

## **BILL ANALYSIS**

Senate Research Center

H.B. 1592  
By: Smithee (West)  
Higher Education  
5/7/2019  
Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

There are concerns that the authority of certain public university systems to operate self-insurance liability coverage does not extend to certain health care professionals, which may increase costs and result in the systems not being able to support their employees at critical times.

H.B. 1592 seeks to address these concerns by making health care liability self-insurance more flexible for certain public university systems.

H.B. 1592 amends current law relating to health care professional liability coverage for certain public institutions of higher education.

### **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 the heading to Chapter 59, Education Code, to read as follows:

#### CHAPTER 59. HEALTH CARE PROFESSIONAL MALPRACTICE COVERAGE FOR CERTAIN INSTITUTIONS

SECTION 2. Amends the heading to Subchapter A, Chapter 59, Education Code, to read as follows:

#### SUBCHAPTER A. HEALTH CARE PROFESSIONAL LIABILITY

SECTION 3. Amends Sections 59.01(1), (2), (3), and (4), Education Code, as follows:

- (1) Defines "health care professional staff members or students," rather than defining "medical staff or student."
- (2) Defines "health care liability claim," rather than defining "medical malpractice claim."
- (3) Includes the board of regents of the Texas State University System (TSUS), the board of regents the University of Houston System (UH System), and the board of regents of Stephen F. Austin State University (SFA) in the definition of "board."
- (4) Redefines "fund" to mean the health care professional liability fund.

SECTION 4. Amends Sections 59.02, 59.04, 59.05, and 59.06, Education Code, as follows:

Sec. 59.02. New heading: HEALTH CARE PROFESSIONAL LIABILITY FUND. (a) Authorizes each board to establish a separate self-insurance fund to pay any damages adjudged in a court of competent jurisdiction or a settlement of any health care liability

claim against a health care professional staff member or student arising from the exercise of the member's or student's appointment, duties, or training with The University of Texas System (UT System), The Texas A&M University System (TAMU System), the Texas Tech University System (TTU System), the TSUS, the UH System, SFA, or the University of North Texas System (UNT System), rather than authorizing each board to establish a separate self-insurance fund to pay any damages adjudged in a court of competent jurisdiction or a settlement of any medical malpractice claim against a member of the medical staff or students arising from the exercise of his appointment, duties, or training with certain institutions of higher education, including the University of North Texas Health Science Center at Fort Worth.

(b) Authorizes the boards to pay from the funds all expenses incurred in the investigation, settlement, defense, or payment of claims described above on behalf of the health care professional staff members or students, rather than authorizing the boards to pay from the funds all expenses incurred in the investigation, settlement, defense, or payment of claims described above on behalf of the medical staff or students.

(c) Requires the money deposited into the fund to be deposited in any of the approved depository banks of certain institutions of higher education, including the TSUS, UH System, SFA, or UNT System.

Sec. 59.04. PURCHASE OF INSURANCE. Authorizes each board to purchase health care liability insurance from an insurance company authorized to engage in the business of insurance in this state as it considers necessary to carry out the purpose of this subchapter, rather than authorizing each board to purchase medical malpractice insurance from an insurance company authorized to do business in this state as it considers necessary to carry out the purpose of this subchapter.

Sec. 59.05. LEGAL COUNSEL. Authorizes each board to employ private legal counsel to represent the health care professional staff members or students covered by this subchapter under the rules of the board, rather than authorizing each board to employ private legal counsel to represent the medical staff and students covered by this subchapter under the rules of the board.

Sec. 59.06. LIMITATION ON APPROPRIATED FUNDS. Prohibits funds appropriated by the legislature to the UT System, the TAMU System, the TTU System, the TSUS, the UH System, SFA, or the UNT System from the General Revenue Fund from being used to establish or maintain the fund, to purchase insurance, or to employ private legal counsel, rather than prohibiting funds appropriated by the legislature to either system, to the Texas Tech University Health Sciences Center, to the Texas Tech University Health Sciences Center at El Paso, or to the UNT Health Science Center at Fort Worth from the General Revenue Fund from being used to establish or maintain the fund, to purchase insurance, or to employ private legal counsel.

SECTION 5. Amends Sections 59.08(a) and (e), Education Code, as follows:

(a) Requires the state to indemnify a health care professional staff member or student for damages paid as required by a judgment on or settlement of a health care liability claim arising out of the provision of charitable care or services, rather than requiring the state to indemnify a member of the medical staff or a student for damages paid as required by a judgment on or settlement of a medical malpractice claim arising out of the provision of charitable care or services.

(e) Entitles the Texas attorney general to approve any settlement of the portion of a health care liability claim, rather than a medical malpractice claim, that may result in the state being liable for indemnification of the defendant under this section (State Indemnification).

SECTION 6. Makes application of Section 59.08, Education Code, as amended by this Act, prospective.

SECTION 7. Effective date: September 1, 2019.