

**As Introduced**

**125th General Assembly  
Regular Session  
2003-2004**

**S. B. No. 86**

**Senators Stivers, Miller, Goodman, Jacobson, Randy Gardner, Coughlin,  
Amstutz, Brady, Herington, Fedor**

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**A B I L L**

To amend sections 2305.234, 3701.071, 4715.42, and 1  
4731.295 of the Revised Code to extend immunity 2  
from liability for services provided by volunteer 3  
health care professionals and workers to more 4  
health care facilities and to nonprofit referring 5  
organizations, to increase the maximum allowable 6  
income of individuals who may be served by 7  
volunteers having immunity from liability, and to 8  
amend the version of section 2305.234 of the 9  
Revised Code that is scheduled to take effect 10  
January 1, 2004, to continue the provisions of 11  
this act on and after that effective date. 12

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 2305.234, 3701.071, 4715.42, and 13  
4731.295 of the Revised Code be amended to read as follows: 14

**Sec. 2305.234.** (A) As used in this section: 15

(1) "Chiropractic claim," "medical claim," and "optometric 16  
claim" have the same meanings as in section 2305.113 of the 17  
Revised Code. 18

(2) "Dental claim" has the same meaning as in section 19

2305.113 of the Revised Code, except that it does not include any 20  
claim arising out of a dental operation or any derivative claim 21  
for relief that arises out of a dental operation. 22

(3) "Governmental health care program" has the same meaning 23  
as in section 4731.65 of the Revised Code. 24

(4) "Health care professional" means any of the following who 25  
provide medical, dental, or other health-related diagnosis, care, 26  
or treatment: 27

(a) Physicians authorized under Chapter 4731. of the Revised 28  
Code to practice medicine and surgery or osteopathic medicine and 29  
surgery; 30

(b) Registered nurses, advanced practice nurses, and licensed 31  
practical nurses licensed under Chapter 4723. of the Revised Code; 32

(c) Physician assistants authorized to practice under Chapter 33  
4730. of the Revised Code; 34

(d) Dentists and dental hygienists licensed under Chapter 35  
4715. of the Revised Code; 36

(e) Physical therapists licensed under Chapter 4755. of the 37  
Revised Code; 38

(f) Chiropractors licensed under Chapter 4734. of the Revised 39  
Code; 40

(g) Optometrists licensed under Chapter 4725. of the Revised 41  
Code; 42

(h) Podiatrists authorized under Chapter 4731. of the Revised 43  
Code to practice podiatry; 44

(i) Dietitians licensed under Chapter 4759. of the Revised 45  
Code; 46

(j) Pharmacists licensed under Chapter 4729. of the Revised 47  
Code; 48

(k) Emergency medical technicians-basic, emergency medical 49  
technicians-intermediate, and emergency medical 50  
technicians-paramedic, certified under Chapter 4765. of the 51  
Revised Code. 52

(5) "Health care worker" means a person other than a health 53  
care professional who provides medical, dental, or other 54  
health-related care or treatment under the direction of a health 55  
care professional with the authority to direct that individual's 56  
activities, including medical technicians, medical assistants, 57  
dental assistants, orderlies, aides, and individuals acting in 58  
similar capacities. 59

(6) "Indigent and uninsured person" means a person who meets 60  
all of the following requirements: 61

(a) The person's income is not greater than ~~one~~ two hundred 62  
~~fifty~~ per cent of the current poverty line as defined by the 63  
United States office of management and budget and revised in 64  
accordance with section 673(2) of the "Omnibus Budget 65  
Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C. 9902, as 66  
amended. 67

(b) The person is not eligible to receive medical assistance 68  
under Chapter 5111., disability assistance medical assistance 69  
under Chapter 5115. of the Revised Code, or assistance under any 70  
other governmental health care program. 71

(c) Either of the following applies: 72

(i) The person is not a policyholder, certificate holder, 73  
insured, contract holder, subscriber, enrollee, member, 74  
beneficiary, or other covered individual under a health insurance 75  
or health care policy, contract, or plan. 76

(ii) The person is a policyholder, certificate holder, 77  
insured, contract holder, subscriber, enrollee, member, 78

beneficiary, or other covered individual under a health insurance 79  
or health care policy, contract, or plan, but the insurer, policy, 80  
contract, or plan denies coverage or is the subject of insolvency 81  
or bankruptcy proceedings in any jurisdiction. 82

