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HOUSE BILL NO. 73

Offered January 12, 1994

A BILL to amend and reenact § 32.1-127.3 of the Code of Virginia, relating to immunity from liability for certain free health care services.

Patrons—Woodrum, Cranwell and Thomas; Senator: Bell

Referred to Committee on Health, Welfare and Institutions

Be it enacted by the General Assembly of Virginia:**1. That § 32.1-127.3 of the Code of Virginia is amended and reenacted as follows:**

§ 32.1-127.3. Immunity from liability for certain free health care services.

A. No hospital employee who renders health care services at his place of employment and within the limits of his licensure or certification, or, if such employee is not required to be licensed or certified pursuant to Title 54.1, within the scope of his employment, shall be liable for any civil damages for any act or omission resulting from the rendering of such services to a patient of a clinic which is organized in whole or in part for the delivery of health care services without charge unless such act or omission was the result of gross negligence or willful misconduct. Such clinic shall have on record written agreements with each hospital providing such services, and immunity shall apply only to those services provided by the hospital without charge.

B. For the purposes of Article 5.1 (§ 2.1-526.1 et seq.) of Chapter 32 of Title 2.1, any personnel employed by a hospital licensed pursuant to this article and rendering health care services pursuant to subsection A shall be deemed an agent of the Commonwealth and to be acting in an authorized governmental capacity with respect to delivery of such health care services if (i) the hospital has agreed in writing to provide health care services at no charge for patients referred by a clinic organized in whole or in part for the delivery of health care services without charge, (ii) the employing hospital is registered with the Division of Risk Management, and (iii) the employee delivering such services has no legal or financial interest in the clinic from which the patient is referred. The premium for coverage of such hospital employees under the Risk Management Plan shall be paid by the Department of Health.

C. The provisions of this section shall only apply to health care personnel providing care pursuant to subsections A and B during the period in which such care is rendered. *Moreover, no officer, director or employee of any such clinic as described in subsection A shall, in the absence of gross negligence or willful misconduct, be liable for civil damages resulting from any act or omission relating to the providing of health care services without charge to patients of the clinic.*

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