

1-1 By: Smithee (Senate Sponsor - West) H.B. No. 1592
 1-2 (In the Senate - Received from the House April 11, 2019;
 1-3 April 15, 2019, read first time and referred to Committee on Higher
 1-4 Education; May 10, 2019, reported favorably by the following vote:
 1-5 Yeas 8, Nays 0; May 10, 2019, sent to printer.)

1-6 COMMITTEE VOTE

| | Yea | Nay | Absent | PNV |
|-----------------|-----|-----|--------|-----|
| 1-7 Creighton | X | | | |
| 1-8 West | X | | | |
| 1-9 Bettencourt | X | | | |
| 1-10 Buckingham | | | X | |
| 1-11 Flores | X | | | |
| 1-12 Menéndez | X | | | |
| 1-13 Powell | X | | | |
| 1-14 Taylor | X | | | |
| 1-15 Watson | X | | | |

1-17 A BILL TO BE ENTITLED
 1-18 AN ACT

1-19 relating to health care professional liability coverage for certain
 1-20 public institutions of higher education.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. The heading to Chapter 59, Education Code, is
 1-23 amended to read as follows:

1-24 CHAPTER 59. HEALTH CARE PROFESSIONAL [MEDICAL] MALPRACTICE
 1-25 COVERAGE FOR CERTAIN INSTITUTIONS

1-26 SECTION 2. The heading to Subchapter A, Chapter 59,
 1-27 Education Code, is amended to read as follows:

1-28 SUBCHAPTER A. HEALTH CARE [MEDICAL] PROFESSIONAL LIABILITY

1-29 SECTION 3. Sections 59.01(1), (2), (3), and (4), Education
 1-30 Code, are amended to read as follows:

1-31 (1) "Health care professional [Medical] staff members
 1-32 or students" means:

1-33 (A) physicians [medical doctors, doctors of
 1-34 osteopathy], dentists, veterinarians, [and] podiatrists, physician
 1-35 assistants, nurses, pharmacists, and other health care providers
 1-36 who:

1-37 (i) are appointed to the faculty or
 1-38 [professional medical staff] employed [for student health
 1-39 services] by or volunteer for The University of Texas System, The
 1-40 Texas A&M University System, the Texas Tech University System, the
 1-41 Texas State University System, the University of Houston System,
 1-42 Stephen F. Austin State University, or the University of North
 1-43 Texas System; and

1-44 (ii) either:

1-45 (a) are appointed or employed on a
 1-46 full-time basis; [Health Science Center at Fort Worth, either full
 1-47 time] or

1-48 (b) are appointed or volunteer on a
 1-49 part-time basis and who[, although appointed less than full time
 1-50 (including volunteers), either] devote their total professional
 1-51 service to providing health services [such appointment] or provide
 1-52 services to patients by assignment from the department chairman;
 1-53 and

1-54 (B) interns, residents, fellows, [and] medical
 1-55 students, [or] dental students, veterinary students, [and]
 1-56 students of osteopathic medicine, nursing students, pharmacy
 1-57 students, and students of any other health care profession that
 1-58 requires a license, certificate, or other authorization under Title
 1-59 3, Occupations Code, [osteopathy] participating in a patient-care
 1-60 program in The University of Texas System, The Texas A&M University
 1-61 System, the Texas Tech University System, the Texas State

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

2-4 (2) "Health care liability [~~Medical malpractice~~]
 2-5 claim" means a cause of action against a physician or health care
 2-6 professional for treatment, lack of treatment, or other claimed
 2-7 departure from accepted standards of medical care, health care, or
 2-8 veterinary care, or safety or professional or administrative
 2-9 services directly related to health care, which proximately results
 2-10 in injury to or death of a [~~the~~] patient, whether the [~~patient's~~]
 2-11 claim or cause of action [~~or the executor's claim or cause of action~~
 2-12 under Section 71.021, Civil Practice and Remedies Code,] sounds in
 2-13 tort or contract.

2-14 (3) "Board" means the board of regents of The
 2-15 University of Texas System, the board of regents of The Texas A&M
 2-16 University System, the board of regents of the Texas Tech
 2-17 University System, the board of regents of the Texas State
 2-18 University System, the board of regents of the University of
 2-19 Houston System, the board of regents of Stephen F. Austin State
 2-20 University, or the board of regents of the University of North Texas
 2-21 System.

2-22 (4) "Fund" means the health care [~~medical~~]
 2-23 professional liability fund.

