

By: Oliverson

H.B. No. 1353

A BILL TO BE ENTITLED

AN ACT

relating to liability of health care providers who provide certain assistance in disaster situations.

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

SECTION 1. Section 79.001, Civil Practice and Remedies Code, is amended by adding Subdivision (1-a) to read as follows:

(1-a) "Health care provider" means:

(A) an individual who is licensed to practice medicine under Subtitle B, Title 3, Occupations Code;

(B) a retired physician who is eligible to provide health care services, including a retired physician who is licensed but exempt from paying the required annual registration fee under Section 156.002, Occupations Code;

(C) a physician assistant licensed under Chapter 204, Occupations Code, or a retired physician assistant who is eligible to provide health care services under the laws of this state;

(D) a registered nurse, including an advanced nurse practitioner, or vocational nurse licensed under Chapter 301, Occupations Code, or a retired registered nurse, including a retired advanced nurse practitioner, or vocational nurse who is eligible to provide health care services under the laws of this state;

(E) a pharmacist licensed under Subtitle J, Title

1 3, Occupations Code, or a retired pharmacist who is eligible to  
2 provide health care services under the laws of this state;

3 (F) a podiatrist licensed under Chapter 202,  
4 Occupations Code, or a retired podiatrist who is eligible to  
5 provide health care services under the laws of this state;

6 (G) a dentist licensed under Subtitle D, Title 3,  
7 Occupations Code, or a retired dentist who is eligible to provide  
8 health care services under the laws of this state;

9 (H) a dental hygienist licensed under Subtitle D,  
10 Title 3, Occupations Code, or a retired dental hygienist who is  
11 eligible to provide health care services under the laws of this  
12 state;

13 (I) an optometrist or therapeutic optometrist  
14 licensed under Chapter 351, Occupations Code, or a retired  
15 optometrist or therapeutic optometrist who is eligible to provide  
16 health care services under the laws of this state;

17 (J) a physical therapist or physical therapist  
18 assistant licensed under Chapter 453, Occupations Code, or a  
19 retired physical therapist or physical therapist assistant who is  
20 eligible to provide health care services under the laws of this  
21 state;

22 (K) an occupational therapist or occupational  
23 therapy assistant licensed under Chapter 454, Occupations Code, or  
24 a retired occupational therapist or occupational therapy assistant  
25 who is eligible to provide health care services under the laws of  
26 this state;

27 (L) an audiologist, assistant in audiology,

1 speech-language pathologist, or assistant in speech-language  
2 pathology licensed under Chapter 401, Occupations Code, or a  
3 retired audiologist, assistant in audiology, speech-language  
4 pathologist, or assistant in speech-language pathology who is  
5 eligible to provide health care services under the laws of this  
6 state;

7 (M) a social worker licensed under Chapter 505,  
8 Occupations Code, or a retired social worker who is eligible to  
9 engage in the practice of social work under the laws of this state;  
10 or

11 (N) any other individual who is licensed,  
12 certified, or otherwise authorized to provide health care services  
13 in this state.

14 SECTION 2. Section 79.003, Civil Practice and Remedies  
15 Code, is amended by amending Subsection (a) and adding Subsection  
16 (a-1) to read as follows:

17 (a) Except in a case of reckless conduct or intentional,  
18 wilful, or wanton misconduct, a person, other than a health care  
19 provider, is immune from civil liability for an act or omission that  
20 occurs in giving care, assistance, or advice with respect to the  
21 management of an incident:

22 (1) that is a man-made or natural disaster that  
23 endangers or threatens to endanger individuals, property, or the  
24 environment; and

25 (2) in which the care, assistance, or advice is  
26 provided at the request of an authorized representative of a local,  
27 state, or federal agency, including a fire department, police

1 department, an emergency management agency, and a disaster response  
2 agency.

3 (a-1) Except in a case of reckless conduct or intentional,  
4 wilful, or wanton misconduct, a health care provider is immune from  
5 civil liability for an act or omission that occurs in giving care,  
6 assistance, or advice within the scope of the provider's practice  
7 in connection with an incident that is a man-made or natural  
8 disaster that endangers or threatens to endanger individuals,  
9 property, or the environment.

10 SECTION 3. The change in law made by this Act does not apply  
11 to a cause of action that accrued before the effective date of this  
12 Act. A cause of action that accrued before the effective date of  
13 this Act is governed by the law applicable to the cause of action  
14 immediately before that date, and the former law is continued in  
15 effect for that purpose.

16 SECTION 4. This Act takes effect September 1, 2019.