
Texas Legislature passes pandemic liability protections bill

LEGISLATION

By David Yates | Jun 1, 2021



AUSTIN – The Pandemic Liability Protection Act has passed both chambers of the Texas Legislature by supermajorities.

Senate Bill 6 provides COVID-19 liability protections for health care providers, businesses, non-profits, religious institutions and schools that follow safety protocols.

The liability protections are retroactive and will cover all incidents from March 13, 2020 - the date Gov. Greg Abbott declared COVID-19 a public health emergency -until the date the emergency declaration is lifted.

SB 6 also covers all future pandemics.

Jon Opelt, executive director of the Texas Alliance for Patient Access, says the bill does not provide unchecked liability protection.

“It simply broadens the current emergency room standard to COVID patients and situations where the defendant proves that COVID was the producing cause of the care rendered,” Opelt

said “The Pandemic liability bill does not protect bad actors who are grossly negligent, engage in willful misconduct or are consciously indifferent to their patient’s welfare and safety.

“Instead, it protects all those who put their safety at risk when working in a healthcare setting if they make a good faith effort to provide appropriate medical care.”

TAPA helped craft and successfully lobbied passage of the healthcare portion of SB 6.

Thirty-six states have granted healthcare workers and facilities limited liability protections. When Gov. Abbott signs the bill, Texas will join their ranks.

Opelt says the bill aims to curtail misguided and unwarranted COVID-related lawsuits that stem from alleged misdiagnosis, improper treatment, inadequate staffing, and insufficient safety supplies.

“If the healthcare provider or facility has acted in good faith, they should have liability protection,” he added. “Physicians, nurses, healthcare workers, hospitals, and nursing homes should be protected from the burden of speculative lawsuits if they act in good faith when treating known or suspected COVID patients.”

According to TAPA, as of May 26 there have been 10,670 COVID-related lawsuits filed nationally - 349 of which are healthcare related.

Around 743 COVID suits have been filed in Texas and 41 are medical liability related.

According to the American Tort Reform Association, through the last 10 months of 2020 more than 175,000 TV ads soliciting legal claims for COVID-19 have run nationally.

The estimated purchase price of those ads is \$34.4 million.

If COVID liability protections were not adopted, healthcare providers were bracing for an expected surge in COVID-related lawsuits, Opelt said.