

BILL ANALYSIS

C.S.H.B. 654
By: Goolsby
Insurance
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Community clinics offering free basic health care services or offering services at greatly reduced costs are emerging located in churches and other similar facilities. These clinics use retired doctors and other health care professionals who donate their services on a voluntary basis. Many retired health care professionals are prevented from donating their services because they are unable to secure medical liability coverage. These providers are protected from liability under the Charitable Immunities Act, but still need liability policies to cover defense costs.

Though insurers are not currently prevented by law from selling medical liability insurance to volunteer healthcare providers, the type of coverage the volunteer healthcare providers need is not available in sufficient amount. CSHB 654 adds language to the Insurance Code clarifying the fact that an insurer may provide professional liability insurance covering a volunteer health provider.

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. Article 5.15-1, Insurance Code, is amended by adding Section 12. Defines "Charitable organization" and "Volunteer health care provider". Provides that an insurer may make available professional liability insurance covering a volunteer health care provider for an act or omission resulting in death, damage, or injury to a patient while the person is acting in the course and scope of the person's duties as a volunteer health care provider. Provides that this section does not affect the liability of a volunteer health care provider who is serving as a direct service volunteer of a charitable organization. Section 84.004(c), Civil Practice and Remedies Code, applies to the volunteer health care provider without regard to whether the volunteer health care provider obtains liability insurance under this section.

(d) An insurer may make professional liability insurance available under this section to a volunteer health care provider without regard to whether the volunteer health care provider is a "health care provider" as defined by Section 2 of this article.

SECTION 2. Article 21.49-4(a), Insurance Code, is amended by adding Subdivisions (4) and (5). Subsection (4) defines "Charitable organization". Subsection (5) defines "Volunteer health care provider".

SECTION 3. Article 21.49-4, Insurance Code, is amended by adding Subsection (c-1) allowing the Texas Medical Liability trust to make available professional liability insurance covering a volunteer health care provider for an act or omission resulting in death, damage, or injury to a patient while the person is acting in the course and scope of the person's duties as a volunteer health care provider as described by Chapter 84, Civil Practice and Remedies Code. Provides that this subsection does not affect the liability of a volunteer health care provider who is serving as a direct service volunteer of a charitable organization. Section 84.004(c), Civil Practice and Remedies Code, applies to the volunteer health care provider without regard to whether the volunteer health care provider obtains liability insurance under this subsection. The trust may

make professional liability insurance available under this subsection to a volunteer health care provider without regard to whether the provider is a physician or dentist.

SECTION 4. This Act applies only to a professional liability insurance policy that is delivered, issued for delivery, or renewed on or after the 181st day after the effective date of this Act. A policy delivered, issued for delivery, or renewed before the 181st day after the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 5. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2005.

EFFECTIVE DATE

Upon passage, or if the Act does not receive the necessary number of votes, the Act takes effect September 1, 2005.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute adds language providing that the Texas Medical Liability Trust may offer the type of professional liability coverage discussed in the measure.