

By: Isett

H.B. No. 971

A BILL TO BE ENTITLED

AN ACT

relating to the liability of a physician or health care provider to an individual receiving benefits under Medicaid.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 21, Title 71, Revised Statutes, is amended by adding Article 4590k to read as follows:

Art. 4590k. LIABILITY OF HEALTH CARE PROVIDERS UNDER MEDICAID

Sec. 1. DEFINITIONS. In this article:

(1) "Criminal negligence" means the culpable mental state described by Section 6.03(d), Penal Code.

(2) "Health care liability claim" has the meaning assigned by Section 1.03, Medical Liability and Insurance Improvement Act of Texas (Article 4590i, Vernon's Texas Civil Statutes).

(3) "Health care provider" has the meaning assigned by Section 1.03, Medical Liability and Insurance Improvement Act of Texas (Article 4590i, Vernon's Texas Civil Statutes).

(4) "Medicaid" means the medical assistance program provided under Chapter 32, Human Resources Code.

(5) "Medicaid recipient" means an individual who receives benefits under Medicaid.

(6) "Physician" means a person licensed to practice medicine in this state.

1 Sec. 2. EXEMPTION FROM LIABILITY FOR HEALTH CARE PROVIDERS
2 IN CERTAIN CIRCUMSTANCES. (a) In an action on a health care
3 liability claim described by Subsection (b) of this section, a
4 physician or health care provider is liable for damages to a
5 Medicaid recipient only if, in addition to any other showing
6 required by law, the plaintiff proves that the physician or health
7 care provider acted with:

8 (1) criminal negligence; or

9 (2) a degree of mental culpability greater than
10 criminal negligence under Section 6.03, Penal Code.

11 (b) This section applies only to a claim for damages
12 resulting from treatment, lack of treatment, or any other claimed
13 departure from accepted standards of medical care or health care or
14 safety in connection with services for which the physician or
15 health care provider is or would be reimbursed, or for which the
16 physician or health care provider would be compensated, partly or
17 wholly by Medicaid.

18 SECTION 2. The change in law made by this Act applies only
19 to a cause of action that accrues on or after the effective date of
20 this Act. A cause of action that accrued before the effective date
21 of this Act is governed by the law as it existed immediately before
22 the effective date of this Act, and that law is continued in effect
23 for that purpose.

24 SECTION 3. This Act takes effect immediately if it receives
25 a vote of two-thirds of all the members elected to each house, as
26 provided by Section 39, Article III, Texas Constitution. If this
27 Act does not receive the vote necessary for immediate effect, this

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1 Act takes effect September 1, 2003.