

By: Smithee

H.B. No. 1592

A BILL TO BE ENTITLED

AN ACT

relating to health care professional liability coverage for certain public institutions of higher education.

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

SECTION 1. The heading to Chapter 59, Education Code, is amended to read as follows:

CHAPTER 59. HEALTH CARE PROFESSIONAL ~~[MEDICAL]~~ MALPRACTICE
COVERAGE FOR CERTAIN INSTITUTIONS

SECTION 2. The heading to Subchapter A, Chapter 59, Education Code, is amended to read as follows:

SUBCHAPTER A. HEALTH CARE ~~[MEDICAL]~~ PROFESSIONAL LIABILITY

SECTION 3. Sections 59.01(1), (2), (3), and (4), Education Code, are amended to read as follows:

(1) "Health care professional ~~[Medical]~~ staff members or students" means:

(A) physicians ~~[medical doctors, doctors of osteopathy]~~, dentists, veterinarians, ~~[and]~~ podiatrists, physician assistants, nurses, pharmacists, and other health care providers who:

(i) are appointed to the faculty or ~~[professional medical staff]~~ employed ~~[for student health services]~~ by or volunteer for The University of Texas System, The Texas A&M University System, the Texas Tech University System, the Texas State University System, the University of Houston System,

1 Stephen F. Austin State University, or the University of North
2 Texas System; and

3 (ii) either:

4 (a) are appointed or employed on a
5 full-time basis; [~~Health Science Center at Fort Worth, either full~~
6 ~~time~~] or

7 (b) are appointed or volunteer on a
8 part-time basis and who[, ~~although appointed less than full time~~
9 ~~(including volunteers), either~~] devote their total professional
10 service to providing health services [~~such appointment~~] or provide
11 services to patients by assignment from the department chairman;
12 and

13 (B) interns, residents, fellows, [~~and~~ medical
14 students, [~~or~~ dental students, veterinary students, [~~and~~
15 students of osteopathic medicine, nursing students, pharmacy
16 students, and students of any other health care profession that
17 requires a license, certificate, or other authorization under Title
18 3, Occupations Code, [~~osteopathy~~ participating in a patient-care
19 program in The University of Texas System, The Texas A&M University
20 System, the Texas Tech University System, the Texas State
21 University System, the University of Houston System, Stephen F.
22 Austin State University, or the University of North Texas System
23 [~~Health Science Center at Fort Worth~~].

24 (2) "Health care liability [~~Medical malpractice~~]
25 claim" means a cause of action against a physician or health care
26 professional for treatment, lack of treatment, or other claimed
27 departure from accepted standards of medical care, health care, or

1 veterinary care, or safety or professional or administrative
2 services directly related to health care, which proximately results
3 in injury to or death of a [the] patient, whether the [patient's]
4 claim or cause of action [or the executor's claim or cause of action
5 under Section 71.021, Civil Practice and Remedies Code,] sounds in
6 tort or contract.

7 (3) "Board" means the board of regents of The
8 University of Texas System, the board of regents of The Texas A&M
9 University System, the board of regents of the Texas Tech
10 University System, the board of regents of the Texas State
11 University System, the board of regents of the University of
12 Houston System, the board of regents of Stephen F. Austin State
13 University, or the board of regents of the University of North Texas
14 System.

15 (4) "Fund" means the health care [medical]
16 professional liability fund.

17 SECTION 4. Sections 59.02, 59.04, 59.05, and 59.06,
18 Education Code, are amended to read as follows:

19 Sec. 59.02. HEALTH CARE [MEDICAL] PROFESSIONAL LIABILITY
20 FUND. (a) Each board may establish a separate self-insurance fund
21 to pay any damages adjudged in a court of competent jurisdiction or
22 a settlement of any health care liability [medical malpractice]
23 claim against a health care professional [member of the medical]
24 staff member or student [students] arising from the exercise of the
25 member's or student's [his] appointment, duties, or training with
26 The University of Texas System, The Texas A&M University System,
27 the Texas Tech University System, the Texas State University

1 System, the University of Houston System, Stephen F. Austin State
2 University, or the University of North Texas System [~~Health Science~~
3 ~~Center at Fort Worth~~].

4 (b) The boards may pay from the funds all expenses incurred
5 in the investigation, settlement, defense, or payment of claims
6 described above on behalf of the health care professional [~~medical~~]
7 staff members or students.

8 (c) On the establishment of each fund, transfers to the fund
9 shall be made in an amount and at such intervals as determined by
10 the board. Each board may receive and accept any gifts or donations
11 specified for the purposes of this subchapter and deposit those
12 gifts or donations into the fund. Each board may invest money
13 deposited in the fund, and any income received shall be retained in
14 the fund. The money shall be deposited in any of the approved
15 depository banks of The University of Texas System, The Texas A&M
16 University System, the Texas Tech University System, the Texas
17 State University System, the University of Houston System, Stephen
18 F. Austin State University, or the University of North Texas System
19 [~~Health Science Center at Fort Worth~~]. All expenditures from the
20 funds shall be paid pursuant to approval by the boards.

21 Sec. 59.04. PURCHASE OF INSURANCE. Each board may purchase
22 health care liability [~~medical malpractice~~] insurance from an
23 insurance company authorized to engage in the [~~de~~] business of
24 insurance in this state as it considers necessary to carry out the
25 purpose of this subchapter.

26 Sec. 59.05. LEGAL COUNSEL. Each board may employ private
27 legal counsel to represent the health care professional [~~medical~~]

1 staff members or [~~and~~] students covered by this subchapter under
2 the rules of the board.

3 Sec. 59.06. LIMITATION ON APPROPRIATED FUNDS. Funds
4 appropriated by the legislature to The University of Texas System,
5 The Texas A&M University System, [~~either system, to~~] the Texas Tech
6 University System [~~Health Sciences Center, to the Texas Tech~~
7 ~~University Health Sciences Center at El Paso~~], the Texas State
8 University System, the University of Houston System, Stephen F.
9 Austin State University, or [~~to~~] the University of North Texas
10 System [~~Health Science Center at Fort Worth~~] from the General
11 Revenue Fund may not be used to establish or maintain the fund, to
12 purchase insurance, or to employ private legal counsel.

13 SECTION 5. Sections 59.08(a) and (e), Education Code, are
14 amended to read as follows:

15 (a) The state shall indemnify a health care professional
16 [~~member of the medical~~] staff member or [~~a~~] student for damages paid
17 as required by a judgment on or settlement of a health care
18 liability [~~medical malpractice~~] claim arising out of the provision
19 of charitable care or services.

20 (e) The attorney general is entitled to approve any
21 settlement of the portion of a health care liability [~~medical~~
22 ~~malpractice~~] claim that may result in the state being liable for
23 indemnification of the defendant under this section. If the
24 attorney general does not approve a settlement, the state is not
25 liable for indemnification of the defendant under this section. The
26 attorney general shall base the determination on the best interests
27 of the defendant.

1 SECTION 6. Section 59.08, Education Code, as amended by
2 this Act, applies only to a cause of action that accrues on or after
3 the effective date of this Act. A cause of action that accrued
4 before the effective date of this Act is governed by the law as it
5 existed immediately before the effective date of this Act, and that
6 law is continued in effect for that purpose.

7 SECTION 7. This Act takes effect September 1, 2019.