

HOUSE BILL NO. HB0097

Volunteer health care professionals-immunity from liability.

Sponsored by: Representative(s) Law and Johnson, L. 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

16 (a) As used in this section:

1

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

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

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

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

16

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

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21 (ii) "Indigent and uninsured person" means a  
22 person who meets all of the following requirements:

23

1           (A) The person's income is not greater than  
2 two hundred fifty percent (250%) of the current poverty  
3 line as defined by federal law, as amended;

4

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

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9           (C) Either of the following applies:

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

16

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

24

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

11

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

21

22           (v) "Tort action" means a civil action for  
23 damages for injury, death or loss to person or property  
24 other than a civil action for damages for a breach of

1 contract or another agreement between persons or government  
2 entities;

3

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

12

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

1 unless the action or omission constitutes willful or wanton  
2 misconduct.

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

8

9 (i) Determine, in good faith, that the indigent  
10 and uninsured person is mentally capable of giving informed  
11 consent to the provision of the diagnosis, care or  
12 treatment and is not subject to duress or under undue  
13 influence;

14

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

20

21 (iii) Obtain the informed consent of the person  
22 and a written waiver, signed by the person, or by another  
23 individual on behalf of, and in the presence of, the  
24 person, that states that the person is mentally competent

1 to give informed consent, and without being subject to  
2 duress or under undue influence, gives informed consent to  
3 the provision of the diagnosis, care or treatment subject  
4 to the provisions of this section.

5

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

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

1 treatment under the control of the facility to patients of  
2 the facility.

3

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

11

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

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(END)