

By: Janek

S.B. No. 198

A BILL TO BE ENTITLED

AN ACT

relating to the liability of health care providers at free medical clinics.

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

SECTION 1. Title 4, Civil Practice and Remedies Code, is amended by adding Chapter 92 to read as follows:

CHAPTER 92. LIMITATION ON LIABILITY OF HEALTH CARE PROVIDERS AT  
FREE MEDICAL CLINICS

Sec. 92.001. DEFINITION. In this chapter, "health care provider" means a person licensed in this state or another state or territory of the United States as:

- (1) a physician;
- (2) a physician assistant;
- (3) a registered nurse;
- (4) an advanced practice nurse;
- (5) a licensed vocational nurse;
- (6) a licensed medical physicist;
- (7) a medical radiologic technologist;
- (8) a dentist;
- (9) a dental hygienist;
- (10) an optometrist or therapeutic optometrist;
- (11) an optician;
- (12) a chiropractor;
- (13) a licensed prosthetist;

- (14) a licensed orthotist;
- (15) an audiologist;
- (16) a speech-language pathologist;
- (17) a hearing instrument fitter and dispenser;
- (18) a physical therapist;
- (19) an occupational therapist;
- (20) a psychologist;
- (21) a social worker;
- (22) a licensed professional counselor;
- (23) a chemical dependency counselor;
- (24) a licensed marriage and family therapist;
- (25) an acupuncturist;
- (26) a dietitian;
- (27) a midwife;
- (28) an athletic trainer;
- (29) a massage therapist;
- (30) a licensed perfusionist;
- (31) a pharmacist;
- (32) a respiratory care practitioner; or
- (33) a podiatrist.

Sec. 92.002. APPLICABILITY. This chapter applies only to health care provided in a medical clinic that:

(1) is an organized, community-based program providing health care without charge to persons unable to pay for it;

(2) does not provide health care that includes the use of general anesthesia or requires an overnight stay in a health care

1 facility; and

2 (3) posts in a conspicuous place on its premises an  
3 explanation of the limitation on liability provided by this  
4 chapter.

5 Sec. 92.003. LIMITATION ON LIABILITY. A health care  
6 provider is not liable in civil damages for an act performed during  
7 the provision of the health care if:

8 (1) the health care is provided to a person at a  
9 medical clinic to which this chapter applies and is part of the  
10 services regularly offered by the clinic;

11 (2) the provider provides the health care in good  
12 faith;

13 (3) the act is not wilfully or wantonly negligent;

14 (4) the health care provider does not receive a fee or  
15 any other compensation for providing the health care; and

16 (5) the health care does not require the services of a  
17 hospital or ambulatory surgical treatment center.

18 Sec. 92.004. VOLUNTARY CONTRIBUTIONS. The limitation on  
19 liability established by this chapter applies without regard to  
20 whether the medical clinic accepts a voluntary contribution from a  
21 person receiving health care services from the clinic if:

22 (1) the person has acknowledged the person's ability  
23 and willingness to pay a portion of the value of the health care  
24 services provided; and

25 (2) the contribution is used only to pay overhead  
26 expenses related to operating the clinic and not to provide a fee or  
27 other compensation to a health care provider.

1        Sec. 92.005. LIMITATION IN ADDITION TO CHAPTER 84. The  
2        limitation on liability established by this chapter is independent  
3        of and in addition to any limitation on liability that may apply  
4        under Chapter 84.

5        SECTION 2. This Act takes effect September 1, 2003, and  
6        applies only to a cause of action that accrues on or after that  
7        date. An action that accrued before the effective date of this Act  
8        is governed by the law applicable to the action immediately before  
9        the effective date of this Act, and that law is continued in effect  
10       for that purpose.