

BILL ANALYSIS

Senate Research Center
79R9436 DLF-D

H.B. 654
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State Affairs
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Engrossed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Community clinics offering free basic health care services or offering services at greatly reduced costs are emerging and are often located in churches and other similar facilities. These clinics use retired doctors and other health care professionals who donate their services on a voluntary basis. Many retired health care professionals are prevented from donating their services because they are unable to secure medical liability coverage. These providers are protected from liability under the Charitable Immunity and Liability Act, but still need liability policies to cover defense costs.

Though insurers are not currently prevented by law from selling medical liability insurance to volunteer healthcare providers, the type of coverage the volunteer healthcare providers need is not available in sufficient amount.

H.B. 654 adds language to the Insurance Code clarifying the fact that an insurer is authorized to provide professional liability insurance covering a volunteer health provider.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Article 5.15-1, Insurance Code, by adding Section 12, as follows:

Sec. 12. COVERAGE FOR VOLUNTEER HEALTH CARE PROVIDERS. (a) Defines "charitable organization" and "volunteer health care provider."

(b) Authorizes an insurer to make available professional liability insurance covering a volunteer health care provider for an act or omission resulting in death, damage, or injury to a patient while the person is acting in the course and scope of the person's duties as a volunteer health care provider as described by Chapter 84 (Charitable Immunity and Liability), Civil Practice and Remedies Code.

(c) Provides that this section does not affect the liability of a volunteer health care provider who is serving as a direct service volunteer of a charitable organization. Provides that Section 84.004(c) (relating to the immunity of a health care provider who is serving as a direct services volunteer for a charitable organization), Civil Practice and Remedies Code, applies to the volunteer health care provider without regard to whether the volunteer health care provider obtains liability insurance under this section.

(d) Authorizes an insurer to make professional liability insurance available under this section to a volunteer health care provider without regard to whether the volunteer health care provider is a "health care provider" as defined by Section 2 of this article.

SECTION 2. Amends Article 21.49-4(a), Insurance Code, by adding Subdivisions (4) and (5), to define "charitable organization" and "volunteer health care provider."

SECTION 3. Amends Article 21.49-4, Insurance Code, by adding Subsection (c-1), as follows:

(c-1) Authorizes a self-insurance trust, in accordance with Subsection (c) of this article, to make available professional liability insurance covering a volunteer health care provider for an act or omission resulting in death, damage, or injury to a patient while the person is acting in the course and scope of the person's duties as a volunteer health care provider as described by Chapter 84, Civil Practice and Remedies Code. Provides that this subsection does not affect the liability of a volunteer health care provider who is serving as a direct service volunteer of a charitable organization. Provides that Section 84.004(c), Civil Practice and Remedies Code, applies to the volunteer health care provider without regard to whether the volunteer health care provider obtains liability insurance under this subsection. Authorizes the trust to make professional liability insurance available under this subsection to a volunteer health care provider without regard to whether the volunteer health care provider is a physician or dentist.

SECTION 4. Makes application of this Act prospective.

SECTION 5. Effective date: September 1, 2005.