

1-1 By: Branch (Senate Sponsor - Nelson) H.B. No. 2680
1-2 (In the Senate - Received from the House April 29, 2005;
1-3 May 2, 2005, read first time and referred to Committee on Health
1-4 and Human Services; May, 17, 2005, reported adversely, with
1-5 favorable Committee Substitute by the following vote: Yeas 6,
1-6 Nays 0; May, 17, 2005, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 2680 By: Nelson

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to services provided by health care practitioners to
1-11 charities and liability insurance for those practitioners.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Subtitle A, Title 3, Occupations Code, is
1-14 amended by adding Chapter 112 to read as follows:

1-15 CHAPTER 112. GENERAL LICENSING REQUIREMENTS APPLICABLE

1-16 TO MULTIPLE HEALTH CARE PRACTITIONERS

1-17 SUBCHAPTER A. GENERAL PROVISIONS

1-18 Sec. 112.001. DEFINITIONS. In this chapter:

1-19 (1) "Health care practitioner" means an individual
1-20 issued a license, certificate, registration, title, permit, or
1-21 other authorization to engage in a health care profession.

1-22 (2) "Licensing entity" means a department,
1-23 commission, board, office, authority, or other agency of the state
1-24 that regulates activities and persons under this title.

1-25 Sec. 112.002. APPLICABILITY. This chapter applies only to
1-26 licensing entities and health care practitioners under Chapters
1-27 401, 453, and 454 and Subtitles B, C, D, E, F, and K.

1-28 [Sections 112.003-112.050 reserved for expansion]

1-29 SUBCHAPTER B. SERVICES PROVIDED TO CHARITIES

1-30 Sec. 112.051. REDUCED LICENSE REQUIREMENTS FOR RETIRED
1-31 HEALTH CARE PRACTITIONERS PERFORMING CHARITY WORK. (a) Each
1-32 licensing entity shall adopt rules providing for reduced fees and
1-33 continuing education requirements for a retired health care
1-34 practitioner whose only practice is voluntary charity care.

1-35 (b) The licensing entity by rule shall define voluntary
1-36 charity care.

1-37 SECTION 2. Article 21.49-3, Insurance Code, is amended by
1-38 adding Section 3C to read as follows:

1-39 Sec. 3C. COVERAGE FOR VOLUNTEER HEALTH CARE PROVIDERS. (a)
1-40 In this section:

1-41 (1) "Charitable organization" has the meaning
1-42 assigned by Section 84.003, Civil Practice and Remedies Code.

1-43 (2) "Volunteer health care provider" has the meaning
1-44 assigned by Section 84.003, Civil Practice and Remedies Code.

1-45 (b) The association shall make available medical liability
1-46 insurance or appropriate health care liability insurance covering a
1-47 volunteer health care provider for the legal liability of the
1-48 person against any loss, damage, or expense incident to a claim
1-49 arising out of the death or injury of any person as the result of
1-50 negligence in rendering or the failure to render professional
1-51 service while acting in the course and scope of the person's duties
1-52 as a volunteer health care provider as described by Chapter 84,
1-53 Civil Practice and Remedies Code.

1-54 (c) A volunteer health care provider who is serving as a
1-55 direct service volunteer of a charitable organization is eligible
1-56 to obtain from the association the liability insurance made
1-57 available under this section. A volunteer health care provider who
1-58 obtains coverage under this section is subject to Section 4A of this
1-59 article and the other provisions of this article in the same manner
1-60 as physicians who are eligible to obtain medical liability
1-61 insurance from the association.

1-62 (d) This section does not affect the liability of a
1-63 volunteer health care provider who is serving as a direct service

2-1 volunteer of a charitable organization. Section 84.004(c), Civil
2-2 Practice and Remedies Code, applies to the volunteer health care
2-3 provider without regard to whether the volunteer health care
2-4 provider obtains liability insurance under this section.

2-5 SECTION 3. Subsection (a), Article 21.49-4, Insurance Code,
2-6 is amended by adding Subdivisions (4) and (5) to read as follows:

2-7 (4) "Charitable organization" has the meaning
2-8 assigned by Section 84.003, Civil Practice and Remedies Code.

2-9 (5) "Volunteer health care provider" has the meaning
2-10 assigned by Section 84.003, Civil Practice and Remedies Code.

2-11 SECTION 4. Article 21.49-4, Insurance Code, is amended by
2-12 adding Subsection (c-1) to read as follows:

2-13 (c-1) The trust, in accordance with Subsection (c) of this
2-14 article, may make available professional liability insurance
2-15 covering a volunteer health care provider for an act or omission
2-16 resulting in death, damage, or injury to a patient while the person
2-17 is acting in the course and scope of the person's duties as a
2-18 volunteer health care provider as described by Chapter 84, Civil
2-19 Practice and Remedies Code. This subsection does not affect the
2-20 liability of a volunteer health care provider who is serving as a
2-21 direct service volunteer of a charitable organization. Section
2-22 84.004(c), Civil Practice and Remedies Code, applies to the
2-23 volunteer health care provider without regard to whether the
2-24 volunteer health care provider obtains liability insurance under
2-25 this subsection. The trust may make professional liability
2-26 insurance available under this subsection to a volunteer health
2-27 care provider without regard to whether the volunteer health care
2-28 provider is a physician or dentist.

2-29 SECTION 5. The joint underwriting association established
2-30 under Article 21.49-3, Insurance Code, is not required to make
2-31 liability insurance available in accordance with Section 3C,
2-32 Article 21.49-3, Insurance Code, as added by this Act, before the
2-33 181st day after the effective date of this Act.

2-34 SECTION 6. This Act applies only to a professional
2-35 liability insurance policy that is delivered, issued for delivery,
2-36 or renewed on or after the 181st day after the effective date of
2-37 this Act. A policy delivered, issued for delivery, or renewed
2-38 before the 181st day after the effective date of this Act is
2-39 governed by the law as it existed immediately before the effective
2-40 date of this Act, and that law is continued in effect for that
2-41 purpose.

2-42 SECTION 7. This Act takes effect immediately if it receives
2-43 a vote of two-thirds of all the members elected to each house, as
2-44 provided by Section 39, Article III, Texas Constitution. If this
2-45 Act does not receive the vote necessary for immediate effect, this
2-46 Act takes effect September 1, 2005.

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