

**Second Regular Session
Sixty-fifth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 06-0537.01 Stephen Miller

HOUSE BILL 06-1076

HOUSE SPONSORSHIP

Penry,

SENATE SPONSORSHIP

Traylor,

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

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

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.

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.

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

2 **SECTION 1.** 13-21-115.5 (3) (c), (4) (a) (III), and (4) (b),
3 Colorado 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 ██████████

21 (B) A LICENSED NURSE GOVERNED BY THE "NURSE PRACTICE
22 ACT", ARTICLE 38 OF TITLE 12, C.R.S., PERFORMING THE PRACTICE OF
23 PRACTICAL NURSING OR THE PRACTICE OF PROFESSIONAL NURSING, AS
24 DEFINED IN SECTION 12-38-103 (9) AND (10), C.R.S., RESPECTIVELY, AS A

1 VOLUNTEER FOR A NONPROFIT ORGANIZATION, A NONPROFIT
2 CORPORATION, OR A HOSPITAL;

3 (C) A REGISTERED ADVANCE PRACTICE NURSE GOVERNED BY THE
4 "NURSE PRACTICE ACT", ARTICLE 38 OF TITLE 12, C.R.S., PERFORMING
5 NURSING TASKS WITHIN THE SCOPE OF THE PERSON'S NURSING LICENSE
6 AND PERFORMING ADVANCED PRACTICE UNDER AUTHORITY GRANTED BY
7 THE STATE BOARD OF NURSING PURSUANT TO SECTIONS 12-38-111.5 AND
8 12-38-111.6, C.R.S., AS A VOLUNTEER FOR A NONPROFIT ORGANIZATION,
9 A NONPROFIT CORPORATION, OR A HOSPITAL;

10 (D) A LICENSED RETIRED VOLUNTEER NURSE GOVERNED BY THE
11 PROVISIONS OF ARTICLE 38 OF TITLE 12, C.R.S., PERFORMING VOLUNTEER
12 NURSING TASKS WITHIN THE SCOPE OF THE PERSON'S NURSING LICENSE, AS
13 DESCRIBED IN SECTION 12-38-112.5, C.R.S., AS A VOLUNTEER FOR A
14 NONPROFIT ORGANIZATION, A NONPROFIT CORPORATION, OR A HOSPITAL;
15 AND

16 [REDACTED]

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

22 [REDACTED]

23 (III) The nonprofit organization, nonprofit corporation, or hospital
24 for which ~~the physician volunteers~~ A VOLUNTEER PERFORMS shall
25 annually verify that the ~~physician~~ VOLUNTEER holds an unrestricted
26 Colorado license, REGISTRATION, OR CERTIFICATION to practice ~~medicine~~
27 HIS OR HER RESPECTIVE PROFESSION.

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

4 (III) The damage or injury was not caused by gross negligence or
5 by willful and wanton misconduct by such volunteer if such volunteer is
6 ~~a licensed physician~~ A PERSON DESCRIBED IN SUBPARAGRAPH (II) OF
7 PARAGRAPH (c) OF SUBSECTION (3) OF THIS SECTION, and the ~~physician's~~
8 PERSON'S volunteer status was declared before the ~~medical~~ CARE
9 procedure PERFORMED BY THE VOLUNTEER occurred and the patient
10 receiving the volunteered ~~medical~~ care, or the patient's representative,
11 agreed in writing beforehand to accept such volunteered care after
12 disclosure that the patient's right to sue the volunteer ~~physician~~ will be
13 subject to the limitations of this section.

14 (b) (I) EXCEPT AS OTHERWISE PROVIDED IN SUBPARAGRAPH (II) OF
15 THIS PARAGRAPH (b), nothing in this section shall be construed to bar any
16 cause of action against a nonprofit organization, nonprofit corporation, or
17 hospital or change the liability otherwise provided by law of a nonprofit
18 organization, nonprofit corporation, or hospital arising out of an act or
19 omission of a volunteer exempt from liability for negligence under this
20 section.

21 (II) A NONPROFIT ORGANIZATION, NONPROFIT CORPORATION, OR
22 HOSPITAL THAT IS FORMED FOR THE SOLE PURPOSE OF FACILITATING THE
23 VOLUNTEER PROVISION OF HEALTH CARE SHALL BE IMMUNE FROM
24 LIABILITY ARISING OUT OF AN ACT OR OMISSION OF A VOLUNTEER EXEMPT
25 FROM LIABILITY FOR NEGLIGENCE UNDER THIS SECTION.

26 **SECTION 2. Effective date - applicability.** This act shall take
27 effect July 1, 2006, and shall apply to causes of action accruing on or

1 after said date.

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