

House Bill 1805

By: Representatives Porter of the 119th, Skipper of the 116th, Childers of the 13th, Post 1, Parrish of the 102nd, Bordeaux of the 125th, 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 for matters related to the standard of care; to provide an effective date; to provide for
8 applicability; to repeal conflicting laws; and for other 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 agent of the hospital in connection with the emergency health care services
22 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 emergency room physician is an independent contractor and if
26 the emergency room physician is insured as described under subsection (f) of this Code

1 section. The hospital shall be responsible for exercising reasonable care in granting
2 privileges to practice in the hospital, for reviewing those privileges on a regular basis, and
3 for taking appropriate steps to revoke or restrict privileges in appropriate circumstances.
4 The hospital shall not be otherwise liable for the acts or omissions of an emergency room
5 physician who is an 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 emergency room, consisting of a
8 sign at 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) The notice required in subsection (b) of this Code section shall be sufficient if it meets
15 the requirements of subsection (c) of this Code section, even if the patient does not receive
16 the notice.

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

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

25 (g) The degree of care and skill required of an emergency room physician shall be that
26 degree of care and skill ordinarily employed by the profession generally under similar
27 conditions and like surrounding circumstances including, but not limited to, any emergent
28 circumstances.

29 (h) In deciding whether an emergency room physician met the standard of care and skill
30 of his or her profession when treating a patient in an emergency room setting, a jury shall
31 consider all relevant evidence describing what the emergency room physician faced when
32 treating the patient. Such evidence may include, but is not limited to, the following:

33 (1) Whether any emergency circumstances were involved with the patient's condition;

34 (2) Whether the emergency room physician had access to the patient's prior medical
35 history;

36 (3) Whether there was a physician-patient relationship between the emergency room
37 physician and the patient predating the emergency care at issue; and

1 (4) All other circumstances affecting the emergency room physician's ability to provide
2 care in the emergency room at that time and place."

3 **SECTION 2.**

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

6 **SECTION 3.**

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