



WYOMING LEGISLATIVE SERVICE OFFICE

Memorandum

DATE April 6, 2017
TO Joint Judiciary Committee
FROM Torey Racines, Legislative Counsel
SUBJECT Volunteer Health Care

Interim Topic as Approved by Management Council

Priority #: 8 Volunteer Health Care

The Committee will consider the following specific topic areas: 1. Providing volunteer health care services to low income persons. 2. Volunteer health care services through contracts with the Department of Health. 3. Providing legal protection through the Wyoming Government Claims Act.

Background

The attached LSO Fact Sheet provides an overview of volunteer health care statutes in other states. (Attachment 8-2).

During the 2017 General Session, HB 72 failed in committee over concerns about provisions addressing liability for malpractice of the volunteer health care providers and health care facilities. Versions of HB 72 are attached - as introduced (Attachment 8-3) and with language from a proposed amendment (Attachment 8-4). A suggested format "Model Legislation: Volunteer Health Services" is attached. (Attachment 8-5).

Also attached is an existing statute, W.S. 1-1-129 - Immunity for liability for volunteer health care professionals. (Attachment 8-6).



FACT SHEET
WYOMING LEGISLATIVE SERVICE OFFICE

Prepared by Jennifer Lockwood, Associate Research Analyst
April 5, 2017
17FS017

VOLUNTEER HEALTH CARE PROVISIONS IN SELECT STATES

Table 1, beginning on the next page, provides information regarding select states that have specific statutory provisions or recent legislation regarding volunteer health care. The table contains excerpts regarding key legal concepts including: 1) immunity from liability; 2) contract definitions; and 3) continuing credit provisions. According to the Foundation for Government Accountability, four states allow for volunteer health care in statute.

Wyoming House Bill 0072 (2017) is referenced on page six. During the 2017 General Session, after introduction, the House Judiciary Committee voted against a “Do Pass” recommendation and the bill was indefinitely postponed. However, LSO did draft a revised bill with suggested amendments that was not considered by the Legislature. Both the original version and amended version are provided in Attachment A and Attachment B, respectively.

Florida			
Statute/Bill	Immunity from Liability/Malpractice	Contract Definitions	Continuing Education Credit
<p>Florida Stat. 766.1115</p>	<p>766.1115 (9). MALPRACTICE LITIGATION COSTS.— “Governmental contractors other than the department are responsible for their own costs and attorney’s fees for malpractice litigation arising out of health care services delivered pursuant to this section.”</p>	<p>766.1115(3)(a) “Contract” means an agreement executed in compliance with this section between a health care provider and a governmental contractor for volunteer, uncompensated services which allows the health care provider to deliver health care services to low-income recipients as an agent of the governmental contractor...uncompensated services under this section...must receive no compensation from the governmental contractor for any services provided under the contract and must not bill or accept compensation from the recipient, or a public or private third-party payor, for the specific services provided to the low-income recipients covered by the contract, except as provided in paragraph (4)(g)...”</p>	<p>766.1115(10) CONTINUING EDUCATION CREDIT.— “Notwithstanding the maximum allowable credit of 25 percent of continuing education hours pursuant to s. 456.013(9), a provider may fulfill 1 hour of continuing education credit by performing 1 hour of volunteer services to the indigent as provided in this section, up to a maximum of 8 continuing education hours per licensure renewal period.”</p>

