

HOUSE BILL 1285

By Durham

AN ACT to amend Tennessee Code Annotated, Title 29,
Chapter 26, Part 1, relative to healthcare liability
actions.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 29-26-101(a), is amended by adding the following as new subdivisions:

(3) "Licensee" means a health care provider licensed, authorized, certified, registered, or regulated under title 33, 63, or 68 that is legally responsible for all health care services provided;

(4) "Management company" means an individual or entity that contracts with, or receives a fee from, a licensee to provide any of the following services to or for a licensee:

(A) Directly hiring or firing the administrator or other managing employees of the licensee;

(B) Directly controlling or having control over the staffing levels at the licensee;

(C) Directly controlling the budget and expenditures of the licensee; or

(D) Directly implementing and enforcing the policies and procedures of the licensee; and

(5) "Passive investor" means an individual or entity that has an ownership interest in a licensee but does not directly participate in the day-to-day decision making or operations of the licensee.

SECTION 2. Tennessee Code Annotated, Title 29, Chapter 26, Part 1, is amended by adding the following as a new section:

29-26-102.

(a) Except as provided in this section, a health care liability action against a licensee may be brought only against the licensee, the licensee's management company, the licensee's managing employees, or an individual caregiver who provided direct health care services, whether an employee or independent contractor. A passive investor shall not be liable under this part. A health care liability action against any other individual or entity may be brought only pursuant to subsection (b).

(b) A cause of action may not be asserted against an individual or entity other than the licensee, the licensee's management company, the licensee's managing employees, or an individual caregiver who provided direct health care services, whether an employee or independent contractor, unless, after a hearing on a motion for leave to amend, the court or arbitrator determines that there is sufficient evidence in the record or proffered by the claimant to establish a reasonable showing that:

(1) The individual or entity owed a duty of reasonable care to the claimant and that the individual or entity breached that duty; and

(2) The breach of that duty is a legal cause of loss, injury, death, or damage to the claimant.

(c) When determining the statute of limitations in a health care liability action, the date of the original pleading shall control regardless of whether there are amended pleadings or substituted or added parties.

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it, and shall apply to causes of action arising on or after the effective date of this act.