

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 353

BY HEALTH AND WELFARE COMMITTEE

AN ACT

1  
2 RELATING TO VOLUNTEER HEALTH CARE PROVIDERS; AMENDING SECTION 39-7702,  
3 IDAHO CODE, TO REVISE DEFINITIONS; AMENDING SECTION 39-7703, IDAHO  
4 CODE, TO REVISE PROVISIONS REGARDING IMMUNITY FOR CERTAIN HEALTH CARE  
5 PROVIDERS; AND AMENDING SECTION 39-7704, IDAHO CODE, TO CLARIFY APPLI-  
6 CABILITY.

7 Be It Enacted by the Legislature of the State of Idaho:

8 SECTION 1. That Section 39-7702, Idaho Code, be, and the same is hereby  
9 amended to read as follows:

10 39-7702. DEFINITIONS. As used in this chapter:

11 (1) "Community health screening event" means an event sponsored by a  
12 school, a church, a civic club or another community organization for the pur-  
13 pose of providing health screenings by health care providers who are not com-  
14 pensated for their volunteer service at the event.

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

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

27 (34) "Health care provider" means any physician, dentist, optometrist,  
28 physician assistant or nurse who is licensed, certified, registered or oth-  
29 erwise authorized to practice in Idaho.

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

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

37 SECTION 2. That Section 39-7703, Idaho Code, be, and the same is hereby  
38 amended to read as follows:

39 39-7703. IMMUNITY FROM LIABILITY FOR HEALTH CARE PROVIDERS PROVIDING  
40 CHARITABLE MEDICAL CARE. (1) Any health care provider who voluntarily pro-

1 vides needed medical or health care services to any person at a free medi-  
 2 cal clinic or who provides health screenings at a community health screening  
 3 event without compensation or the expectation of compensation due to the in-  
 4 ability of such person to pay for the services shall be immune from liability  
 5 for any civil action arising out of the provision of such medical or health  
 6 services. This section shall not extend immunity to the health care provider  
 7 for any acts constituting intentional, willful or grossly negligent conduct  
 8 or to acts by a health care provider ~~which~~ that are outside the scope of prac-  
 9 tice authorized by the provider's licensure, certification or registration.

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

15 (3) Nothing in this section shall prohibit a free medical clinic from  
 16 accepting voluntary contributions for health care services provided to a pa-  
 17 tient who has acknowledged his or her ability and willingness to pay a por-  
 18 tion of the value of the health care services provided. Any voluntary con-  
 19 tribution collected for providing care at a free medical clinic shall be used  
 20 only to pay overhead expenses of operating the clinic. No portion of any  
 21 moneys collected shall be used to provide compensation to any health care  
 22 provider.

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

28 SECTION 3. That Section 39-7704, Idaho Code, be, and the same is hereby  
 29 amended to read as follows:

30 39-7704. REGISTRATION OF FREE MEDICAL CLINICS -- REQUIREMENTS. (1)  
 31 Before providing volunteer health care services in this state, a free med-  
 32 ical clinic shall register with the department of health and welfare by  
 33 submitting a registration fee of fifty dollars (\$50.00) and filing a regis-  
 34 tration form that shall contain:

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

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

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

4           (4) Compliance with subsections (1) and (2) of this section shall be  
5 prima facie evidence that the free clinic has exercised due care in its se-  
6 lection of health care providers and shall be immune from suit for negligent  
7 acts or omissions as provided in subsection (1) of section 39-7703, Idaho  
8 Code.

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

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