(7) "Operation" means any procedure that involves cutting or 83  
otherwise infiltrating human tissue by mechanical means, including 84  
surgery, laser surgery, ionizing radiation, therapeutic 85  
ultrasound, or the removal of intraocular foreign bodies. 86  
"Operation" does not include the administration of medication by 87  
injection, unless the injection is administered in conjunction 88  
with a procedure infiltrating human tissue by mechanical means 89  
other than the administration of medicine by injection. 90

(8) ~~"Nonprofit shelter or health care facility" means a 91  
charitable nonprofit corporation organized and operated pursuant 92  
to Chapter 1702. of the Revised Code, or any charitable 93  
organization not organized and not operated for profit, that 94  
provides shelter, health care services, or shelter and health care 95  
services to indigent and uninsured persons, except that "shelter 96  
or health care facility" does not include a hospital as defined in 97  
section 3727.01 of the Revised Code, a facility licensed under 98  
Chapter 3721. of the Revised Code, or a medical facility that is 99  
operated for profit~~ "Health care facility" means a hospital, 100  
clinic, ambulatory surgical treatment center, other center, 101  
medical school, office of a health care professional or associated 102  
group of health care professionals, infirmary, dispensary, medical 103  
training institution, shelter, or other institution or location in 104  
or at which medical care, treatment, or diagnosis is provided to a 105  
person. 106

(9) "Tort action" means a civil action for damages for 107  
injury, death, or loss to person or property other than a civil 108  
action for damages for a breach of contract or another agreement 109  
between persons or government entities. 110

(10) "Volunteer" means an individual who provides any 111  
medical, dental, or other health-care related diagnosis, care, or 112  
treatment without the expectation of receiving and without receipt 113  
of any compensation or other form of remuneration from an indigent 114  
and uninsured person, another person on behalf of an indigent and 115  
uninsured person, any ~~shelter or~~ health care facility, or any 116  
other person or government entity. 117

(B)(1) Subject to divisions (E) and (F)(3) of this section, a 118  
health care professional who is a volunteer and complies with 119  
division (B)(2) of this section is not liable in damages to any 120  
person or government entity in a tort or other civil action, 121  
including an action on a medical, dental, chiropractic, 122  
optometric, or other health-related claim, for injury, death, or 123  
loss to person or property that allegedly arises from an action or 124  
omission of the volunteer in the provision ~~at a nonprofit shelter~~ 125  
~~or health care facility~~ to an indigent and uninsured person of 126  
medical, dental, or other health-related diagnosis, care, or 127  
treatment, including the provision of samples of medicine and 128  
other medical products, unless the action or omission constitutes 129  
willful or wanton misconduct. 130

(2) To qualify for the immunity described in division (B)(1) 131  
of this section, a health care professional shall do all of the 132  
following prior to providing diagnosis, care, or treatment: 133

(a) Determine, in good faith, that the indigent and uninsured 134  
person is mentally capable of giving informed consent to the 135  
provision of the diagnosis, care, or treatment and is not subject 136  
to duress or under undue influence; 137

(b) Inform the person of the provisions of this section; 138

(c) Obtain the informed consent of the person and a written 139  
waiver, signed by the person or by another individual on behalf of 140  
and in the presence of the person, that states that the person is 141

mentally competent to give informed consent and, without being 142  
subject to duress or under undue influence, gives informed consent 143  
to the provision of the diagnosis, care, or treatment subject to 144  
the provisions of this section. 145

(3) A physician or podiatrist who is not covered by medical 146  
malpractice insurance, but complies with division (B)(2) of this 147  
section, is not required to comply with division (A) of section 148  
4731.143 of the Revised Code. 149

(C) Subject to divisions (E) and (F)(3) of this section, 150  
health care workers who are volunteers are not liable in damages 151  
to any person or government entity in a tort or other civil 152  
action, including an action upon a medical, dental, chiropractic, 153  
optometric, or other health-related claim, for injury, death, or 154  
loss to person or property that allegedly arises from an action or 155  
omission of the health care worker in the provision at a ~~nonprofit~~ 156  
~~shelter~~ or health care facility to an indigent and uninsured 157  
person of medical, dental, or other health-related diagnosis, 158  
care, or treatment, unless the action or omission constitutes 159  
willful or wanton misconduct. 160