Kansas			
Statute/Bill	Immunity from Liability/Malpractice	Contract Definitions	Continuing Education Credit
<p>Kansas Stat. 65-2809; House Bill No. 2615</p>	<p>65-2809(c) "The board, prior to renewal of a license, shall require an active licensee to submit to the board evidence satisfactory to the board that the licensee is maintaining a policy of professional liability insurance as required by K.S.A. 40-3402, and amendments thereto, and has paid the premium surcharges as required by K.S.A. 40-3404, and amendments thereto."</p>	<p>65-2809(d)(1) "Employee" means:... (E) a person who is an employee or volunteer of a nonprofit program, other than a municipality, who has contracted with the commissioner of juvenile justice or with another nonprofit program that has contracted with the secretary of corrections to provide a juvenile justice program for juvenile offenders in a judicial district provided that such employee or volunteer does not otherwise have coverage for such acts and omissions within the scope of their employment or volunteer activities through a liability insurance contract of such nonprofit program...</p>	<p>HB 2615(k) "A charitable healthcare provider in Kansas who has signed an agreement to provide gratuitous services pursuant to K.S.A. 75-6102 and 75-6120, and amendments thereto, may fulfill one hour of continuing education credit by the performance of two hours of gratuitous services to eligible low income patients up to a maximum of eight continuing education credits per licensure period. (l) "The board shall provide a measurement report annually, starting on January 15, 2017, to the senate committee on public health and welfare and the house committee on health and human services detailing by profession the number of gratuitous continuing education units used, compared to the number of continuous education units required."</p>

South Carolina			
Statute/Bill	Immunity from Liability/Malpractice	Contract Definitions	Continuing Education Credit
<p>South Carolina Bill 4999; SC Stat. 44-30-310</p>	<p>SECTION 44-30-310. Free health care services; immunity from liability. “If a health care provider, licensed pursuant to the laws of this State, informs his or her patient in writing, which may include use of an electronic medical record device, before treatment that the treatment to be rendered by the health care provider will be provided free of charge, the health care provider is not liable for any civil damages for any personal injury as a result of any act or omission by the health care provider rendering treatment free of charge or failure to act to provide or arrange for further treatment, except acts or omission amounting to gross negligence or willful or wanton misconduct.”</p>	<p>N/A</p>	<p>HB 4999. SECTION 5. “Any licensed health care provider who renders medical services voluntarily and without compensation or the expectation or promise of compensation and seeks no reimbursement from charitable and governmental sources may fulfill one hour of continuing education for each hour of volunteer medical services rendered, up to a maximum of twenty-five percent of the provider's required continuing education credits for the licensure period.”</p>

Utah			
Statute/Bill	Immunity from Liability/Malpractice	Contract Definitions	Continuing Education Credit
Utah Code 58-13-3	58-13-3. (3) “A health care professional who provides health care treatment at or on behalf of a health care facility is not liable in a medical malpractice action if: (a) the treatment was within the scope of the health care professional's license under this title; (b) neither the health care professional nor the health care facility received compensation or remuneration for the treatment; (c) the acts or omissions of the health care professional were not grossly negligent or willful and wanton; and (d) prior to rendering services...”	N/A	58-13-3. (8) “A health care professional: (a) may, in accordance with Subsection (8)(b), fulfill up to 15% of the health care professional's continuing education requirement with hours the health care professional spends providing health care treatment described in Subsection (3) or (5); and (b) subject to Subsection (8)(a), earns one hour of the health care professional's continuing education requirement for every four documented hours of volunteer health care treatment.”

Wyoming			
Statute/Bill	Immunity from Liability/Malpractice	Contract Definitions	Continuing Education Credit
2017 HB 0072 ¹	<p>35-31-103. (a)(ii) “The medical facility shall be considered a facility of the state and any employee of the medical facility shall be considered a public employee of the state under the Wyoming Governmental Claims Act;</p> <p>(iii) Commencement of an action pursuant to the Wyoming Governmental Claims Act shall be the exclusive remedy for any injury or damage suffered as the result of an act or omission of the health care provider or any employee of a medical facility while acting within the scope of duties under the contract.”</p>	<p>35-31-101. Definitions. (i) “ ‘Contract’ means an agreement executed in compliance with this act between a medical facility or health care provider and the department authorizing the medical facility or health care provider to deliver volunteer health care services to low income persons as an agent of the state;”</p> <p>35-31-102. (a)(ii) “The medical facility while providing volunteer health care services to low income persons shall be considered a facility of the state and any employee of a medical professional or health care provider who delivers volunteer health care services to low income persons shall be considered a public employee of the state for purposes of the Wyoming Governmental Claims Act while acting within the scope of duties under the contract so long as the contract complies with the requirements of this act and regardless of whether a low income person who is treated is later found to be ineligible;”</p>	<p>35-31-103. (c) “Licensing boards may grant continuing education credit to medical professionals for the performance of volunteer health care services to low income persons pursuant to this act.”</p>

