

By: Wohlgemuth

H.B. No. 1275

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the amount of exemplary damages that may be awarded  
3 against a nursing institution.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 41.008, Civil Practice and Remedies  
6 Code, is amended by amending Subsections (b), (c), and (e) and  
7 adding Subsection (g) to read as follows:

8 (b) Except as provided by Subsection (g), exemplary  
9 ~~[Exemplary]~~ damages awarded against a defendant may not exceed an  
10 amount equal to the greater of:

11 (1)(A) two times the amount of economic damages; plus  
12 (B) an amount equal to any noneconomic damages  
13 found by the jury, not to exceed \$750,000; or

14 (2) \$200,000.

15 (c) Subsections ~~[Subsection]~~ (b) and (g) do ~~[does]~~ not apply  
16 to a cause of action against a defendant from whom a plaintiff seeks  
17 recovery of exemplary damages based on conduct described as a  
18 felony in the following sections of the Penal Code if, except for  
19 Sections 49.07 and 49.08, the conduct was committed knowingly or  
20 intentionally:

21 (1) Section 19.02 (murder);

22 (2) Section 19.03 (capital murder);

23 (3) Section 20.04 (aggravated kidnapping);

24 (4) Section 22.02 (aggravated assault);

- 1           (5) Section 22.011 (sexual assault);  
2           (6) Section 22.021 (aggravated sexual assault);  
3           (7) Section 22.04 (injury to a child, elderly  
4 individual, or disabled individual);  
5           (8) Section 32.21 (forgery);  
6           (9) Section 32.43 (commercial bribery);  
7           (10) Section 32.45 (misapplication of fiduciary  
8 property or property of financial institution);  
9           (11) Section 32.46 (securing execution of document by  
10 deception);  
11           (12) Section 32.47 (fraudulent destruction, removal,  
12 or concealment of writing);  
13           (13) Chapter 31 (theft) the punishment level for which  
14 is a felony of the third degree or higher;  
15           (14) Section 49.07 (intoxication assault); or  
16           (15) Section 49.08 (intoxication manslaughter).

17           (e) The provisions of Subsections (a), ~~[and]~~ (b), and (g)  
18 may not be made known to a jury by any means, including voir dire,  
19 introduction into evidence, argument, or instruction.

20           (g) Exemplary damages awarded against a nursing institution  
21 licensed under Chapter 242, Health and Safety Code, may not exceed  
22 the lesser of:

- 23                   (1)(A) two times the amount of economic damages; plus  
24                           (B) an amount equal to any noneconomic damages  
25 found by the jury, not to exceed \$250,000; or  
26                   (2) \$250,000.

27           SECTION 2. The change in law made by this Act applies only

1 to a cause of action that accrues on or after the effective date of  
2 this Act. A cause of action that accrues before the effective date  
3 of this Act is governed by the law in effect immediately before that  
4 date, and that law is continued in effect for that purpose.

5 SECTION 3. This Act takes effect September 1, 2003.