(D) Subject to divisions (E) and (F)(3) of this section and 161  
section 3701.071 of the Revised Code, a ~~nonprofit shelter or~~ 162  
health care facility associated with a health care professional 163  
described in division (B)(1) of this section ~~or~~, a health care 164  
worker described in division (C) of this section ~~is~~, and a 165  
nonprofit organization that refers patients to, or arranges for 166  
the provision of services by, a health care professional described 167  
in division (B)(1) of this section or a health care worker 168  
described in division (C) of this section are not liable in 169  
damages to any person or government entity in a tort or other 170  
civil action, including an action on a medical, dental, 171  
chiropractic, optometric, or other health-related claim, for 172  
injury, death, or loss to person or property that allegedly arises 173

from an action or omission of the health care professional or 174  
worker in providing for the ~~shelter or~~ facility medical, dental, 175  
or other health-related diagnosis, care, or treatment to an 176  
indigent and uninsured person, unless the action or omission 177  
constitutes willful or wanton misconduct. 178

(E)(1) Except as provided in division (E)(2) of this section, 179  
the immunities provided by divisions (B), (C), and (D) of this 180  
section are not available to an individual or to a ~~nonprofit~~ 181  
~~shelter or~~ health care facility if, at the time of an alleged 182  
injury, death, or loss to person or property, the individuals 183  
involved are providing one of the following: 184

(a) Any medical, dental, or other health-related diagnosis, 185  
care, or treatment pursuant to a community service work order 186  
entered by a court under division (F) of section 2951.02 of the 187  
Revised Code as a condition of probation or other suspension of a 188  
term of imprisonment or imposed by a court as a community control 189  
sanction pursuant to sections 2929.15 and 2929.17 of the Revised 190  
Code. 191

(b) Performance of an operation. 192

(c) Delivery of a baby. 193

(2) Division (E)(1) of this section does not apply to an 194  
individual who provides, or a ~~nonprofit shelter or~~ health care 195  
facility at which the individual provides, diagnosis, care, or 196  
treatment that is necessary to preserve the life of a person in a 197  
medical emergency. 198

(F)(1) This section does not create a new cause of action or 199  
substantive legal right against a health care professional, health 200  
care worker, or ~~nonprofit shelter or~~ health care facility. 201

(2) This section does not affect any immunities from civil 202  
liability or defenses established by another section of the 203  
Revised Code or available at common law to which an individual or 204

a ~~nonprofit shelter~~ or health care facility may be entitled in 205  
connection with the provision of emergency or other diagnosis, 206  
care, or treatment. 207

(3) This section does not grant an immunity from tort or 208  
other civil liability to an individual or a ~~nonprofit shelter~~ or 209  
health care facility for actions that are outside the scope of 210  
authority of health care professionals or health care workers. 211

(4) This section does not affect any legal responsibility of 212  
a health care professional or health care worker to comply with 213  
any applicable law of this state or rule of an agency of this 214  
state. 215

(5) This section does not affect any legal responsibility of 216  
a ~~nonprofit shelter~~ or health care facility to comply with any 217  
applicable law of this state, rule of an agency of this state, or 218  
local code, ordinance, or regulation that pertains to or regulates 219  
building, housing, air pollution, water pollution, sanitation, 220  
health, fire, zoning, or safety. 221

**Sec. 3701.071.** (A) As used in this section, "nonprofit 222  
shelter or health care facility" ~~has the same meaning as in~~ 223  
~~section 2305.234 of the Revised Code~~ means a charitable nonprofit 224  
corporation organized and operated pursuant to Chapter 1702. of 225  
the Revised Code, or any charitable organization not organized and 226  
not operated for profit, that provides shelter, health care 227  
services, or shelter and health care services to indigent and 228  
uninsured persons. "Shelter or health care facility" does not 229  
include a hospital, as defined in section 3727.01 of the Revised 230  
Code, a facility licensed under Chapter 3721. of the Revised Code, 231  
or a medical facility that is operated for profit. 232

