

House Bill 1396

By: Representatives Porter of the 119<sup>th</sup>, Bordeaux of the 125<sup>th</sup>, Parrish of the 102<sup>nd</sup>, Skipper of the 116<sup>th</sup>, Jackson of the 124<sup>th</sup>, Post 1, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 2 of Title 51 of the Official Code of Georgia Annotated, relating to  
2 imputable negligence, so as to provide that hospitals shall be insulated from liability for the  
3 acts of emergency room physicians who are independent contractors providing emergency  
4 health care services in a hospital emergency room; to provide for definitions; to provide for  
5 notice requirements regarding independent contractor physicians to the public; to provide for  
6 liability insurance coverage requirements for independent contractor physicians; to provide  
7 an effective date; to provide for applicability; to repeal conflicting laws; and for other  
8 purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 style="text-align:center">**SECTION 1.**

11 Chapter 2 of Title 51 of the Official Code of Georgia Annotated, relating to imputable  
12 negligence, is amended by adding a new Code Section 51-2-5.1 to read as follows:

13 "51-2-5.1.

14 (a) As used in this Code section, the term:

15 (1) 'Emergency room physician' means a physician who provides emergency health care  
16 services in a hospital emergency room and who does not have an ongoing  
17 physician-patient relationship with the emergency room patient.

18 (2) 'Hospital' means those institutions and facilities included in paragraphs (1) and (2)  
19 of Code Section 31-7-1.

20 (3) 'Independent contractor' means an emergency room physician who is not an  
21 employee or actual agent of the hospital in connection with the emergency health care  
22 services rendered to the emergency room patient.

23 (b) A hospital shall not be liable for civil damages as a result of an act or omission by an  
24 emergency room physician who is an independent contractor of the hospital if the hospital  
25 provides notice that such physician is an independent contractor and if the emergency room  
26 physician is insured as described under subsection (e) of this Code section. The hospital

1 shall be responsible for exercising reasonable care in granting privileges to practice in the  
2 hospital, for reviewing those privileges on a regular basis, and for taking appropriate steps  
3 to revoke or restrict privileges in appropriate circumstances. The hospital shall not be  
4 otherwise liable for the acts or omissions of an emergency room physician who is an  
5 independent contractor.

6 (c) The notice required in subsection (b) of this Code section shall be:

7 (1) Posted conspicuously in all admitting areas of the hospital, consisting of a sign at  
8 least two feet high and two feet wide, with print at least two inches high;

9 (2) Published at least annually in a newspaper of general circulation in the area; and

10 (3) In substantially the following form:

11 (Name of hospital) shall not be responsible for the actions of emergency room  
12 physicians in (name of hospital's) emergency room. The emergency room physicians  
13 are independent contractors and are not employees of the hospital.

14 (d) This Code section does not preclude liability for civil damages that are the proximate  
15 result of the hospital's independent negligence or intentional misconduct.

16 (e) A hospital shall not be protected from liability under this Code section unless the  
17 emergency room physician who is an independent contractor has liability insurance  
18 coverage of \$1 million per individual claim, and \$3 million aggregate, available to  
19 claimants, and the coverage is in effect and applicable to those health care services offered  
20 by the emergency room physician that the hospital is required to provide by law or by  
21 accreditation requirements."

## 22 SECTION 2.

23 This Act shall become effective on July 1, 2004, and shall apply only to causes of action  
24 arising on or after such date.

## 25 SECTION 3.

26 All laws and parts of laws in conflict with this Act are repealed.