

SUBJECT: Allowing nonprofit nursing homes to obtain punitive damages insurance.

COMMITTEE: Insurance — favorable, with amendment

VOTE: 9 ayes — Smithee, Van de Putte, Averitt, Bonnen, Burnam, Eiland, G. Lewis, Olivo, Wise

0 nays

WITNESSES: For — Chris Spence, Wesleyan Homes, Texas Association of Homes and Services for the Aging

Against — None

On — Lyndon Anderson, Texas Department of Insurance

BACKGROUND : Regulated insurers in Texas are prohibited from issuing medical liability insurance policies that cover punitive damages unless such policies are issued to hospitals.

DIGEST: HB 1170, as amended, would allow Texas insurance companies to issue medical liability insurance policies covering punitive damages to not-for-profit nursing homes.

HB 1170 would take effect September 1, 1997 and apply to policies issued or renewed on or after January 1, 1998.

SUPPORTERS SAY: In recent years, suits against not-for-profit nursing homes have increased in a more litigious environment. Currently, these homes must purchase insurance against punitive damages awards from out-of-state carriers, because only hospitals are currently allowed to do so in Texas. These nonprofit nursing homes should be given the same opportunity to purchase their insurance coverage in Texas.

HB 1170 is not an attempt by nursing homes to do anything to prevent people from suing the nursing home for malicious acts — it would not affect the responsibility for punitive damages. It would simply allow these homes to purchase insurance in Texas from a Texas regulated company. In fact, it

could increase the likelihood that a person who does win a punitive damage award would receive their award because more nonprofit nursing homes will be able to purchase insurance for such action.

Other nursing homes and private facilities that provide the same care can purchase punitive damage insurance. This bill would allow not-for-profit homes to lower their insurance costs and become more competitive.

OPPONENTS
SAY:

No apparent opposition.

NOTES:

The committee amendment would change the word board to commissioner to reflect the actual structure of the Texas Department of Insurance.

The companion bill, SB 335 by Shapiro, has been referred to the Senate Economic Development Committee.

An identical bill, HB 771 by Smithee, passed by the House in 1995 but died in the Senate Economic Development Committee.