

By Senator Bennett

21-02438A-08

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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 s. 768.13,
12 Florida Statutes, is amended to read:

13 768.13 Good Samaritan Act; immunity from civil liability.--
14 (2)

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

24 2. Any health care provider, including one who is not an
25 employee of a hospital licensed under chapter 395, providing
26 emergency care or medical consultation services to a patient who
27 has an emergency medical condition shall not be held liable for
28 any civil damages as a result of such medical care, treatment, or
29 consultation unless such damages result from providing, or

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30 failing to provide, medical care or treatment under circumstances
31 demonstrating a reckless disregard for the consequences so as to
32 affect the life or health of another.

33 ~~3.2.~~ The immunity provided by this paragraph applies to
34 damages as a result of any act or omission of providing medical
35 care or treatment, including diagnosis:

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

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

45 ~~4.3.~~ For purposes of this paragraph, "reckless disregard"
46 as it applies to a given health care provider rendering emergency
47 medical services shall be such conduct that a health care
48 provider knew or should have known, at the time such services
49 were rendered, created an unreasonable risk of injury so as to
50 affect the life or health of another, and such risk was
51 substantially greater than that which is necessary to make the
52 conduct negligent.

53 ~~5.4.~~ Every emergency care facility granted immunity under
54 this paragraph shall accept and treat all emergency care patients
55 within the operational capacity of such facility without regard
56 to ability to pay, including patients transferred from another
57 emergency care facility or other health care provider pursuant to
58 Pub. L. No. 99-272, s. 9121. The failure of an emergency care

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59 facility to comply with this subparagraph constitutes grounds for
60 the department to initiate disciplinary action against the
61 facility pursuant to chapter 395.

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

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

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