

By: Johnson, Schwertner

S.B. No. 786

A BILL TO BE ENTITLED

AN ACT

relating to health care liability insurance for certain nursing facilities.

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

SECTION 1. Subchapter B, Chapter 242, Health and Safety Code, is amended by adding Section 242.0337 to read as follows:

Sec. 242.0337. LIABILITY INSURANCE COVERAGE REQUIRED. (a)

In this section:

(1) "Governmental unit" has the meaning assigned by Section 101.001, Civil Practice and Remedies Code.

(2) "Health care liability claim" has the meaning assigned by Section 74.001, Civil Practice and Remedies Code.

(b) To hold a license under this chapter, a nursing facility must maintain professional liability insurance coverage against the liability of the facility or the facility's employees for a health care liability claim.

(c) The insurance coverage maintained by a nursing facility under this section:

(1) must provide coverage annually in the minimum amount of \$300,000 per occurrence and \$1 million aggregate, except as provided by Subsection (d);

(2) must be written on an occurrence basis;

(3) must be issued by:

(A) an insurer authorized to write professional

1 liability insurance in this state;

2 (B) the Texas Medical Liability Insurance
3 Underwriting Association established under Chapter 2203, Insurance
4 Code; or

5 (C) an eligible surplus lines insurer in
6 accordance with Chapter 981, Insurance Code;

7 (4) may not include the cost of defense of a claim
8 under the coverage in the coverage's liability limit; and

9 (5) must be in a form acceptable to the commission.

10 (d) For a nursing facility owned and operated by a
11 governmental unit, the insurance coverage maintained by the
12 facility must provide coverage only to the extent of the
13 governmental unit's liability under Section 101.023, Civil
14 Practice and Remedies Code.

15 (e) A management company that manages a nursing facility
16 owned by a governmental unit shall maintain professional liability
17 insurance coverage against the liability of the management company
18 or the company's employees for a health care liability claim as
19 described by Subsection (c). The coverage required by this
20 subsection is in addition to the insurance coverage maintained by
21 the facility under Subsection (b).

22 (f) To the extent permitted by federal law and applicable
23 state and federal rules, the cost of insurance coverage required to
24 be maintained under this section is an allowable cost for
25 reimbursement under the state Medicaid program.

26 SECTION 2. This Act takes effect September 1, 2019.