

By: Davis

H.B. No. 2406

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the qualifications of experts in certain health care
3 liability claims.

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

5 SECTION 1. Section 74.351(r)(5), Civil Practice and
6 Remedies Code, is amended to read as follows:

7 (5) "Expert" means:

8 (A) with respect to a person giving opinion
9 testimony regarding whether a physician departed from accepted
10 standards of medical care, an expert qualified to testify under the
11 requirements of Section 74.401;

12 (B) with respect to a person giving opinion
13 testimony regarding whether a health care provider departed from
14 accepted standards of health care, an expert qualified to testify
15 under the requirements of Section 74.402;

16 (C) with respect to a person giving opinion
17 testimony about the causal relationship between the injury, harm,
18 or damages claimed and the alleged departure from the applicable
19 standard of care in any health care liability claim, a physician who
20 is otherwise qualified to render opinions on such causal
21 relationship under the Texas Rules of Evidence;

22 (D) with respect to a person giving opinion
23 testimony about the causal relationship between the injury, harm,
24 or damages claimed and the alleged departure from the applicable

1 standard of care for a dentist, a dentist or physician who is
2 otherwise qualified to render opinions on such causal relationship
3 under the Texas Rules of Evidence; ~~or~~

4 (E) with respect to a person giving opinion
5 testimony about the causal relationship between the injury, harm,
6 or damages claimed and the alleged departure from the applicable
7 standard of care for a podiatrist, a podiatrist or physician who is
8 otherwise qualified to render opinions on such causal relationship
9 under the Texas Rules of Evidence; or

10 (F) with respect to a person giving opinion
11 testimony about the causal relationship between the injury, harm,
12 or damages claimed and the alleged departure from the applicable
13 standard of care for a chiropractor, a chiropractor or physician
14 who is otherwise qualified to render opinions on such causal
15 relationship under the Texas Rules of Evidence.

16 SECTION 2. Section 74.403, Civil Practice and Remedies
17 Code, is amended by amending Subsection (a) and adding Subsection
18 (c-1) to read as follows:

19 (a) Except as provided by Subsections (b), ~~and~~ (c), and
20 (c-1), in a suit involving a health care liability claim against a
21 physician or health care provider, a person may qualify as an expert
22 witness on the issue of the causal relationship between the alleged
23 departure from accepted standards of care and the injury, harm, or
24 damages claimed only if the person is a physician and is otherwise
25 qualified to render opinions on that causal relationship under the
26 Texas Rules of Evidence.

27 (c-1) In a suit involving a health care liability claim

1 against a chiropractor, a person may qualify as an expert witness on
2 the issue of the causal relationship between the alleged departure
3 from accepted standards of care and the injury, harm, or damages
4 claimed if the person is a chiropractor or physician and is
5 otherwise qualified to render opinions on that causal relationship
6 under the Texas Rules of Evidence.

7 SECTION 3. The changes in law made by this Act apply only to
8 an action commenced on or after the effective date of this Act. An
9 action commenced before the effective date of this Act is governed
10 by the law as it existed immediately before the effective date of
11 this Act, and that law is continued in effect for that purpose.

12 SECTION 4. This Act takes effect September 1, 2021.