

SENATE BILL NO. _____ HOUSE BILL NO. _____

1 A BILL to amend and reenact § 8.01-581.1 of the Code of Virginia, relating to health care provider
2 liability.

3 **Be it enacted by the General Assembly of Virginia:**

4 **1. That § 8.01-581.1 of the Code of Virginia is amended and reenacted as follows:**

5 § 8.01-581.1. Definitions.

6 As used in this chapter:

7 "Health care" means any act, or treatment performed or furnished, or which should have been
8 performed or furnished, by any health care provider for, to, or on behalf of a patient during the patient's
9 medical diagnosis, care, treatment or confinement.

10 "Health care provider" means (i) a person, corporation, facility or institution licensed by this
11 Commonwealth to provide health care or professional services as a physician or hospital, dentist,
12 pharmacist, registered nurse or licensed practical nurse or a person who holds a multistate privilege to
13 practice such nursing under the Nurse Licensure Compact, optometrist, podiatrist, chiropractor, physical
14 therapist, physical therapy assistant, clinical psychologist, clinical social worker, professional counselor,
15 licensed marriage and family therapist, licensed dental hygienist, health maintenance organization, or
16 emergency medical care attendant or technician who provides services on a fee basis; (ii) a professional
17 corporation, all of whose shareholders or members are so licensed; (iii) a partnership, all of whose
18 partners are so licensed; (iv) a nursing home as defined in § 54.1-3100 except those nursing institutions
19 conducted by and for those who rely upon treatment by spiritual means alone through prayer in
20 accordance with a recognized church or religious denomination; (v) a professional limited liability
21 company comprised of members as described in subdivision A 2 of § 13.1-1102; (vi) a corporation,
22 partnership, limited liability company or any other entity, except a state-operated facility, which
23 employs or engages a licensed health care provider and which primarily renders health care services; or
24 (vii) a director, officer, employee, independent contractor, or agent of the persons or entities referenced

25 herein, acting within the course and scope of his employment or engagement as related to health care or
26 professional services.

27 "Health maintenance organization" means any person licensed pursuant to Chapter 43 (§ 38.2-
28 4300 et seq.) of Title 38.2 who undertakes to provide or arrange for one or more health care plans.

29 "Hospital" means a public or private institution licensed pursuant to Chapter 5 (§ 32.1-123 et
30 seq.) of Title 32.1 or Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2.

31 "Impartial attorney" means an attorney who has not represented (i) the claimant, his family, his
32 partners, co-proprietors or his other business interests; or (ii) the health care provider, his family, his
33 partners, co-proprietors or his other business interests.

34 "Impartial health care provider" means a health care provider who (i) has not examined, treated
35 or been consulted regarding the claimant or his family; (ii) does not anticipate examining, treating, or
36 being consulted regarding the claimant or his family; or (iii) has not been an employee, partner or co-
37 proprietor of the health care provider against whom the claim is asserted.

38 "Malpractice" means any tort action or breach of contract action for personal injuries or wrongful
39 death, based on health care or professional services rendered, or which should have been rendered, by a
40 health care provider, to a patient.

41 "Patient" means any natural person who receives or should have received health care from a
42 licensed health care provider except those persons who are given health care in an emergency situation
43 which exempts the health care provider from liability for his emergency services in accordance with §
44 8.01-225 or § 44-146.23.

45 "Physician" means a person licensed to practice medicine or osteopathy in this Commonwealth
46 pursuant to Chapter 29 (§ 54.1-2900 et seq.) of Title 54.1.

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