
By: **Delegates Elliott, Hammen, and Hurson**
Introduced and read first time: February 9, 2005
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Volunteer Health Care Practitioners - Liability**

3 FOR the purpose of limiting the liability of certain health care practitioners who
4 provide volunteer health care services to certain patients of certain clinics;
5 providing that this Act does not create a new cause of action against certain
6 health care practitioners; providing that this Act does not affect any immunities
7 from civil liability to which certain health care practitioners are entitled;
8 defining a certain term; and generally relating to the liability of volunteer
9 health care practitioners.

10 BY repealing and reenacting, without amendments,
11 Article - Courts and Judicial Proceedings
12 Section 3-2A-01
13 Annotated Code of Maryland
14 (2002 Replacement Volume and 2004 Supplement)

15 BY repealing and reenacting, with amendments,
16 Article - Courts and Judicial Proceedings
17 Section 5-606
18 Annotated Code of Maryland
19 (2002 Replacement Volume and 2004 Supplement)

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

22 **Article - Courts and Judicial Proceedings**

23 3-2A-01.

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

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

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

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

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

16 (i) An organization, institution, association, society, or corporation
17 that is exempt from taxation under § 501(c)(3) of the Internal Revenue Code, except
18 licensed hospitals; or

19 (ii) A medical society that is exempt from taxation under § 501(c)(6)
20 of the Internal Revenue Code.

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

25 (4) "HEALTH CARE PRACTITIONER" MEANS AN INDIVIDUAL WHO IS
26 LICENSED, CERTIFIED, OR OTHERWISE AUTHORIZED UNDER THE HEALTH
27 OCCUPATIONS ARTICLE TO PROVIDE HEALTH CARE SERVICES IN THE ORDINARY
28 COURSE OF BUSINESS OR PRACTICE OF A PROFESSION.

29 [(4)] (5) "Health care provider" has the meaning stated in § 3-2A-01 of
30 this article.

31 [(5)] (6) "Physician" means any physician licensed to practice medicine
32 in the State.

33 [(6)] (7) "Suit" means any civil action, including any health care
34 malpractice action filed with the health claims arbitration office, brought against a
35 volunteer or physician or a charitable organization by virtue of the volunteer's or
36 physician's act or omission in providing services or performing duties on behalf of the
37 charitable organization.

1 [(7)] (8) "Volunteer" means an officer, director, trustee, or other person
2 who provides services or performs duties on behalf of a charitable organization
3 without receiving compensation.

4 (b) (1) 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 at or through a charitable organization is not liable, for any amount in
7 excess of any applicable limit of insurance coverage, in any suit for civil damages for
8 any act or omission resulting from the rendering of such services unless the act or
9 omission constitutes:

10 (i) Willful or wanton misconduct;

11 (ii) Gross negligence; or

12 (iii) Intentionally tortious conduct.

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

20 (i) Willful or wanton misconduct;

21 (ii) Gross negligence; or

22 (iii) Intentionally tortious conduct.

23 (3) A HEALTH CARE PRACTITIONER WHO PROVIDES HEALTH CARE
24 SERVICES AT ANY SITE VOLUNTARILY AND WITHOUT COMPENSATION TO A PATIENT
25 OF A CLINIC THAT IS ORGANIZED IN WHOLE OR IN PART FOR THE DELIVERY OF
26 HEALTH CARE SERVICES WITHOUT CHARGE IS NOT LIABLE FOR ANY AMOUNT IN
27 EXCESS OF ANY APPLICABLE LIMIT OF INSURANCE COVERAGE IN ANY SUIT FOR
28 CIVIL DAMAGES FOR ANY ACT OR OMISSION RESULTING FROM THE PROVISION OF
29 THE SERVICES UNLESS THE ACT OR OMISSION CONSTITUTES:

30 (I) WILLFUL OR WANTON MISCONDUCT;

31 (II) GROSS NEGLIGENCE; OR

32 (III) INTENTIONALLY TORTIOUS CONDUCT.

33 (c) (1) This section does not create, and may not be construed as creating, a
34 new cause of action or substantive legal right against a HEALTH CARE PRACTITIONER
35 OR A physician or volunteer who is a health care provider.

1 (2) This section does not affect, and may not be construed as affecting,
2 any immunities from civil liability or defenses established by any other provision of
3 the Code or available at common law, to which a HEALTH CARE PRACTITIONER OR A
4 volunteer who is a health care provider or physician may be entitled.

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
6 October 1, 2005.