

BILL ANALYSIS

Senate Research Center
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S.B. 501
By: West, Royce
State Affairs
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As Filed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

As proposed, S.B. 501 addresses the proliferation of indemnification provisions in health care provider contracts, which place undue burden on recipients of healthcare. S.B. 501 causes indemnification contracts to be void and unenforceable, if they contain indemnification or hold harmless clauses preventing or shielding a person from liability for damage caused by a provider, the provider's agent, or employee.

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 Civil Practice and Remedies Code, by adding Title 10, as follows:

TITLE 10. ADDITIONAL MISCELLANEOUS PROVISIONS

CHAPTER 503. INDEMNITY PROVISIONS IN HEALTH CARE PROVIDER CONTRACTS

Sec. 503.001. DEFINITIONS. Defines "health care provider" and "health care provider contract."

Sec. 503.002. AGREEMENT VOID OR UNENFORCEABLE. Provides that a covenant, promise, or understanding contained in a health care provider contract, or in an agreement collateral to or affecting a health care provider contract, is void and unenforceable if it purports to indemnify, hold harmless, or defend a person against loss or liability for certain types of damages.

Sec. 503.003. EFFECT ON INSURANCE POLICY. Provides that a provision in a health care provider contract requiring an insurance policy provision or enforcement that would frustrate or circumvent the prohibitions of this chapter, including the payment of all or a portion of an indemnitor's insurance premium by an indemnitee, is void and unenforceable.

Sec. 503.004. CONFLICT OF LAWS. Provides that a covenant, promise, agreement, or understanding that is contained in or collateral to or that affects a health care provider contract or related insurance policy provision or endorsement and that provides that the law of another state will apply to the contractual relationship between indemnitor and indemnitee is against public policy and void if the premises where an act or treatment is performed or furnished by the health care provider to the patient under contract are in this state or its territorial reach.

Sec. 503.005. WAIVER PROHIBITED. Prohibits the provisions of this chapter from being waived by contract or otherwise. Provides that any purported waiver is void and unenforceable.

Sec. 503.006. APPLICABILITY OF OTHER LAW. Provides that this chapter prevails over any other law that conflicts with or is inconsistent with this chapter.

SECTION 2. Makes the application of this Act prospective.

SECTION 3. Effective date: September 1, 2005.