

By: Krause

H.B. No. 3186

A BILL TO BE ENTITLED

AN ACT

relating to service of expert reports in health care liability claims.

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

SECTION 1. Section 74.351, Civil Practice and Remedies Code, is amended by amending Subsections (a) and (c) and adding Subsections (a-1) and (a-2) to read as follows:

(a) In a health care liability claim, a claimant shall:

(1) ~~not~~ not later than the 120th day after the date each defendant's original answer is filed, serve on that party or the party's attorney one or more expert reports, with a curriculum vitae of each expert listed in the report for each physician or health care provider against whom a liability claim is asserted; and

(2) not later than the 60th day after the date the claimant files an amended or supplemental pleading that asserts a theory of direct liability against a defendant against whom the claimant had previously asserted only a theory of vicarious liability, serve on that defendant or that defendant's attorney:

(A) an expert report that addresses at least one theory of direct liability asserted against that defendant in the amended or supplemental pleading; and

(B) a curriculum vitae of each expert listed in that expert report.

1           (a-1) The date for serving an expert [~~the~~] report under  
2 Subsection (a) may be extended by written agreement of the affected  
3 parties.

4           (a-2) Each defendant physician or health care provider  
5 whose conduct is implicated in a report must file and serve any  
6 objection to the sufficiency of the report not later than the later  
7 of the 21st day after the date the report is served or the 21st day  
8 after the date the defendant's answer is filed, failing which all  
9 objections are waived.

10           (c) If an expert report has not been served within the  
11 period specified by Subsection (a) because elements of the report  
12 are found deficient, the court may grant one 30-day extension to the  
13 claimant in order to cure the deficiency. If the claimant does not  
14 receive notice of the court's ruling granting the extension until  
15 after the applicable [~~120-day~~] deadline under Subsection (a) has  
16 passed, then the 30-day extension shall run from the date the  
17 plaintiff first received the notice.

18           SECTION 2. The change in law made by this Act applies only  
19 to an action commenced on or after the effective date of this Act.  
20 An action commenced before the effective date of this Act is  
21 governed by the law as it existed immediately before the effective  
22 date of this Act, and that law is continued in effect for that  
23 purpose.

24           SECTION 3. This Act takes effect September 1, 2019.