

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 2680
By: Branch (Nelson)
Health & Human Services
5/14/2005
Committee Report (Substituted)

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

C.S.H.B. 2680 is designed to make it easier for retired health care providers to provide charity care. Specifically, it will instruct health care licensing entities to create licenses for retired providers who wish to provide charity care. It will also make liability defense insurance policies available to cover doctors up to the point at which a lawsuit will be discarded under the Charitable Immunities Act.

RULEMAKING AUTHORITY

Rulemaking authority is granted to various licensing entities in SECTION 1 (Section 112.051, Occupations Code) of this bill. "Licensing entity" is defined as a department, commission, board, office, authority, or other agency of the state that regulates persons under Title 3, Occupations Code.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subtitle A, Title 3, Occupations Code, by adding Chapter 112, as follows:

CHAPTER 112. GENERAL LICENSING REQUIREMENTS APPLICABLE TO MULTIPLE HEALTH CARE PRACTITIONERS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 112.001. DEFINITIONS. Defines "health care practitioner" and "licensing entity."

Sec. 112.002. APPLICABILITY. Provides that this chapter applies only to licensing entities and health care practitioners under Chapters 401 (Speech-Language Pathologists and Audiologists), 453 (Physical Therapists), and 454 (Occupational Therapists), and Subtitles B (Physicians), C (Other Professions Performing Medical Procedures), D (Dentistry), E (Regulation of Nursing), F (Professions Related to Eyes and Vision), and K (Professions Related to Use of Certain Medical Equipment).

[Reserves Sections 112.003-112.050 for expansion.]

SUBCHAPTER B. SERVICES PROVIDED TO CHARITIES

Sec. 112.051. REDUCED LICENSE REQUIREMENTS FOR RETIRED HEALTH CARE PRACTITIONERS PERFORMING CHARITY WORK. (a) Requires each licensing entity to adopt rules providing for reduced fees and continuing education requirements for a retired health care practitioner whose only practice is voluntary charity care.

(b) Requires the licensing entity, by rule, to define voluntary charity care.

SECTION 2. 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 joint underwriting 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 (Policyholder's Stabilization Reserve Fund for Physicians and Certain Health Care Providers) 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 volunteer liability), 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 3. Amends Article 21.49-4(a), Insurance Code, by adding Subdivisions (4) and (5), to define "charitable organization" and "volunteer health care provider."

SECTION 4. Amends Article 21.49-4, Insurance Code, by adding Subsection (c-1), to authorize the 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. 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 5. Provides that the joint underwriting association established 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. Effective date: upon passage or September 1, 2005.