



Greater Phoenix  
Chamber of  
Commerce

February 15, 2010

## **SUPPORT HB 2465/SB 1214 Fact Sheet (Limited liability; physicians; examinations)**

### HB 2465/ SB 1214 – What the Bills Do

Both measures restore limits on liability for physicians not involved in patient care of the person the physician is examining at the request of a third party, usually an insurance carrier or employer. Such examinations are performed pursuant to statute in workers' compensation cases, by rules of civil procedure in personal injury cases, or for employment and hiring purposes.

### Why This Measure Is Needed

Over the last several years, the legislature has worked towards enacting medical malpractice tort reform and placing limitations on lawsuits, while at the same time, the courts have issued decisions expanding medical malpractice liability and encouraging more lawsuits. HB 2465/SB 1214 will restore traditional limits of liability on independent medical examiners. This will bring Arizona in line with the majority of states that have considered this issue and have adopted the common law rule that a duty of care should not be imposed on an evaluating doctor where treatment is not involved and where there is no physician-patient or other particular relationship.<sup>1</sup>

Expansion of medical malpractice liability discourages physicians from participating in the legal/medical adjudication process of personal injury and workers' compensation claims and involvement in necessary medical examinations to ensure that employees are medically capable of performing prospective employment.

Negligence in performing examinations not protected – physicians will not be shielded from liability for any injury inflicted during the examination.

---

1. States that bar such lawsuits include California, Colorado, Georgia, Michigan, Minnesota, New York and Pennsylvania. The Arizona Court of Appeals, Division II, adopted a no-liability rule in 1995 (*Hafner v. Beck*), but that decision has been called into question by recent decisions from the Court of Appeals Division I (*Ritchie v. Krasner*) and the Arizona Supreme Court (*Stanley v. McCarver*).