

HOUSE BILL NO. HB0097

Volunteer health care professionals-immunity from liability.

Sponsored by: Representative(s) Law, Johnson, L., Jorgensen, McMurtrey, Meuli and Tipton and Senator(s) Barrasso and Larson

A BILL

for

1 AN ACT relating to volunteer health care professionals;  
2 providing immunity from liability for a volunteer health  
3 care professional at a nonprofit health care facility as  
4 specified; requiring a nonprofit health care facility be  
5 insured; providing exceptions to immunity from liability;  
6 and providing for an effective date.

7

8 *Be It Enacted by the Legislature of the State of Wyoming:*

9

10 **Section 1.** W.S. 1-1-129 is created to read:

11

12 **1-1-129. Immunity from liability for volunteer health**  
13 **care professionals; insurance required of nonprofit health**  
14 **care facility.**

15

1 (a) As used in this section:

2

3 (i) "Health care professional" means any of the  
4 following who provide medical or dental diagnosis, care or  
5 treatment:

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7 (A) Physicians, osteopaths and physician  
8 assistants licensed to practice as provided in title 33,  
9 chapter 26 of the Wyoming statutes;

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11 (B) All nurses licensed to practice as  
12 provided in title 33, chapter 21 of the Wyoming statutes;

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14 (C) Pharmacists licensed to practice as  
15 provided in title 33, chapter 24 of the Wyoming statutes;

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17 (D) Dentists and dental hygienists licensed  
18 to practice as provided in title 33, chapter 15 of the  
19 Wyoming statutes; and

20

21 (E) Optometrists licensed to practice as  
22 provided in title 33, chapter 23 of the Wyoming statutes.

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1           (ii) "Low income uninsured person" means a  
2 person who meets all of the following requirements:

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4           (A) The person's income is not greater than  
5 two hundred percent (200%) of the current poverty line as  
6 defined by federal law, as amended;

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8           (B) The person currently is not receiving  
9 medical, disability or other assistance under any federal  
10 or state government health care program; and

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12           (C) Either of the following applies:

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14           (I) The person is not a policyholder,  
15 certificate holder, insured, contract holder, subscriber,  
16 enrollee, member, beneficiary or other covered individual  
17 under a health insurance or health care policy, contract or  
18 plan; or

19

20           (II) The person is a policyholder,  
21 certificate holder, insured, contract holder, subscriber,  
22 enrollee, member, beneficiary or other covered individual  
23 under a health insurance or health care policy, contract or  
24 plan, but the insurer, policy, contract or plan denies

1 coverage or is the subject of insolvency or bankruptcy  
2 proceedings in any jurisdiction.

3

4 (iii) "Nonprofit health care facility" means a  
5 charitable nonprofit corporation or association organized  
6 and operated under title 17, chapters 19 or 22 of the  
7 Wyoming statutes, or any charitable organization not  
8 organized and not operated for profit, that exclusively  
9 provides health care services to low income uninsured  
10 persons, except that "health care facility" does not  
11 include a hospital, including a swing bed hospital,  
12 facility or center defined under W.S. 35-2-901 or any other  
13 medical facility that is operated for profit;

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15 (iv) "Operation" means an invasive procedure  
16 that involves cutting or otherwise infiltrating human  
17 tissue by mechanical means, including surgery, laser  
18 surgery, ionizing radiation, therapeutic ultrasound or the  
19 removal of intraocular foreign bodies. "Operation" does not  
20 include the administration of medication by injection,  
21 unless the injection is administered in conjunction with a  
22 procedure infiltrating human tissue by mechanical means  
23 other than the administration of medicine by injection;

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1           (v) "Tort action" means a civil action for  
2 damages for injury, death or loss to person or property  
3 other than a civil action for damages for a breach of  
4 contract or another agreement between persons or government  
5 entities;

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7           (vi) "Volunteer" means an individual who  
8 provides any medical, dental or other health care related  
9 diagnosis, care or treatment without the expectation of  
10 receiving, and without receipt of, any compensation or  
11 other form of remuneration from a low income uninsured  
12 person, another person on behalf of a low income uninsured  
13 person, any health care facility or any other person or  
14 government entity.

15  
16           (b) Subject to subsection (d) of this section, a  
17 health care professional who is a volunteer and complies  
18 with subsection (c) of this section is not liable in  
19 damages to any person or government entity in a tort or  
20 other civil action, including an action on a medical,  
21 dental or other health-related claim for injury, death or  
22 loss to person or property that allegedly arises from an  
23 action or omission of the volunteer in the provision at a  
24 nonprofit health care facility to a low income uninsured

1 person of medical, dental or other health-related  
2 diagnosis, care or treatment, including the provision of  
3 samples of medicine and other medical or dental products,  
4 unless the action or omission constitutes willful or wanton  
5 misconduct.

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7 (c) To qualify for immunity under subsection (b) of  
8 this section, a health care professional shall do all of  
9 the following prior to the initial diagnosis, care or  
10 treatment:

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12 (i) Inform the person of the provisions of this  
13 section either personally or by means of a writing so  
14 stating provided by the nonprofit health care facility and  
15 signed by the person, or by another individual on behalf  
16 of, and in the presence of, the person; and

17

18 (ii) Obtain the informed consent of the person  
19 and a written waiver, signed by the person, or by another  
20 individual on behalf of, and in the presence of, the  
21 person.

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23 (d) Except as provided in this subsection, the  
24 immunities provided by subsection (b) of this section are

1 not available to a health care professional, if at the time  
2 of an alleged injury, death or loss to person or property,  
3 the health care professional involved was performing an  
4 operation or delivering a baby. This subsection does not  
5 apply to a health care professional who provides diagnosis,  
6 care or treatment or performs an operation or delivers a  
7 baby when necessary to preserve the life of a person in a  
8 medical emergency.

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10 (e) In order for the immunity under subsection (b) of  
11 this section to apply and before the rendering of any  
12 services by the health care professional at the nonprofit  
13 health care facility, there must be a written agreement  
14 between the health care professional and the facility  
15 pursuant to which the health care professional will provide  
16 medical, dental or health care related diagnosis, care or  
17 treatment under the control of the facility to patients of  
18 the facility.

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20 (f) A nonprofit health care facility entering into a  
21 written agreement under subsection (e) of this section  
22 shall maintain liability coverage of not less than one  
23 million dollars (\$1,000,000.00) per occurrence. A nonprofit  
24 health care facility shall be liable for the negligent acts

1 of a health care professional providing diagnosis, care or  
2 treatment at the facility.

3

4 **Section 2.** This act is effective July 1, 2003.

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(END)