

2024 Regular Session

SENATE BILL NO. 454

BY SENATOR MCMATH

MALPRACTICE. Provides relative to medical malpractice. (8/1/24)

1 AN ACT

2 To amend and reenact R.S. 40:1231.1(A)(9), (10), and (13), relative to medical malpractice;
3 to provide for definitions and general applications; to provide for the definition of
4 health care; to provide for the definition of health care provider; to provide for the
5 definition of malpractice; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 40:1231.1(A)(9), (10), and (13) are hereby amended and reenacted
8 to read as follows:

9 §1231.1. Definitions and general applications

10 A. As used in this Part:

11 * * *

12 (9) "Health care" means any act, ~~or~~ treatment, **administration,**
13 **implementation of policies and procedures, or staffing** performed or furnished,
14 or which should have been performed or furnished, by any health care provider or
15 **any custodial services provided by a licensed nurse or certified nursing assistant**
16 for, to, or on behalf of a patient during the patient's medical care, treatment, or
17 confinement, or during or relating to or in connection with the procurement of human

1 blood or blood components.

2 (10) "Health care provider" means a person, partnership, limited liability
3 partnership, limited liability company, corporation, facility, or institution licensed
4 or certified by this state to provide health care or professional services as a physician,
5 hospital, nursing home, community blood center, tissue bank, dentist, a licensed
6 dietician or licensed nutritionist employed by, referred by, or performing work under
7 contract for, a health care provider or other person already covered by this Part,
8 registered or licensed practical nurse or certified nurse assistant, offshore health
9 service provider, ambulance service under circumstances in which the provisions of
10 R.S. 40:1237.1 are not applicable, certified registered nurse anesthetist, nurse
11 midwife, licensed midwife, nurse practitioner, clinical nurse specialist, pharmacist,
12 optometrist, podiatrist, chiropractor, physical therapist, occupational therapist,
13 psychologist, social worker, licensed professional counselor, licensed perfusionist,
14 licensed respiratory therapist, licensed radiologic technologist, licensed clinical
15 laboratory scientist, or any nonprofit facility considered tax-exempt under Section
16 501(c)(3), Internal Revenue Code, pursuant to 26 U.S.C. 501(c)(3), for the diagnosis
17 and treatment of cancer or cancer-related diseases, whether or not such a facility is
18 required to be licensed by this state, or any professional corporation a health care
19 provider is authorized to form under the provisions of Title 12 of the Louisiana
20 Revised Statutes of 1950, or any partnership, limited liability partnership, limited
21 liability company, management company, or corporation whose business is
22 conducted ~~principally by~~ **for the benefit of other** health care providers, or an officer,
23 employee, partner, member, shareholder, or agent thereof acting in the course and
24 scope of his employment.

25 * * *

26 (13) "Malpractice" means any unintentional tort or any breach of contract,
27 **regardless of any theory of liability**, based on health care or professional services
28 rendered, or which should have been rendered, by a health care provider, to a patient,
29 including **but not limited to** failure to render services timely and the handling of a

1 patient, ~~including~~ loading and unloading of a patient, and also ~~includes~~ all legal
 2 responsibility of a health care provider arising from acts or omissions during the
 3 procurement of blood or blood components, in the **staffing**, training, or supervision
 4 of health care providers, or from defects in blood, tissue, transplants, drugs, and
 5 medicines, or from defects in or failures of prosthetic devices implanted in or used
 6 on or in the person of a patient.

7 * * *

The original instrument and the following digest, which constitutes no part
 of the legislative instrument, were prepared by Amanda Trapp.

DIGEST

SB 454 Engrossed 2024 Regular Session McMath

Present law provides definitions for health care, health care provider, and malpractice in the Medical Malpractice Act.

Proposed law modifies those definitions.

Effective August 1, 2024.

(Amends R.S. 40:1231.1(A)(9), (10), and (13))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Health and Welfare to
the original bill

1. Makes changes to the definition of health care.