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**By: Delegate Elliott**

Introduced and read first time: January 29, 1996

Assigned to: Judiciary

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A BILL ENTITLED

1 AN ACT concerning

2 **Immunity - Physicians Not Receiving Remuneration**

3 FOR the purpose of providing, under certain circumstances, civil immunity from personal  
4 liability for certain physicians who provide medical services for which the physicians  
5 receive no personal remuneration; providing for the application of this Act; and  
6 generally relating to immunity from civil liability for certain physicians who provide  
7 medical services without personal remuneration.

8 BY repealing and reenacting, with amendments,  
9 Article - Courts and Judicial Proceedings  
10 Section 5-309.3  
11 Annotated Code of Maryland  
12 (1995 Replacement Volume and 1995 Supplement)

13 BY repealing and reenacting, without amendments,  
14 Article - Health Occupations  
15 Section 14-315  
16 Annotated Code of Maryland  
17 (1994 Replacement Volume and 1995 Supplement)

18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
19 MARYLAND, That the Laws of Maryland read as follows:

20 **Article - Courts and Judicial Proceedings**

21 5-309.3.

22 (a) (1) In this section the following words have the meanings indicated.

23 (2) "Charitable organization" means an organization, institution,  
24 association, society, or corporation that is exempt from taxation under § 501(c)(3) of the  
25 Internal Revenue Code, except licensed hospitals.

26 (3) "Compensation" does not include actual and necessary expenses that are  
27 incurred by a volunteer or physician in connection with the services provided or the duties  
28 performed by the volunteer or physician on behalf of a charitable organization, and that  
29 are reimbursed to the volunteer or physician or otherwise paid.

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1 (4) "Health care provider" has the same meaning stated in § 3-2A-01 of the  
2 Courts Article.

3 (5) "Physician" means any physician licensed to practice medicine in the  
4 State.

5 (6) "Suit" means any civil action, including any health care malpractice  
6 action filed with the health claims arbitration office, brought against a volunteer or  
7 physician or a charitable organization by virtue of the volunteer's or physician's act or  
8 omission in providing:

9 (I) UNDER SUBSECTION (B)(1) OR (B)(2) OF THIS SECTION, services  
10 or performing duties on behalf of the charitable organization; OR

11 (II) UNDER SUBSECTION (B)(3) OF THIS SECTION, MEDICAL  
12 SERVICES TO PATIENTS FOR WHICH THE PHYSICIAN RECEIVES NO PERSONAL  
13 REMUNERATION.

14 (7) "Volunteer" means an officer, director, trustee, or other person who  
15 provides services or performs duties on behalf of a charitable organization without  
16 receiving compensation.

17 (b) (1) A volunteer who is a health care provider or physician who renders  
18 health care services voluntarily and without compensation to any person seeking health  
19 care at a charitable organization is not liable, for any amount in excess of any applicable  
20 limit of insurance coverage, in any suit for civil damages for any act or omission resulting  
21 from the rendering of such services unless the act or omission constitutes:

22 (i) Willful or wanton misconduct;

23 (ii) Gross negligence; or

24 (iii) Intentionally tortious conduct.

25 (2) A volunteer who is a health care provider or physician who renders  
26 health care services voluntarily and without compensation to any person seeking health  
27 care through a charitable organization chartered to provide health care services to  
28 homeless or indigent individuals is not liable, for any amount in excess of any applicable  
29 limit of insurance coverage, in any suit for civil damages for any act or omission resulting  
30 from the rendering of such services unless the act or omission constitutes:

31 (i) Willful or wanton misconduct;

32 (ii) Gross negligence; or

33 (iii) Intentionally tortious conduct.

34 (3) A PHYSICIAN LICENSED UNDER § 14-315(A) OF THE HEALTH  
35 OCCUPATIONS ARTICLE WHO RENDERS HEALTH CARE SERVICES MEETING THE  
36 REQUIREMENTS OF THAT SUBSECTION IS NOT LIABLE, FOR ANY AMOUNT IN EXCESS  
37 OF ANY APPLICABLE LIMIT OF INSURANCE COVERAGE, IN ANY SUIT FOR CIVIL  
38 DAMAGES FOR ANY ACT OR OMISSION RESULTING FROM THE RENDERING OF SUCH  
39 SERVICES UNLESS THE ACT OR OMISSION CONSTITUTES:

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1 (I) WILLFUL OR WANTON MISCONDUCT;

2 (II) GROSS NEGLIGENCE; OR

3 (III) INTENTIONALLY TORTIOUS CONDUCT.

4 (c) (1) This section does not create, and may not be construed as creating, a  
5 new cause of action or substantive legal right against a physician or volunteer who is a  
6 health care provider.

7 (2) This section does not affect, and may not be construed as affecting, any  
8 immunities from civil liability or defenses established by any other provision of the Code  
9 or available at common law, to which a volunteer who is a health care provider or  
10 physician may be entitled.

11 **Article - Health Occupations**

12 14-315.

13 (a) The Board shall issue a license free of charge to any physician who:

14 (1) Provides medical services to patients for which the physician receives no  
15 personal remuneration;

16 (2) Is not engaged in the private practice of medicine; and

17 (3) Otherwise qualifies for a license under this title.

18 (b) Except as provided in subsection (c) of this section, each license issued under  
19 this section expires on the first anniversary of the date on which it is issued and may be  
20 renewed annually on application to the Board.

21 (c) (1) If, at any time, a physician licensed under this section ceases to meet the  
22 requirements of subsection (a)(1) or (2) of this section, the licensee shall notify the Board  
23 of the status change.

24 (2) On receipt of this notice, the Board shall charge the physician the  
25 license fee otherwise required under this subtitle.

26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed  
27 only prospectively and may not be applied or interpreted to have any effect on or  
28 application to any cause of action arising before the effective date of this Act.

29 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
30 October 1, 1996.