

# Health and Human Services Commission



Don A. Gilbert, Commissioner

Long-Term Care Legislative  
Oversight Committee

February 20, 2002



TEXAS HEALTH AND HUMAN SERVICES COMMISSION

**Long-Term Care Legislative Oversight Committee  
February 20, 2002**

**Reimbursement to Nursing Facilities for Liability Insurance Costs**

- HB 154 (77<sup>th</sup> Legislature) requires “the rate component derived from reported liability insurance costs to be paid only to those homes that purchase liability insurance acceptable to the commission.”
- HHSC rate-setting staff designed and distributed a certification form to identify those homes carrying liability insurance coverage, and qualifying homes are receiving liability insurance add-on rates effective September 1, 2001.
  - Certification requires documentation that the nursing facility carries commercially purchased general and/or professional liability insurance coverage from a commercial liability insurer licensed and authorized in Texas or that the nursing facility has paid to the Texas Comptroller's Office the required independently procured taxes for a commercial liability insurer that is not licensed and authorized in Texas.
  - Homes must submit new documentation to certify renewal of coverage beyond initial policy effective dates.
  - Homes are certified separately for general liability insurance (which is relatively inexpensive) and professional liability (which is relatively expensive).
- Total reimbursement to all homes for liability insurance is based on liability insurance costs included in the database used to determine current rates (FY 1999), adjusted by a general inflation index. The actual per diem rate amounts were determined by distributing the total reimbursement only among those homes that had certified coverage at the time rates were calculated in December 2001. (Payments were retroactive to September 1, 2001.)
- The liability add-on rates, effective September 1, 2001, are as follows.
  - General Liability insurance only: \$0.20 per day of service
  - Professional Liability insurance only: \$2.20 per day of service
  - Both Professional and General Liability: \$2.40 per day of service

- About 59 percent of homes (602 homes) and 61 percent of the Medicaid contracted beds have certified both general and professional liability insurance coverage, and an additional 0.5 percent of the homes (5 homes) and 0.4 percent of Medicaid contracted beds have certified only one type of insurance or the other.
- About 60 percent of for-profit homes and 50 percent of not-for-profit homes have certified both general and professional liability insurance coverage, and an additional 0.2 percent of for-profit homes and 2.2 percent of not-for-profit homes have certified only one type of insurance or the other.
- If certification remains at this level, annual NF expenditures for the liability insurance add-ons will be approximately \$13.6 million GR (\$34 million all funds).
- At the current rate of \$2.40 per patient day of service for GL & PL coverage, a fully occupied home would receive \$876 annually per bed.
- By way of comparison, a survey of Texas nursing facilities conducted in January 2001 by TDHS indicated:
  - About 2/3 of homes carried some type of liability insurance coverage.
  - Liability insurance premium costs varied widely among homes.
  - The median annual premium cost per bed was \$661.
  - The mean annual premium cost per bed was \$973 (reflecting some extremely high reported rates as high as \$15,000).
  - The 60 percentile annual premium cost per bed was \$897.
- Industry representatives and some individual providers have reported significant increases in liability insurance premium costs as policies have come up for renewal during the past year since the TDHS survey was conducted. Thus the current median cost of insurance may match or exceed the \$876 maximum available to providers through the Medicaid rates.