(B) A nonprofit shelter or health care facility operating in 233  
this state shall register on the first day of January each year 234  
with the department of health. The immunity provided by division 235



(D) of section 2305.234 of the Revised Code is not available to a 236  
nonprofit shelter or health care facility until the shelter or 237  
facility registers with the department in accordance with this 238  
section. 239

(C) A nonprofit shelter or health care facility operating in 240  
this state shall keep records of all patients who receive medical, 241  
dental, or other health-related diagnosis, care, or treatment at 242  
the shelter or facility. The department of health shall monitor 243  
the quality of care provided to patients at nonprofit shelters or 244  
health care facilities. The monitoring program may be conducted by 245  
contracting with another entity or through any other method 246  
authorized by law. The department may solicit and accept funds 247  
from private sources to fund the monitoring program. 248

**Sec. 4715.42.** (A)(1) As used in this section, ~~"indigent:~~ 249

(a) "Indigent and uninsured person," ~~"nonprofit shelter or~~ 250  
~~health care facility,"~~ and "operation" have the same meanings as 251  
in section 2305.234 of the Revised Code. 252

(b) "Nonprofit shelter or health care facility" has the same 253  
meaning as in section 3701.071 of the Revised Code. 254

(2) For the purposes of this section, a person shall be 255  
considered retired from practice if the person's license has been 256  
surrendered or allowed to expire with the intention of ceasing to 257  
practice as a dentist or dental hygienist for remuneration. 258

(B) The state dental board may issue, without examination, a 259  
volunteer's certificate to a person who is retired from practice 260  
so that the person may provide dental services to indigent and 261  
uninsured persons at nonprofit shelters or health care facilities. 262

(C) An application for a volunteer's certificate shall 263  
include all of the following: 264

(1) A copy of the applicant's degree from dental college or 265

dental hygiene school.	266
(2) One of the following, as applicable:	267
(a) A copy of the applicant's most recent license to practice dentistry or dental hygiene issued by a jurisdiction in the United States that licenses persons to practice dentistry or dental hygiene.	268 269 270 271
(b) A copy of the applicant's most recent license equivalent to a license to practice dentistry or dental hygiene in one or more branches of the United States armed services that the United States government issued.	272 273 274 275
(3) Evidence of one of the following, as applicable:	276
(a) the applicant has maintained for at least ten years prior to retirement full licensure in good standing in any jurisdiction in the United States that licenses persons to practice dentistry or dental hygiene.	277 278 279 280
(b) the applicant has practiced as a dentist or dental hygienist in good standing for at least ten years prior to retirement in one or more branches of the United States armed services.	281 282 283 284
(4) A notarized statement from the applicant, on a form prescribed by the board, that the applicant will not accept any form of remuneration for any dental services rendered while in possession of a volunteer's certificate.	285 286 287 288
(D) The holder of a volunteer's certificate may provide dental services only on the premises of a nonprofit shelter or health care facility and only to indigent and uninsured persons. The holder shall not accept any form of remuneration for providing dental services while in possession of the certificate. Except in a dental emergency, the holder shall not perform any operation. The board may revoke a volunteer's certificate on receiving proof	289 290 291 292 293 294 295

satisfactory to the board that the holder has engaged in practice 296  
in this state outside the scope of the holder's certificate or 297  
that there are grounds for action against the person under section 298  
4715.30 of the Revised Code. 299

(E)(1) A volunteer's certificate shall be valid for a period 300  
of three years, and may be renewed upon the application of the 301  
holder, unless the certificate was previously revoked under 302  
division (D) of this section. The board shall maintain a register 303  
of all persons who hold volunteer's certificates. The board shall 304  
not charge a fee for issuing or renewing a certificate pursuant to 305  
this section. 306

(2) To be eligible for renewal of a volunteer's certificate, 307  
the holder of the certificate shall certify to the board 308  
completion of sixty hours of continuing dental education that 309  
meets the requirements of section 4715.141 of the Revised Code and 310  
the rules adopted under that section, or completion of eighteen 311  
hours of continuing dental hygiene education that meets the 312  
requirements of section 4715.25 of the Revised Code and the rules 313  
adopted under that section, as the case may be. The board may not 314  
renew a certificate if the holder has not complied with the 315  
appropriate continuing education requirements. The nonprofit 316  
shelter or health care facility in which the holder provides 317  
dental services may pay for or reimburse the holder for any costs 318  
incurred in obtaining the required continuing education credits. 319