¹ The excerpts listed for 2017 HB 0072 are from HB0072 amended version (Attachment 8-4). See Attachment 8-3 for the original version of the bill.

Source: Legislative Service Office Research summary of information provided by the Foundation for Government Accountability and Florida, Kansas, South Carolina, Utah and Wyoming bills and state statutes.

If you need anything further, please contact LSO Research at 777-7881.

HOUSE BILL NO. HB0072

Volunteer health care.

Sponsored by: Representative(s) Laursen, Blake and Lindholm
and Senator(s) Baldwin and Boner

A BILL

for

1 AN ACT relating to public health and safety; authorizing
2 the department of health to contract for volunteer health
3 care services; providing immunity to medical professionals
4 and health care providers who provide volunteer health care
5 under contract as agents of the state; authorizing
6 licensing boards to provide continuing education credit as
7 specified; amending definitions under the Wyoming
8 Governmental Claims Act; and providing for an effective
9 date.

10

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

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13 **Section 1.** W.S. 35-31-101 through 35-31-103 are
14 created to read:

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CHAPTER 31

VOLUNTEER HEALTH SERVICES PROGRAM

35-31-101. Definitions.

(a) As used in this act:

(i) "Contract" means an agreement executed in compliance with this act between a health care provider and the department authorizing the health care provider to deliver volunteer health care services to low income persons as an agent of the state;

(ii) "Department" means the department of health;

(iii) "Health care provider" means any ambulatory surgical center, birthing center, hospital, medical assistance facility, nursing care facility, an office maintained by a medical professional or any other medical facility whose primary purpose is to deliver human medical services or treatment;

1 (iv) "Low income person" means any of the
2 following:

3
4 (A) A low income uninsured person as
5 defined in W.S. 1-1-129(a)(ii);

6
7 (B) A person eligible for Medicaid under
8 state law.

9
10 (v) "Medical professional" means a person
11 licensed under title 33 of the Wyoming statutes to provide
12 medical or dental diagnosis, care or treatment;

13
14 (vi) "This act" means W.S. 35-31-101 through
15 35-31-103.

16
17 **35-31-102. Contract conditions for volunteer health**
18 **services.**

19
20 (a) The department may execute contracts with health
21 care providers or medical professionals to deliver
22 volunteer health care services as an agent of the state. A
23 contract shall provide as follows:

1

2 (i) The health care provider that delivers
3 volunteer health care services to low income persons shall
4 be considered a governmental entity for purposes of the
5 Wyoming Governmental Claims Act while acting within the
6 scope of duties under the contract so long as the contract
7 complies with the requirements of this act and regardless
8 of whether a low income person who is treated is later
9 found to be ineligible;

10

11 (ii) The medical professional and any employee
12 of a medical professional or health care provider who
13 delivers volunteer health care services to low income
14 persons shall be considered employees of the state for
15 purposes of the Wyoming Governmental Claims Act while
16 acting within the scope of duties under the contract so
17 long as the contract complies with the requirements of this
18 act and regardless of whether a low income person who is
19 treated is later found to be ineligible;

20

21 (iii) The health care provider and the medical
22 professional under contract with the department shall be
23 immune from liability in any action arising out of

1 volunteer health care services provided under the terms of
2 the contract;

3

4 (iv) If a low income person treated by the
5 health care provider or medical professional under the
6 contract is later found to be ineligible, the health care
7 provider or medical professional shall be immune from
8 liability in any action arising out of volunteer health
9 care services provided to the person under the terms of the
10 contract before a determination of ineligibility;

11

12 (v) Only volunteer health care services
13 delivered by the health care provider or medical
14 professional to low income persons eligible to receive
15 those services are covered under the contract.

