

# Employment protections preserved in landmark court ruling

Medical school employees do not lose their immunity from lawsuits when providing patient care at private facilities, according to a ruling earlier this month by the Texas Supreme Court. The high court denied the plaintiff's appeal on April 6, thus preserving the current law.

A lawsuit filed against the University of Texas Southwestern Medical School and several of its employed physicians called into question lawsuit protections granted to governmental hospitals and the physicians who work for them. The Perkins case had wide-ranging implications affecting not only physicians, but nurses, lab techs, pharmacists, and other healthcare providers that work for medical schools, county hospitals, and rural hospital districts.

TAPA filed a friend of the court brief on behalf of UTSW and its physicians, noting that without these protections, rural areas, desperately in need of doctors and nurses, would lose an important incentive they offer to attract healthcare workers to their community.

In the Perkins case, UT Southwest Medical School employed a physician whose duties included instructing medical students as well as treating patients at an independent hospital. The physician assigned all billings from treating patients to UTSW in exchange for a salary. Current Texas law requires patients to sue a governmental hospital or hospital district for complaints about the physician's treatment instead of the physician personally if the hospital or hospital district controlled the details of the physician's employment. The plaintiffs argued that UTSW wasn't truly the physician's employer because the physician agreed to abide by an independent hospital's medical staff bylaws when he applied for privileges.



Dr. Howard Marcus  
*TAPA Chairman*



Brian Jackson  
*TAPA General Counsel*

A loss in Perkins would have subjected government employed physicians to personal liability and may have both nullified their medical liability coverage and their employer's obligation to defend and indemnify them under Texas employment law.

The Austin-based law firm of Jackson & Carter filed the amicus brief on behalf of TAPA. TAPA Chair, Dr. Howard Marcus, said the organization "will continue to defend what we believe the legislature intended" both in the courts and in the legislature.

Click here to read TAPA's ["friend of the court" brief](#) filed in the Perkins case