

Bill No. CS for CS for CS for SB 564, SB 2120 & SB 2620

Amendment No. \_\_\_\_ Barcode 034944

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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2	04/23/2003	.	
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11	Senator Smith moved the following amendment:		
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13	<b>Senate Amendment (with title amendment)</b>		
14	On page 24, line 24, through		
15	page 27, line 15, delete those lines		
16			
17	and insert:		
18	Section 12. Subsection (2) of section 768.13, Florida		
19	Statutes, is amended to read:		
20	768.13 Good Samaritan Act; immunity from civil		
21	liability.--		
22	(2)(a) Any person, including those licensed to		
23	practice medicine, who gratuitously and in good faith renders		
24	emergency care or treatment either in direct response to		
25	emergency situations related to and arising out of a public		
26	health emergency declared pursuant to s. 381.00315, a state of		
27	emergency which has been declared pursuant to s. 252.36 or at		
28	the scene of an emergency outside of a hospital, doctor's		
29	office, or other place having proper medical equipment,		
30	without objection of the injured victim or victims thereof,		
31	shall not be held liable for any civil damages as a result of		

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1 such care or treatment or as a result of any act or failure to  
 2 act in providing or arranging further medical treatment where  
 3 the person acts as an ordinary reasonably prudent person would  
 4 have acted under the same or similar circumstances.

5           (b)1. Any health care provider, including a hospital  
 6 licensed under chapter 395, providing emergency services  
 7 pursuant to obligations imposed by 42 U.S.C. s. 1395dd, s.  
 8 395.401, or s. 401.45 ~~any employee of such hospital working in~~  
 9 ~~a clinical area within the facility and providing patient~~  
 10 ~~care, and any person licensed to practice medicine who in good~~  
 11 ~~faith renders medical care or treatment necessitated by a~~  
 12 ~~sudden, unexpected situation or occurrence resulting in a~~  
 13 ~~serious medical condition demanding immediate medical~~  
 14 ~~attention, for which the patient enters the hospital through~~  
 15 ~~its emergency room or trauma center, or necessitated by a~~  
 16 ~~public health emergency declared pursuant to s. 381.00315~~  
 17 shall not be held liable for any civil damages as a result of  
 18 such medical care or treatment unless such damages result from  
 19 providing, or failing to provide, medical care or treatment  
 20 under circumstances demonstrating a reckless disregard for the  
 21 consequences so as to affect the life or health of another.

22           2. The immunity provided by this paragraph applies  
 23 ~~does not apply~~ to damages as a result of any act or omission  
 24 of providing medical care or treatment, including diagnosis:

25           a. Which occurs prior to the time ~~after~~ the patient is  
 26 stabilized and is capable of receiving medical treatment as a  
 27 nonemergency patient, unless surgery is required as a result  
 28 of the emergency within a reasonable time after the patient is  
 29 stabilized, in which case the immunity provided by this  
 30 paragraph applies to any act or omission of providing medical  
 31 care or treatment which occurs prior to the stabilization of

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1 the patient following the surgery; ~~and or~~

2       b. Related ~~Unrelated~~ to the original medical  
3 emergency.

4       3. For purposes of this paragraph, "reckless  
5 disregard" as it applies to a given health care provider  
6 rendering emergency medical services shall be such conduct  
7 that which a health care provider knew or should have known,  
8 at the time such services were rendered, created an  
9 unreasonable risk of injury so as to affect the life or health  
10 of another, and such risk was substantially greater than that  
11 which is necessary to make the conduct negligent. ~~would be~~  
12 ~~likely to result in injury so as to affect the life or health~~  
13 ~~of another, taking into account the following to the extent~~  
14 ~~they may be present:~~

15       a. ~~The extent or serious nature of the circumstances~~  
16 ~~prevailing.~~

17       b. ~~The lack of time or ability to obtain appropriate~~  
18 ~~consultation.~~

19       c. ~~The lack of a prior patient-physician relationship.~~

20       d. ~~The inability to obtain an appropriate medical~~  
21 ~~history of the patient.~~

22       e. ~~The time constraints imposed by coexisting~~  
23 ~~emergencies.~~

24       4. Every emergency care facility granted immunity  
25 under this paragraph shall accept and treat all emergency care  
26 patients within the operational capacity of such facility  
27 without regard to ability to pay, including patients  
28 transferred from another emergency care facility or other  
29 health care provider pursuant to Pub. L. No. 99-272, s. 9121.  
30 The failure of an emergency care facility to comply with this  
31 subparagraph constitutes grounds for the department to

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1 initiate disciplinary action against the facility pursuant to  
2 chapter 395.

3 ~~(c) Any person who is licensed to practice medicine,~~  
4 ~~while acting as a staff member or with professional clinical~~  
5 ~~privileges at a nonprofit medical facility, other than a~~  
6 ~~hospital licensed under chapter 395, or while performing~~  
7 ~~health screening services, shall not be held liable for any~~  
8 ~~civil damages as a result of care or treatment provided~~  
9 ~~gratuitously in such capacity as a result of any act or~~  
10 ~~failure to act in such capacity in providing or arranging~~  
11 ~~further medical treatment, if such person acts as a reasonably~~  
12 ~~prudent person licensed to practice medicine would have acted~~  
13 ~~under the same or similar circumstances.~~

14  
15

16 ===== T I T L E A M E N D M E N T =====

17 And the title is amended as follows:

18 On page 2, lines 13-15, delete those lines

19

20 and insert:

21 F.S.; revising guidelines for immunity from  
22 liability under the "Good Samaritan Act";  
23 amending s.

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