

BILL ANALYSIS

Senate Research Center

H.B. 655
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State Affairs
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Engrossed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Community clinics offering free basic health care services or offering services at greatly reduced costs are emerging and are often 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 Immunity and Liability 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.

H.B. 655 attempts to remedy this lack of coverage by requiring the Joint Underwriting Association to make available medical liability coverage to volunteer health care providers covered under the Charitable Immunities Act.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Article 21.49-3, Insurance Code, by adding Section 3C, as follows:

Sec. 3C. COVERAGE FOR VOLUNTEER HEALTH CARE PROVIDERS. (a) Defines "charitable organization" and "volunteer health care provider."

(b) Requires the Texas Medical Liability Insurance Underwriting Association (association) to make available medical liability insurance or appropriate health care liability insurance covering a volunteer health care provider for the legal liability of the person against any loss, damage, or expense incident to a claim arising out of the death or injury of any person as the result of negligence in rendering or the failure to render professional service while acting in the course and scope of the person's duties as a volunteer health care provider as described by Chapter 84 (Charitable Immunity and Liability), Civil Practice and Remedies Code.

(c) Provides that a volunteer health care provider who is serving as a direct service volunteer of a charitable organization is eligible to obtain from the association the liability insurance made available under this section. Provides that a volunteer health care provider who obtains coverage under this section is subject to Section 4A of this article and the other provisions of this article in the same manner as physicians who are eligible to obtain medical liability insurance from the association.

(d) 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. Provides that Section 84.004(c) (relating to the immunity of a

health care provider who is serving as a direct services volunteer for a charitable organization), 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.

SECTION 2. Amends Article 21.49(a), Insurance Code, by adding Subdivisions (4) and (5), to define "charitable organization" and "volunteer health care provider."

SECTION 3. Amends Article 21.49-4, Insurance Code, by adding Subsection (c-1), as follows:

(c-1) Authorizes a self-insurance trust, in accordance with Subsection (c) of this article, 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. Provides that 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. Authorizes the trust to make professional liability insurance available under this subsection to a volunteer health care provider without regard to whether the volunteer health care provider is a physician or dentist.

SECTION 4. Amends Section 156.002, Occupations Code, by adding Subsection (c), to provide that a retired physician whose only practice is voluntary medical care for a disaster relief organization is exempt from the registration permit fee requirement.

SECTION 5. Provides that the joint underwriting association establish under Article 21.49-3, Insurance Code, is not required to make liability insurance available in accordance with Section 3C, Article 21.49-3, Insurance Code, as added by this Act, before the 181st day after the effective date of this Act.

SECTION 6. Makes application of this Act prospective to the 181st day after the effective date of this Act.

SECTION 7. Makes application of Section 156.002(c), Occupations Code, as added by this Act, prospective.

SECTION 8. Effective date: upon passage or September 1, 2005.