

SUBJECT: Limiting liability of health care volunteers and institutions in disasters

COMMITTEE: Judiciary and Civil Jurisprudence — committee substitute recommended

VOTE: 9 ayes — Leach, Farrar, Y. Davis, Julie Johnson, Krause, Meyer, Neave, Smith, White

0 nays

WITNESSES: For — Cameron Duncan, Texas Hospital Association; George Santos, Texas Medical Association, Harris County Medical Society, Texas Hospital Association; (*Registered, but did not testify:* Joel Romo, Association of Texas EMS Professionals; Linda Townsend, CHRISTUS Health; Donna Warndorf, Harris County Commissioners Court; Michelle Apodaca, Tenet; Lee Parsley, Texans for Lawsuit Reform; Billy Phenix, Texas Alliance for Patient Access; Jess Calvert, Texas Dental Association; Casey Haney, Texas Nurse Practitioners; Andrew Cates, Texas Nurses Association; Bruce Scott, Texas Society of Oral and Maxillofacial Surgeons; Nora Del Bosque)

Against — None

BACKGROUND: Civil Practice and Remedies Code sec. 74.001(11) defines a "health care institution" as an ambulatory surgical center, an assisted living facility, an emergency medical services provider, a health services district, a home and community support services agency, a hospice, a hospital, a hospital system, an intermediate care facility for individuals with intellectual disabilities, a nursing home, or an end-stage renal disease facility.

Sec. 84.003(5) defines a "volunteer health care provider" as an individual who is a licensed health care professional who voluntarily provides health care services without compensation or the expectation of compensation.

Some have noted that there is ambiguity regarding the liability of volunteer health care providers and suggest that this could discourage these providers from volunteering during disasters.

DIGEST: CSHB 1353 would make volunteer health care providers immune from civil liability for an act or omission that occurred while giving care, assistance, or advice in relation to a natural disaster or man-made event that threatened individuals, property, or the environment and that was within the scope of the provider's practice under Texas law. Immunity from civil liability would not apply to cases of reckless conduct or intentional, willful, or wanton misconduct.

Health care institutions also would be immune from civil liability for an act or omission made by a volunteer health care provider acting at the institution's facility or under the institution's direction if:

- the volunteer provider was immune from civil liability; and
- the institution did not have an expectation of compensation from or on behalf of the recipient of assistance for expenses incurred in connection with the assistance.

The immunity provided under the bill would be in addition to any other immunity or limitations of liability provided under law. It would not apply to a cause of action that took place prior to the effective date of the bill.

The bill would take effect September 1, 2019.