

1-1 By: Moody, Price, Canales (Senate Sponsor - Hughes) H.B. No. 2362
 1-2 (In the Senate - Received from the House May 8, 2019;
 1-3 May 14, 2019, read first time and referred to Committee on State
 1-4 Affairs; May 19, 2019, reported favorably by the following vote:
 1-5 Yeas 9, Nays 0; May 19, 2019, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			

1-17 A BILL TO BE ENTITLED
 1-18 AN ACT

1-19 relating to the standard of proof in health care liability claims
 1-20 involving emergency medical care.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. Section 74.153, Civil Practice and Remedies
 1-23 Code, is amended to read as follows:

1-24 Sec. 74.153. STANDARD OF PROOF IN CASES INVOLVING EMERGENCY
 1-25 MEDICAL CARE. (a) Except as provided by Subsection (b), in [In] a
 1-26 suit involving a health care liability claim against a physician or
 1-27 health care provider for injury to or death of a patient arising out
 1-28 of the provision of emergency medical care in a hospital emergency
 1-29 department, in an [or] obstetrical unit, or in a surgical suite
 1-30 immediately following the evaluation or treatment of a patient in a
 1-31 hospital emergency department, the claimant bringing the suit may
 1-32 prove that the treatment or lack of treatment by the physician or
 1-33 health care provider departed from accepted standards of medical
 1-34 care or health care only if the claimant shows by a preponderance of
 1-35 the evidence that the physician or health care provider, with
 1-36 willful [wilful] and wanton negligence, deviated from the degree of
 1-37 care and skill that is reasonably expected of an ordinarily prudent
 1-38 physician or health care provider in the same or similar
 1-39 circumstances.

1-40 (b) Subsection (a) does not apply to:

1-41 (1) medical care or treatment:

1-42 (A) provided after the patient is:

1-43 (i) stabilized; and

1-44 (ii) receiving medical care or treatment as
 1-45 a nonemergency patient; or

1-46 (B) that is unrelated to a medical emergency; or

1-47 (2) a physician or health care provider whose
 1-48 negligent act or omission proximately causes a stable patient to
 1-49 require emergency medical care.

1-50 SECTION 2. Section 74.153, Civil Practice and Remedies
 1-51 Code, as amended by this Act, applies only to an action commenced on
 1-52 or after the effective date of this Act. An action commenced before
 1-53 the effective date of this Act is governed by the law applicable to
 1-54 the action immediately before the effective date of this Act, and
 1-55 that law is continued in effect for that purpose.

1-56 SECTION 3. This Act takes effect September 1, 2019.

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