

CIVIL PRACTICE AND REMEDIES CODE

TITLE 4. LIABILITY IN TORT

CHAPTER 89. DONATION OF MEDICAL DEVICES

Sec. 89.001. DEFINITIONS. In this chapter:

(1) "Device" means braces, artificial appliances, durable medical equipment, and other medical supplies. The term does not include a medical device that is injected, implanted, or otherwise placed in the human body.

(2) "Donate" means to give without requiring anything of monetary value from the recipient.

(3) "Nonprofit health care organization" means:

(A) an organization that is exempt from federal income tax under Section 501(a) of the Internal Revenue Code of 1986 (26 U.S.C. Section 501) by being listed as an exempt organization in Section 501(c)(3) or 501(c)(4) of that code and that is organized and operated for the purpose of providing free or reduced cost health care; or

(B) a bona fide charitable organization that is organized and operated for the purpose of providing free or reduced cost health care, that dedicates its assets to charitable purposes, and that does not provide net earnings to, or operate in a manner that inures to the benefit of, an officer, employee, or shareholder of the organization.

Added by Acts 1997, 75th Leg., ch. 662, Sec. 1, eff. Sept. 1, 1997.

Renumbered from Sec. 88.001 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(5), eff. Sept. 1, 1999.

Sec. 89.002. LIABILITY FOR DAMAGES FROM DONATED DEVICE. A person authorized to possess a device is not liable for personal injury, property damage, or death resulting from the nature, age, packaging, or condition of a device that the person donates in good faith to an entity that is authorized to possess the device and that is a nonprofit health care organization for use in providing free or reduced cost health care.

Added by Acts 1997, 75th Leg., ch. 662, Sec. 1, eff. Sept. 1, 1997.

Renumbered from Sec. 88.002 by Acts 1999, 76th Leg., ch. 62, Sec.

19.01(5), eff. Sept. 1, 1999.

Sec. 89.003. EXCEPTIONS. (a) This chapter does not apply to a person who donates a device:

(1) knowing that use of the device would be harmful to the health or well-being of another person;

(2) with actual conscious indifference to the health or well-being of another person; or

(3) in violation of state or federal law.

(b) This chapter does not apply to a nonprofit health care organization unless the organization has liability insurance in effect that satisfies the requirements of Section [84.007\(g\)](#).

Added by Acts 1997, 75th Leg., ch. 662, Sec. 1, eff. Sept. 1, 1997.

Renumbered from Sec. 88.003 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(5), eff. Sept. 1, 1999.