

By: Perry, et al.

S.B. No. 1392

A BILL TO BE ENTITLED

AN ACT

relating to the authority to limit or prohibit medical procedures during a declared state of disaster.

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

SECTION 1. Subchapter B, Chapter 418, Government Code, is amended by adding Section 418.0125 to read as follows:

Sec. 418.0125. LIMITATIONS ON MEDICAL PROCEDURES. (a) In this section, "nonelective procedure" means a medical procedure, including surgery, physical exam, diagnostic test, the performing of lab tests, obtaining specimens to perform laboratory tests, and screening, that if not performed within a reasonable time may, as determined by a patient's physician in good faith, result in:

(1) the patient's loss of life; or

(2) deterioration, complications, or progression of the patient's current or potential medical condition or disorder, including physical condition or mental disorder.

(b) The governor during a declared state of disaster may not issue an executive order, proclamation, or regulation that limits or prohibits a nonelective procedure.

(c) The governor during a declared state of disaster may issue an executive order, proclamation, or regulation imposing a temporary limitation or prohibition on a medical procedure other than a nonelective procedure only if the limitation or prohibition is reasonably necessary to conserve resources for nonelective

1 procedures or resources needed for disaster response. An executive  
2 order, proclamation, or regulation issued under this subsection may  
3 not continue for more than 15 days unless renewed by the governor.

4 (d) A person subject to an order, proclamation, or  
5 regulation under this section who in good faith takes or fails to  
6 take any action in accordance with that order, proclamation, or  
7 regulation is immune from civil or criminal liability or  
8 disciplinary action resulting from that act or failure to act.

9 (e) The immunity provided by Subsection (d) is in addition  
10 to any other immunity or limitations of liability provided by law.

11 (f) Notwithstanding any other law, this section does not  
12 create a civil, criminal, or administrative cause of action or  
13 liability or create a standard of care, obligation, or duty that  
14 provides the basis for a cause of action for an act or omission  
15 under this section.

16 SECTION 2. The changes in law made by this Act apply only to  
17 an order, proclamation, or regulation issued on or after the  
18 effective date of this Act.

19 SECTION 3. This Act takes effect immediately if it receives  
20 a vote of two-thirds of all the members elected to each house, as  
21 provided by Section 39, Article III, Texas Constitution. If this  
22 Act does not receive the vote necessary for immediate effect, this  
23 Act takes effect September 1, 2021.