

Second Regular Session  
Sixty-fifth General Assembly  
STATE OF COLORADO

**ENGROSSED**

*This Version Includes All Amendments Adopted  
on Second Reading in the House of Introduction*

LLS NO. 06-0537.01 Stephen Miller

**HOUSE BILL 06-1076**

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**HOUSE SPONSORSHIP**

**Penry,**

**SENATE SPONSORSHIP**

**Traylor,**

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**House Committees**  
Judiciary

**Senate Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING IMMUNITY FROM CIVIL LIABILITY UNDER THE**  
102 **"VOLUNTEER SERVICE ACT".**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)*

Extends the good faith immunity conferred on volunteer licensed physicians by the "Volunteer Services Act" to certain other licensed health care professionals. Requires a nonprofit organization, nonprofit corporation, or hospital for which a specified health care professional volunteers to annually verify that the health care professional holds an unrestricted Colorado license, registration, or certification to practice his or her respective profession. Specifies that a nonprofit organization,

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.*  
*Dashes through the words indicate deletions from existing statute.*

HOUSE  
Amended 2nd Reading  
February 17, 2006

nonprofit corporation, or hospital is immune from liability arising out of an act or omission of a volunteer who is exempt from liability for negligence.

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1 *Be it enacted by the General Assembly of the State of Colorado:*

2           **SECTION 1.** 13-21-115.5 (3) (c), (4) (a), and (4) (b), Colorado  
3 Revised Statutes, are amended to read:

4           **13-21-115.5. Volunteer service act - immunity - exception for**  
5 **operation of motor vehicles.** (3) As used in this section, unless the  
6 context otherwise requires:

7           (c) (I) "Volunteer" means a person performing services for a  
8 nonprofit organization, a nonprofit corporation, or a hospital without  
9 compensation, other than reimbursement for actual expenses incurred.  
10 The term excludes a volunteer serving as a director, officer, or trustee  
11 who shall be protected from civil liability in accordance with the  
12 provisions of sections 13-21-116 and 13-21-115.7.

13           (II) ~~The term~~ "VOLUNTEER" includes:

14           (A) A licensed physician AND A LICENSED PHYSICIAN ASSISTANT  
15 GOVERNED BY THE PROVISIONS OF ARTICLE 36 OF TITLE 12, C.R.S.,  
16 performing ~~medical services or providing medical care or treatment~~ THE  
17 PRACTICE OF MEDICINE, AS DEFINED IN SECTION 12-36-106, C.R.S., as a  
18 volunteer for a nonprofit organization, a nonprofit corporation, or a  
19 hospital;

20           (B) A LICENSED CHIROPRACTOR GOVERNED BY THE PROVISIONS OF  
21 ARTICLE 33 OF TITLE 12, C.R.S., PERFORMING CHIROPRACTIC, AS DEFINED  
22 IN SECTION 12-33-102 (1), C.R.S., AS A VOLUNTEER FOR A NONPROFIT  
23 ORGANIZATION, A NONPROFIT CORPORATION, OR A HOSPITAL;

24           (C) A REGISTERED MIDWIFE GOVERNED BY THE PROVISIONS OF

1 ARTICLE 37 OF TITLE 12, C.R.S., PERFORMING THE PRACTICE OF  
2 DIRECT-ENTRY MIDWIFERY, AS DEFINED IN SECTION 12-37-102 (2), C.R.S.,  
3 AS A VOLUNTEER FOR A NONPROFIT ORGANIZATION, A NONPROFIT  
4 CORPORATION, OR A HOSPITAL;

5 (D) A LICENSED NURSE GOVERNED BY THE "NURSE PRACTICE  
6 ACT", ARTICLE 38 OF TITLE 12, C.R.S., PERFORMING THE PRACTICE OF  
7 PRACTICAL NURSING OR THE PRACTICE OF PROFESSIONAL NURSING, AS  
8 DEFINED IN SECTION 12-38-103 (9) AND (10), C.R.S., RESPECTIVELY, AS A  
9 VOLUNTEER FOR A NONPROFIT ORGANIZATION, A NONPROFIT  
10 CORPORATION, OR A HOSPITAL;

11 (E) A REGISTERED ADVANCE PRACTICE NURSE GOVERNED BY THE  
12 "NURSE PRACTICE ACT", ARTICLE 38 OF TITLE 12, C.R.S., PERFORMING  
13 NURSING TASKS WITHIN THE SCOPE OF THE PERSON'S NURSING LICENSE  
14 AND PERFORMING ADVANCED PRACTICE UNDER AUTHORITY GRANTED BY  
15 THE STATE BOARD OF NURSING PURSUANT TO SECTIONS 12-38-111.5 AND  
16 12-38-111.6, C.R.S., AS A VOLUNTEER FOR A NONPROFIT ORGANIZATION,  
17 A NONPROFIT CORPORATION, OR A HOSPITAL;

