

VIRGINIA ACTS OF ASSEMBLY -- 2003 SESSION

CHAPTER 492

An Act to amend and reenact § 8.01-581.1 of the Code of Virginia, relating to medical malpractice; independent contractors.

[H 1864]

Approved March 16, 2003

Be it enacted by the General Assembly of Virginia:

1. That § 8.01-581.1 of the Code of Virginia is amended and reenacted as follows:

§ 8.01-581.1. Definitions.

As used in this chapter:

"Health care" means any act, or treatment performed or furnished, or which should have been performed or furnished, by any health care provider for, to, or on behalf of a patient during the patient's medical diagnosis, care, treatment or confinement.

"Health care provider" means (i) a person, corporation, facility or institution licensed by this Commonwealth to provide health care or professional services as a physician or hospital, dentist, pharmacist, registered nurse or licensed practical nurse, optometrist, podiatrist, chiropractor, physical therapist, physical therapy assistant, clinical psychologist, clinical social worker, professional counselor, licensed dental hygienist or health maintenance organization, (ii) a professional corporation, all of whose shareholders or members are so licensed, (iii) a partnership, all of whose partners are so licensed, (iv) a nursing home as defined in § 54.1-3100 except those nursing institutions conducted by and for those who rely upon treatment by spiritual means alone through prayer in accordance with a recognized church or religious denomination, (v) a professional limited liability company comprised of members as described in § 13.1-1102 A. 2., (vi) a corporation, partnership, limited liability company or any other entity, except a state-operated facility, which employs or engages a licensed health care provider and which primarily renders health care services, or (vii) a director, officer, employee, *independent contractor*, or agent of the persons or entities referenced herein, acting within the course and scope of his employment *or engagement* as related to health care or professional services.

"Health maintenance organization" means any person licensed pursuant to Chapter 43 (§ 38.2-4300 et seq.) of Title 38.2 who undertakes to provide or arrange for one or more health care plans.

"Hospital" means a public or private institution licensed pursuant to Chapter 5 (§ 32.1-123 et seq.) of Title 32.1 or Chapter 8 (§ 37.1-179 et seq.) of Title 37.1.

"Impartial attorney" means an attorney who has not represented (i) the claimant, his family, his partners, co-proprietors or his other business interests; or (ii) the health care provider, his family, his partners, co-proprietors or his other business interests.

"Impartial health care provider" means a health care provider who (i) has not examined, treated or been consulted regarding the claimant or his family; (ii) does not anticipate examining, treating, or being consulted regarding the claimant or his family; or (iii) has not been an employee, partner or co-proprietor of the health care provider against whom the claim is asserted.

"Malpractice" means any tort based on health care or professional services rendered, or which should have been rendered, by a health care provider, to a patient.

"Patient" means any natural person who receives or should have received health care from a licensed health care provider except those persons who are given health care in an emergency situation which exempts the health care provider from liability for his emergency services in accordance with § 8.01-225.

"Physician" means a person licensed to practice medicine or osteopathy in this Commonwealth pursuant to Chapter 29 (§ 54.1-2900 et seq.) of Title 54.1.