(3) The board shall issue to each person who qualifies under 320  
this section for a volunteer's certificate a wallet certificate 321  
and a wall certificate that state that the certificate holder is 322  
authorized to provide dental services pursuant to the laws of this 323  
state. The holder shall keep the wallet certificate on the 324  
holder's person while providing dental services and shall display 325  
the wall certificate prominently in the nonprofit shelter or 326  
health care facility where the holder primarily practices. 327

(4) The holder of a volunteer's certificate issued pursuant to this section is subject to the immunity provisions in section 2305.234 of the Revised Code.

(F) The board shall adopt rules in accordance with Chapter 119. of the Revised Code to administer and enforce this section.

**Sec. 4731.295.** (A)(1) As used in this section:

(a) "~~indigent~~ Indigent and uninsured person," "~~nonprofit shelter or health care facility,~~" and "operation" have the same meanings as in section 2305.234 of the Revised Code.

(b) "Nonprofit shelter or health care facility" has the same meaning as in section 3701.071 of the Revised Code.

(2) For the purposes of this section, a person shall be considered retired from practice if the person's license or certificate has expired with the person's intention of ceasing to practice medicine and surgery or osteopathic medicine and surgery for remuneration.

(B) The state medical board may issue, without examination, a volunteer's certificate to a person who is retired from practice so that the person may provide medical services to indigent and uninsured persons at nonprofit shelters or health care facilities. The board shall deny issuance of a volunteer's certificate to a person who is not qualified under this section to hold a volunteer's certificate.

(C) An application for a volunteer's certificate shall include all of the following:

(1) A copy of the applicant's degree of medicine or osteopathic medicine.

(2) One of the following, as applicable:

(a) A copy of the applicant's most recent license or

certificate authorizing the practice of medicine and surgery or  
osteopathic medicine and surgery issued by a jurisdiction in the  
United States that licenses persons to practice medicine and  
surgery or osteopathic medicine and surgery.

(b) A copy of the applicant's most recent license equivalent  
to a license to practice medicine and surgery or osteopathic  
medicine and surgery in one or more branches of the United States  
armed services that the United States government issued.

(3) Evidence of one of the following, as applicable:

(a) That the applicant has maintained for at least ten years  
prior to retirement full licensure in good standing in any  
jurisdiction in the United States that licenses persons to  
practice medicine and surgery or osteopathic medicine and surgery.

(b) That the applicant has practiced for at least ten years  
prior to retirement in good standing as a doctor of medicine and  
surgery or osteopathic medicine and surgery in one or more of the  
branches of the United States armed services.

(4) A notarized statement from the applicant, on a form  
prescribed by the board, that the applicant will not accept any  
form of remuneration for any medical services rendered while in  
possession of a volunteer's certificate.

(D) The holder of a volunteer's certificate may provide  
medical services only on the premises of a nonprofit shelter or  
health care facility and only to indigent and uninsured persons.  
The holder shall not accept any form of remuneration for providing  
medical services while in possession of the certificate. Except in  
a medical emergency, the holder shall not perform any operation or  
deliver babies. The board may revoke a volunteer's certificate on  
receiving proof satisfactory to the board that the holder has  
engaged in practice in this state outside the scope of the  
certificate.

(E)(1) A volunteer's certificate shall be valid for a period 388  
of three years, unless earlier revoked under division (D) of this 389  
section or pursuant to section 4731.22 of the Revised Code. A 390  
volunteer's certificate may be renewed upon the application of the 391  
holder. The board shall maintain a register of all persons who 392  
hold volunteer's certificates. The board shall not charge a fee 393  
for issuing or renewing a certificate pursuant to this section. 394

(2) To be eligible for renewal of a volunteer's certificate 395  
the holder of the certificate shall certify to the board 396  
completion of one hundred fifty hours of continuing medical 397  
education that meets the requirements of section 4731.281 of the 398  
Revised Code regarding certification by private associations and 399  
approval by the board. The board may not renew a certificate if 400  
the holder has not complied with the continuing medical education 401  
requirements. The nonprofit shelter or health care facility in 402  
which the holder provides medical services may pay for or 403  
reimburse the holder for any costs incurred in obtaining the 404  
required continuing medical education credits. 405

