LEGISLATIVE GENERAL COUNSEL
₵ Approved for Filing: M.E. Curtis ₵
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H.B. 186
2nd Sub. (Gray)

Representative David E. Lifferth proposes the following substitute bill:

1 **VOLUNTEER HEALTH CARE CONTINUING EDUCATION CREDIT**
2 2016 GENERAL SESSION
3 STATE OF UTAH
4 **Chief Sponsor: David E. Lifferth**
5 Senate Sponsor: Brian E. Shiozawa
6
7 **LONG TITLE**
8 **General Description:**
9 This bill addresses continuing education credit for a health care professional.
10 **Highlighted Provisions:**
11 This bill:
12 ▸ defines terms;
13 ▸ allows a health care professional to fulfill a portion of the health care professional's
14 continuing education requirement, established by the Division of Occupational and
15 Professional Licensing, by providing hours of uncompensated health care; and
16 ▸ makes technical changes.
17 **Money Appropriated in this Bill:**
18 None
19 **Other Special Clauses:**
20 None
21 **Utah Code Sections Affected:**
22 AMENDS:
23 **58-13-3**, as last amended by Laws of Utah 2014, Chapter 400
24
25 *Be it enacted by the Legislature of the state of Utah:*

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26 Section 1. Section **58-13-3** is amended to read:

27 **58-13-3. Qualified immunity -- Health professionals -- Charity care.**

28 (1) (a) (i) The Legislature finds many residents of this state do not receive medical care
29 and preventive health care because they lack health insurance or because of financial
30 difficulties or cost.

31 (ii) The Legislature also finds that many physicians, charity health care facilities, and
32 other health care professionals in this state would be willing to volunteer medical and allied
33 services without compensation if they were not subject to the high exposure of liability
34 connected with providing these services.

35 (b) The Legislature therefore declares that its intention in enacting this section is to
36 encourage the provision of uncompensated volunteer charity health care in exchange for a
37 limitation on liability for the health care facilities and health care professionals who provide
38 those volunteer services.

39 (2) As used in this section:

40 (a) "Continuing education requirement" means the requirement for hours of continuing
41 education, established by the division, with which a health care professional must comply to
42 renew the health care professional's license under the applicable chapter described in
43 Subsection (2)(c).

44 [~~(a)~~] (b) "Health care facility" means any clinic or hospital, church, or organization
45 whose primary purpose is to sponsor, promote, or organize uncompensated health care services
46 for people unable to pay for health care services.

47 [~~(b)~~] (c) "Health care professional" means a person licensed under:

48 (i) Chapter 5a, Podiatric Physician Licensing Act;

49 (ii) Chapter 16a, Utah Optometry Practice Act;

50 (iii) Chapter 17b, Pharmacy Practice Act;

51 (iv) Chapter 24b, Physical Therapy Practice Act;

52 (v) Chapter 31b, Nurse Practice Act;

53 (vi) Chapter 40, Recreational Therapy Practice Act;

54 (vii) Chapter 41, Speech-Language Pathology and Audiology Licensing Act;

55 (viii) Chapter 42a, Occupational Therapy Practice Act;

56 (ix) Chapter 44a, Nurse Midwife Practice Act;

