

HB 81 Holds Physicians Responsible for a Third Party's Actions



House Bill 81 redefines the established legal framework for informed consent by making physicians financially liable for the conduct of a third party. Under longstanding Texas law, informed consent requires a physician to disclose the risks that could influence a reasonable patient's decision to consent to a medical treatment, including immunizations.

In contrast to the longstanding medical and legal requirement to disclose the clinical risks of the treatment itself, HB 81 restructures informed consent laws for COVID-19 vaccinations by making informed consent ineffective if the patient has been compelled or coerced to receive the vaccination by an outside influence, such as an employer. This unfairly places the onus on the person administering the vaccine to know the external factors that brought the patient through the door.

HB 81 also creates a new minimum of \$5,000 of liability for a vaccination provided without informed consent. However, the liability is not directed at the source of the compulsion. Instead, it is directed towards the physician or other health care professional administering the vaccine.

HB 81 also prevents physician offices from implementing their own infectious disease protocols to keep their patients and staff safe. Patients seek care from their physician and should be able to trust their doctor has established a healthy environment without being penalized by the government.

TMA OPPOSES HB 81 BECAUSE THE BILL:

- Increases the likelihood of frivolous “shakedown” lawsuits, as (1) it does not require plaintiffs to prevail in their lawsuits to recover attorney’s fees and other litigation costs, and (2) reverses tort reform protections by lowering legal standards for trial attorneys to prevail in court.
- Places a chilling effect on physicians and other health care professionals to provide COVID-19 vaccines.
- Prevents private physician clinics from establishing the necessary infectious disease protocols to keep their often-vulnerable patients and staff safe.

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Physicians Caring for Texans

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