

By: Carona

S.B. No. 1098

A BILL TO BE ENTITLED

AN ACT

relating to the liability of certain physicians for examinations and medical screenings of students.

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 91 to read as follows:

CHAPTER 91. LIABILITY OF VOLUNTEER PHYSICIANS

Sec. 91.001. DEFINITION. In this chapter, "school" means any private or public school offering academic instruction in any grade level from kindergarten through grade 12.

Sec. 91.002. PHYSICIAN LIABILITY. Subject to Section 91.003, a physician who, without compensation or expectation of compensation, conducts a physical examination or medical screening of a patient for the purpose of certifying the patient's eligibility to participate in a school-sponsored extracurricular or sporting activity is immune from civil liability for any act or omission resulting in the death of or injury to the patient if:

(1) the physician was acting in good faith and in the course and scope of the physician's duties;

(2) the physician commits the act or omission in the course of conducting the physical examination or medical screening of the patient;

(3) the services provided to the patient are within the scope of the license of the physician; and

1 (4) before the physician conducts the physical
2 examination or medical screening, the patient or, if the patient is
3 a minor or is otherwise legally incompetent, the patient's parent,
4 managing conservator, legal guardian, or other person with legal
5 responsibility for the care of the patient signs a written
6 statement that acknowledges:

7 (A) that the physician is conducting a physical
8 examination or medical screening that is not administered for or in
9 expectation of compensation; and

10 (B) the limitations on the recovery of damages
11 from the physician in connection with the physical examination or
12 medical screening being performed.

13 Sec. 91.003. INSURANCE REQUIRED. (a) Section 91.002
14 applies only to a physician who has liability insurance coverage in
15 effect to cover any act or omission to which this chapter applies.
16 The physician's liability coverage must cover the acts or omissions
17 of the physician and must be in the amount of at least \$100,000 per
18 person and \$300,000 for each single occurrence of death or bodily
19 injury and \$100,000 for each single occurrence for injury to or
20 destruction of property.

21 (b) The coverage may be provided under a contract of
22 insurance or other plan of insurance and may be satisfied by the
23 purchase of a \$300,000 bodily injury and property damage combined
24 single-limit policy.

25 Sec. 91.004. APPLICABILITY. (a) This chapter does not
26 apply to an act or omission that is intentional, wilfully or
27 wantonly negligent, or done with conscious indifference or reckless

1 disregard for the safety of others.

2 (b) This chapter does not limit the liability of a school
3 district to its students, teachers, or staff.

4 (c) This chapter does not apply to a governmental unit or
5 employee of a governmental unit as defined by Section 101.001.

6 (d) This chapter does not limit the liability of an insurer
7 or insurance plan in an action under Chapter 21, Insurance Code, or
8 in an action for bad faith conduct, breach of fiduciary duty, or
9 negligent failure to settle a claim.

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