

- SUBJECT:** Medical information provided by an EMS operator
- COMMITTEE:** Public Health — committee substitute recommended
- VOTE:** 6 ayes — Gray, Coleman, Delisi, Glaze, Maxey, Uresti
0 nays
3 absent — Capelo, Hilderbran, McClendon
- WITNESSES:** (*On original version:*)
For — Terri Bates, Phyllis Craig-Blanco, Texas J Regional Advisory Council
Against — Tommy Jacks, Texas Trial Lawyers Association
- BACKGROUND:** The Texas Department of Health (TDH) regulates the provision of emergency medical services (EMS) under Health and Safety Code, chapter 773.

Civil Practice and Remedies Code, chapter 101 limits government liability for tort claims. Sec. 101.062 applies the liability limit to public agencies that lawfully provide 9-1-1 services.
- DIGEST:** CSHB 629 would add a new subchapter to the Health and Safety Code authorizing an EMS operator to provide medical information to a caller seeking EMS services.

The EMS operator would have to have successfully completed and received a certificate from an approved training program and could offer only information that substantially conformed with the TDH-adopted protocol. The protocol could use a flash-card system to make information readily accessible to the operator in an understandable form.

EMS operators would not be liable for damages arising from the provision of medical information in good faith according to the protocol. Immunity from liability would not apply to an act or omission that constituted gross negligence, recklessness, or intentional misconduct. The bill would specify that Civil Practice and Remedies Code, sec. 101.062 would continue to apply

to public agencies and to the conduct of their EMS operators who provide medical information.

The board of health would have to establish by rule minimum standards for the approval of training programs and for certification and decertification of program instructors. Certificates could expire annually and could be renewed. The board could adopt fees for training programs and for the approval of program instructors to the extent necessary to cover program costs. Rules would have to be adopted by December 1, 1999.

Minimum standards adopted by the board would not prohibit an entity that was employing or accepting the volunteer services of an EMS operator from imposing additional standards.

This bill would take effect September 1, 1999, and would apply only to the provision of medical information on or after January 1, 2000.

**SUPPORTERS
SAY:**

CSHB 629 is needed to provide anxious, injured, or ill Texans appropriate medical advice while they await the arrival of an EMS vehicle and personnel. Long waits in obtaining EMS care are not only a problem in rural areas, where long distances between residences and medical facilities delay response, but also in urban areas where high call volume or traffic can slow EMS response. The provision of medical information by EMS operators has been proven safe and successful in other states, such as New Mexico and Washington.

The medical information given over the telephone would be basic and understandable and would focus on stabilizing, not treating, the victim. Under current law, EMS operators can tell a distressed victim or caller only that an EMS vehicle is on its way, when in some cases, immediate measures can be taken to improve the victim's medical outcome. In trauma situations, every second counts. For example, brain damage can occur after only four minutes without oxygen.

This bill would not create a duty for EMS providers to offer medical information, nor would it increase or decrease their liability. Most EMS services are provided by public entities, such as counties or cities, and the bill would link their liability specifically to current limits in the law. CSHB 629 also would make sure that government liability protections were not extended

to private contractors, who might not always operate with the public's interest in mind.

OPPONENTS
SAY:

Even though this bill would provide liability protection for governmental providers of EMS services, allowing EMS operators to give out medical information over the phone would provide yet another avenue for the local government entity to be sued.

NOTES:

Major changes made by the committee substitute to the original bill centered around civil liability limitations. The substitute specifically would limit liability for damages arising from the provision of medical information if such information was provided according to the TDH protocol. It also would lower the standard of conduct for liability from intentional and wilful negligence to gross negligence, recklessness, or intentional misconduct. It also specifically would link public agency liability to provisions in the Civil Practice and Remedies Code.

Provisions identical to those in the committee substitute were added to the TDH sunset bill, HB 2085 by McCall, when it was considered on the House floor on March 24, and those provisions remain in the Senate committee substitute version of the bill.