

2018 -- H 7574

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2018

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A N A C T

RELATING TO BUSINESSES AND PROFESSIONS -- PROVISION OF VOLUNTEER
HEALTH CARE SERVICES

Introduced By: Representatives Morgan, Giarrusso, Nardolillo, Price, and Roberts

Date Introduced: February 09, 2018

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 5 of the General Laws entitled "BUSINESSES AND PROFESSIONS"
2 is hereby amended by adding thereto the following chapter:

3 CHAPTER 89

4 PROVISION OF VOLUNTEER HEALTH CARE SERVICES

5 **5-89-1. Definitions.**

6 As used in this chapter:

7 (1) "Health care facility or location" means a hospital, clinic, ambulatory surgical facility,
8 office of a health care professional or associated group of health care professionals, training
9 institution for health care professionals, a free clinic or other nonprofit shelter or health care
10 facility, or any other place a health care service is provided to a person.

11 (2) "Health care professional" means any of the following who provide health care
12 services:

13 (i) Physicians authorized under to practice medicine and surgery or osteopathic medicine
14 and surgery;

15 (ii) Registered nurses and licensed practical nurses and individuals who hold a certificate
16 of authority that authorizes the practice of nursing as a certified registered nurse anesthetist,
17 clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner;

18 (iii) Physician assistants;

1 (iv) Dentists and dental hygienists;
2 (v) Physical therapists, physical therapist assistants, occupational therapists, occupational
3 therapy assistants, and athletic trainers;
4 (vi) Chiropractors;
5 (vii) Optometrists;
6 (viii) Podiatrists;
7 (ix) Dietitians;
8 (x) Pharmacists;
9 (xi) Emergency medical technicians;
10 (xii) Respiratory care professionals;
11 (xiii) Speech-language pathologists and audiologists;
12 (xiv) Licensed professional clinical counselors, licensed professional counselors,
13 independent social workers, social workers, independent marriage and family therapists, and
14 marriage and family therapists;
15 (xv) Psychologists; and
16 (xvi) Individuals who are acting within the scope of their license or certificate as
17 members of the profession of chemical dependency counseling or alcohol and other drug
18 prevention services.
19 (3) "Health care service" means any type of medical, dental, or other health-related
20 diagnosis, care, or treatment provided to a person. "Health care service" includes, as the case may
21 be, providing samples of medicine or other medical products, performing any operation, or
22 delivering a baby.
23 (4) "Health care worker" means a person other than a health care professional who
24 provides medical, dental, or other health-related care or treatment under the direction of a health
25 care professional with the authority to direct that individual's activities, including medical
26 technicians, medical assistants, dental assistants, orderlies, aides, students enrolled in health care
27 professional education programs, and individuals acting in similar capacities.
28 (5) "Indigent and uninsured person" means a person who meets both of the following
29 requirements:
30 (i) Relative to being indigent, the person's income is not greater than two hundred per
31 cent of the federal poverty line, as defined by the United States office of management and budget
32 and revised in accordance with section 673(2) of the "Omnibus Budget Reconciliation Act of
33 1981," 95 Stat. 511, 42 U.S.C. 9902, as amended, except in any case in which subsection (b) of
34 this section includes a person whose income is greater than two hundred percent of the federal

1 poverty line.

2 (ii) Relative to being uninsured, one of the following applies:

3 (A) The person is not a policyholder, certificate holder, insured, contract holder,
4 subscriber, enrollee, member, beneficiary, or other covered individual under a health insurance or
5 health care policy, contract, or plan.

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

10 (C) The person is eligible for the medicaid program or is a medicaid recipient.

11 (D) Except as provided in the preceding subsection, the person is not eligible for or a
12 recipient, enrollee, or beneficiary of any governmental health care program.

13 (6) "Nonprofit health care referral organization" means an entity that is not operated for
14 profit and refers patients to, or arranges for the provision of a health care professional or health
15 care worker.

16 (7) "Operation" means any procedure that involves cutting or otherwise infiltrating
17 human tissue by mechanical means, including surgery, laser surgery, ionizing radiation,
18 therapeutic ultrasound, or the removal of intraocular foreign bodies.

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

22 (9) "Volunteer" means an individual who provides any health care service without the
23 expectation of receiving and without receipt of any compensation or other form of remuneration
24 from an indigent and uninsured person, another person on behalf of an indigent and uninsured
25 person, any health care facility or location, any nonprofit health care referral organization, or any
26 other person or government entity.