16

17 (b) The department may terminate the contract with
18 the health care provider or medical professional for good
19 cause if the department provides the health care provider
20 or medical professional with written notice of its intent
21 to terminate the contract, and the reasons for that
22 decision, at least five (5) business days before the
23 contract termination date.

1

2 (c) The health care provider or medical professional
3 shall submit to the department adverse incidents and
4 information on treatment outcomes if the incidents and
5 information pertain to a low income person treated under
6 the contract. If the incident involves a licensed
7 professional or facility, the incident report shall also be
8 submitted to the appropriate licensing body, which shall
9 review the incident to determine whether it involves
10 conduct by the licensee who is subject to disciplinary
11 action.

12

13 (d) All patient medical records and any identifying
14 information contained in adverse incident reports and
15 treatment outcomes submitted to the department or licensing
16 bodies pursuant to subsection (c) of this section are
17 confidential.

18

19 (e) Patient selection and initial referral shall be
20 made by the department, health care provider or medical
21 professional.

22

1 (f) If emergency care is required, the patient need
2 not be referred before receiving treatment, but shall be
3 referred not later than forty-eight (48) hours after
4 treatment begins or after the patient has the mental
5 capacity to consent to treatment, whichever is later.

6

7 (g) The health care provider or medical professional
8 shall be subject to supervision and regular inspection by
9 the department.

10

11 **35-31-103. Disclosure; quality assurance; continuing**
12 **education credit; reporting.**

13

14 (a) Before a low income person receives volunteer
15 health care services pursuant to this act, he or his legal
16 representative shall sign a disclosure statement informing
17 the low income person of the following:

18

19 (i) The health care provider shall be considered
20 a governmental entity under the Wyoming Governmental Claims
21 Act;

22

1 (ii) The medical professional and any employee
2 of the medical professional or the health care provider
3 shall be considered public employees under the Wyoming
4 Governmental Claims Act;

5
6 (iii) Commencement of an action pursuant to the
7 Wyoming Governmental Claims Act shall be the exclusive
8 remedy for any injury or damage suffered as the result of
9 an act or omission of the health care provider, medical
10 professional or any employee thereof acting within the
11 scope of duties under the contract.

12
13 (b) The department shall establish a quality
14 assurance program to monitor the services delivered under
15 any contract entered into pursuant to this act.

16
17 (c) Licensing boards may grant continuing education
18 credit to medical professionals for the performance of
19 volunteer health care services to low income persons
20 pursuant to this act.

21
22 (d) The department shall adopt rules necessary to
23 implement this act.

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2 (e) The department shall submit a report to the joint
3 labor, health and social services interim committee and the
4 governor not later than July 1 of each year. The report
5 shall summarize the efficacy of access and treatment
6 outcomes with respect to volunteer health care services
7 provided to low income persons pursuant to this act. The
8 report shall include a list of all health care providers
9 and medical professionals providing volunteer health care
10 services to low income persons pursuant to this act and
11 shall include the number of hours volunteered, the number
12 of patient visits and the value of health care related
13 goods and services provided.

14

15 **Section 2.** W.S. 1-39-103(a)(i) and (iv) by creating a
16 new subparagraph (G) is amended to read:

17

18 **1-39-103. Definitions.**

19

20 (a) As used in this act:

21

22 (i) "Governmental entity" means the state,
23 University of Wyoming, ~~or~~ any local government or any

1 health care provider delivering volunteer health care
 2 services as an agent of the state to low income persons
 3 pursuant to W.S. 35-31-101 through 35-31-103;

4

5 (iv) "Public employee":

6

7 (G) Includes any medical professional and
 8 any employee of a medical professional or health care
 9 provider delivering volunteer health care services as an
 10 agent of the state to low income persons pursuant to W.S.
 11 35-31-101 through 35-31-103.

