

BILL ANALYSIS

C.S.H.B. 655
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 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

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 21.49-3, Insurance Code, is amended by adding Section 3C. Sec. 3C. Definitions of "charitable organization" , "volunteer health care provider". Requires the JUA to offer 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, Civil Practice and Remedies Code. Provides that a volunteer health care provider who is serving as a direct service volunteer of a charitable organization is eligible to obtain the liability insurance made available under this section. 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. 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.

SECTION 2. Article 21.49-4(a), Insurance Code, is amended by adding Subdivisions (4) and (5). Subdivision (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). Subsection (c-1) provides that the Texas Medical Liability Trust trust 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 as described by Chapter 84, Civil Practice and Remedies Code. 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. The joint underwriting association is not required to make the liability insurance discussed in the Act before the 181st day after the effective date of the Act.

SECTION 5. The Act applies only to a professional liability insurance policy that is delivered, issued, or renewed on or after the 181st day after the effective date. A policy delivered, issued, 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.

SECTION 6. Effective Date

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.