

CHAPTER 136

COURTS

HOUSE BILL 99-1071

BY REPRESENTATIVES Witwer, Alexander, Clapp, Clarke, Dean, Decker, Fairbank, Hagedorn, Hoppe, Johnson, Kester, King, Larson, Lawrence, Lee, Mace, May, McElhany, McKay, Miller, Mitchell, Morrison, Pfiffner, Plant, Scott, Spence, Spradley, Stengel, Swenson, Tool, Webster, S. Williams, Windels, and Young;
also SENATORS Grampas, Blickensderfer, Chlouber, Congrove, Musgrave, Nichol, Reeves, Teck, Wattenberg, and Weddig.

AN ACT

CONCERNING THE GRANTING OF IMMUNITY TO LICENSED PHYSICIANS FROM CIVIL LIABILITY WHILE PERFORMING VOLUNTEER WORK.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 13-21-115.5 (3) (c) and (4) (a), Colorado Revised Statutes, are amended to read:

13-21-115.5. Volunteer service act - immunity - exception for operation of motor vehicles. (3) As used in this section, unless the context otherwise requires:

(c) "Volunteer" means a person performing services for a nonprofit organization, a nonprofit corporation, or a hospital without compensation, other than reimbursement for actual expenses incurred. The term excludes a volunteer serving as a director, officer, or trustee who shall be protected from civil liability in accordance with the provisions of sections 13-21-116 and 13-21-115.7. The term ~~excludes~~ INCLUDES a licensed physician performing medical services or providing medical care or treatment as a volunteer for a nonprofit organization, a nonprofit corporation, or a hospital. THE NONPROFIT ORGANIZATION, NONPROFIT CORPORATION, OR HOSPITAL FOR WHICH THE PHYSICIAN VOLUNTEERS SHALL ANNUALLY VERIFY THAT THE PHYSICIAN HOLDS AN UNRESTRICTED COLORADO LICENSE TO PRACTICE MEDICINE.

(4)(a) Any volunteer shall be immune from civil liability in any action on the basis of any act or omission of a volunteer resulting in damage or injury if:

(I) The volunteer was acting in good faith and within the scope of such volunteer's

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

official functions and duties for a nonprofit organization, a nonprofit corporation, or a hospital; ~~and~~

(II) The damage or injury was not caused by willful and wanton misconduct by such volunteer; AND

(III) THE DAMAGE OR INJURY WAS NOT CAUSED BY GROSS NEGLIGENCE OR BY WILLFUL AND WANTON MISCONDUCT BY SUCH VOLUNTEER IF SUCH VOLUNTEER IS A LICENSED PHYSICIAN, AND THE PHYSICIAN'S VOLUNTEER STATUS WAS DECLARED BEFORE THE MEDICAL PROCEDURE OCCURRED AND THE PATIENT RECEIVING THE VOLUNTEERED MEDICAL CARE, OR THE PATIENT'S REPRESENTATIVE, AGREED IN WRITING BEFOREHAND TO ACCEPT SUCH VOLUNTEERED CARE AFTER DISCLOSURE THAT THE PATIENT'S RIGHT TO SUE THE VOLUNTEER PHYSICIAN WILL BE SUBJECT TO THE LIMITATIONS OF THIS SECTION.

SECTION 2. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 22, 1999