12

13 **Section 3.** This act is effective July 1, 2017.

14

15 (END)

HOUSE BILL NO. HB0072

Volunteer health care.

Sponsored by: Representative(s) Laursen, Blake and Lindholm
and Senator(s) Baldwin and Boner

A BILL

for

1 AN ACT relating to public health and safety; authorizing
2 the department of health to contract for volunteer health
3 care services; providing that claims against volunteering
4 medical facilities and health care providers are subject to
5 the Wyoming governmental claims act; authorizing licensing
6 boards to provide continuing education credit as specified;
7 amending definitions under the Wyoming Governmental Claims
8 Act; providing for coverage under the state self-insurance
9 program; and providing for an effective date.

10

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

12

13 **Section 1.** W.S. 35-31-101 through 35-31-103 are
14 created to read:

15

1

CHAPTER 31

2

VOLUNTEER HEALTH SERVICES PROGRAM

3

4

35-31-101. Definitions.

5

6

(a) As used in this act:

7

8

(i) "Contract" means an agreement executed in compliance with this act between a medical facility or health care provider and the department authorizing the medical facility or health care provider to deliver volunteer health care services to low income persons as an agent of the state;

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(ii) "Department" means the department of health;

(iii) "Health care provider" means any person licensed, certified or otherwise authorized by the law of this state to cure or prevent impairments of the normal state of the body, including but not limited to physicians, physician assistants, nurses, optometrists and dentists;

1 (iv) "Low income person" means any of the
2 following:

3
4 (A) A low income uninsured person as
5 defined in W.S. 1-1-129(a)(ii);

6
7 (B) A person eligible for Medicaid under
8 state law.

9
10 (v) "Medical facility" means a hospital, clinic,
11 office, nursing home, or other facility where a health care
12 provider provides health care to patients;

13
14 (vi) "This act" means W.S. 35-31-101 through
15 35-31-103.

16
17 **35-31-102. Contract conditions for volunteer health**
18 **services.**

19
20 (a) The department may execute contracts with health
21 care providers or medical facilities to deliver volunteer
22 health care services as an agent of the state. A contract
23 shall provide as follows:

1

2 (i) The health care provider that delivers
3 volunteer health care services to low income persons shall
4 be considered a public employee of the state for purposes
5 of the Wyoming Governmental Claims Act while acting within
6 the scope of duties under the contract so long as the
7 contract complies with the requirements of this act and
8 regardless of whether a low income person who is treated is
9 later found to be ineligible;

10

11 (ii) The medical facility while providing
12 volunteer health care services to low income persons shall
13 be considered a facility of the state and any employee of a
14 medical professional or health care provider who delivers
15 volunteer health care services to low income persons shall
16 be considered a public employee of the state for purposes
17 of the Wyoming Governmental Claims Act while acting within
18 the scope of duties under the contract so long as the
19 contract complies with the requirements of this act and
20 regardless of whether a low income person who is treated is
21 later found to be ineligible;

22

1 (iii) Only volunteer health care services
2 delivered by the health care provider or medical facility
3 to low income persons eligible to receive those services
4 are covered under the contract.

5
6 (b) The department may terminate the contract with
7 the health care provider or medical facility for good cause
8 if the department provides the health care provider or
9 medical facility with written notice of its intent to
10 terminate the contract, and the reasons for that decision,
11 at least five (5) business days before the contract
12 termination date.

13
14 (c) Health care providers and medical facilities
15 shall submit to the department information on adverse
16 incidents and treatment outcomes if the adverse incidents
17 pertain to a low income person treated under the contract.
18 If the incident involves a licensed professional or
19 facility, the incident report shall also be submitted to
20 the appropriate licensing body, which shall review the
21 incident to determine whether it involves conduct by the
22 licensee who is subject to disciplinary action.

