

1 A bill to be entitled
 2 An act relating to health care providers; amending s.
 3 768.13, F.S.; providing immunity from civil damages to
 4 health care providers providing emergency care or medical
 5 consultation services; providing an exception; providing
 6 for severability; providing for retroactive application;
 7 providing an effective date.

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9 Be It Enacted by the Legislature of the State of Florida:

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11 Section 1. Paragraph (b) of subsection (2) of section
 12 768.13, Florida Statutes, is amended to read:

13 768.13 Good Samaritan Act; immunity from civil
 14 liability.--

15 (2)

16 (b)1. Any health care provider, including a hospital
 17 licensed under chapter 395, providing emergency services
 18 pursuant to obligations imposed by 42 U.S.C. s. 1395dd, s.
 19 395.1041, s. 395.401, or s. 401.45 shall not be held liable for
 20 any civil damages as a result of such medical care or treatment
 21 unless such damages result from providing, or failing to
 22 provide, medical care or treatment under circumstances
 23 demonstrating a reckless disregard for the consequences so as to
 24 affect the life or health of another.

25 2. Any health care provider, including one who is not an
 26 employee of a hospital licensed under chapter 395, providing
 27 emergency care or medical consultation services to a patient who
 28 has an emergency medical condition shall not be held liable for

29 any civil damages as a result of such medical care, treatment,
 30 or consultation unless such damages result from providing, or
 31 failing to provide, medical care or treatment under
 32 circumstances demonstrating a reckless disregard for the
 33 consequences so as to affect the life or health of another.

34 ~~3.2.~~ The immunity provided by this paragraph applies to
 35 damages as a result of any act or omission of providing medical
 36 care or treatment, including diagnosis:

37 a. Which occurs prior to the time the patient is
 38 stabilized and is capable of receiving medical treatment as a
 39 nonemergency patient, unless surgery is required as a result of
 40 the emergency within a reasonable time after the patient is
 41 stabilized, in which case the immunity provided by this
 42 paragraph applies to any act or omission of providing medical
 43 care or treatment which occurs prior to the stabilization of the
 44 patient following the surgery.

45 b. Which is related to the original medical emergency.

46 ~~4.3.~~ For purposes of this paragraph, "reckless disregard"
 47 as it applies to a given health care provider rendering
 48 emergency medical services shall be such conduct that a health
 49 care provider knew or should have known, at the time such
 50 services were rendered, created an unreasonable risk of injury
 51 so as to affect the life or health of another, and such risk was
 52 substantially greater than that which is necessary to make the
 53 conduct negligent.

54 ~~5.4.~~ Every emergency care facility granted immunity under
 55 this paragraph shall accept and treat all emergency care
 56 patients within the operational capacity of such facility

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57 without regard to ability to pay, including patients transferred
58 from another emergency care facility or other health care
59 provider pursuant to Pub. L. No. 99-272, s. 9121. The failure of
60 an emergency care facility to comply with this subparagraph
61 constitutes grounds for the department to initiate disciplinary
62 action against the facility pursuant to chapter 395.

63 Section 2. If any provision of this act or its application
64 to any person or circumstance is held invalid, the invalidity
65 does not affect other provisions or applications of the act
66 which can be given effect without the invalid provision or
67 application, and to this end the provisions of this act are
68 severable.

69 Section 3. It is the intent of the Legislature to apply
70 the provisions of this act retroactively, unless such
71 application is prohibited by law.

72 Section 4. This act shall take effect October 1, 2008.