18 (F) A LICENSED RETIRED VOLUNTEER NURSE GOVERNED BY THE  
19 PROVISIONS OF ARTICLE 38 OF TITLE 12, C.R.S., PERFORMING VOLUNTEER  
20 NURSING TASKS WITHIN THE SCOPE OF THE PERSON'S NURSING LICENSE, AS  
21 DESCRIBED IN SECTION 12-38-112.5, C.R.S., AS A VOLUNTEER FOR A  
22 NONPROFIT ORGANIZATION, A NONPROFIT CORPORATION, OR A HOSPITAL;

23 (G) A CERTIFIED NURSE AIDE GOVERNED BY THE PROVISIONS OF  
24 ARTICLE 38.1 OF TITLE 12, C.R.S., PERFORMING THE PRACTICE OF A NURSE  
25 AIDE, AS DEFINED IN SECTION 12-38.1-102 (5), C.R.S., AS A VOLUNTEER  
26 FOR A NONPROFIT ORGANIZATION, A NONPROFIT CORPORATION, OR A  
27 HOSPITAL;

1 (H) A LICENSED NURSING HOME ADMINISTRATOR AND REGISTERED  
2 NURSING HOME ADMINISTRATOR-IN-TRAINING GOVERNED BY THE  
3 PROVISIONS OF ARTICLE 39 OF TITLE 12, C.R.S., PERFORMING THE  
4 PRACTICE OF NURSING HOME ADMINISTRATION, AS DEFINED IN SECTION  
5 12-39-102 (5), C.R.S., AND THE TRAINING OF AN  
6 ADMINISTRATOR-IN-TRAINING, AS DESCRIBED IN SECTION 12-39-107,  
7 C.R.S., AS A VOLUNTEER FOR A NONPROFIT ORGANIZATION, A NONPROFIT  
8 CORPORATION, OR A HOSPITAL;

9 (I) A LICENSED OPTOMETRIST GOVERNED BY THE PROVISIONS OF  
10 ARTICLE 40 OF TITLE 12, C.R.S., PERFORMING THE PRACTICE OF  
11 OPTOMETRY, AS DEFINED IN SECTION 12-40-102, C.R.S., AS A VOLUNTEER  
12 FOR A NONPROFIT ORGANIZATION, A NONPROFIT CORPORATION, OR A  
13 HOSPITAL;

14 (J) A LICENSED PHYSICAL THERAPIST GOVERNED BY THE  
15 "PHYSICAL THERAPY PRACTICE ACT", ARTICLE 41 OF TITLE 12, C.R.S.,  
16 PERFORMING PHYSICAL THERAPY, AS DEFINED IN SECTION 12-41-103 (6),  
17 C.R.S., AS A VOLUNTEER FOR A NONPROFIT ORGANIZATION, A NONPROFIT  
18 CORPORATION, OR A HOSPITAL;

19 (K) A LICENSED RESPIRATORY THERAPIST GOVERNED BY THE  
20 "RESPIRATORY THERAPY PRACTICE ACT", ARTICLE 41.5 OF TITLE 12,  
21 C.R.S., PERFORMING RESPIRATORY THERAPY, AS DEFINED IN SECTION  
22 12-41.5-103 (6), C.R.S., AS A VOLUNTEER FOR A NONPROFIT  
23 ORGANIZATION, A NONPROFIT CORPORATION, OR A HOSPITAL;

24 (L) A LICENSED PSYCHIATRIC TECHNICIAN GOVERNED BY THE  
25 PROVISIONS OF ARTICLE 42 OF TITLE 12, C.R.S., PERFORMING THE  
26 PRACTICE AS A PSYCHIATRIC TECHNICIAN, AS DEFINED IN SECTION  
27 12-42-102 (4), C.R.S., AS A VOLUNTEER FOR A NONPROFIT ORGANIZATION,

1 A NONPROFIT CORPORATION, OR A HOSPITAL;

2 (M) A LICENSED PSYCHOLOGIST GOVERNED BY THE PROVISIONS OF  
3 ARTICLE 43 OF TITLE 12, C.R.S., PERFORMING THE PRACTICE OF  
4 PSYCHOLOGY, AS DEFINED IN SECTION 12-43-303, C.R.S., AS A VOLUNTEER  
5 FOR A NONPROFIT ORGANIZATION, A NONPROFIT CORPORATION, OR A  
6 HOSPITAL;

7 (N) A LICENSED SOCIAL WORKER AND LICENSED CLINICAL SOCIAL  
8 WORKER GOVERNED BY THE PROVISIONS OF ARTICLE 43 OF TITLE 12,  
9 C.R.S., PERFORMING SOCIAL WORK PRACTICE, AS DEFINED IN SECTION  
10 12-43-403, C.R.S., AS A VOLUNTEER FOR A NONPROFIT ORGANIZATION, A  
11 NONPROFIT CORPORATION, OR A HOSPITAL;

