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By: **Senator Collins**

Introduced and read first time: February 4, 1999

Assigned to: Judicial Proceedings

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A BILL ENTITLED

1 AN ACT concerning

2                                   **Physician Assistants - Medical Services for Charitable Organizations -**  
3                                   **Immunity from Suit**

4 FOR the purpose of including physician assistants among those health care providers  
5 who are immune from certain causes of action when rendering volunteer  
6 medical services at charitable organizations; and generally relating to the  
7 liability of physician assistants for rendering volunteer medical services at  
8 charitable organizations.

9 BY repealing and reenacting, with amendments,  
10 Article - Courts and Judicial Proceedings  
11 Section 3-2A-01  
12 Annotated Code of Maryland  
13 (1998 Replacement Volume)

14 BY repealing and reenacting, without amendments,  
15 Article - Courts and Judicial Proceedings  
16 Section 5-606  
17 Annotated Code of Maryland  
18 (1998 Replacement Volume)

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

21                                   **Article - Courts and Judicial Proceedings**

22 3-2A-01.

23 (a) In this subtitle, the following terms have the meanings indicated unless  
24 the context of their use requires otherwise.

25 (b) "Arbitration panel" means the arbitrators selected to determine a health  
26 care malpractice claim in accordance with this subtitle.

27 (c) "Court" means a circuit court for a county.

1 (d) "Director" means the Director of the Health Claims Arbitration Office.

2 (e) "Health care provider" means a hospital, a related institution as defined in  
3 § 19-301 of the Health - General Article, a physician, A PHYSICIAN ASSISTANT, an  
4 osteopath, an optometrist, a chiropractor, a registered or licensed practical nurse, a  
5 dentist, a podiatrist, a psychologist, a licensed certified social worker-clinical, and a  
6 physical therapist, licensed or authorized to provide one or more health care services  
7 in Maryland. "Health care provider" does not mean any nursing institution conducted  
8 by and for those who rely upon treatment by spiritual means through prayer alone in  
9 accordance with the tenets and practices of a recognized church or religious  
10 denomination.

11 (f) "Medical injury" means injury arising or resulting from the rendering or  
12 failure to render health care.

13 5-606.

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

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

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

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

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

26 (6) "Suit" means any civil action, including any health care malpractice  
27 action filed with the health claims arbitration office, brought against a volunteer or  
28 physician or a charitable organization by virtue of the volunteer's or physician's act or  
29 omission in providing services or performing duties on behalf of the charitable  
30 organization.

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

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

- 1 (i) Willful or wanton misconduct;
- 2 (ii) Gross negligence; or
- 3 (iii) Intentionally tortious conduct.

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

- 11 (i) Willful or wanton misconduct;
- 12 (ii) Gross negligence; or
- 13 (iii) Intentionally tortious conduct.

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

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

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
22 October 1, 1999.