2-24 SECTION 4. Sections 59.02, 59.04, 59.05, and 59.06,
 2-25 Education Code, are amended to read as follows:

2-26 Sec. 59.02. HEALTH CARE [~~MEDICAL~~] PROFESSIONAL LIABILITY
 2-27 FUND. (a) Each board may establish a separate self-insurance fund
 2-28 to pay any damages adjudged in a court of competent jurisdiction or
 2-29 a settlement of any health care liability [~~medical malpractice~~]
 2-30 claim against a health care professional [~~member of the medical~~]
 2-31 staff member or student [~~students~~] arising from the exercise of the
 2-32 member's or student's [~~his~~] appointment, duties, or training with
 2-33 The University of Texas System, The Texas A&M University System,
 2-34 the Texas Tech University System, the Texas State University
 2-35 System, the University of Houston System, Stephen F. Austin State
 2-36 University, or the University of North Texas System [~~Health Science~~
 2-37 ~~Center at Fort Worth].~~

2-38 (b) The boards may pay from the funds all expenses incurred
 2-39 in the investigation, settlement, defense, or payment of claims
 2-40 described above on behalf of the health care professional [~~medical~~]
 2-41 staff members or students.

2-42 (c) On the establishment of each fund, transfers to the fund
 2-43 shall be made in an amount and at such intervals as determined by
 2-44 the board. Each board may receive and accept any gifts or donations
 2-45 specified for the purposes of this subchapter and deposit those
 2-46 gifts or donations into the fund. Each board may invest money
 2-47 deposited in the fund, and any income received shall be retained in
 2-48 the fund. The money shall be deposited in any of the approved
 2-49 depository banks of The University of Texas System, The Texas A&M
 2-50 University System, the Texas Tech University System, the Texas
 2-51 State University System, the University of Houston System, Stephen
 2-52 F. Austin State University, or the University of North Texas System
 2-53 [Health Science Center at Fort Worth]. All expenditures from the
 2-54 funds shall be paid pursuant to approval by the boards.

2-55 Sec. 59.04. PURCHASE OF INSURANCE. Each board may purchase
 2-56 health care liability [~~medical malpractice~~] insurance from an
 2-57 insurance company authorized to engage in the [~~de~~] business of
 2-58 insurance in this state as it considers necessary to carry out the
 2-59 purpose of this subchapter.

2-60 Sec. 59.05. LEGAL COUNSEL. Each board may employ private
 2-61 legal counsel to represent the health care professional [~~medical~~]
 2-62 staff members or [~~and~~] students covered by this subchapter under
 2-63 the rules of the board.

2-64 Sec. 59.06. LIMITATION ON APPROPRIATED FUNDS. Funds
 2-65 appropriated by the legislature to The University of Texas System,
 2-66 The Texas A&M University System, [either system, to] the Texas Tech
 2-67 University System [Health Sciences Center, to the Texas Tech
 2-68 University Health Sciences Center at El Paso], the Texas State
 2-69 University System, the University of Houston System, Stephen F.

3-1 Austin State University, or [~~to~~] the University of North Texas
3-2 System [~~Health Science Center at Fort Worth~~] from the General
3-3 Revenue Fund may not be used to establish or maintain the fund, to
3-4 purchase insurance, or to employ private legal counsel.

3-5 SECTION 5. Sections 59.08(a) and (e), Education Code, are
3-6 amended to read as follows:

3-7 (a) The state shall indemnify a health care professional
3-8 [~~member of the medical~~] staff member or [~~a~~] student for damages paid
3-9 as required by a judgment on or settlement of a health care
3-10 liability [~~medical malpractice~~] claim arising out of the provision
3-11 of charitable care or services.

3-12 (e) The attorney general is entitled to approve any
3-13 settlement of the portion of a health care liability [~~medical~~
3-14 ~~malpractice~~] claim that may result in the state being liable for
3-15 indemnification of the defendant under this section. If the
3-16 attorney general does not approve a settlement, the state is not
3-17 liable for indemnification of the defendant under this section. The
3-18 attorney general shall base the determination on the best interests
3-19 of the defendant.

3-20 SECTION 6. Section 59.08, Education Code, as amended by
3-21 this Act, applies only to a cause of action that accrues on or after
3-22 the effective date of this Act. A cause of action that accrued
3-23 before the effective date of this Act is governed by the law as it
3-24 existed immediately before the effective date of this Act, and that
3-25 law is continued in effect for that purpose.

3-26 SECTION 7. This Act takes effect September 1, 2019.

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