

As Passed by the Senate

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

Sub. S. B. No. 86

**Senators Stivers, Miller, Goodman, Jacobson, Randy Gardner, Coughlin,
Amstutz, Brady, Herington, Fedor, Wachtmann, Schuring, Mumper, Spada,
Harris, Nein, Carey, Schuler, DiDonato, Prentiss, Robert Gardner,
Armbruster, White**

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 4
additional health care facilities and locations 5
and to nonprofit health care referral 6
organizations, to increase the maximum allowable 7
income of individuals who may be served by 8
volunteers having immunity from liability, and to 9
amend the version of section 2305.234 of the 10
Revised Code that is scheduled to take effect 11
January 1, 2004, to continue the provisions of 12
this act on and after that effective date. 13

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

Section 1. That sections 2305.234, 3701.071, 4715.42, and 14
4731.295 of the Revised Code be amended to read as follows: 15

Sec. 2305.234. (A) As used in this section: 16

(1) "Chiropractic claim," "medical claim," and "optometric 17

claim" have the same meanings as in section 2305.113 of the Revised Code. 18
19

(2) "Dental claim" has the same meaning as in section 20
2305.113 of the Revised Code, except that it does not include any 21
claim arising out of a dental operation or any derivative claim 22
for relief that arises out of a dental operation. 23

(3) "Governmental health care program" has the same meaning 24
as in section 4731.65 of the Revised Code. 25

(4) "Health care facility or location" means a hospital, 26
clinic, ambulatory surgical facility, office of a health care 27
professional or associated group of health care professionals, 28
training institution for health care professionals, or any other 29
place where medical, dental, or other health-related diagnosis, 30
care, or treatment is provided to a person. 31

(5) "Health care professional" means any of the following who 32
provide medical, dental, or other health-related diagnosis, care, 33
or treatment: 34

(a) Physicians authorized under Chapter 4731. of the Revised 35
Code to practice medicine and surgery or osteopathic medicine and 36
surgery; 37

(b) Registered nurses, advanced practice nurses as defined in 38
section 2305.113 of the Revised Code, and licensed practical 39
nurses licensed under Chapter 4723. of the Revised Code; 40

(c) Physician assistants authorized to practice under Chapter 41
4730. of the Revised Code; 42

(d) Dentists and dental hygienists licensed under Chapter 43
4715. of the Revised Code; 44

(e) Physical therapists, physical therapist assistants, 45
occupational therapists, and occupational therapy assistants 46
licensed under Chapter 4755. of the Revised Code; 47

(f) Chiropractors licensed under Chapter 4734. of the Revised Code;	48 49
(g) Optometrists licensed under Chapter 4725. of the Revised Code;	50 51
(h) Podiatrists authorized under Chapter 4731. of the Revised Code to practice podiatry;	52 53
(i) Dietitians licensed under Chapter 4759. of the Revised Code;	54 55
(j) Pharmacists licensed under Chapter 4729. of the Revised Code;	56 57
(k) Emergency medical technicians-basic, emergency medical technicians-intermediate, and emergency medical technicians-paramedic, certified under Chapter 4765. of the Revised Code;	58 59 60 61
<u>(l) Respiratory care professionals licensed under Chapter 4761. of the Revised Code;</u>	62 63
<u>(m) Speech-language pathologists and audiologists licensed under Chapter 4753. of the Revised Code.</u>	64 65
(5) <u>(6)</u> "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.	66 67 68 69 70 71 72
(6) <u>(7)</u> "Indigent and uninsured person" means a person who meets all of the following requirements:	73 74
(a) The person's income is not greater than one <u>two</u> hundred fifty per cent of the current poverty line as defined by the United States office of management and budget and revised in	75 76 77

accordance with section 673(2) of the "Omnibus Budget
Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C. 9902, as
amended.

(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.

(c) Either of the following applies:

(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.

(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.

~~(7)(8) "Nonprofit health care referral organization" means an
entity that is not operated for profit and refers patients to, or
arranges for the provision of, health-related diagnosis, care, or
treatment by a health care professional or health care worker.~~

(9) "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.

~~(8) "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 section 3727.01 of the Revised Code, a facility licensed under Chapter 3721. of the Revised Code, or a medical facility that is operated for profit.~~

~~(9)~~(10) "Tort action" means a civil action for damages for injury, death, or loss to person or property other than a civil action for damages for a breach of contract or another agreement between persons or government entities.

~~(10)~~(11) "Volunteer" means an individual who provides any medical, dental, or other health-care related diagnosis, care, or treatment without the expectation of receiving and without receipt of any compensation or other form of remuneration from an indigent and uninsured person, another person on behalf of an indigent and uninsured person, any ~~shelter or health care facility or location,~~ any nonprofit health care referral organization, or any other person or government entity.