(3) The board shall issue to each person who qualifies under 406  
this section for a volunteer's certificate a wallet certificate 407  
and a wall certificate that state that the certificate holder is 408  
authorized to provide medical services pursuant to the laws of 409  
this state. The holder shall keep the wallet certificate on the 410  
holder's person while providing medical services and shall display 411  
the wall certificate prominently in the nonprofit shelter or 412  
health care facility where the holder primarily practices. 413

(4) The holder of a volunteer's certificate issued pursuant 414  
to this section is subject to the immunity provisions in section 415  
2305.234 of the Revised Code. 416

(F) The board shall adopt rules in accordance with Chapter 417  
119. of the Revised Code to administer and enforce this section. 418

**Section 2.** That existing sections 2305.234, 3701.071, 419  
4715.42, and 4731.295 of the Revised Code are hereby repealed. 420

**Section 3.** That the version of section 2305.234 of the 421  
Revised Code that is scheduled to take effect January 1, 2004, be 422  
amended to read as follows: 423

**Sec. 2305.234.** (A) As used in this section: 424

(1) "Chiropractic claim," "medical claim," and "optometric 425  
claim" have the same meanings as in section 2305.113 of the 426  
Revised Code. 427

(2) "Dental claim" has the same meaning as in section 428  
2305.113 of the Revised Code, except that it does not include any 429  
claim arising out of a dental operation or any derivative claim 430  
for relief that arises out of a dental operation. 431

(3) "Governmental health care program" has the same meaning 432  
as in section 4731.65 of the Revised Code. 433

(4) "Health care professional" means any of the following who 434  
provide medical, dental, or other health-related diagnosis, care, 435  
or treatment: 436

(a) Physicians authorized under Chapter 4731. of the Revised 437  
Code to practice medicine and surgery or osteopathic medicine and 438  
surgery; 439

(b) Registered nurses, advanced practice nurses, and licensed 440  
practical nurses licensed under Chapter 4723. of the Revised Code; 441

(c) Physician assistants authorized to practice under Chapter 442  
4730. of the Revised Code; 443

(d) Dentists and dental hygienists licensed under Chapter 444  
4715. of the Revised Code; 445

(e) Physical therapists licensed under Chapter 4755. of the Revised Code;	446 447
(f) Chiropractors licensed under Chapter 4734. of the Revised Code;	448 449
(g) Optometrists licensed under Chapter 4725. of the Revised Code;	450 451
(h) Podiatrists authorized under Chapter 4731. of the Revised Code to practice podiatry;	452 453
(i) Dietitians licensed under Chapter 4759. of the Revised Code;	454 455
(j) Pharmacists licensed under Chapter 4729. of the Revised Code;	456 457
(k) Emergency medical technicians-basic, emergency medical technicians-intermediate, and emergency medical technicians-paramedic, certified under Chapter 4765. of the Revised Code.	458 459 460 461
(5) "Health care worker" means a person other than a health care professional who provides medical, dental, or other health-related care or treatment under the direction of a health care professional with the authority to direct that individual's activities, including medical technicians, medical assistants, dental assistants, orderlies, aides, and individuals acting in similar capacities.	462 463 464 465 466 467 468
(6) "Indigent and uninsured person" means a person who meets all of the following requirements:	469 470
(a) The person's income is not greater than <del>one</del> <u>two</u> hundred <del>fifty</del> per cent of the current poverty line as defined by the United States office of management and budget and revised in accordance with section 673(2) of the "Omnibus Budget Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C. 9902, as	471 472 473 474 475



