

Second Regular Session
Sixty-fifth General Assembly
STATE OF COLORADO

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 06-0537.01 Stephen Miller

HOUSE BILL 06-1076

HOUSE SPONSORSHIP

Penry,

SENATE SPONSORSHIP

Traylor,

House Committees
Judiciary

Senate Committees
Judiciary

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.

SENATE
3rd Reading Unamended
March 29, 2006

SENATE
Amended 2nd Reading
March 28, 2006

HOUSE
3rd Reading Unamended
February 20, 2006

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.

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, A GOVERNMENTAL
9 ENTITY, or a hospital without compensation, other than reimbursement for
10 actual expenses incurred. The term excludes a volunteer serving as a
11 director, officer, or trustee who shall be protected from civil liability in
12 accordance with the 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, A
19 GOVERNMENTAL ENTITY, or a 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, A GOVERNMENTAL ENTITY,
24 OR A HOSPITAL;

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

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

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

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

25 (G) A CERTIFIED NURSE AIDE GOVERNED BY THE PROVISIONS OF
26 ARTICLE 38.1 OF TITLE 12, C.R.S., PERFORMING THE PRACTICE OF A NURSE
27 AIDE, AS DEFINED IN SECTION 12-38.1-102 (5), C.R.S., AS A VOLUNTEER

1 FOR A NONPROFIT ORGANIZATION, A NONPROFIT CORPORATION, A
2 GOVERNMENTAL ENTITY, OR A HOSPITAL;

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

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

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

21 (K) A LICENSED RESPIRATORY THERAPIST GOVERNED BY THE
22 "RESPIRATORY THERAPY PRACTICE ACT", ARTICLE 41.5 OF TITLE 12,
23 C.R.S., PERFORMING RESPIRATORY THERAPY, AS DEFINED IN SECTION
24 12-41.5-103 (6), C.R.S., AS A VOLUNTEER FOR A NONPROFIT
25 ORGANIZATION, A NONPROFIT CORPORATION, A GOVERNMENTAL ENTITY,
26 OR A HOSPITAL;

27 (L) A LICENSED PSYCHIATRIC TECHNICIAN GOVERNED BY THE

1 PROVISIONS OF ARTICLE 42 OF TITLE 12, C.R.S., PERFORMING THE
2 PRACTICE AS A PSYCHIATRIC TECHNICIAN, AS DEFINED IN SECTION
3 12-42-102 (4), C.R.S., AS A VOLUNTEER FOR A NONPROFIT ORGANIZATION,
4 A NONPROFIT CORPORATION, "A GOVERNMENTAL ENTITY, OR A HOSPITAL;

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

10 (N) A LICENSED SOCIAL WORKER AND LICENSED CLINICAL SOCIAL
11 WORKER GOVERNED BY THE PROVISIONS OF ARTICLE 43 OF TITLE 12,
12 C.R.S., PERFORMING SOCIAL WORK PRACTICE, AS DEFINED IN SECTION
13 12-43-403, C.R.S., AS A VOLUNTEER FOR A NONPROFIT ORGANIZATION, A
14 NONPROFIT CORPORATION, A GOVERNMENTAL ENTITY, OR A HOSPITAL;

15 (O) A LICENSED MARRIAGE AND FAMILY THERAPIST GOVERNED BY
16 THE PROVISIONS OF ARTICLE 43 OF TITLE 12, C.R.S., PERFORMING
17 MARRIAGE AND FAMILY THERAPY PRACTICE, AS DEFINED IN SECTION
18 12-43-503, C.R.S., AS A VOLUNTEER FOR A NONPROFIT ORGANIZATION, A
19 NONPROFIT CORPORATION, A GOVERNMENTAL ENTITY, OR A HOSPITAL;

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

25 (Q) A LICENSED PHARMACIST GOVERNED BY THE PROVISIONS OF
26 ARTICLE 22 OF TITLE 12, C.R.S., PERFORMING THE PRACTICE OF
27 PHARMACY, AS DEFINED IN SECTION 12-22-102 (26), C.R.S., AS A

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

3 (R) A LICENSED DENTIST GOVERNED BY THE PROVISIONS OF
4 ARTICLE 35 OF TITLE 12, C.R.S., PERFORMING THE PRACTICE OF
5 DENTISTRY, AS DEFINED IN SECTION 12-35-103 (5), C.R.S., AND AS
6 DESCRIBED IN SECTION 12-35-113, C.R.S., AS A VOLUNTEER FOR A
7 NONPROFIT ORGANIZATION, A NONPROFIT CORPORATION, A
8 GOVERNMENTAL ENTITY, OR A HOSPITAL.

9 (III) The nonprofit organization, nonprofit corporation, A
10 GOVERNMENTAL ENTITY, or hospital for which ~~the physician volunteers~~
11 A VOLUNTEER PERFORMS shall annually verify that the ~~physician~~
12 VOLUNTEER holds an unrestricted Colorado license, REGISTRATION, OR
13 CERTIFICATION to practice ~~medicine~~ HIS OR HER RESPECTIVE PROFESSION.

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

17 (I) ~~The volunteer was acting in good faith and within the scope of~~
18 ~~such volunteer's official functions and duties for a nonprofit organization,~~
19 ~~a nonprofit corporation, or a hospital~~ IS IMMUNE FROM LIABILITY FOR THE
20 ACT OR OMISSION UNDER THE FEDERAL "VOLUNTEER PROTECTION ACT",
21 42 U.S.C. SEC. 14501 ET SEQ.; AND

22 (II) The damage or injury was not caused by ~~willful and wanton~~
23 ~~misconduct by~~ OR OTHER CIRCUMSTANCES THAT WOULD PRECLUDE
24 IMMUNITY FOR such volunteer UNDER THE FEDERAL LAW DESCRIBED IN
25 SUBPARAGRAPH (I) OF THIS PARAGRAPH (a).

26 (III) The damage or injury was not caused by gross negligence or
27 by willful and wanton misconduct by such volunteer if such volunteer is

1 ~~a licensed physician and the physician's volunteer status was declared~~
2 ~~before the medical procedure occurred and the patient receiving the~~
3 ~~volunteered medical care, or the patient's representative, agreed in writing~~
4 ~~beforehand to accept such volunteered care after disclosure that the~~
5 ~~patient's right to sue the volunteer physician will be subject to the~~
6 ~~limitations of this section.~~

7 (b) (I) EXCEPT AS OTHERWISE PROVIDED IN SUBPARAGRAPH (II) OF
8 THIS PARAGRAPH (b), nothing in this section shall be construed to bar any
9 cause of action against a nonprofit organization, nonprofit corporation, A
10 GOVERNMENTAL ENTITY, or hospital or change the liability otherwise
11 provided by law of a nonprofit organization, nonprofit corporation, A
12 GOVERNMENTAL ENTITY, or hospital arising out of an act or omission of
13 a volunteer exempt from liability for negligence under this section.

14 (II) A NONPROFIT ORGANIZATION, NONPROFIT CORPORATION, A
15 GOVERNMENTAL ENTITY, OR HOSPITAL THAT IS FORMED FOR THE SOLE
16 PURPOSE OF FACILITATING THE VOLUNTEER PROVISION OF HEALTH CARE
17 SHALL BE IMMUNE FROM LIABILITY ARISING OUT OF AN ACT OR OMISSION
18 OF A VOLUNTEER THAT IS IMMUNE FROM LIABILITY UNDER THIS
19 SUBSECTION (4).

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

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