

**H. B. 2741**

(By Delegates Householder, Butler and Frich)

[Introduced February 13, 2015; referred to the

Committee on Health and Human Resources then the Judiciary.]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §30-1-21, relating to uncompensated care.

*Be it enacted by the Legislature of West Virginia:*

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §30-1-21, to read as follows:

**ARTICLE 1. GENERAL PROVISIONS APPLICABLE TO ALL STATE BOARDS OF EXAMINATION OR REGISTRATION REFERRED TO IN CHAPTER.**

**§30-1-21. Uncompensated Care Liability Act.**

(a) Any physician licensed under the laws of this state, any hospital licensed pursuant to the laws of this state, or any other health care provider who provides medical care to any patient without receiving any direct remuneration or compensation in exchange for rendering that care is not liable for civil damages for acts or omissions unless the acts or omissions were grossly negligent or were willful and wanton.

1       (b) The exemption from liability provided under subsection (a) of this section only applies  
2 if, prior to rendering the services, the physician, surgeon, hospital or other health care provider  
3 discloses to the patient, or if a minor, to the minor's parent or legal guardian, in writing that the  
4 services are being provided without receiving any direct remuneration or compensation and that, in  
5 exchange for receiving uncompensated medical care, the patient consents to waiving any right to sue  
6 for professional negligence except for acts or omissions that are grossly negligent or are willful and  
7 wanton.

8       (c) An organization, including a church, which sponsors, promotes, or organizes a  
9 preventative health screening clinic or provides a health screen service to check such indicators as  
10 blood pressure or cholesterol levels or other preventative health signs without receiving any direct  
11 remuneration or compensation in exchange for the services received is not liable for civil damages  
12 for acts or omissions unless the acts or omissions are grossly negligent or are willful and wanton.

13       (d) The exemption from liability under subsection (c) of this section only applies if the  
14 organization posts in a conspicuous place a notice that in accordance with this section the  
15 organization is not liable for any civil damages for acts or omission except for those acts or  
16 omissions that are grossly negligent or are willful and wanton.

17       (e) As used in this section, "direct remuneration or compensation" means direct receipt by  
18 the physician, surgeon, hospital other health care provider, or organization or payment from the  
19 patient, or payment or reimbursement from a health insurance company, health maintenance  
20 organization or nonprofit hospital and health services corporation on behalf of the patient, or  
21 payment or reimbursement under Medicare, or Medicaid, or under the state program for the  
22 medically indigent on behalf of the patient. The term "direct remuneration or compensation" does

- 1 not include a grant or donation, unless the grant or donation is based on the volume of patients
- 2 receiving care or treatment.

NOTE: The purpose of this bill is to encourage the practice of uncompensated care for low-income patients by providing immunity from liability.

This section is new and has been completely underscored.