amended.	476
(b) The person is not eligible to receive medical assistance under Chapter 5111., disability assistance medical assistance under Chapter 5115. of the Revised Code, or assistance under any other governmental health care program.	477 478 479 480
(c) Either of the following applies:	481
(i) The person is not a policyholder, certificate holder, insured, contract holder, subscriber, enrollee, member, beneficiary, or other covered individual under a health insurance or health care policy, contract, or plan.	482 483 484 485
(ii) The person is a policyholder, certificate holder, insured, contract holder, subscriber, enrollee, member, beneficiary, or other covered individual under a health insurance or health care policy, contract, or plan, but the insurer, policy, contract, or plan denies coverage or is the subject of insolvency or bankruptcy proceedings in any jurisdiction.	486 487 488 489 490 491
(7) "Operation" means any procedure that involves cutting or otherwise infiltrating human tissue by mechanical means, including surgery, laser surgery, ionizing radiation, therapeutic ultrasound, or the removal of intraocular foreign bodies. "Operation" does not include the administration of medication by injection, unless the injection is administered in conjunction with a procedure infiltrating human tissue by mechanical means other than the administration of medicine by injection.	492 493 494 495 496 497 498 499
(8) <del>"Nonprofit shelter or health care facility" means a charitable nonprofit corporation organized and operated pursuant to Chapter 1702. of the Revised Code, or any charitable organization not organized and not operated for profit, that provides shelter, health care services, or shelter and health care services to indigent and uninsured persons, except that "shelter or health care facility" does not include a hospital as defined in</del>	500 501 502 503 504 505 506

~~section 3727.01 of the Revised Code, a facility licensed under~~ 507  
~~Chapter 3721. of the Revised Code, or a medical facility that is~~ 508  
~~operated for profit~~ "Health care facility" means a hospital, 509  
clinic, ambulatory surgical treatment center, other center, 510  
medical school, office of a health care professional or associated 511  
group of health care professionals, infirmary, dispensary, medical 512  
training institution, shelter, or other institution or location in 513  
or at which medical care, treatment, or diagnosis is provided to a 514  
person. 515

(9) "Tort action" means a civil action for damages for 516  
injury, death, or loss to person or property other than a civil 517  
action for damages for a breach of contract or another agreement 518  
between persons or government entities. 519

(10) "Volunteer" means an individual who provides any 520  
medical, dental, or other health-care related diagnosis, care, or 521  
treatment without the expectation of receiving and without receipt 522  
of any compensation or other form of remuneration from an indigent 523  
and uninsured person, another person on behalf of an indigent and 524  
uninsured person, any ~~shelter or~~ health care facility, or any 525  
other person or government entity. 526

(11) "Community control sanction" has the same meaning as in 527  
section 2929.01 of the Revised Code. 528

(B)(1) Subject to divisions (E) and (F)(3) of this section, a 529  
health care professional who is a volunteer and complies with 530  
division (B)(2) of this section is not liable in damages to any 531  
person or government entity in a tort or other civil action, 532  
including an action on a medical, dental, chiropractic, 533  
optometric, or other health-related claim, for injury, death, or 534  
loss to person or property that allegedly arises from an action or 535  
omission of the volunteer in the provision ~~at a nonprofit shelter~~ 536  
~~or health care facility~~ to an indigent and uninsured person of 537  
medical, dental, or other health-related diagnosis, care, or 538

treatment, including the provision of samples of medicine and 539  
other medical products, unless the action or omission constitutes 540  
willful or wanton misconduct. 541

(2) To qualify for the immunity described in division (B)(1) 542  
of this section, a health care professional shall do all of the 543  
following prior to providing diagnosis, care, or treatment: 544

(a) Determine, in good faith, that the indigent and uninsured 545  
person is mentally capable of giving informed consent to the 546  
provision of the diagnosis, care, or treatment and is not subject 547  
to duress or under undue influence; 548

(b) Inform the person of the provisions of this section; 549

(c) Obtain the informed consent of the person and a written 550  
waiver, signed by the person or by another individual on behalf of 551  
and in the presence of the person, that states that the person is 552  
mentally competent to give informed consent and, without being 553  
subject to duress or under undue influence, gives informed consent 554  
to the provision of the diagnosis, care, or treatment subject to 555  
the provisions of this section. 556

(3) A physician or podiatrist who is not covered by medical 557  
malpractice insurance, but complies with division (B)(2) of this 558  
section, is not required to comply with division (A) of section 559  
4731.143 of the Revised Code. 560

(C) Subject to divisions (E) and (F)(3) of this section, 561  
health care workers who are volunteers are not liable in damages 562  
to any person or government entity in a tort or other civil 563  
action, including an action upon a medical, dental, chiropractic, 564  
optometric, or other health-related claim, for injury, death, or 565  
loss to person or property that allegedly arises from an action or 566  
omission of the health care worker in the provision at a ~~nonprofit~~ 567  
~~shelter or~~ health care facility to an indigent and uninsured 568  
person of medical, dental, or other health-related diagnosis, 569

care, or treatment, unless the action or omission constitutes 570  
willful or wanton misconduct. 571

