

HOUSE BILL REPORT

ESHB 2787

As Passed Legislature

Title: An act relating to immunity from liability for licensed health care providers volunteering at community health care settings.

Brief Description: Providing immunity from liability for licensed health care providers at community health care settings.

Sponsors: By House Committee on Health Care (originally sponsored by Representatives Kessler, Campbell, Cody, Morrell, Schual-Berke, Clibborn, Moeller, Upthegrove and Kagi).

Brief History:

Committee Activity:

Health Care: 1/27/04, 2/3/04 [DPS].

Floor Activity:

Passed House: 2/16/04, 92-6.

Senate Amended.

Passed Senate: 3/11/04, 49-0.

House Concurred.

Passed House: 3/11/04, 96-0.

Passed Legislature.

Brief Summary of Engrossed Substitute Bill

- Provides immunity for health care providers volunteering health care services in certain for-profit health care settings.

HOUSE COMMITTEE ON HEALTH CARE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives Cody, Chair; Morrell, Vice Chair; Bailey, Ranking Minority Member; Alexander, Campbell, Clibborn, Darneille, Rodne, Schual-Berke and Skinner.

Staff: Chris Blake (786-7392).

Background:

The Good Samaritan Act provides immunity from liability for individuals who provide emergency care at the scene of an emergency without expectation of compensation. In 2003, the Good Samaritan Act was amended to include immunity provisions for physicians who

volunteer health care services at public or nonprofit community clinics. These immunity provisions do not apply to acts or omissions that constitute gross negligence.

In 1997 Congress passed the Volunteer Protection Act which provides immunity from liability for individuals providing volunteer services for government or nonprofit entities as long as the volunteer does not commit an act or omission that constitutes gross negligence. In 2001 Washington passed immunity protections to enact more specific standards than the Volunteer Protection Act. In Washington, volunteers for a nonprofit entity only receive the immunity protection when the entity maintains a prescribed amount of liability insurance relative to its revenues.

Summary of Engrossed Substitute Bill:

Good Samaritan Act immunity coverage for individuals volunteering health care services in certain health care settings is expanded beyond physicians to include all licensed health care providers regulated by certain disciplining authorities.

In addition to immunity at public and nonprofit clinics, a health care provider may be immune from liability when volunteering health care services at a for-profit corporation or hospital-based clinic that holds itself out to the public as having, and actually maintains, established hours on a regular basis for providing free health care services to the public. A health care provider may also be immune from liability when volunteering health care services at a for-profit corporation or hospital-based clinic through participation in a community-based program to provide access to such services to uninsured individuals. The health care provider's participation in the program must be conditioned upon providing health care services without compensation or the expectation of compensation.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: Doctors are hesitant to volunteer their services because of fears of liability. This bill increases access to care, especially in rural areas. This bill will help recruit volunteer health care providers.

Testimony Against: This bill is not necessary and will export a gross negligence standard into other practice settings.

Persons Testifying: (In support) Kris Sparks, Department of Health; Steve Albrecht, Thurston-Mason County Medical Society; and Harlan Knudson, Clallam County United Way Volunteer.

(Concerns) Larry Shannon, Washington State Trial Lawyers Association

Persons Signed In To Testify But Not Testifying: None.