

BILL ANALYSIS

Senate Research Center

H.B. 3058
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State Affairs
5/18/2023
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

There is some confusion surrounding the liability of a physician engaged in a physician-patient relationship who is providing a medically necessary service. H.B. 3058 seeks to address this issue by clarifying that if a physician performs a medically necessary service for a patient with whom the physician has a physician-patient relationship and for which the patient has given informed consent in compliance with current state law, the physician may not be held liable solely for performing the service. Nothing in the legislation exempts a physician from liability for negligence or gross negligence, provided that the other requirements of the law with respect to health care liability claims are satisfied.

H.B. 3058 amends current law relating to the operation of the physician-patient relationship with respect to certain medically necessary services.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 74, Civil Practice and Remedies Code, by adding Subchapter L, as follows:

SUBCHAPTER L. MEDICALLY NECESSARY SERVICES

Sec. 74.551. DEFINITIONS. Provides that in this subchapter:

(1) "medically necessary" means medical services that are supported by documentation which show the services are:

(A) reasonable and necessary to prevent illness, medical, or dental conditions, or provide early screening, interventions, or treatments for conditions that cause suffering or pain, cause physical deformity or limitations in function, threaten to cause or worsen a disability, cause illness or infirmity of a patient, or endanger the patient's life;

(B) consistent with health care practice guidelines and standards that are issued by professionally recognized health care organizations or governmental agencies;

(C) consistent with the diagnoses of the conditions;

(D) no more intrusive or restrictive than necessary to provide a proper balance of safety, effectiveness, and efficiency;

(E) not experimental or investigative; and

(F) not primarily for the convenience of the physician or patient engaged in a physician-patient relationship.

(2) "physician-patient relationship" means a consensual relationship that exists because of a contract, express or implied, that the physician will treat the patient with proper professional skill.

Sec. 74.552. EFFECT OF PATIENT CONSENT TO MEDICALLY NECESSARY SERVICES. Provides that a physician engaged in a physician-patient relationship, for purposes of Chapter 74 (Medical Liability) or any other law, is not liable in a proceeding conducted under the laws of this state solely for providing medically necessary services to the patient if the physician complies with Subchapter C (Informed Consent) and the patient consents to the services.

SECTION 2. Effective date: September 1, 2023.