(D) Subject to divisions (E) and (F)(3) of this section and 572  
section 3701.071 of the Revised Code, a ~~nonprofit shelter or~~ 573  
health care facility associated with a health care professional 574  
described in division (B)(1) of this section or a health care 575  
worker described in division (C) of this section ~~is, and a~~ 576  
nonprofit organization that refers patients to, or arranges for 577  
the provision of services by, a health care professional described 578  
in division (B)(1) of this section or a health care worker 579  
described in division (C) of this section are not liable in 580  
damages to any person or government entity in a tort or other 581  
civil action, including an action on a medical, dental, 582  
chiropractic, optometric, or other health-related claim, for 583  
injury, death, or loss to person or property that allegedly arises 584  
from an action or omission of the health care professional or 585  
worker in providing for the ~~shelter or~~ facility medical, dental, 586  
or other health-related diagnosis, care, or treatment to an 587  
indigent and uninsured person, unless the action or omission 588  
constitutes willful or wanton misconduct. 589

(E)(1) Except as provided in division (E)(2) of this section, 590  
the immunities provided by divisions (B), (C), and (D) of this 591  
section are not available to an individual or to a ~~nonprofit~~ 592  
~~shelter or~~ health care facility if, at the time of an alleged 593  
injury, death, or loss to person or property, the individuals 594  
involved are providing one of the following: 595

(a) Any medical, dental, or other health-related diagnosis, 596  
care, or treatment pursuant to a community service work order 597  
entered by a court under division (B) of section 2951.02 of the 598  
Revised Code or imposed by a court as a community control 599  
sanction; 600

(b) Performance of an operation; 601

(c) Delivery of a baby. 602

(2) Division (E)(1) of this section does not apply to an 603  
individual who provides, or a ~~nonprofit shelter or~~ health care 604  
facility at which the individual provides, diagnosis, care, or 605  
treatment that is necessary to preserve the life of a person in a 606  
medical emergency. 607

(F)(1) This section does not create a new cause of action or 608  
substantive legal right against a health care professional, health 609  
care worker, or ~~nonprofit shelter or~~ health care facility. 610

(2) This section does not affect any immunities from civil 611  
liability or defenses established by another section of the 612  
Revised Code or available at common law to which an individual or 613  
a ~~nonprofit shelter or~~ health care facility may be entitled in 614  
connection with the provision of emergency or other diagnosis, 615  
care, or treatment. 616

(3) This section does not grant an immunity from tort or 617  
other civil liability to an individual or a ~~nonprofit shelter or~~ 618  
health care facility for actions that are outside the scope of 619  
authority of health care professionals or health care workers. 620

(4) This section does not affect any legal responsibility of 621  
a health care professional or health care worker to comply with 622  
any applicable law of this state or rule of an agency of this 623  
state. 624

(5) This section does not affect any legal responsibility of 625  
a ~~nonprofit shelter or~~ health care facility to comply with any 626  
applicable law of this state, rule of an agency of this state, or 627  
local code, ordinance, or regulation that pertains to or regulates 628  
building, housing, air pollution, water pollution, sanitation, 629  
health, fire, zoning, or safety. 630

**Section 4.** That the existing version of section 2305.234 of 631

the Revised Code that is scheduled to take effect January 1, 2004, 632  
is hereby repealed. 633

**Section 5.** That Sections 3 and 4 of this act shall take 634  
effect January 1, 2004. 635

**Section 6.** Section 2305.234 of the Revised Code is presented 636  
in Section 3 of this act as a composite of the section as amended 637  
by both Am. Sub. H.B. 490 and Am. Sub. S.B. 281 of the 124th 638  
General Assembly. The General Assembly, applying the principle 639  
stated in division (B) of section 1.52 of the Revised Code that 640  
amendments are to be harmonized if reasonably capable of 641  
simultaneous operation, finds that the composite is the resulting 642  
version of the section in effect prior to the effective date of 643  
the section as presented in Section 3 of this act. 644