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HOUSE BILL NO. 2282

FLOOR AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by Senator Stolle
on February 20, 1995)

(Patron Prior to Substitute—Delegate McDonnell)

A *BILL to amend and reenact § 8.01-581.13 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 8.01-220.1:2, relating to civil immunity for teachers and certain health care providers under certain circumstances.*

Be it enacted by the General Assembly of Virginia:

1. That § 8.01-581.13 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 8.01-220.1:2 as follows:

§ 8.01-220.1:2. Civil immunity for teachers under certain circumstances.

A. Any teacher employed by a local school board in this Commonwealth, or any teacher employed in any school operated by the Commonwealth having children in residence or custody, shall not be liable for any civil damages for any acts or omissions resulting from the supervision, care or discipline of students when such acts or omissions are within such teacher's scope of employment and are taken in good faith in the course of the supervision, care or discipline of students, unless such acts or omissions were the result of gross negligence or willful misconduct.

B. Any school teacher employed by a local school board in this Commonwealth, or any teacher employed by a school operated by the Commonwealth having children in residence or custody, shall not be liable for any civil damages for any acts or omissions resulting from the good-faith rendering of health-related assistance during an emergency or upon authorization of the child's parent or guardian unless such acts or omissions were the result of gross negligence or willful misconduct. This provision shall not (i) apply to any instructional personnel who are health professionals regulated by any health regulatory board within the Department of Health Professions while rendering care within the scope of their practice or (ii) be construed to authorize an unqualified individual to render services which may only be provided by such regulated health care practitioners.

C. This section shall not be construed to limit, withdraw or overturn any defense or immunity already existing in statutory or common law or to affect any claim occurring prior to the effective date of this law.

§ 8.01-581.13. Civil immunity for certain health professionals and health profession students serving as members of certain entities.

A. For the purposes of this subsection, "health professional" means any certified substance abuse counselor, clinical psychologist, *licensed psychologist, licensed school psychologist*, dentist, licensed professional counselor, optometrist, physician, chiropractor, podiatrist, or veterinarian who is actively engaged in the practice of his profession.

Unless such act, decision, or omission resulted from such health professional's bad faith or malicious intent, any health professional, as defined in this subsection, shall be immune from civil liability for any act, decision or omission resulting from his duties as a member or agent of any entity which functions primarily (i) to investigate any complaint that a physical or mental impairment, including alcoholism or drug addiction, has impaired the ability of any such health professional to practice his profession and (ii) to encourage, recommend and arrange for a course of treatment, if deemed appropriate, or (iii) to review the duration of patient stays in health facilities or delivery of professional services for the purpose of promoting the most efficient use of available health facilities and services, the adequacy and quality of professional services, or the reasonableness or appropriateness of charges made by or on behalf of such health professionals. Such entity shall have been established pursuant to a federal or state law, or by one or more public or licensed private hospitals, or a relevant health professional society, academy or association affiliated with the American Medical Association, the American Dental Association, the American Pharmaceutical Association, the American Psychological Association, the American Podiatric Medical Association, the American Society of Hospitals and Pharmacies, the American Veterinary Medical Association, the American Association for Counseling and Development, the American Optometric Association, International Chiropractic Association, the American Chiropractic Association or a governmental agency.

B. Unless such act, decision, or omission resulted from such pharmacist's or nurse's bad faith or malicious intent, any licensed pharmacist or nurse who is actively engaged in the practice of his profession shall be immune from civil liability for any act, decision or omission resulting from his duties while serving as a member or agent of any entity which functions primarily (i) to investigate any complaint that a physical or mental impairment, including alcoholism or drug addiction, has impaired the ability of any pharmacist or nurse to practice his profession and (ii) to encourage, recommend and

60 arrange for a course of treatment, if deemed appropriate.

61 C. For the purposes of this subsection, "health profession student" means a student in good standing
62 who is enrolled in an accredited school, program, or curriculum in clinical psychology, dentistry,
63 medicine, nursing, pharmacy, chiropractic, substance abuse counseling, or veterinary medicine and has
64 received training relating to substance abuse.

65 Unless such act, decision, or omission resulted from such health profession student's bad faith or
66 malicious intent, any health profession student, as defined in this subsection, shall be immune from civil
67 liability for any act, decision, or omission resulting from his duties as a member of an entity established
68 by the institution of higher education in which he is enrolled or a professional student's organization
69 affiliated with such institution which functions primarily (i) to investigate any complaint of a physical or
70 mental impairment, including alcoholism or drug addiction, of any health profession student and (ii) to
71 encourage, recommend, and arrange for a course of treatment, if deemed appropriate.

72 D. The immunity provided hereunder shall not extend to any person with respect to actions, decisions
73 or omissions, liability for which is limited under the provisions of the federal Social Security Act or
74 amendments thereto.