23

1 (d) All patient medical records and any identifying
2 information contained in adverse incident reports and
3 treatment outcomes submitted to the department or licensing
4 bodies pursuant to subsection (c) of this section are
5 confidential.

6

7 (e) If emergency care is required, the patient need
8 not be referred before receiving treatment, but shall be
9 referred not later than forty-eight (48) hours after
10 treatment begins or after the patient has the mental
11 capacity to consent to treatment, whichever is later.

12

13 (f) The health care provider or medical facility
14 shall be subject to supervision and regular inspection by
15 the department.

16

17 **35-31-103. Disclosure; quality assurance; continuing**
18 **education credit; reporting.**

19

20 (a) Before a low income person receives volunteer
21 health care services pursuant to this act, he or his legal
22 representative shall sign a disclosure statement informing
23 the low income person of the following:

1

2 (i) The health care provider shall be considered
3 a public employee of the state under the Wyoming
4 Governmental Claims Act;

5

6 (ii) The medical facility shall be considered a
7 facility of the state and any employee of the medical
8 facility shall be considered a public employee of the state
9 under the Wyoming Governmental Claims Act;

10

11 (iii) Commencement of an action pursuant to the
12 Wyoming Governmental Claims Act shall be the exclusive
13 remedy for any injury or damage suffered as the result of
14 an act or omission of the health care provider or any
15 employee of a medical facility while acting within the
16 scope of duties under the contract.

17

18 (b) The department shall establish a quality
19 assurance program to monitor the services delivered under
20 any contract entered into pursuant to this act.

21

22 (c) Licensing boards may grant continuing education
23 credit to medical professionals for the performance of

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2 **1-39-103. Definitions.**

3

4 (a) As used in this act:

5

6 (iv) "Public employee":

7

8 (G) Includes any health care provider as
9 defined by W.S. 35-31-101(a)(iii) delivering volunteer
10 health care services to low income persons under W.S.
11 35-31-101 through 35-31-103.

12

13 **1-39-109. Liability; medical facilities.**

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15 A governmental entity is liable for damages resulting from
16 bodily injury, wrongful death or property damage caused by
17 the negligence of public employees while acting within the
18 scope of their duties in the operation of any public
19 hospital or in providing public outpatient health care,
20 including medical facilities providing volunteer health
21 services under W.S. 35-31-101 through 35-31-103.

22

23 **1-41-102. Definitions.**

1 (a) As used in this act:

2

3 (v) "Public employee" means any officer,
4 employee or servant of the state, provided the term:

5

6 (E) Includes health care providers
7 delivering volunteer health care services as an agent of
8 the state to low income persons under W.S. 35-31-101
9 through 35-31-103.

10

11 **Section 3.** This act is effective July 1, 2017.

12

13

(END)

Model Legislation: Volunteer Health Services

SECTION 1. NEW LAW. A new section of law concerning the provision of free quality healthcare services to uninsured and underserved populations of the state; providing sovereign immunity to medical professionals who provide such services under contract as agents of the state; providing continuing education credits to medical professionals who provide such services.

SECTION 2. DEFINITIONS. As used in this section, the term:

