

EDUCATION CODE

TITLE 3. HIGHER EDUCATION

SUBTITLE A. HIGHER EDUCATION IN GENERAL

CHAPTER 59. MEDICAL MALPRACTICE COVERAGE FOR CERTAIN INSTITUTIONS

SUBCHAPTER A. MEDICAL PROFESSIONAL LIABILITY

Sec. 59.01. DEFINITIONS. In this subchapter:

(1) "Medical staff or students" means medical doctors, doctors of osteopathy, dentists, veterinarians, and podiatrists appointed to the faculty or professional medical staff employed for student health services by The University of Texas System, The Texas A&M University System, the Texas Tech University System, or the University of North Texas Health Science Center at Fort Worth, either full time or who, although appointed less than full time (including volunteers), either devote their total professional service to such appointment or provide services to patients by assignment from the department chairman; and interns, residents, fellows, and medical or dental students, veterinary students, and students of osteopathy participating in a patient-care program in The University of Texas System, The Texas A&M University System, the Texas Tech University System, or the University of North Texas Health Science Center at Fort Worth.

(2) "Medical malpractice claim" means a cause of action for treatment, lack of treatment, or other claimed departure from accepted standards of care which proximately results in injury to or death of the patient, whether the patient's claim or cause of action or the executor's claim or cause of action under Section [71.021](#), Civil Practice and Remedies Code, sounds in tort or contract.

(3) "Board" means the board of regents of The University of Texas System, the board of regents of The Texas A&M University System, the board of regents of the Texas Tech University System, or the board of regents of the University of North Texas.

(4) "Fund" means the medical professional liability fund.

(5) "Charitable care or services" means all care or services provided for free or at discounted amounts at or below actual costs based on the ability of the beneficiary to pay and specifically includes all care and services provided to beneficiaries covered by Medicare and Medicaid.

(6) "Medical and dental unit" has the meaning assigned by Section 61.003 of this code.

Added by Acts 1983, 68th Leg., p. 996, ch. 235, art. 2, Sec. 1(a), eff. Sept. 1, 1983. Amended by Acts 1985, 69th Leg., ch. 117, Sec. 3(a), eff. Sept. 1, 1985; Acts 1985, 69th Leg., ch. 854, Sec. 1, eff. Sept. 1, 1985; Acts 1987, 70th Leg., ch. 1070, Sec. 3, eff. May 15, 1988; Acts 1989, 71st Leg., ch. 2, Sec. 6.02(a), eff. Aug. 28, 1989; Acts 1991, 72nd Leg., ch. 832, Sec. 1, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 408, Sec. 7, eff. Aug. 30, 1993.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 65 (S.B. 120), Sec. 8, eff. May 18, 2013.

Sec. 59.02. MEDICAL PROFESSIONAL LIABILITY FUND. (a) Each board may establish a separate self-insurance fund to pay any damages adjudged in a court of competent jurisdiction or a settlement of any medical malpractice claim against a member of the medical staff or students arising from the exercise of his appointment, duties, or training with The University of Texas System, The Texas A&M University System, the Texas Tech University System, or the University of North Texas Health Science Center at Fort Worth.

(b) The boards may pay from the funds all expenses incurred in the investigation, settlement, defense, or payment of claims described above on behalf of the medical staff or students.

(c) On the establishment of each fund, transfers to the fund shall be made in an amount and at such intervals as determined by the board. Each board may receive and accept any gifts or donations specified for the purposes of this subchapter and deposit those gifts or donations into the fund. Each board may invest money deposited in the fund, and any income received shall be retained in the fund. The money shall be deposited in any of the

approved depository banks of The University of Texas System, The Texas A&M University System, the Texas Tech University System, or the University of North Texas Health Science Center at Fort Worth. All expenditures from the funds shall be paid pursuant to approval by the boards.

Added by Acts 1983, 68th Leg., p. 996, ch. 235, art. 2, Sec. 1(a), eff. Sept. 1, 1983. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 6.02(a), eff. Aug. 28, 1989; Acts 1993, 73rd Leg., ch. 408, Sec. 8, eff. Aug. 30, 1993.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 65 (S.B. [120](#)), Sec. 9, eff. May 18, 2013.

Sec. 59.03. RULES. Each board may adopt rules for the establishment and administration of the fund and the negotiation, settlement, and payment of claims as necessary to carry out the purpose of this subchapter. Each board may establish by rule reasonable limits on the amount of claims to be paid from the fund or to be provided in purchased insurance.

Added by Acts 1983, 68th Leg., p. 996, ch. 235, art. 2, Sec. 1(a), eff. Sept. 1, 1983. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 6.02(a), eff. Aug. 28, 1989.

Sec. 59.04. PURCHASE OF INSURANCE. Each board may purchase medical malpractice insurance from an insurance company authorized to do business in this state as it considers necessary to carry out the purpose of this subchapter.

Added by Acts 1983, 68th Leg., p. 996, ch. 235, art. 2, Sec. 1(a), eff. Sept. 1, 1983. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 6.02(a), eff. Aug. 28, 1989.

Sec. 59.05. LEGAL COUNSEL. Each board may employ private legal counsel to represent the medical staff and students covered by this subchapter under the rules of the board.

Added by Acts 1983, 68th Leg., p. 996, ch. 235, art. 2, Sec. 1(a), eff. Sept. 1, 1983. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 6.02(a), eff. Aug. 28, 1989.

