

**Representative David E. Lifferth** proposes the following substitute bill:

**VOLUNTEER HEALTH CARE CONTINUING EDUCATION CREDIT**

2016 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: David E. Lifferth**

Senate Sponsor: Brian E. Shiozawa

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**LONG TITLE**

**General Description:**

This bill addresses continuing education credit for a health care professional.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ allows a health care professional to fulfill a portion of the health care professional's continuing education requirement, established by the Division of Occupational and Professional Licensing, by providing hours of uncompensated health care; and
- ▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**58-13-3**, as last amended by Laws of Utah 2014, Chapter 400

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*Be it enacted by the Legislature of the state of Utah:*



26 Section 1. Section 58-13-3 is amended to read:

27 **58-13-3. Qualified immunity -- Health professionals -- Charity care.**

28 (1) (a) (i) The Legislature finds many residents of this state do not receive medical care  
29 and preventive health care because they lack health insurance or because of financial  
30 difficulties or cost.

31 (ii) The Legislature also finds that many physicians, charity health care facilities, and  
32 other health care professionals in this state would be willing to volunteer medical and allied  
33 services without compensation if they were not subject to the high exposure of liability  
34 connected with providing these services.

35 (b) The Legislature therefore declares that its intention in enacting this section is to  
36 encourage the provision of uncompensated volunteer charity health care in exchange for a  
37 limitation on liability for the health care facilities and health care professionals who provide  
38 those volunteer services.

39 (2) As used in this section:

40 (a) "Continuing education requirement" means the requirement for hours of continuing  
41 education, established by the division, with which a health care professional must comply to  
42 renew the health care professional's license under the applicable chapter described in  
43 Subsection (2)(c).

44 [(a)] (b) "Health care facility" means any clinic or hospital, church, or organization  
45 whose primary purpose is to sponsor, promote, or organize uncompensated health care services  
46 for people unable to pay for health care services.

47 [(b)] (c) "Health care professional" means a person licensed under:

48 (i) Chapter 5a, Podiatric Physician Licensing Act;

49 (ii) Chapter 16a, Utah Optometry Practice Act;

50 (iii) Chapter 17b, Pharmacy Practice Act;

51 (iv) Chapter 24b, Physical Therapy Practice Act;

52 (v) Chapter 31b, Nurse Practice Act;

53 (vi) Chapter 40, Recreational Therapy Practice Act;

54 (vii) Chapter 41, Speech-Language Pathology and Audiology Licensing Act;

55 (viii) Chapter 42a, Occupational Therapy Practice Act;

56 (ix) Chapter 44a, Nurse Midwife Practice Act;

- 57 (x) Chapter 49, Dietitian Certification Act;
- 58 (xi) Chapter 60, Mental Health Professional Practice Act;
- 59 (xii) Chapter 67, Utah Medical Practice Act;
- 60 (xiii) Chapter 68, Utah Osteopathic Medical Practice Act;
- 61 (xiv) Chapter 69, Dentist and Dental Hygienist Practice Act;
- 62 (xv) Chapter 70a, Physician Assistant Act; and
- 63 (xvi) Chapter 73, Chiropractic Physician Practice Act.

64 [~~e~~] (d) "Remuneration or compensation":

65 (i) (A) means direct or indirect receipt of any payment by a health care professional or  
66 health care facility on behalf of the patient, including payment or reimbursement under  
67 Medicare or Medicaid, or under the state program for the medically indigent on behalf of the  
68 patient; and

69 (B) compensation, salary, or reimbursement to the health care professional from any  
70 source for the health care professional's services or time in volunteering to provide  
71 uncompensated health care; and

72 (ii) does not mean:

73 (A) any grant or donation to the health care facility used to offset direct costs  
74 associated with providing the uncompensated health care such as:

75 (I) medical supplies;

76 (II) drugs; or

77 (III) a charitable donation that is restricted for charitable services at the health care  
78 facility; or

79 (B) incidental reimbursements to the volunteer such as:

80 (I) food supplied to the volunteer;

81 (II) clothing supplied to the volunteer to help identify the volunteer during the time of  
82 volunteer services;

83 (III) mileage reimbursement to the volunteer; or

84 (IV) other similar support to the volunteer.

85 (3) A health care professional who provides health care treatment at or on behalf of a  
86 health care facility is not liable in a medical malpractice action if:

87 (a) the treatment was within the scope of the health care professional's license under

88 this title;

89 (b) neither the health care professional nor the health care facility received  
90 compensation or remuneration for the treatment;

91 (c) the acts or omissions of the health care professional were not grossly negligent or  
92 willful and wanton; and

93 (d) prior to rendering services:

94 (i) the health care professional disclosed in writing to the patient, or if a minor, to the  
95 patient's parent or legal guardian, that the health care professional is providing the services  
96 without receiving remuneration or compensation; and

97 (ii) the patient consented in writing to waive any right to sue for professional  
98 negligence except for acts or omissions which are grossly negligent or are willful and wanton.

99 (4) A health care facility which sponsors, promotes, or organizes the uncompensated  
100 care is not liable in a medical malpractice action for acts and omissions if:

101 (a) the health care facility meets the requirements in Subsection (3)(b);

102 (b) the acts and omissions of the health care facility were not grossly negligent or  
103 willful and wanton; and

104 (c) the health care facility has posted, in a conspicuous place, a notice that in  
105 accordance with this section the health care facility is not liable for any civil damages for acts  
106 or omissions except for those acts or omissions that are grossly negligent or are willful and  
107 wanton.

108 (5) A health care professional who provides health care treatment at a federally  
109 qualified health center, as defined in Subsection 1905(1)(2)(b) of the Social Security Act, or an  
110 Indian health clinic or Urban Indian Health Center, as defined in Title V of the Indian Health  
111 Care Improvement Act, is not liable in a medical malpractice action if:

112 (a) the treatment was within the scope of the health care professional's license under  
113 this title;

114 (b) the health care professional:

115 (i) does not receive compensation or remuneration for treatment provided to any  
116 patient that the provider treats at the federally qualified health center, the Indian health clinic,  
117 or the Urban Indian Health Center; and

118 (ii) is not eligible to be included in coverage under the Federal Tort Claims Act for the

119 treatment provided at the federally qualified health center, the Indian health clinic, or the Urban  
120 Indian Health Center;

121 (c) the acts or omissions of the health care professional were not grossly negligent or  
122 willful and wanton; and

123 (d) prior to rendering services:

124 (i) the health care professional disclosed in writing to the patient, or if a minor, to the  
125 patient's parent or legal guardian, that the health care professional is providing the services  
126 without receiving remuneration or compensation; and

127 (ii) the patient consented in writing to waive any right to sue for professional  
128 negligence except for acts or omissions that are grossly negligent or are willful and wanton.

129 (6) Immunity from liability under this section does not extend to the use of general  
130 anesthesia or care that requires an overnight stay in a general acute or specialty hospital  
131 licensed under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

132 (7) The provisions of Subsection (5) apply to treatment provided by a healthcare  
133 professional on or after May 13, 2014.

134 (8) A health care professional:

135 (a) may, in accordance with Subsection (8)(b), fulfill up to 15% of the health care  
136 professional's continuing education requirement with hours the health care professional spends  
137 providing health care treatment described in Subsection (3) or (5); and

138 (b) subject to Subsection (8)(a), earns one hour of the health care professional's  
139 continuing education requirement for every four documented hours of volunteer health care  
140 treatment.