

By: West

S.B. No. 501

A BILL TO BE ENTITLED

AN ACT

relating to indemnification provisions in health care provider contracts.

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

SECTION 1. The Civil Practice and Remedies Code is amended by adding Title 10 to read as follows:

TITLE 10. ADDITIONAL MISCELLANEOUS PROVISIONS

CHAPTER 503. INDEMNITY PROVISIONS IN HEALTH CARE

PROVIDER CONTRACTS

Sec. 503.001. DEFINITIONS. In this chapter:

(1) "Health care provider" means an individual or facility licensed, certified, or otherwise authorized to administer health care or treatment, for profit or otherwise, in the ordinary course of business or professional practice and includes a physician or other health care provider, a residential care provider, or an inpatient mental health facility as defined by Section 571.003, Health and Safety Code.

(2) "Health care provider contract" means a contract or agreement entered into or made by a health care provider concerning any act or treatment performed or furnished by the health care provider to a patient that relates to the patient's health care, treatment, or confinement.

Sec. 503.002. AGREEMENT VOID OR UNENFORCEABLE. A covenant, promise, or understanding contained in a health care provider

1 contract, or in an agreement collateral to or affecting a health
2 care provider contract, is void and unenforceable if it purports to
3 indemnify, hold harmless, or defend a person against loss or
4 liability for damage that:

5 (1) is caused by or results from the sole or concurrent
6 negligence of the indemnitee, its agent or employee, or an
7 independent contractor, other than the indemnitor, directly
8 responsible to the indemnitee; and

9 (2) arises or results from:

10 (A) personal injury or death;

11 (B) property damage; or

12 (C) any other loss, damage, or expense that
13 arises from an occurrence described by Paragraph (A) or (B).

14 Sec. 503.003. EFFECT ON INSURANCE POLICY. A provision in a
15 health care provider contract requiring an insurance policy
16 provision or endorsement that would frustrate or circumvent the
17 prohibitions of this chapter, including the payment of all or a
18 portion of an indemnitor's insurance premium by an indemnitee, is
19 void and unenforceable.

20 Sec. 503.004. CONFLICT OF LAWS. A covenant, promise,
21 agreement, or understanding that is contained in or collateral to
22 or that affects a health care provider contract or a related
23 insurance policy provision or endorsement and that provides that
24 the law of another state will apply to the contractual relationship
25 between the indemnitor and the indemnitee is against public policy
26 and void if the premises where an act or treatment is performed or
27 furnished by the health care provider to the patient under the

1 contract are in this state or its territorial reach.

2 Sec. 503.005. WAIVER PROHIBITED. The provisions of this
3 chapter may not be waived by contract or otherwise. Any purported
4 waiver is void and unenforceable.

5 Sec. 503.006. APPLICABILITY OF OTHER LAW. This chapter
6 prevails over any other law that conflicts with or is inconsistent
7 with this chapter.

8 SECTION 2. This Act applies to a health care provider
9 contract entered into or renewed on or after the effective date of
10 this Act. A health care provider contract entered into or renewed
11 before the effective date of this Act is governed by the law in
12 effect immediately before the effective date of this Act, and that
13 law is continued in effect for that purpose.

14 SECTION 3. This Act takes effect September 1, 2005.