12 (O) A LICENSED MARRIAGE AND FAMILY THERAPIST GOVERNED BY  
13 THE PROVISIONS OF ARTICLE 43 OF TITLE 12, C.R.S., PERFORMING  
14 MARRIAGE AND FAMILY THERAPY PRACTICE, AS DEFINED IN SECTION  
15 12-43-503, C.R.S., AS A VOLUNTEER FOR A NONPROFIT ORGANIZATION, A  
16 NONPROFIT CORPORATION, OR A HOSPITAL;

17 (P) A LICENSED PROFESSIONAL COUNSELOR GOVERNED BY THE  
18 PROVISIONS OF ARTICLE 43 OF TITLE 12, C.R.S., PERFORMING  
19 PROFESSIONAL COUNSELING, AS DEFINED IN SECTION 12-43-601 (5),  
20 C.R.S., AS A VOLUNTEER FOR A NONPROFIT ORGANIZATION, A NONPROFIT  
21 CORPORATION, OR A HOSPITAL; AND

22 (Q) A LICENSED PHARMACIST GOVERNED BY THE PROVISIONS OF  
23 ARTICLE 22 OF TITLE 12, C.R.S., PERFORMING THE PRACTICE OF  
24 PHARMACY, AS DEFINED IN SECTION 12-22-102 (26), C.R.S., AS A  
25 VOLUNTEER FOR A NONPROFIT ORGANIZATION, A NONPROFIT  
26 CORPORATION, OR A HOSPITAL.

27 (III) The nonprofit organization, nonprofit corporation, or hospital

1 for which ~~the physician volunteers~~ A VOLUNTEER PERFORMS shall  
2 annually verify that the ~~physician~~ VOLUNTEER holds an unrestricted  
3 Colorado license, REGISTRATION, OR CERTIFICATION to practice ~~medicine~~  
4 HIS OR HER RESPECTIVE PROFESSION.

5 (4) (a) Any volunteer shall be immune from civil liability in any  
6 action on the basis of any act or omission of a volunteer resulting in  
7 damage or injury if:

8 (I) ~~The volunteer was acting in good faith and within the scope of~~  
9 ~~such volunteer's official functions and duties for a nonprofit organization,~~  
10 ~~a nonprofit corporation, or a hospital~~ IS IMMUNE FROM LIABILITY FOR THE  
11 ACT OR OMISSION UNDER THE FEDERAL "VOLUNTEER PROTECTION ACT",  
12 42 U.S.C. SEC. 14501 ET SEQ.;

13 (II) The damage or injury was not caused by ~~willful and wanton~~  
14 ~~misconduct by~~ OR OTHER CIRCUMSTANCES THAT WOULD PRECLUDE  
15 IMMUNITY FOR such volunteer UNDER THE FEDERAL LAW DESCRIBED IN  
16 SUBPARAGRAPH (I) OF THIS PARAGRAPH (a); and

17 (III) ~~The damage or injury was not caused by gross negligence or~~  
18 ~~by willful and wanton misconduct by such volunteer if such volunteer is~~  
19 ~~a licensed physician and~~ The ~~physician's~~ PERSON'S volunteer status was  
20 declared before the ~~medical~~ CARE procedure PERFORMED BY THE  
21 VOLUNTEER occurred and the patient receiving the volunteered ~~medical~~  
22 care, or the patient's representative, agreed in writing beforehand to  
23 accept such volunteered care after disclosure that the patient's right to sue  
24 the volunteer ~~physician~~ will be subject to the limitations of this section.

25 (b) (I) EXCEPT AS OTHERWISE PROVIDED IN SUBPARAGRAPH (II) OF  
26 THIS PARAGRAPH (b), nothing in this section shall be construed to bar any  
27 cause of action against a nonprofit organization, nonprofit corporation, or

1 hospital or change the liability otherwise provided by law of a nonprofit  
2 organization, nonprofit corporation, or hospital arising out of an act or  
3 omission of a volunteer exempt from liability for negligence under this  
4 section.

5 (II) A NONPROFIT ORGANIZATION, NONPROFIT CORPORATION, OR  
6 HOSPITAL THAT IS FORMED FOR THE SOLE PURPOSE OF FACILITATING THE  
7 VOLUNTEER PROVISION OF HEALTH CARE SHALL BE IMMUNE FROM  
8 LIABILITY ARISING OUT OF AN ACT OR OMISSION OF A VOLUNTEER THAT IS  
9 IMMUNE FROM LIABILITY UNDER THIS SUBSECTION (4).

10 **SECTION 2. Effective date - applicability.** This act shall take  
11 effect July 1, 2006, and shall apply to causes of action accruing on or  
12 after said date.

13 **SECTION 3. Safety clause.** The general assembly hereby finds,  
14 determines, and declares that this act is necessary for the immediate  
15 preservation of the public peace, health, and safety.