

House _____ Amendment NO. _____

Offered By

1 AMEND House Committee Substitute for House Bill No. 452, Page 3, Section 538.205, Line 56, by
2 inserting after all of said line and section the following:

3
4 "Section 1. Where health care services are to be provided by a non-employee, to qualify for
5 any immunity provided under section 538.210, the health care provider shall provide the patient
6 with notice of the following via informed written consent acknowledged by the patient or their
7 representative in a document separate from any other form setting forth legal or financial
8 responsibilities that includes the following language:

9
10 [HEALTH CARE PROVIDER'S NAME] DOES NOT ACCEPT LEGAL
11 RESPONSIBILITY FOR PERSONAL INJURIES OR DEATHS CAUSED BY THE
12 FAILURE TO USE THAT DEGREE OF SKILL AND LEARNING ORDINARILY USED
13 UNDER THE SAME OR SIMILAR CIRCUMSTANCES BY MEMBERS OF A MEDICAL
14 PROVIDER'S PROFESSION BY ANY PERSON NOT DIRECTLY COMPENSATED BY
15 THIS INSTITUTION.

16
17 IF ANY PERSON NOT DIRECTLY COMPENSATED BY [HEALTH CARE
18 PROVIDER'S NAME] CAUSES DEATH OR INJURY TO YOU AS A RESULT OF
19 THEIR FAILURE TO USE THAT DEGREE OF SKILL AND LEARNING ORDINARILY
20 USED UNDER THE SAME OR SIMILAR CIRCUMSTANCES BY MEMBERS OF THAT
21 PERSON'S PROFESSION, [HEALTH CARE PROVIDER'S NAME] IS IMMUNE FROM
22 ANY ACTION FOR DAMAGES THAT WOULD OTHERWISE ARISE OUT OF SUCH
23 FAILURE.

24
25 In addition to these paragraphs, the notice shall set forth a list of the types of providers who are
26 generally not employees of the health care provider, including but not limited to physicians. In the
27 event a patient is not communicative and a representative for them is unavailable, the health care
28 provider may satisfy this requirement for such patients by the posting of this notice in a prominent
29 place within the public areas of the health care provider's facility.

30 Section 2. In addition to other requirements, no health care provider may assert the
31 immunities provided in section 538.210 in the absence of an enforceable contract between the health
32 care provider asserting the immunity and person who is not an employee of such health care
33 provider that includes a provision whereby the health care provider affirmatively disclaims any legal
34 responsibility under the common law doctrine of respondeat superior or any other legal theory for
35 any personal injury or death claim arising out of the person's failure to use that degree of skill and
36 learning ordinarily used under the same or similar circumstances by members of the person's

Action Taken _____ Date _____

1 profession."; and

2

3 Further amend said bill by amending the title, enacting clause, and intersectional references

4 accordingly.