
A BILL FOR AN ACT

RELATING TO VOLUNTEER MEDICAL ASSISTANCE SERVICES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 321, Hawaii Revised Statutes, is
2 amended by adding to part I a new section to be appropriately
3 designated and to read as follows:
4 "§321- Volunteer medical assistance personnel. (a) All
5 volunteer medical assistance personnel including:
6 (1) Physicians;
7 (2) Psychologists;
8 (3) Nurses;
9 (4) Emergency medical technicians;
10 (5) Social workers; and
11 (6) Mobile intensive care technicians
12 licensed or certified in this State, or employed by a health
13 care facility, while providing volunteer assistance services on
14 behalf of the State or a county, including participation during
15 periods of assistance services and assistance training, shall be
16 deemed state or county employees, as the case may be, and shall
17 have the powers, duties, rights, and privileges of such in the



1 performance of their duties as prescribed by or under the
2 authority of the governor or a county.

3 (b) In the case of injury or death arising out of and in
4 the performance of duty pursuant to this section, including duty
5 performed during periods of training, all volunteer medical
6 assistance personnel and their dependents shall be entitled to
7 all of the benefits provided in chapter 386, including medical
8 services and supplies. In the case of injury or death, no
9 volunteer medical assistance personnel shall be excluded from
10 coverage of chapter 386. Benefits shall be based on average
11 weekly wages set forth in section 386-51, or based on earnings
12 from the usual employment of the person, or based on earnings at
13 the rate of \$20 a week, whichever is most favorable to the
14 claimant. Nothing in this section shall adversely affect the
15 right of any person to receive any benefits or compensation
16 under any act of Congress.

17 (c) Except in cases of wilful or criminal misconduct,
18 gross negligence, or reckless misconduct, any volunteer medical
19 assistance personnel providing volunteer assistance services
20 shall not be liable for the death of or injury to persons, or
21 for damage to property, as a result of any act or omission in
22 the course of rendering volunteer assistance services pursuant



1 to this section. No act or omission shall be imputed to the
2 owner of any vehicle by reason of ownership thereof; provided
3 that nothing in this section shall preclude recovery by any
4 person for injury or damage sustained from the operation of any
5 vehicle that may be insured under section 41D-8 to the extent of
6 the insurance.

7 (d) Nothing in this section shall be construed to affect
8 any civil action brought by the State or a county against any
9 volunteer of the State or a county.

10 (e) In any suit against the State or a county for civil
11 damages based upon the negligent act or omission of a volunteer,
12 proof of the negligent act or omission shall be sufficient to
13 establish the responsibility of the State or a county therefor
14 under the doctrine of respondeat superior, notwithstanding the
15 immunity granted to the volunteer with respect to any act or
16 omission included under subsection (c).

17 (f) For the purposes of this section:

18 "Volunteer assistance services" means the rendering of
19 professional medical services that are provided on behalf of the
20 State or a county and that have been accepted by any authorized
21 State or county personnel, respectively; provided that services
22 provided pursuant to section 321-23.3 shall not considered to be



1 volunteer assistance services. Volunteer assistance services
2 shall include but not be limited to the rendering of
3 professional medical services in support of vaccination
4 campaigns or outreach clinics."

5 SECTION 2. Section 662D-3, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "[+] §662D-3 [+] **Exception.** Notwithstanding section 662D-2,
8 if otherwise permitted by law, a person may sue and recover
9 civil damages from a volunteer based upon:

- 10 (1) Any conduct engaged in by the volunteer that would
11 constitute gross negligence, wilful and wanton
12 misconduct, or intentional misconduct;
- 13 (2) Any act or omission in connection with the operation
14 of a motor vehicle;
- 15 (3) Any conduct engaged in by the volunteer while the
16 volunteer is unreasonably interfering with the lawful
17 activities of another;
- 18 (4) Any conduct engaged in by the volunteer that takes
19 place on private property when the volunteer's
20 presence on the property was not consented to by the
21 owner;



1 (5) Any act or omission within a volunteer's scope of
2 practice for which the volunteer is licensed,
3 certified, permitted, or registered under state law to
4 perform[+], except that this paragraph shall not apply
5 to volunteer assistance services provided pursuant to
6 section 321- ; and

7 (6) Any criminal offense committed by the volunteer."

8 SECTION 3. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

10 SECTION 4. This Act shall take effect upon its approval.



Report Title:

Volunteer Medical Assistance Services

Description:

Provides immunity from liability and workers' compensation for licensed medical personnel providing volunteer medical services on behalf of the State or a county. (SD1)

