



Greg Schwab

Bill Analysis
Legislative Service Commission

H.B. 261

123rd General Assembly
(As Reported by H. Insurance)

Reps. Roman, Schuring, Amstutz, Mead, Netzley, Tiberi, Jerse, Britton, Jacobson, Goodman, Bender, Clancy, Schuler, Grendell, O'Brien, Vesper, Krebs, Terwilleger, Padgett, Corbin, Roberts, Hood, Van Vyven, Householder, Willamowski, Buchy, Hollister, Krupinski, Jolivette, Healy, Salerno

BILL SUMMARY

- Repeals the scheduled repeal on November 15, 2000, of the laws providing qualified immunity from civil liability for health care providers, health care workers, and facilities that provide free health care services to indigent and uninsured persons.

CONTENT AND OPERATION

Background

Sections 2305.234, 3701.071, and 4731.295 of the Revised Code, laws providing qualified immunity from civil liability for certain health care providers and facilities, were enacted by Am. Sub. H.B. 218 of the 121st General Assembly. Section 2 of Am. Sub. H.B. 218 of the 121st General Assembly provided for the repeal of these sections in five years. Section 2 has been amended; as most recently amended by Am. Sub. H.B. 612 of the 122nd General Assembly, sections 2305.234, 3701.071, and 4731.295 of the Revised Code will be repealed, effective November 15, 2000.

Section 2305.234(B) of the Revised Code grants a qualified immunity from civil liability to those health care professionals providing free health care services to indigent and uninsured persons:

[A] health care professional who is a volunteer . . . is not liable in damages to any person or government entity in a tort or other civil action, including an action on a medical, dental, . . . or other health-related claim, for injury, death, or loss to person or property that

allegedly arises from an action or omission of the volunteer in the provision at a nonprofit shelter or health care facility to an indigent and uninsured person of medical, dental, or other health-related diagnosis, care, or treatment . . . unless the action or omission constitutes willful or wanton misconduct.

Section 2305.234 of the Revised Code grants a similar qualified immunity to volunteer health care workers providing health care services under the direction of these health care professionals, and grants a qualified immunity to the nonprofit shelters and health care facilities at which the health care services are performed.

Section 3701.071 of the Revised Code requires nonprofit shelters and health care facilities to register annually with the Department of Health in order to claim the immunity granted by section 2305.234 of the Revised Code. Section 4731.295 of the Revised Code permits the State Medical Board to issue a volunteer's certificate to retired physicians wishing to volunteer their services at nonprofit shelters and health care facilities.

Continuation of qualified immunity for health care providers, health care workers, and facilities serving the indigent and uninsured

(Sections 1 and 2)

The bill provides for the continuation of the grant of a qualified immunity from civil liability to health care professionals involved in the provision of health care services to the indigent and uninsured, the grant of a similar qualified immunity to volunteer health care workers providing health care services under the direction of these health care professionals, and the grant of a qualified immunity to the nonprofit shelters and health care facilities at which the health care services are performed. The bill repeals Section 2 of Am. Sub. H.B. 218 of the 121st General Assembly, as subsequently amended, which provides for the repeal, effective November 15, 2000, of sections 2305.234, 3701.071, and 4731.295 of the Revised Code.

The bill states that its intent is to "remove the limitation imposed by such repeal upon the continued existence of sections 2305.234, 3701.071, and 4731.295 of the Revised Code, which intent is not affected by the rule of construction contained in section 1.57 of the Revised Code." Section 1.57 of the Revised Code provides that the "repeal of a repealing statute does not revive the statute originally repealed."

The bill also repeals Section 3 of Am. Sub. H.B. 218 of the 121st General Assembly, as subsequently amended, which provides for the automatic termination of all volunteers' certificates issued to retired physicians by the State Medical Board pursuant to section 4731.295 of the Revised Code on November 15, 2000, to coincide with the scheduled repeal of the grant of qualified immunity. The scheduled termination of issued volunteers' certificates would conflict with the continued operation of sections 2305.234 and 4731.295 of the Revised Code provided for by the bill.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	03-22-99	p. 330
Reported, H. Insurance	05-26-99	p. 725

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