

ORIGINAL HOUSE  
BILL NO. 0097

ENROLLED ACT NO. 60, HOUSE OF REPRESENTATIVES

FIFTY-SEVENTH LEGISLATURE OF THE STATE OF WYOMING  
2003 GENERAL SESSION

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

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

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

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

(a) As used in this section:

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

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

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

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

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

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

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

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

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

(C) Either of the following applies:

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

(II) The person is a policyholder, certificate holder, insured, contract holder, subscriber, enrollee, member, beneficiary or other covered individual under a health insurance or health care policy, contract or plan, but the insurer, policy, contract or plan denies coverage or is the subject of insolvency or bankruptcy proceedings in any jurisdiction.

(iii) "Nonprofit health care facility" means a charitable nonprofit corporation or association organized and operated under title 17, chapters 19 or 22 of the Wyoming statutes, or any charitable organization not organized and not operated for profit, that exclusively provides health care services to low income uninsured

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persons, except that "health care facility" does not include a hospital, including a swing bed hospital, facility or center defined under W.S. 35-2-901 or any other medical facility that is operated for profit;

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

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

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

(b) Subject to subsection (d) of this section, a health care professional who is a volunteer and complies with subsection (c) of this section is not liable in damages to any person or government entity in a tort or other civil action, including an action on a medical, dental or other health-related claim for injury, death or

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loss to person or property that allegedly arises from an action or omission of the volunteer in the provision at a nonprofit health care facility to a low income uninsured person of medical, dental or other health-related diagnosis, care or treatment, including the provision of samples of medicine and other medical or dental products, unless the action or omission constitutes willful or wanton misconduct.

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

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

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

(d) Except as provided in this subsection, the immunities provided by subsection (b) of this section are not available to a health care professional, if at the time of an alleged injury, death or loss to person or property, the health care professional involved was performing an operation or delivering a baby. This subsection does not apply to a health care professional who provides diagnosis, care or treatment or performs an operation or delivers a baby when necessary to preserve the life of a person in a medical emergency.

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

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

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

(END)

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Governor

TIME APPROVED: \_\_\_\_\_

DATE APPROVED: \_\_\_\_\_

I hereby certify that this act originated in the House.

\_\_\_\_\_  
Chief Clerk