

BILL ANALYSIS

Senate Research Center

H.B. 3439
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State Affairs
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Engrossed

DIGEST AND PURPOSE

Under current Texas law, health care practitioners who conduct free sports physicals for students are not exempted from liability for incidents arising from the provision of that service. H.B. 3439 makes health care practitioners who conduct physicals for school-sponsored extracurricular and sporting activities without compensation exempt from civil liability for any act or omission resulting in injury to the student patient. H.B. 3439 makes such liability contingent on a number of requirements, does not limit the liability of school districts or insurers under certain circumstances, does not affect a school district's liability limits or immunities, and does not apply to a governmental unit or its employees.

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 Title 4, Civil Practice and Remedies Code, by adding Chapter 91, as follows:

CHAPTER 91. LIABILITY OF VOLUNTEER HEALTH CARE PRACTITIONERS

Sec. 91.001. DEFINITION. Defines "health care practitioner" and "school."

Sec. 91.002. HEALTH CARE PRACTITIONER LIABILITY. Exempts a health care practitioner who conducts a physical examination or medical screening of a patient for certain purposes without compensation or expectation of compensation from civil liability for any act or omission resulting in the death of or injury to the patient if certain conditions are met.

Sec. 91.003. INSURANCE REQUIRED. (a) Provides that Section 91.002 applies only to a health care practitioner who has liability insurance coverage in effect to cover any act or omission to which this chapter applies. Sets forth the minimum requirements for liability coverage for purposes of this section.

(b) Authorizes the coverage to be provided under a contract of insurance or other plan of insurance and to be satisfied by the purchase of a certain policy.

Sec. 91.004. APPLICABILITY. (a) Provides that this chapter does not apply to certain acts and omissions.

(b) Provides that this chapter does not limit the liability of a school district to its students, teachers, or staff, or affect a school district's liability limits or immunities under Chapter 101 (Tort Claims).

(c) Provides that this chapter does not apply to a governmental unit or employee of a governmental unit as defined by Section 101.001 (Definitions).

(d) Provides that this chapter does not limit the liability of an insurer or insurance

plan in an action under Chapter 21 (General Provisions), Insurance Code, or in an action for bad faith conduct, breach of fiduciary duty, or negligent failure to settle a claim.

SECTION 2. Effective date: September 1, 2003.
Makes application of this Act prospective.