

BILL ANALYSIS

Senate Research Center
78R3406 DAK-D

S.B. 364
By: Janek
State Affairs
2/24/2003
As Filed

DIGEST AND PURPOSE

Currently, Texas law limits damages in a medical malpractice action for wrongful death to \$500,000, which has been adjusted to \$1.3 million to reflect inflation. The statute was intended to apply to all medical malpractice cases but has been held unconstitutional except with respect to wrongful death. As a result, claimants may circumvent the liability cap by pleading multiple causes of action on a single case and claiming that a separate \$1.3 million award applies to each action. As proposed, S.B. 364 modifies limits on civil liability for health care claims to ensure that the original intent of the “death cap” adopted by the legislature is maintained in health care liability cases.

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 Section 11.02, Article 4590i, V.T.C.S, by amending Subsection (b) and adding Subsections (e) and (f), as follows:

- (b) Includes Subsection (e) as a subsection which does not apply to the amount of awarded damages on certain health care liability claims. Makes conforming changes.
- (e) Requires the total civil liability to be limited to a certain amount in an action on a health care liability claim where final judgment is rendered against a physician or health care provider and one or more of the physician’s or health care provider’s agents or employees, based exclusively on a theory of vicarious liability.
- (f) Provides that the limit on liability applies to the final judgment rendered against a physician or health care provider in relation to certain actions that resulted in injury to or death of a patient, regardless of the number of claims filed in relation to the occurrence and may not be exceeded on the basis that more than one claim is filed in relation to the occurrence.

SECTION 2. Effective date: September 1, 2003.
Makes application of this Act prospective.