

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

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

4 [H 1864]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That § 8.01-581.1 of the Code of Virginia is amended and reenacted as follows:**

8 § 8.01-581.1. Definitions.

9 As used in this chapter:

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

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

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

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

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

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

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

40 "Patient" means any natural person who receives or should have received health care from a licensed
41 health care provider except those persons who are given health care in an emergency situation which
42 exempts the health care provider from liability for his emergency services in accordance with
43 § 8.01-225.

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

ENROLLED

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