

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, or the University of North Texas System; and

1 (ii) either:

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

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

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

20 (2) "Health care liability [~~Medical malpractice~~]
21 claim" means a cause of action against a physician or health care
22 professional for treatment, lack of treatment, or other claimed
23 departure from accepted standards of medical care, health care, or
24 veterinary care, or safety or professional or administrative
25 services directly related to health care, which proximately results
26 in injury to or death of a [~~the~~] patient, whether the [~~patient's~~]
27 claim or cause of action [~~or the executor's claim or cause of action~~

1 ~~under Section 71.021, Civil Practice and Remedies Code,~~ sounds in
2 tort or contract.

3 (3) "Board" means the board of regents of The
4 University of Texas System, the board of regents of The Texas A&M
5 University System, the board of regents of the Texas Tech
6 University System, or the board of regents of the University of
7 North Texas System.

8 (4) "Fund" means the health care [~~medical~~]
9 professional liability fund.

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

12 Sec. 59.02. HEALTH CARE [~~MEDICAL~~] PROFESSIONAL LIABILITY
13 FUND. (a) Each board may establish a separate self-insurance fund
14 to pay any damages adjudged in a court of competent jurisdiction or
15 a settlement of any health care liability [~~medical malpractice~~]
16 claim against a health care professional [~~member of the medical~~]
17 staff member or student [~~students~~] arising from the exercise of the
18 member's or student's [~~his~~] appointment, duties, or training with
19 The University of Texas System, The Texas A&M University System,
20 the Texas Tech University System, or the University of North Texas
21 System [~~Health Science Center at Fort Worth~~].

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

26 (c) On the establishment of each fund, transfers to the fund
27 shall be made in an amount and at such intervals as determined by

1 the board. Each board may receive and accept any gifts or donations
 2 specified for the purposes of this subchapter and deposit those
 3 gifts or donations into the fund. Each board may invest money
 4 deposited in the fund, and any income received shall be retained in
 5 the fund. The money shall be deposited in any of the approved
 6 depository banks of The University of Texas System, The Texas A&M
 7 University System, the Texas Tech University System, or the
 8 University of North Texas System [~~Health Science Center at Fort~~
 9 ~~Worth~~]. All expenditures from the funds shall be paid pursuant to
 10 approval by the boards.

11 Sec. 59.04. PURCHASE OF INSURANCE. Each board may purchase
 12 health care liability [~~medical malpractice~~] insurance from an
 13 insurance company authorized to engage in the [~~do~~] business of
 14 insurance in this state as it considers necessary to carry out the
 15 purpose of this subchapter.

16 Sec. 59.05. LEGAL COUNSEL. Each board may employ private
 17 legal counsel to represent the health care professional [~~medical~~]
 18 staff members or [~~and~~] students covered by this subchapter under
 19 the rules of the board.

20 Sec. 59.06. LIMITATION ON APPROPRIATED FUNDS. Funds
 21 appropriated by the legislature to The University of Texas System,
 22 The Texas A&M University System, [~~either system, to~~] the Texas Tech
 23 University System [~~Health Sciences Center, to the Texas Tech~~
 24 ~~University Health Sciences Center at El Paso~~], or [~~to~~] the
 25 University of North Texas System [~~Health Science Center at Fort~~
 26 ~~Worth~~] from the General Revenue Fund may not be used to establish or
 27 maintain the fund, to purchase insurance, or to employ private

1 legal counsel.

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

4 (a) The state shall indemnify a health care professional
5 [~~member of the medical~~] staff member or [~~a~~] student for damages paid
6 as required by a judgment on or settlement of a health care
7 liability [~~medical malpractice~~] claim arising out of the provision
8 of charitable care or services.

9 (e) The attorney general is entitled to approve any
10 settlement of the portion of a health care liability [~~medical~~
11 ~~malpractice~~] claim that may result in the state being liable for
12 indemnification of the defendant under this section. If the
13 attorney general does not approve a settlement, the state is not
14 liable for indemnification of the defendant under this section. The
15 attorney general shall base the determination on the best interests
16 of the defendant.

17 SECTION 6. Section 59.08, Education Code, as amended by
18 this Act, applies only to a cause of action that accrues on or after
19 the effective date of this Act. A cause of action that accrued
20 before the effective date of this Act is governed by the law as it
21 existed immediately before the effective date of this Act, and that
22 law is continued in effect for that purpose.

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