27 **5-89-2. Immunity of health care professional.**

28 A health care professional who is a volunteer and complies with the provisions of this
29 chapter is not liable in damages to any person or government entity in a tort or other civil action,
30 including an action on a medical, dental, chiropractic, optometric, or other health-related claim,
31 for injury, death, or loss to person or property that allegedly arises from an action or omission of
32 the volunteer in the provision to an indigent and uninsured person of a health care service, unless
33 the action or omission constitutes willful or wanton misconduct. To qualify for the immunity
34 described in this section, a health care professional shall do all of the following prior to providing

1 a health care service:

2 (1) Determine, in good faith, that the indigent and uninsured person is mentally capable
3 of giving informed consent to the health care service and is not subject to duress or under undue
4 influence;

5 (2) Inform the person of the provisions of this section, including notifying the person that,
6 by giving informed consent to the provision of the health care service, the person cannot hold the
7 health care professional liable for damages in a tort or other civil action, including an action on a
8 medical, dental, chiropractic, optometric, or other health-related claim, unless the action or
9 omission of the health care professional constitutes willful or wanton misconduct;

10 (3) Obtain the informed consent of the person and a written waiver, signed by the person
11 or by another individual on behalf of and in the presence of the person, that states that the person
12 is mentally competent to give informed consent and, without being subject to duress or under
13 undue influence, gives informed consent to the provision health care service subject to the
14 provisions of this section. A written waiver under this section shall state clearly and in
15 conspicuous type that the person or other individual who signs the waiver is signing it with full
16 knowledge that, by giving informed consent to the provision of the health care service, the person
17 cannot bring a tort or other civil action, including an action on a medical, dental, chiropractic,
18 optometric, or other health-related claim, against the health care professional unless the action or
19 omission of the health care professional constitutes willful or wanton misconduct.

20 **5-89-3. Immunity of health care workers.**

21 Health care workers who are volunteers are not liable in damages to any person or
22 government entity in a tort or other civil action, including an action upon a medical, dental,
23 chiropractic, optometric, or other health-related claim, for injury, death, or loss to person or
24 property that allegedly arises from an action or omission of the health care worker in the
25 provision to an indigent and uninsured person of a health care service, unless the action or
26 omission constitutes willful or wanton misconduct.

27 **5-89-4. Immunity of nonprofit health care referral organizations.**

28 A nonprofit health care referral organization is not liable in damages to any person or
29 government entity in a tort or other civil action, including an action on a medical, dental,
30 chiropractic, optometric, or other health-related claim, for injury, death, or loss to person or
31 property that allegedly arises from an action or omission of the nonprofit health care referral
32 organization in referring indigent and uninsured persons to, or arranging for the provision of a
33 health care service by a health care professional or a health care worker as defined in this chapter,
34 unless the action or omission constitutes willful or wanton misconduct.

1 **5-89-5. Immunity of health care facilities.**

2 A health care facility or location associated with a health care professional, a health care
3 worker, or a nonprofit health care referral organization as defined in this chapter is not liable in
4 damages to any person or government entity in a tort or other civil action, including an action on
5 a medical, dental, chiropractic, optometric, or other health-related claim, for injury, death, or loss
6 to person or property that allegedly arises from an action or omission of the health care
7 professional or worker or nonprofit health care referral organization relative to the health care
8 service provided to an indigent and uninsured person on behalf of or at the health care facility or
9 location, unless the action or omission constitutes willful or wanton misconduct.

10 **5-89-6. Continuing education credit.**

11 (a) Notwithstanding any provision of the general or public laws to the contrary, a
12 licensing agency that licenses health care professionals shall apply toward the satisfaction of a
13 portion of a licensee's continuing education requirement the provision to an indigent and
14 uninsured person of health care services if all of the following apply:

15 (1) The licensing agency that licenses health care professionals requires a licensee to
16 complete continuing education as a condition of having a license renewed by the agency.

17 (2) The licensee provides the health services to an indigent and uninsured person.

18 (3) The licensee provides the health services as a volunteer.

19 (4) The health services provided are within the scope of authority of the licensee
20 renewing the license.

21 (b) A licensing agency that licenses health care professionals shall permit a licensee to
22 satisfy up to one-third of the licensee's continuing education requirement by providing health
23 services as a volunteer. A licensing agency that licenses health care professionals shall permit a
24 licensee to earn continuing education credits at the rate of one credit hour for each sixty minutes
25 spent providing health services as a volunteer.

26 (c) A licensing agency that licenses health care professionals shall adopt rules as
27 necessary to implement this section.

28 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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RELATING TO BUSINESSES AND PROFESSIONS -- PROVISION OF VOLUNTEER
HEALTH CARE SERVICES

1 This act would grant immunity from liability and suit to health care professionals,
2 workers, and facilities providing volunteer services, and would also provide continuing education
3 credits for such services.

4 This act would take effect upon passage.

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