

By: Capelo

H.B. No. 2995

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the liability of physicians, health care providers, and
3 hospital district management contractors who provide services for
4 certain governmental entities.

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

6 SECTION 1. Section 102.001(1), Civil Practice and Remedies
7 Code, is amended to read as follows:

8 (1) "Employee" includes an officer, volunteer, or
9 employee, a former officer, volunteer, or employee, and the estate
10 of an officer, volunteer, or employee or former officer, volunteer,
11 or employee of a local government. The term includes a physician
12 licensed in this state who is performing services under a contract
13 with a facility owned or operated by a unit of local government,
14 including a physician who provides emergency or post-emergency
15 stabilization services to patients in a hospital owned or operated
16 by a unit of local government, and the estate of the physician. The
17 term does not include a county extension agent.

18 SECTION 2. Section 108.001, Civil Practice and Remedies
19 Code, is amended to read as follows:

20 Sec. 108.001. DEFINITIONS. (a) In this chapter:

21 (1) "Public servant" means a person who is:

22 (A) a public official elected or appointed to
23 serve a governmental unit and acting in that capacity when the act
24 or omission on which the damages were based occurred; or

1 (B) covered by Section 104.001 or Section
2 102.001.

3 (2) "Public servant" does not include an independent
4 contractor, an agent or employee of an independent contractor, or
5 another person who performs a contract for a unit of government.

6 (b) Notwithstanding Subsection (a)(2), "public servant"
7 includes a physician licensed in this state who is performing
8 services under a contract with a facility owned or operated by a
9 unit of government, including a physician who provides emergency or
10 post-emergency stabilization services to patients in a hospital
11 owned or operated by a unit of government, and the estate of the
12 physician.

13 SECTION 3. Sections 108.002(a) and (b), Civil Practice and
14 Remedies Code, are amended to read as follows:

15 (a) Except in an action arising under the constitution or
16 laws of the United States, a public servant [~~, other than a provider~~
17 ~~of health care as that term is defined in Section 108.002(c),~~] is
18 not personally liable for damages in excess of \$100,000 arising
19 from personal injury, death, or deprivation of a right, privilege,
20 or immunity if:

21 (1) the damages are the result of an act or omission by
22 the public servant in the course and scope of the public servant's
23 office, employment, or contractual performance for or service on
24 behalf of a state agency, institution, department, or local
25 government; and

26 (2) for the amount not in excess of \$100,000, the
27 public servant is covered:

1 (A) by the state's obligation to indemnify under
2 Chapter 104;

3 (B) by a local government's authorization to
4 indemnify under Chapter 102;

5 (C) by liability or errors and omissions
6 insurance; or

7 (D) by liability or errors and omissions coverage
8 under an interlocal agreement.

9 (b) Except in an action arising under the constitution or
10 laws of the United States, a public servant [~~other than a provider~~
11 ~~of health care as that term is defined in Section 108.002(c),~~] is
12 not liable for damages in excess of \$100,000 for property damage if:

13 (1) the damages are the result of an act or omission by
14 the public servant in the course and scope of the public servant's
15 office, employment, or contractual performance for or service on
16 behalf of a state agency, institution, department, or local
17 government; and

18 (2) for the amount not in excess of \$100,000, the
19 public servant is covered:

20 (A) by the state's obligation to indemnify under
21 Chapter 104;

22 (B) by a local government's authorization to
23 indemnify under Chapter 102;

24 (C) by liability or errors and omissions
25 insurance; or

26 (D) by liability or errors and omissions coverage
27 under an interlocal agreement.

1 SECTION 4. Section 285.071, Health and Safety Code, is
2 amended to read as follows:

3 Sec. 285.071. DEFINITION. In this chapter, "hospital
4 district management contractor" means a nonprofit corporation,
5 partnership, or sole proprietorship that manages a hospital or
6 provides services [~~as a part of a rural health network as defined~~
7 ~~under 42 U.S.C. Section 1395i-4(g)~~] under contract with a hospital
8 district that was created by general or special law [~~and that has a~~
9 ~~population under 50,000~~].

10 SECTION 5. Section 108.002(c), Civil Practice and Remedies
11 Code, is repealed.

12 SECTION 6. This Act applies only to a cause of action that
13 accrues on or after the effective date of this Act. A cause of
14 action that accrues before the effective date of this Act is
15 governed by the law as it existed immediately before the effective
16 date of this Act and that law is continued in effect for this
17 purpose.

18 SECTION 7. This Act takes effect immediately if it receives
19 a vote of two-thirds of all the members elected to each house, as
20 provided by Section 39, Article III, Texas Constitution. If this
21 Act does not receive the vote necessary for immediate effect, this
22 Act takes effect September 1, 2003.