57 (x) Chapter 49, Dietitian Certification Act;
58 (xi) Chapter 60, Mental Health Professional Practice Act;
59 (xii) Chapter 67, Utah Medical Practice Act;
60 (xiii) Chapter 68, Utah Osteopathic Medical Practice Act;
61 (xiv) Chapter 69, Dentist and Dental Hygienist Practice Act;
62 (xv) Chapter 70a, Physician Assistant Act; and
63 (xvi) Chapter 73, Chiropractic Physician Practice Act.
64 [~~(c)~~] (d) "Remuneration or compensation":
65 (i) (A) means direct or indirect receipt of any payment by a health care professional or
66 health care facility on behalf of the patient, including payment or reimbursement under
67 Medicare or Medicaid, or under the state program for the medically indigent on behalf of the
68 patient; and
69 (B) compensation, salary, or reimbursement to the health care professional from any
70 source for the health care professional's services or time in volunteering to provide
71 uncompensated health care; and
72 (ii) does not mean:
73 (A) any grant or donation to the health care facility used to offset direct costs
74 associated with providing the uncompensated health care such as:
75 (I) medical supplies;
76 (II) drugs; or
77 (III) a charitable donation that is restricted for charitable services at the health care
78 facility; or
79 (B) incidental reimbursements to the volunteer such as:
80 (I) food supplied to the volunteer;
81 (II) clothing supplied to the volunteer to help identify the volunteer during the time of
82 volunteer services;
83 (III) mileage reimbursement to the volunteer; or
84 (IV) other similar support to the volunteer.
85 (3) A health care professional who provides health care treatment at or on behalf of a
86 health care facility is not liable in a medical malpractice action if:
87 (a) the treatment was within the scope of the health care professional's license under

88 this title;
89 (b) neither the health care professional nor the health care facility received
90 compensation or remuneration for the treatment;
91 (c) the acts or omissions of the health care professional were not grossly negligent or
92 willful and wanton; and
93 (d) prior to rendering services:
94 (i) the health care professional disclosed in writing to the patient, or if a minor, to the
95 patient's parent or legal guardian, that the health care professional is providing the services
96 without receiving remuneration or compensation; and
97 (ii) the patient consented in writing to waive any right to sue for professional
98 negligence except for acts or omissions which are grossly negligent or are willful and wanton.
99 (4) A health care facility which sponsors, promotes, or organizes the uncompensated
100 care is not liable in a medical malpractice action for acts and omissions if:
101 (a) the health care facility meets the requirements in Subsection (3)(b);
102 (b) the acts and omissions of the health care facility were not grossly negligent or
103 willful and wanton; and
104 (c) the health care facility has posted, in a conspicuous place, a notice that in
105 accordance with this section the health care facility is not liable for any civil damages for acts
106 or omissions except for those acts or omissions that are grossly negligent or are willful and
107 wanton.
108 (5) A health care professional who provides health care treatment at a federally
109 qualified health center, as defined in Subsection 1905(1)(2)(b) of the Social Security Act, or an
110 Indian health clinic or Urban Indian Health Center, as defined in Title V of the Indian Health
111 Care Improvement Act, is not liable in a medical malpractice action if:
112 (a) the treatment was within the scope of the health care professional's license under
113 this title;
114 (b) the health care professional:
115 (i) does not receive compensation or remuneration for treatment provided to any
116 patient that the provider treats at the federally qualified health center, the Indian health clinic,
117 or the Urban Indian Health Center; and
118 (ii) is not eligible to be included in coverage under the Federal Tort Claims Act for the

119 treatment provided at the federally qualified health center, the Indian health clinic, or the Urban
120 Indian Health Center;
121 (c) the acts or omissions of the health care professional were not grossly negligent or
122 willful and wanton; and
123 (d) prior to rendering services:
124 (i) the health care professional disclosed in writing to the patient, or if a minor, to the
125 patient's parent or legal guardian, that the health care professional is providing the services
126 without receiving remuneration or compensation; and
127 (ii) the patient consented in writing to waive any right to sue for professional
128 negligence except for acts or omissions that are grossly negligent or are willful and wanton.
129 (6) Immunity from liability under this section does not extend to the use of general
130 anesthesia or care that requires an overnight stay in a general acute or specialty hospital
131 licensed under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.
132 (7) The provisions of Subsection (5) apply to treatment provided by a healthcare
133 professional on or after May 13, 2014.
134 (8) A health care professional:
135 (a) may, in accordance with Subsection (8)(b), fulfill up to 15% of the health care
136 professional's continuing education requirement with hours the health care professional spends
137 providing health care treatment described in Subsection (3) or (5); and
138 (b) subject to Subsection (8)(a), earns one hour of the health care professional's
139 continuing education requirement for every four documented hours of volunteer health care
140 treatment.