

Chapter 1364

H.B. No. 2362

1 AN ACT
2 relating to the standard of proof in health care liability claims
3 involving emergency medical care.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 74.153, Civil Practice and Remedies
6 Code, is amended to read as follows:

7 Sec. 74.153. STANDARD OF PROOF IN CASES INVOLVING EMERGENCY
8 MEDICAL CARE. (a) Except as provided by Subsection (b), in ~~[In]~~ a
9 suit involving a health care liability claim against a physician or
10 health care provider for injury to or death of a patient arising out
11 of the provision of emergency medical care in a hospital emergency
12 department, in an ~~[or]~~ obstetrical unit, or in a surgical suite
13 immediately following the evaluation or treatment of a patient in a
14 hospital emergency department, the claimant bringing the suit may
15 prove that the treatment or lack of treatment by the physician or
16 health care provider departed from accepted standards of medical
17 care or health care only if the claimant shows by a preponderance of
18 the evidence that the physician or health care provider, with
19 willful ~~[wilful]~~ and wanton negligence, deviated from the degree of
20 care and skill that is reasonably expected of an ordinarily prudent
21 physician or health care provider in the same or similar
22 circumstances.

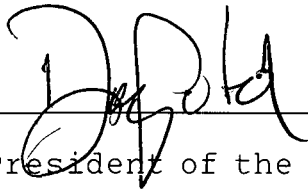
23 (b) Subsection (a) does not apply to:

24 (1) medical care or treatment:

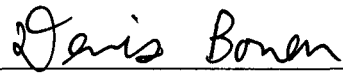
- 1 (A) provided after the patient is:
2 (i) stabilized; and
3 (ii) receiving medical care or treatment as
4 a nonemergency patient; or
5 (B) that is unrelated to a medical emergency; or
6 (2) a physician or health care provider whose
7 negligent act or omission proximately causes a stable patient to
8 require emergency medical care.

9 SECTION 2. Section 74.153, Civil Practice and Remedies
10 Code, as amended by this Act, applies only to an action commenced on
11 or after the effective date of this Act. An action commenced before
12 the effective date of this Act is governed by the law applicable to
13 the action immediately before the effective date of this Act, and
14 that law is continued in effect for that purpose.

15 SECTION 3. This Act takes effect September 1, 2019.



President of the Senate

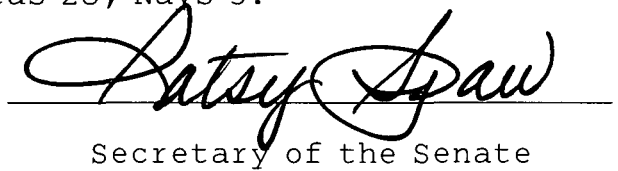


Speaker of the House

I certify that H.B. No. 2362 was passed by the House on May 8, 2019, by the following vote: Yeas 107, Nays 36, 2 present, not voting.


Chief Clerk of the House

I certify that H.B. No. 2362 was passed by the Senate on May 22, 2019, by the following vote: Yeas 28, Nays 3.


Secretary of the Senate

APPROVED:

6-14-2019

Date


Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
4:45 pm O'CLOCK

JUN 15 2019


Secretary of State