

1-1 By: Patrick S.B. No. 1545
1-2 (In the Senate - Filed March 10, 2011; March 23, 2011, read
1-3 first time and referred to Committee on State Affairs;
1-4 April 5, 2011, reported favorably by the following vote: Yeas 9,
1-5 Nays 0; April 5, 2011, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the liability of a volunteer health care practitioner
1-9 who conducts a physical examination or medical screening of a
1-10 student athlete.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Section 91.002, Civil Practice and Remedies
1-13 Code, is amended to read as follows:

1-14 Sec. 91.002. HEALTH CARE PRACTITIONER LIABILITY. Subject
1-15 to Section 91.003, a health care practitioner who, without
1-16 compensation or expectation of compensation, conducts a physical
1-17 examination or medical screening of a patient for the purpose of
1-18 determining the physical health and fitness of the patient
1-19 ~~[certifying the patient's eligibility]~~ to participate in a
1-20 school-sponsored extracurricular or sporting activity is immune
1-21 from civil liability for any act or omission resulting in the death
1-22 of or injury to the patient if:

1-23 (1) the health care practitioner was acting in good
1-24 faith and in the course and scope of the health care practitioner's
1-25 duties;

1-26 (2) the health care practitioner commits the act or
1-27 omission in the course of conducting the physical examination or
1-28 medical screening of the patient;

1-29 (3) the services provided to the patient are within
1-30 the scope of the license of the health care practitioner; and

1-31 (4) before the health care practitioner conducts the
1-32 physical examination or medical screening, the patient or, if the
1-33 patient is a minor or is otherwise legally incompetent, the
1-34 patient's parent, managing conservator, legal guardian, or other
1-35 person with legal responsibility for the care of the patient signs a
1-36 written statement that acknowledges:

1-37 (A) that the health care practitioner is
1-38 conducting a physical examination or medical screening that is not
1-39 administered for or in expectation of compensation; and

1-40 (B) the limitations on the recovery of damages
1-41 from the health care practitioner in connection with the physical
1-42 examination or medical screening being performed.

1-43 SECTION 2. Section 91.002, Civil Practice and Remedies
1-44 Code, as amended by this Act, applies only to the death of or injury
1-45 to a patient that occurs on or after the effective date of this Act.
1-46 The death of or injury to a patient that occurs before the effective
1-47 date of this Act is governed by the law in effect immediately before
1-48 the effective date of this Act, and that law is continued in effect
1-49 for that purpose.

1-50 SECTION 3. This Act takes effect September 1, 2011.

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