

Second Regular Session
Sixty-fifth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 06-0537.01 Stephen Miller

HOUSE BILL 06-1076

HOUSE SPONSORSHIP

Penry,

SENATE SPONSORSHIP

(None),

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

18 (b) ~~Nothing in this section shall be construed to bar any cause of~~
19 ~~action against a nonprofit organization, nonprofit corporation, or hospital~~
20 ~~or change the liability otherwise provided by law of~~ A nonprofit
21 organization, nonprofit corporation, or hospital SHALL BE IMMUNE FROM
22 LIABILITY arising out of an act or omission of a volunteer exempt from
23 liability for negligence under this section.

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

27 **SECTION 3. Safety clause.** The general assembly hereby finds,

- 1 determines, and declares that this act is necessary for the immediate
- 2 preservation of the public peace, health, and safety.