

S.B. NO. 930

JAN 26 2009

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) This
5 section shall apply to all volunteer medical assistance
6 personnel including:

7 (1) Physicians;

8 (2) Psychologists;

9 (3) Nurses;

10 (4) Emergency medical technicians;

11 (5) Social workers; and

12 (6) Mobile intensive care technicians

13 licensed or certified in this State, or employed by a health
14 care facility, while providing volunteer assistance services on
15 behalf of the State or a county, including participation during
16 periods of assistance services and assistance training.

1 (b) All volunteer medical assistance personnel who are
2 injured in the performance of duty pursuant to this section,
3 including duty performed during periods of training, shall be
4 entitled to the benefits in section 386-171.

5 (c) Except in cases of wilful or criminal misconduct,
6 gross negligence, or reckless misconduct, any volunteer medical
7 assistance personnel providing volunteer assistance services
8 shall not be liable for the death of or injury to persons, or
9 for damage to property, as a result of any act or omission in
10 the course of rendering volunteer medical assistance services
11 pursuant to this section. No act or omission shall be imputed
12 to the owner of any vehicle by reason of ownership thereof;
13 provided that nothing in this section shall preclude recovery by
14 any person for injury or damage sustained from the operation of
15 any vehicle that may be insured under section 41D-8 to the
16 extent of the insurance.

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

20 (e) In any suit against the State or a county for civil
21 damages based upon the negligent act or omission of a volunteer,
22 proof of the negligent act or omission shall be sufficient to

1 establish the responsibility of the State or a county therefor
2 under the doctrine of respondeat superior, notwithstanding the
3 immunity granted to the volunteer with respect to any act or
4 omission included under subsection (c).

5 (f) For the purposes of this section:

6 "Volunteer assistance services" means the rendering of
7 professional medical services that are provided on behalf of the
8 State or a county and that have been accepted by any authorized
9 State or county personnel, respectively; provided that services
10 provided pursuant to section 321-23.3 shall not be considered to
11 be volunteer assistance services. Volunteer assistance services
12 shall include but not be limited to the rendering of
13 professional medical services in support of vaccination
14 campaigns or outreach clinics."

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

17 "[+]§662D-3[+] **Exception.** Notwithstanding section 662D-2,
18 if otherwise permitted by law, a person may sue and recover
19 civil damages from a volunteer based upon:

20 (1) Any conduct engaged in by the volunteer that would
21 constitute gross negligence, wilful and wanton
22 misconduct, or intentional misconduct;


- 1 (2) Any act or omission in connection with the operation
- 2 of a motor vehicle;
- 3 (3) Any conduct engaged in by the volunteer while the
- 4 volunteer is unreasonably interfering with the lawful
- 5 activities of another;
- 6 (4) Any conduct engaged in by the volunteer that takes
- 7 place on private property when the volunteer's presence
- 8 on the property was not consented to by the owner;
- 9 (5) Any act or omission within a volunteer's scope of
- 10 practice for which the volunteer is licensed,
- 11 certified, permitted, or registered under state law to
- 12 perform[+], except that this paragraph shall not apply
- 13 to volunteer assistance services provided pursuant to
- 14 section 321- ; and
- 15 (6) Any criminal offense committed by the volunteer."

16 SECTION 3. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

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

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INTRODUCED BY: _____


BY REQUEST

Report Title:

Volunteer Medical Assistance Services

Description:

Provides for medical expenses and immunity from liability for licensed medical personnel providing volunteer medical services on behalf of the State or a county.

JUSTIFICATION SHEET

DEPARTMENT: Health

TITLE: A BILL FOR AN ACT RELATING TO VOLUNTEER MEDICAL ASSISTANCE SERVICES.

PURPOSE: To extend immunity from liability for volunteer medical professionals to include non-emergency situations.

MEANS: Add a new section to part I of chapter 321 and amend section 662D-3, Hawaii Revised Statutes.

JUSTIFICATION: This measure would provide immunity from liability for licensed medical professionals providing volunteer services in non-emergency situations on behalf of the State or counties, such as school-based immunization clinics. Volunteer workers who hold medical licenses and who are performing volunteer activities within the scope of their license are indemnified under Hawaii law when responding to an emergency, but are not protected from liability if they are volunteering for the State for a non-emergency activity. Lack of coverage for professional liability may mean that these valuable workers will not participate as state volunteers, thereby limiting the ability of the State to draw upon their skills as a critical public health resource.

Impact on the public: Medical professionals could volunteer their time without fear of exposure to undue risk, and the public at large could benefit from their donation of time and expertise.

Impact on the department and other agencies: Improved preparation for disaster response. Improved ability to recruit and retain volunteer medical professionals.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: HTH-131.

OTHER AFFECTED
AGENCIES: None.

EFFECTIVE DATE: Upon approval.