

By: Smith

H.B. No. 3747

A BILL TO BE ENTITLED

AN ACT

relating to liability of health care providers for certain claims arising during a disaster or emergency.

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

SECTION 1. The purposes of this Act are to:

(1) provide for prompt and swift medical and health care responses to individuals in this state suffering from a man-made or natural disaster, including a state of disaster or emergency in this state declared by the president of the United States or a state of disaster declared by the governor under Section [418.014](#), Government Code;

(2) recognize that many physicians and health care providers responding to these situations may not have the full benefits of the medical devices and facilities they would in non-disaster situations;

(3) encourage physicians and health care providers from other states to respond, if necessary, to a state of disaster or emergency in this state declared by the president of the United States or a state of disaster declared by the governor under Section [418.014](#), Government Code; and

(4) ensure that the focus and resources of physicians and health care providers in these situations are being properly directed after a state of disaster or emergency is declared by the president of the United States or a state of disaster is declared by

1 the governor under Section 418.014, Government Code.

2 SECTION 2. The heading to Section 79.0031, Civil Practice
3 and Remedies Code, is amended to read as follows:

4 Sec. 79.0031. LIABILITY OF ~~[VOLUNTEER]~~ HEALTH CARE PROVIDER
5 OR HEALTH CARE INSTITUTION.

6 SECTION 3. Sections 79.0031(a), (b), and (c), Civil
7 Practice and Remedies Code, are amended to read as follows:

8 (a) In this section:

9 (1) "Health care institution" has the meaning assigned
10 by Section 74.001.

11 (2) "Health care liability claim" has the meaning
12 assigned by Section 74.001.

13 (3) "Health ~~[Volunteer health]~~ care provider" means:

14 (A) a first responder, as that term is defined by
15 Section 421.095, Government Code;

16 (B) a health care provider, as that term is
17 defined by Section 74.001;

18 (C) a physician, as that term is defined by
19 Section 74.001; and

20 (D) a volunteer health care provider, as that
21 term is defined ~~[has the meaning assigned]~~ by Section 84.003,
22 regardless of whether the ~~[. The term includes an]~~ individual ~~[who]~~
23 is ~~[not]~~ affiliated with a charitable organization.

24 (b) Except in the case of reckless conduct or intentional,
25 wilful, or wanton misconduct, a ~~[volunteer]~~ health care provider is
26 immune from civil liability for an act or omission that occurs in,
27 or a health care liability claim that arises out of, giving care,

1 assistance, or advice if:

2 (1) the care, assistance, or advice is provided:

3 (A) [~~(1)~~] in relation to an incident that is a
4 man-made or natural disaster that endangers or threatens to
5 endanger individuals, property, or the environment; and

6 (B) [~~(2)~~] within the scope of the provider's
7 practice under the laws of this state; or

8 (2) the care, assistance, or advice is provided:

9 (A) in relation to a national or statewide health
10 care emergency that results in a declaration of a state of disaster
11 or emergency by the president of the United States or a declaration
12 of a state of disaster by the governor under Chapter 418, Government
13 Code;

14 (B) during a period beginning on the date the
15 declaration is made and ending 60 days after the date the
16 declaration terminates; and

17 (C) within the scope of the provider's practice
18 under the laws of this state.

19 (c) A health care institution is immune from civil liability
20 for:

21 (1) an act or omission by a [~~volunteer~~] health care
22 provider providing care, assistance, or advice at the institution's
23 facility or under the institution's direction if [+

24 [~~(1)~~] the provider is immune from civil liability under
25 Subsection (b); or [~~and~~]

26 (2) a health care liability claim arising out of the
27 circumstances described by Subsection (b) [~~the institution does not~~

1 ~~have an expectation of compensation from or on behalf of the~~
2 ~~recipient of the care, assistance, or advice in excess of~~
3 ~~reimbursement for expenses incurred by the institution in~~
4 ~~connection with the provision of the care, assistance, or advice].~~

5 SECTION 4. Section 79.0031, Civil Practice and Remedies
6 Code, as amended by this Act, applies only to a cause of action that
7 accrues on or after the effective date of this Act. A cause of
8 action that accrued before the effective date of this Act is
9 governed by the law applicable to the cause of action immediately
10 before the effective date of this Act, and that law is continued in
11 effect for that purpose.

12 SECTION 5. This Act takes effect immediately if it receives
13 a vote of two-thirds of all the members elected to each house, as
14 provided by Section 39, Article III, Texas Constitution. If this
15 Act does not receive the vote necessary for immediate effect, this
16 Act takes effect September 1, 2021.