Sec. 59.06. LIMITATION ON APPROPRIATED FUNDS. Funds appropriated by the legislature to either system, to the Texas Tech University Health Sciences Center, to the Texas Tech University Health Sciences Center at El Paso, or to the University of North Texas Health Science Center at Fort Worth from the General Revenue Fund may not be used to establish or maintain the fund, to purchase insurance, or to employ private legal counsel.

Added by Acts 1983, 68th Leg., p. 996, ch. 235, art. 2, Sec. 1(a), eff. Sept. 1, 1983. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 6.02(a), eff. Aug. 28, 1989; Acts 1993, 73rd Leg., ch. 408, Sec. 9, eff. Aug. 30, 1993.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 65 (S.B. 120), Sec. 10, eff. May 18, 2013.

Sec. 59.07. EXEMPTION FROM INSURANCE CODE; REPORT. The establishment and administration of each fund under this subchapter and the rules of the boards do not constitute the business of insurance as defined and regulated in the Insurance Code. However, the boards of regents shall annually report to the State Board of Insurance information appropriate for carrying out the functions of the State Board of Insurance.

Added by Acts 1983, 68th Leg., p. 996, ch. 235, art. 2, Sec. 1(a), eff. Sept. 1, 1983. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 6.02(a), eff. Aug. 28, 1989.

Sec. 59.08. STATE INDEMNIFICATION. (a) The state shall indemnify a member of the medical staff or a student for damages paid as required by a judgment on or settlement of a medical malpractice claim arising out of the provision of charitable care or services.

(b) State liability for indemnification under this section may not exceed:

- (1) \$100,000 for each defendant for each occurrence;
- and
- (2) \$250,000 for each occurrence for all defendants.

(c) The state is not liable for indemnity under this section for damages found by the trier of fact to result from fraud, malice, or gross negligence.

(d) The state may not charge or assess a board, a medical and dental unit, or any fund or account of a board or medical and dental unit for any amount of indemnification paid or to be paid by the state under this section.

(e) The attorney general is entitled to approve any settlement of the portion of a medical malpractice claim that may result in the state being liable for indemnification of the defendant under this section. If the attorney general does not approve a settlement, the state is not liable for indemnification of the defendant under this section. The attorney general shall base the determination on the best interests of the defendant.

(f) This section prevails over any other law, including Chapter 104, Civil Practice and Remedies Code, to the extent of any conflict.

Added by Acts 1991, 72nd Leg., ch. 832, Sec. 2, eff. Sept. 1, 1991.

SUBCHAPTER B. VETERINARY MALPRACTICE COVERAGE PURCHASED BY TEXAS

A&M

Sec. 59.21. DEFINITIONS. In this subchapter:

(1) "Board" means the board of regents of The Texas A&M University System.

(2) "Fund" means the veterinary medical diagnostic professional liability fund.

(3) "Professional staff" means veterinarians, diagnosticians, toxicologists, pathologists, microbiologists, and other professional employees employed by the Texas Veterinary Medical Diagnostic Laboratory, including the director.

(4) "Veterinary malpractice claim" means a cause of action for damages resulting proximately from negligence in performing diagnostic services, toxicological and other diagnostic analyses, and in making recommendations for treatment.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 6.02(a), eff. Aug. 28, 1989.

Sec. 59.22. VETERINARY MEDICAL DIAGNOSTIC PROFESSIONAL LIABILITY FUND. (a) The board may establish a separate self-insurance fund to pay any damages adjudged in a court of competent jurisdiction or a settlement of any veterinary malpractice claim against a member of the professional staff arising from the exercise of his appointment or duties with the Texas Veterinary Medical Diagnostic Laboratory.

(b) The board may pay from the fund all expenses incurred in amounts and at intervals determined by the board.

(c) The board may receive and accept any gifts or donations into the fund.

(d) The board may invest money deposited in the fund, and any income received shall be retained in the fund. The money shall be deposited in any of the approved depository banks of The Texas A&M University System. All expenditures from the fund shall be paid pursuant to approval by the board.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 6.02(a), eff. Aug. 28, 1989.

Sec. 59.23. RULES. The board may adopt rules for the establishment and administration of the fund and the negotiation, settlement, and payment of claims as necessary to carry out the purpose of this subchapter. The board may establish by rule reasonable limits on the amount of claims to be paid from the fund or to be provided in purchased insurance.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 6.02(a), eff. Aug. 28, 1989.

Sec. 59.24. PURCHASE OF INSURANCE. The board may purchase veterinary medical malpractice insurance from an insurance company authorized to do business in this state as it considers necessary to carry out the purpose of this subchapter.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 6.02(a), eff. Aug. 28, 1989.

Sec. 59.25. LEGAL COUNSEL. The board may employ private

legal counsel to represent the professional staff covered by this subchapter under the rules of the board.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 6.02(a), eff. Aug. 28, 1989.

Sec. 59.26. LIMITATION ON APPROPRIATED FUNDS. Funds appropriated by the legislature to the Texas Veterinary Medical Diagnostic Laboratory from the General Revenue Fund may not be used to establish or maintain the fund, to purchase insurance, or to employ private legal counsel.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 6.02(a), eff. Aug. 28, 1989.

Sec. 59.27. EXEMPTION FROM INSURANCE CODE; REPORT. The establishment and administration of the fund under this subchapter and the rules of the board do not constitute the business of insurance as defined and regulated in the Insurance Code. However, the board shall annually report to the State Board of Insurance information appropriate for carrying out the functions of the State Board of Insurance.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 6.02(a), eff. Aug. 28, 1989.

Sec. 59.28. ADDITIONAL COMPENSATION. Malpractice liability coverage authorized by this subchapter is provided as additional compensation to the professional staff.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 6.02(a), eff. Aug. 28, 1989.