

By: Goolsby

H.B. No. 655

Substitute the following for H.B. No. 655:

By: Eiland

C.S.H.B. No. 655

A BILL TO BE ENTITLED

1

AN ACT

2 relating to liability insurance for volunteer health care
3 providers.

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

5 SECTION 1. Article 21.49-3, Insurance Code, is amended by
6 adding Section 3C to read as follows:

7 Sec. 3C. COVERAGE FOR VOLUNTEER HEALTH CARE PROVIDERS. (a)

8 In this section:

9 (1) "Charitable organization" has the meaning
10 assigned by Section 84.003, Civil Practice and Remedies Code.

11 (2) "Volunteer health care provider" has the meaning
12 assigned by Section 84.003, Civil Practice and Remedies Code.

13 (b) The association shall make available medical liability
14 insurance or appropriate health care liability insurance covering a
15 volunteer health care provider for the legal liability of the
16 person against any loss, damage, or expense incident to a claim
17 arising out of the death or injury of any person as the result of
18 negligence in rendering or the failure to render professional
19 service while acting in the course and scope of the person's duties
20 as a volunteer health care provider as described by Chapter 84,
21 Civil Practice and Remedies Code.

22 (c) A volunteer health care provider who is serving as a
23 direct service volunteer of a charitable organization is eligible
24 to obtain from the association the liability insurance made

1 available under this section. A volunteer health care provider who
2 obtains coverage under this section is subject to Section 4A of this
3 article and the other provisions of this article in the same manner
4 as physicians who are eligible to obtain medical liability
5 insurance from the association.

6 (d) This section does not affect the liability of a
7 volunteer health care provider who is serving as a direct service
8 volunteer of a charitable organization. Section 84.004(c), Civil
9 Practice and Remedies Code, applies to the volunteer health care
10 provider without regard to whether the volunteer health care
11 provider obtains liability insurance under this section.

12 SECTION 2. Article 21.49-4(a), Insurance Code, is amended
13 by adding Subdivisions (4) and (5) to read as follows:

14 (4) "Charitable organization" has the meaning
15 assigned by Section 84.003, Civil Practice and Remedies Code.

16 (5) "Volunteer health care provider" has the meaning
17 assigned by Section 84.003, Civil Practice and Remedies Code.

18 SECTION 3. Article 21.49-4, Insurance Code, is amended by
19 adding Subsection (c-1) to read as follows:

20 (c-1) The trust, in accordance with Subsection (c) of this
21 article, may make available professional liability insurance
22 covering a volunteer health care provider for an act or omission
23 resulting in death, damage, or injury to a patient while the person
24 is acting in the course and scope of the person's duties as a
25 volunteer health care provider as described by Chapter 84, Civil
26 Practice and Remedies Code. This subsection does not affect the
27 liability of a volunteer health care provider who is serving as a

1 direct service volunteer of a charitable organization. Section
2 84.004(c), Civil Practice and Remedies Code, applies to the
3 volunteer health care provider without regard to whether the
4 volunteer health care provider obtains liability insurance under
5 this subsection. The trust may make professional liability
6 insurance available under this subsection to a volunteer health
7 care provider without regard to whether the volunteer health care
8 provider is a physician or dentist.

9 SECTION 4. The joint underwriting association established
10 under Article 21.49-3, Insurance Code, is not required to make
11 liability insurance available in accordance with Section 3C,
12 Article 21.49-3, Insurance Code, as added by this Act, before the
13 181st day after the effective date of this Act.

14 SECTION 5. This Act applies only to a professional
15 liability insurance policy that is delivered, issued for delivery,
16 or renewed on or after the 181st day after the effective date of
17 this Act. A policy delivered, issued for delivery, or renewed
18 before the 181st day after the effective date of this Act is
19 governed by the law as it existed immediately before the effective
20 date of this Act, and that law is continued in effect for that
21 purpose.

22 SECTION 6. This Act takes effect immediately if it receives
23 a vote of two-thirds of all the members elected to each house, as
24 provided by Section 39, Article III, Texas Constitution. If this
25 Act does not receive the vote necessary for immediate effect, this
26 Act takes effect September 1, 2005.