

By Senator Bennett

21-00825-10

2010830__

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
 5 medical consultation services; providing an exception;
 6 providing for severability; providing for retroactive
 7 application; providing an effective date.

8
 9 Be It Enacted by the Legislature of the State of Florida:

10
 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
 17 pursuant to obligations imposed by 42 U.S.C. s. 1395dd, s.
 18 395.1041, s. 395.401, or s. 401.45 shall not be held liable for
 19 any civil damages as a result of such medical care or treatment
 20 unless such damages result from providing, or failing to
 21 provide, medical care or treatment under circumstances
 22 demonstrating a reckless disregard for the consequences so as to
 23 affect the life or health 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,
 29 or consultation unless such damages result from providing, or

21-00825-10

2010830__

30 failing to provide, medical care or treatment under
31 circumstances demonstrating a reckless disregard for the
32 consequences so as to 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
41 any 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
47 emergency medical services shall be such conduct that a health
48 care provider knew or should have known, at the time such
49 services were rendered, created an unreasonable risk of injury
50 so as to 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
55 patients within the operational capacity of such facility
56 without regard to ability to pay, including patients transferred
57 from another emergency care facility or other health care
58 provider pursuant to Pub. L. No. 99-272, s. 9121. The failure of

21-00825-10

2010830__

59 an emergency care facility to comply with this subparagraph
60 constitutes grounds for the department to initiate disciplinary
61 action against the 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
65 which can be given effect without the invalid provision or
66 application, and to this end the provisions of this act are
67 severable.

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

71 Section 4. This act shall take effect October 1, 2010.