

960390687

SENATE BILL NO. 384

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice
on February 29, 1996)

(Patron Prior to Substitute—Senator Howell)

*A BILL to amend and reenact §§ 32.1-127.3 and 54.1-106 of the Code of Virginia, relating to health care providers.***Be it enacted by the General Assembly of Virginia:****1. That §§ 32.1-127.3 and 54.1-106 of the Code of Virginia are 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.

D. Moreover, no officer, director or employee of any such clinic, or the clinic itself, 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.

E. For the purposes of this section and Article 5.1 of Chapter 32 of Title 2.1, "delivery of health care services without charge" shall be deemed to include the delivery of dental or medical services in a dental or medical clinic when a reasonable minimum fee is charged to cover administrative costs.

§ 54.1-106. Health care professionals rendering services to patients of certain clinics exempt from liability.

A. No person who is licensed or certified by the Boards of or Audiology and Speech-Language Pathology, Dentistry, Medicine, Nursing, Optometry, Opticians, Pharmacy, Hearing Aid Specialists, Psychology, Social Work or Professional Counselors who renders at any site any health care services within the limits of his license or certification, voluntarily and without compensation, to any patient of any clinic which is organized in whole or in part for the delivery of health care services without charge, shall be liable for any civil damages for any act or omission resulting from the rendering of such services unless the act or omission was the result of his gross negligence or willful misconduct.

For purposes of this section, any commissioned or contract medical officers or dentists serving on active duty in the United States armed services and assigned to duty as practicing commissioned or contract medical officers or dentists at any military hospital or medical facility owned and operated by the United States government and located in the Commonwealth shall be deemed to be licensed pursuant to this title.

B. For the purposes of Article 5.1 (§ 2.1-526.1 et seq.) of Chapter 32 of Title 2.1, any person rendering such health care services who (i) is registered with the Division of Risk Management and (ii) has no legal or financial interest in the clinic from which the patient is referred 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. The premium for coverage of such person under the Risk Management Plan shall be paid by the Department of Health.

C. For the purposes of this section and Article 5.1 of Chapter 32 of Title 2.1, "delivery of health care services without charge" shall be deemed to include the delivery of dental [~~or medical~~ , medical or other health] services when a reasonable minimum fee is charged to cover administrative costs.