts 2001, 77th Leg., Ch. 921, Section 5]

(d) Requires collections of the stabilizationreserve fund charge to continue until such time as the net balance of the stabilization reserve fund is not less than the projected sum of premiums for physicians and health care providers, other than for-profit and not-for-profit nursing homes, to be written in the year following valuation date. Removes an exception as provided by Subsection (e) of this section.

(e) Deletes the existing text of Subsection (e), regarding the initiation or continuation of the stabilization reserve fund charge under certain circumstances. [Subsection (e) as amended by Acts 2001, 77th Leg., Ch. 1284, Section 5.07] (e) Requires the stabilization reserve fund to be credited with all stabilization reserve fund charges collected from physicians and health care providers, other than for-profit and not-for-profit nursing homes, and to be charged with any deficit sustained by physicians and health care providers, other than for-profit and not-for-profit nursing homes, from the prior year's operation of the association.

(f) Deletes the existing text of Subsection (f), regarding crediting the stabilization reserve fund with charges collected from policyholders.

SECTION 3. Effective date: September 1, 2003.

EFFECTIVE DATE

September 1, 2003.