- (A) "Contract" means an agreement executed in compliance with this section between a medical professional and a free or charitable health care clinic licensed by the state Department of Health or a governmental contractor.
- (B) "Department" means the Department of Health.
- (C) "Governmental Contractor" means the Department, county health departments, special purpose districts with healthcare responsibilities, a hospital owned and operated by a governmental entity, or any other health care entity designated by the Department.
- (D) "Health Care Provider" or "Provider" means:
 - a. A birth center licensed under [APPLICABLE CODE SECTION]
 - b. An ambulatory surgical center licensed under [APPLICABLE CODE SECTION]
 - c. A hospital licensed under [APPLICABLE CODE SECTION]
 - d. A health maintenance organization
 - e. A health care professional association
 - f. A free or charitable clinic qualified as exempt from federal income taxation under s. 501(a) of the Internal Revenue Code, and described in s. 501(c) of the Internal Revenue Code, which delivers medical services free of charge to low-income patients, any state or federally funded community health center, or any volunteer corporation or volunteer health care provider that delivers health care services to low-income patients
 - g. Any other medical facility the primary purpose of which is to deliver human medical services or treatment, and which includes an office maintained by a medical professional
- (E) "Medical Professional" or "Professional" means:
 - a. A physician or physician's assistant licensed under [APPLICABLE CODE SECTION]
 - b. An osteopathic physician or osteopathic physician's assistant licensed under [APPLICABLE CODE SECTION]
 - c. A chiropractic physician licensed under [APPLICABLE CODE SECTION]
 - d. A podiatric physician licensed under [APPLICABLE CODE SECTION]
 - e. A registered nurse, nurse midwife, licensed practical nurse, or registered nurse practitioner licensed or registered under [APPLICABLE CODE SECTION]
 - f. A midwife licensed under [APPLICABLE CODE SECTION]
 - g. A dentist or dental hygienist licensed under [APPLICABLE CODE SECTION]
 - h. A student enrolled in an accredited program that prepares the student for licensure as any one of the professionals listed in this subsection.
- (F) "Low-income" means:
 - a. A person eligible for Medicaid under [STATE] law; or

- b. A person who is without health insurance and whose annual household income does not exceed 200 percent of the federal poverty level as defined by the federal Office of Management and Budget

SECTION 3. VOLUNTEER SERVICES FOR LOW-INCOME PATIENTS

(A) A health care provider or individual medical professional that executes a contract with the Department or Governmental Contractor to deliver volunteer health care services to eligible low-income patients shall be considered an agent of the state for purposes of [STATE'S SOVERIGN IMMUNITY STATUTE] while acting within the scope of duties under the contract so long as the contract complies with the requirements of this section and regardless of whether the individual treated is later found to be ineligible. As an agent of the state, the health care provider or medical professional under contract with the state may not be named as a defendant in any action arising out of medical care or treatment provided under the terms of contracts entered into under this section.

- 1) A contract entered into by a health care provider under this section shall cover all employees of the health care provider, and the individual employee shall not be required to enter into a contract under this section with respect to the health care services they deliver in connection with their employment.

(B) CONTINUING EDUCATION CREDIT. Medical professionals may fulfill one hour of continuing education credit by the performance of one hour of volunteer services to eligible patients as provided in this section, up to a maximum of eight credits per licensure period.

(C) CONTRACT REQUIREMENTS. The contract shall provide that:

- 1) Scope: The contract applies only to volunteer health care services delivered by the health care provider or individual medical professional to low-income individuals eligible to receive such services.
- 2) The health care provider or individual medical professional may not be named as a defendant in any action arising out of medical care or treatment provided within the scope of the contract.
- 3) In the event that a patient treated by the health care provider or medical professional under the contract is later found to be ineligible, the health care provider or medical professional shall still enjoy immunity from liability in any action arising out of medical care or treatment provided to the individual prior to a determination of ineligibility.
- 4) The right of dismissal or termination of any health care provider or individual medical professional under the contract is retained by the Department or the government contractor.
- 5) The Department and/or Governmental Contractor shall have the right to terminate the contract with the health care provider or individual medical professional with appropriate cause.
 - i. The Department and/or Governmental Contractor shall provide the health care provider or individual medical professional with written notice of its intent to terminate the contract, and reasons for such decision, at least five (5) business days in advance of the contract termination date.

