

- SUBJECT:** Charitable immunity for volunteer health-care providers
- COMMITTEE:** Civil Practices — committee substitute recommended
- VOTE:** 7 ayes — Bosse, Janek, Dutton, Goodman, Hope, Nixon, Zbrank
0 nays
2 absent — Alvarado, Smithee
- WITNESSES:** None
- BACKGROUND:** The Charitable Immunity and Liability Act of 1987 (Civil Practice and Remedies Code, chapter 84) provides civil liability protection for charitable organizations. Volunteer officers, directors, trustees, and direct service volunteers are immune from any civil liability for acts that are not intentional, willfully or wantonly negligent, or done with conscious indifference or reckless disregard for the safety of others. A volunteer is liable if the injury involves the operation of a motor vehicle, to the extent covered by insurance. Charitable organizations must have liability insurance coverage to be eligible for limited liability.
- DIGEST:** CSHB 500 would amend the definition of volunteer in the Charitable Immunity and Liability Act to include certain individuals voluntarily providing health-care services without compensation or expectation of compensation. The bill would apply to licensed doctors, retired physicians eligible to provide health-care services but exempt from annual registration fees, and active or retired physician’s assistants, registered nurses, licensed vocational nurses, pharmacists, podiatrists, dentists, dental hygienists, and optometrists.
- Such volunteers would be immune from civil liability for any act or omission when providing health-care services if they provided the services in good faith and within the scope of their practice and if the patient or patient’s guardian signed a written statement acknowledging that the volunteer was providing care without expectation of compensation and acknowledging the limitations on damages in exchange for receiving uncompensated care.

The bill would take effect September 1, 1999, and would apply to any cause of action that accrued on or after that date.

**SUPPORTERS
SAY:**

CSHB 500 would help improve, at no cost to the state, access to health-care services for uninsured people living in rural and urban underserved areas by capitalizing on the volunteer spirit and professional expertise of active or retired health-care professionals. It would extend to health-care professionals liability protections that now are granted to other volunteers and volunteer organizations.

Recruitment and retention of health-care volunteers is difficult, in part because of concerns that professional liability insurance will not cover volunteer acts. Also, many retired professionals with free time and a lifetime's experience in health care hesitate to offer their volunteer services without specific legal protection from liability.

Patients would not incur greater risk in receiving care from volunteer health-care professionals because the immunity to liability would be limited to services provided only within their scope of practice. Furthermore, the clinics or organizations in which most of the volunteers probably would be rendering care would have liability insurance. The health-care professionals still would be subject to penalties and sanctions imposed on practices or conduct prohibited under their respective licensing acts.

**OPPONENTS
SAY:**

CSHB 500 might not significantly increase the pool of health-care professionals available to provide uncompensated services. Most people who desire and have the time to volunteer do so already, relying on existing liability protections granted to charitable organizations and public entities.

In times of medical urgency, patients may feel pressured to sign release forms without realizing the scope of the waiver of liability that they are signing. Additional disclosures should be required to ensure that the patient understands the waiver, including requiring that the disclosure be written in the patient's native language.

NOTES:

The committee substitute added dental hygienists and optometrists to the list of covered professions and modified the acknowledgment that the patient would have to sign from a waiver of the right to recover beyond the damage limits to an acknowledgment of those limits.

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The companion bill, SB 215 by Duncan, passed the Senate on April 30 by voice vote and has been referred to the House Civil Practices Committee.

During the 1997 legislative session, SB 1105 by Duncan, identical to HB 500 as introduced, passed the Senate and was reported favorably by the House Civil Practices Committee but died in the House when all bills on the May 27 calendar were ruled out of order.