



ATPE Testimony on HB 496

Relating to bleeding control kits

April 16, 2019

The **Association of Texas Professional Educators (ATPE)** appreciates this opportunity to offer input on House Bill (HB) 496 by Representative Barbara Gervin-Hawkins.

ATPE supports the provisions in HB 496 that help to ensure student safety through a bleeding kit program. However, ATPE is concerned with the language in the bill relating to an employee's civil liability immunity.

As the bill is written, immunity is granted to an employee who (1) acts in good faith in using the kit and (2) has received approved training. This raises several important questions: Can an employee be liable for not using the kit, even if done in good faith? Since acting in good faith alone is not enough (training is also a requirement), what if an educator has not been trained and is afraid to use the kit? What if an untrained educator does use the kit in good faith and saves a life but in the process causes an injury? As currently written, the bill creates liability for an educator who uses the kit in good faith but cannot prove that they were trained.

The bill also potentially creates increased liability at the district level because the district is required to provide training to those "who may be reasonably expected" to use the kit. This is a gray area subject to argument. In addition, the district must restock the kit "as soon as practicable", which is another gray area and could lead to loss of immunity at the district level.

ATPE recommends removing the requirement for training from the immunity provision so that those who use a kit in good faith with no gross negligence do not need to fear a lawsuit. ATPE also recommends applying the immunity provision for educators in Texas Education Code 22.0511 to strengthen protections for those who use the kit.

ATPE is pleased to offer further input on HB 496. For additional information, contact ATPE Governmental Relations at (800) 777-2873 or government@atpe.org.