- 6) The Department and/or Governmental Contractor has access to the records of any patient served by the health care provider or individual medical professional under the contract.
 - 7) Adverse incidents and information on treatment outcomes must be reported by any health care provider or individual medical professional to the Department and/or Governmental Contractor if the incidents and information pertain to a patient treated under the contract. If the incident involves a licensed professional or facility, the incident report must also be submitted to the appropriate licensing body, which shall review the incident to determine whether it involves conduct by the licensee that is subject to disciplinary action. All patient medical records and any identifying information contained in adverse incident reports and treatment outcomes which are obtained by governmental entities or licensing bodies under this paragraph are confidential.
 - 8) Patient selection and initial referral may be made by the Department, Governmental Contractor, health care provider, or individual medical professional.
 - 9) If emergency care is required the patient need not be referred before receiving treatment, but must be referred within 48 hours after treatment is commenced or within 48 hours after the patient has the mental capacity to consent to treatment, whichever occurs later.
 - 10) The health care provider or individual medical professional is subject to supervision and regular inspection by the Department or Governmental Contractor.
- (D) A Governmental Contractor that is also a health care provider is not required to enter into a contract under this section with respect to the health care services delivered by its employees.
- (E) NOTICE OF AGENCY RELATIONSHIP. The health care provider or the individual medical professional shall provide written notice to each patient served under the contract, or the patient's legal representative, receipt of which must be acknowledged in writing, that the provider, individual medical professional, or any employee or agent thereof is an agent of the state with respect to the services provided and that the exclusive remedy for injury or damage suffered as the result of any act or omission of the provider, individual medical professional, or any employee or agent thereof acting within the scope of duties pursuant to the contract is by commencement of an action pursuant to the provisions of [CODE SECTION DEALING WITH WAIVER OF SOVERIGN IMMUNITY]. The health care provider or individual medical professional may comply with the requirements of this paragraph by posting the notice in a place conspicuous to all persons visiting the provider's or medical professional's place of business.
- (F) QUALITY ASSURANCE PROGRAM REQUIRED. The Department shall establish a quality assurance program to monitor services delivered under any contract entered into pursuant to this section.
- (G) REPORT TO THE LEGISLATURE. Annually, the Department shall report to the President of the Senate, the Speaker of the House of Representatives, and the minority leaders and relevant substantive committee chairpersons of both houses, summarizing the efficacy of access and treatment outcomes with respect to providing health care services for low-income patients pursuant to this section. The report shall also include statistics for any and all claims pending and paid, and defense and handling costs associated with all claims brought against contract providers under this section. The Department shall provide online a listing of all providers volunteering under this program with hours, number of patient visits, and value of health care related goods and services provided.

- (H) MALPRACTICE LITIGATION COSTS. Governmental contractors other than the Department, health care providers, and individual medical professionals are responsible for their own costs and attorney's fees for malpractice litigation arising out of health care services delivered under a contract brought pursuant to the provisions of [CODE SECTION DEALING WITH WAIVER OF SOVERIGN IMMUNITY].
- (I) RULES. The Department shall adopt rules to administer this section in a manner consistent with its purpose to provide and facilitate access to appropriate, safe, and cost-effective health care services and to maintain health care quality.

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

(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 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 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 volunteer 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 volunteer health care professional, if at the time of an alleged injury, death or loss to person or property, the volunteer health care professional involved was performing an operation or delivering a baby. This subsection does not apply to a volunteer 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.

(e) In order for the immunity under subsection (b) of this section to apply and before the rendering of any services by the volunteer health care professional at the nonprofit health care facility, there must be a written agreement between the volunteer health care professional and the facility pursuant to which the volunteer 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, except that no such coverage shall be required to be maintained by the facility if such coverage is maintained by all volunteer health care professionals rendering services at the facility. A nonprofit health care facility shall be liable for the negligent acts of a volunteer health care professional providing diagnosis, care or treatment at the facility only in the circumstances and to the extent the facility is required to maintain liability coverage under this subsection.

