

TITLE 39  
HEALTH AND SAFETY

CHAPTER 77  
VOLUNTEER HEALTH CARE PROVIDER IMMUNITY

39-7701. LEGISLATIVE FINDINGS. The legislature of the state of Idaho finds that access to high quality health care services is a concern of all persons. However, access to such services is severely limited for some residents of the state, particularly those who reside in remote, rural areas or in the urban areas. Physicians and other health care professionals have traditionally worked to assure broad access to health care services and many are willing to volunteer their services to address the health care needs of Idahoans who may otherwise not be able to obtain such services. The public policy of this state is to encourage and facilitate voluntary provision of health care services.

[39-7701, added 1998, ch. 295, sec. 1, p. 976.]

39-7702. DEFINITIONS. As used in this chapter:

(1) "Community health screening event" means an event sponsored by a school, a church, a civic club or another community organization for the purpose of providing health screenings by health care providers who are not compensated for their volunteer service at the event.

(2) "Compensation" means any remuneration, whether by way of salary, fee or otherwise, for health care services rendered. Compensation does not include actual and necessary expenses that are incurred by a volunteer health care provider in connection with the services provided or the duties performed by the health care provider on behalf of a free clinic, and that are reimbursed to the volunteer health care provider.

(3) "Free medical clinic" means a facility other than a hospital or health care provider's office which is an organized community-based program, registered with the department of health and welfare, at which primary medical care is provided without charge to individuals unable to pay for it, and at which the care provided does not include the use of general anesthesia or require an overnight stay in a health care facility.

(4) "Health care provider" means any physician, dentist, optometrist, physician assistant or nurse who is licensed, certified, registered or otherwise authorized to practice in Idaho.

(5) "Health screening" means an examination, an evaluation or another health care assessment of a person by a licensed health care provider practicing within the provider's scope of practice to determine the fitness of an individual to participate in an event or activity or to determine whether an individual needs additional health care evaluation or treatment.

(6) "Voluntary provision of health care services" means providing professional services by a health care provider without compensation.

[39-7702, added 1998, ch. 295, sec. 1, p. 976; am. 2018, ch. 38, sec. 1, p. 97.]

39-7703. IMMUNITY FROM LIABILITY FOR HEALTH CARE PROVIDERS PROVIDING CHARITABLE MEDICAL CARE. (1) Any health care provider who voluntarily provides needed medical or health care services to any person at a free medical clinic or who provides health screenings at a community health screening event without compensation or the expectation of compensation shall be

immune from liability for any civil action arising out of the provision of such medical or health services. This section shall not extend immunity to the health care provider for any acts constituting intentional, willful or grossly negligent conduct or to acts by a health care provider that are outside the scope of practice authorized by the provider's licensure, certification or registration.

(2) Immunity pursuant to subsection (1) of this section shall apply only if the health care provider and the patient execute a written waiver in advance of the rendering of such medical services specifying that such services are provided without the expectation of compensation and that the health care provider shall be immune as specified herein.

(3) Nothing in this section shall prohibit a free medical clinic from accepting voluntary contributions for health care services provided to a patient who has acknowledged his or her ability and willingness to pay a portion of the value of the health care services provided. Any voluntary contribution collected for providing care at a free medical clinic shall be used only to pay overhead expenses of operating the clinic. No portion of any moneys collected shall be used to provide compensation to any health care provider.

(4) If a health care provider is insured for liability for negligent acts or omissions arising from providing health care services at a free clinic, the immunity provided in subsection (1) of this section is waived, provided however, the amount recovered shall not exceed the limits of such applicable insurance coverage.

[39-7703, added 1998, ch. 295, sec. 1, p. 977; am. 2018, ch. 38, sec. 2, p. 98.]

39-7704. REGISTRATION OF FREE MEDICAL CLINICS -- REQUIREMENTS. (1) Before providing volunteer health care services in this state, a free medical clinic shall register with the department of health and welfare by submitting a registration fee of fifty dollars (\$50.00) and filing a registration form that shall contain:

- (a) The name of the free clinic and sponsoring organization, if any;
- (b) The name of the principal individual or individuals who are the officers or organizational officials responsible for the operation of the free clinic or sponsoring organization, if any;
- (c) The address, including street, city, zip code and county, of the free clinic;
- (d) Telephone number;
- (e) Such additional information as the department may require.

(2) Each free clinic shall maintain a list of health care providers associated with its provision of voluntary health care services. For each such health care provider, the free clinic shall maintain a copy of a current license, certificate or registration and shall further require each health care provider to attest in writing that such provider's license, certificate or registration is not suspended or revoked pursuant to disciplinary proceedings in any jurisdiction.

(3) The free clinic shall maintain such records for a period of at least five (5) years following the provision of health care services and shall furnish such records upon request to the department.

(4) Compliance with subsections (1) and (2) of this section shall be prima facie evidence that the free clinic has exercised due care in its selection of health care providers and shall be immune from suit for negligent

acts or omissions as provided in subsection (1) of section 39-7703, Idaho Code.

(5) The department may revoke the registration of any free clinic who fails to comply with the requirements of subsections (1) through (4) of this section. Any such revocation shall be conducted in accordance with the administrative procedure act.

(6) The provisions of this section shall not apply to community health screening events.

[39-7704, added 1998, ch. 295, sec. 1, p. 977; am. 2018, ch. 38, sec. 3, p. 98.]

39-7705. COSTS AND FEES. Notwithstanding any other provision of law to the contrary, if a party names as a defendant a health care provider who has immunity pursuant to section 39-7703, Idaho Code, in a suit alleging willful or intentional misconduct or gross negligence arising out of treatment at a free clinic which qualifies for immunity pursuant to section 39-7703, Idaho Code, and the trial judge dismisses the complaint or grants a defendant's motion for judgment on the pleadings, or directs a verdict for a defendant, or grants a defendant's motion for judgment notwithstanding the verdict, or at any point in the proceedings grants a plaintiff's motion to discontinue the action against the defendant, the defendant shall be entitled to full costs and reasonable attorney's fees expended in connection with the defendant's defense of the action. If good reason is shown, the trial judge may suspend the operation of this section.

[39-7705, added 1998, ch. 295, sec. 1, p. 978.]