

## **BILL ANALYSIS**

Senate Research Center

H.B. 2362  
By: Moody et al. (Hughes)  
State Affairs  
5/16/2019  
Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

The law relating to the standard of proof for medical malpractice cases is overbroad and has led to unnecessary lawsuits. H.B. 2362 attempts to address this issue by specifying certain situations where the standard of proof does not apply.

H.B. 2362 amends current law relating to the standard of proof in health care liability claims involving emergency medical care.

### **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 Section 74.153, Civil Practice and Remedies Code, as follows:

Sec. 74.153. STANDARD OF PROOF IN CASES INVOLVING EMERGENCY MEDICAL CARE. Authorizes the claimant bringing a suit involving a health care liability claim against a physician or health care provider for injury to or death of a patient arising out of the provision of emergency medical care in a hospital emergency department, in an obstetrical unit, or in a surgical suite immediately following the evaluation or treatment of a patient in a hospital emergency department, except as provided by Subsection (b), to prove that the treatment or lack of treatment by the physician or health care provider departed from accepted standards of medical care or health care only if the claimant shows by a preponderance of the evidence that the physician or health care provider, with willful and wanton negligence, deviated from the degree of care and skill that is reasonably expected of an ordinarily prudent physician or health care provider in the same or similar circumstances. Makes nonsubstantive changes.

(b) Provides that Subsection (a) does not apply to:

(1) medical care or treatment:

(A) provided after the patient is:

(i) stabilized; and

(ii) receiving medical care or treatment as a nonemergency patient; or

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

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

SECTION 2. Makes application of Section 74.153, Civil Practice and Remedies Code, as amended by this Act, prospective.

SECTION 3. Effective date: September 1, 2019.