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

of medicine and other medical products, unless the action or 141
omission constitutes willful or wanton misconduct. 142

(2) To qualify for the immunity described in division (B)(1) 143
of this section, a health care professional shall do all of the 144
following prior to providing diagnosis, care, or treatment: 145

(a) Determine, in good faith, that the indigent and uninsured 146
person is mentally capable of giving informed consent to the 147
provision of the diagnosis, care, or treatment and is not subject 148
to duress or under undue influence; 149

(b) Inform the person of the provisions of this section; 150

(c) Obtain the informed consent of the person and a written 151
waiver, signed by the person or by another individual on behalf of 152
and in the presence of the person, that states that the person is 153
mentally competent to give informed consent and, without being 154
subject to duress or under undue influence, gives informed consent 155
to the provision of the diagnosis, care, or treatment subject to 156
the provisions of this section. 157

(3) A physician or podiatrist who is not covered by medical 158
malpractice insurance, but complies with division (B)(2) of this 159
section, is not required to comply with division (A) of section 160
4731.143 of the Revised Code. 161

(C) Subject to divisions ~~(E)~~(F) and ~~(F)~~(G)(3) of this 162
section, health care workers who are volunteers are not liable in 163
damages to any person or government entity in a tort or other 164
civil action, including an action upon a medical, dental, 165
chiropractic, optometric, or other health-related claim, for 166
injury, death, or loss to person or property that allegedly arises 167
from an action or omission of the health care worker in the 168
provision ~~at a nonprofit shelter or health care facility~~ to an 169
indigent and uninsured person of medical, dental, or other 170
health-related diagnosis, care, or treatment, unless the action or 171

omission constitutes willful or wanton misconduct. 172

(D) Subject to divisions (F) and (G)(3) of this section, a 173
nonprofit health care referral organization is not liable in 174
damages to any person or government entity in a tort or other 175
civil action, including an action on a medical, dental, 176
chiropractic, optometric, or other health-related claim, for 177
injury, death, or loss to person or property that allegedly arises 178
from an action or omission of the nonprofit health care referral 179
organization in referring indigent and uninsured persons to, or 180
arranging for the provision of, medical, dental, or other 181
health-related diagnosis, care, or treatment by a health care 182
professional described in division (B)(1) of this section or a 183
health care worker described in division (C) of this section, 184
unless the action or omission constitutes willful or wanton 185
misconduct. 186

(E) Subject to divisions ~~(E)~~(F) and ~~(F)~~(G)(3) of this section 187
and to the extent that the registration requirements of section 188
3701.071 of the Revised Code apply, a ~~nonprofit shelter or~~ health 189
care facility or location associated with a health care 190
professional described in division (B)(1) of this section ~~or,~~ a 191
health care worker described in division (C) of this section, or a 192
nonprofit health care referral organization described in division 193
(D) of this section is not liable in damages to any person or 194
government entity in a tort or other civil action, including an 195
action on a medical, dental, chiropractic, optometric, or other 196
health-related claim, for injury, death, or loss to person or 197
property that allegedly arises from an action or omission of the 198
health care professional or worker ~~in providing for or nonprofit~~ 199
health care referral organization relative to the ~~shelter or~~ 200
facility medical, dental, or other health-related diagnosis, care, 201
or treatment provided to an indigent and uninsured person on 202
behalf of or at the health care facility or location, unless the 203

action or omission constitutes willful or wanton misconduct. 204

~~(E)(F)~~(1) Except as provided in division ~~(E)(F)~~(2) of this 205
section, the immunities provided by divisions (B), (C), ~~and~~ (D), 206
and (E) of this section are not available to an individual or to a 207
nonprofit shelter a health care professional, health care worker, 208
nonprofit health care referral organization, or health care 209
facility or location if, at the time of an alleged injury, death, 210
or loss to person or property, the ~~individuals~~ health care 211
professionals or health care workers involved are providing one of 212
the following: 213

(a) Any medical, dental, or other health-related diagnosis, 214
care, or treatment pursuant to a community service work order 215
entered by a court under division (F) of section 2951.02 of the 216
Revised Code as a condition of probation or other suspension of a 217
term of imprisonment or imposed by a court as a community control 218
sanction pursuant to sections 2929.15 and 2929.17 of the Revised 219
Code. 220

(b) Performance of an operation. 221

(c) Delivery of a baby. 222

(2) Division ~~(E)(F)~~(1) of this section does not apply ~~to an~~ 223
~~individual who provides, or a nonprofit shelter or health care~~ 224
~~facility at which the individual~~ when a health care professional 225
or health care worker provides, medical, dental, or other 226
health-related diagnosis, care, or treatment that is necessary to 227
preserve the life of a person in a medical emergency. 228

~~(F)(G)~~(1) This section does not create a new cause of action 229
or substantive legal right against a health care professional, 230
health care worker, nonprofit health care referral organization, 231
or ~~nonprofit shelter or health care facility~~ or location. 232

(2) This section does not affect any immunities from civil 233
liability or defenses established by another section of the 234

Revised Code or available at common law to which ~~an individual or~~ 235
a ~~nonprofit shelter~~ health care professional, health care worker, 236
nonprofit health care referral organization, or health care 237
facility or location may be entitled in connection with the 238
provision of emergency or other medical, dental, or other 239
health-related diagnosis, care, or treatment. 240

(3) This section does not grant an immunity from tort or 241
other civil liability to ~~an individual or a nonprofit shelter~~ 242
health care professional, health care worker, nonprofit health 243
care referral organization, or health care facility or location 244
for actions that are outside the scope of authority of health care 245
professionals or health care workers. 246

(4) This section does not affect any legal responsibility of 247
a health care professional ~~or,~~ health care worker, or nonprofit 248
health care referral organization to comply with any applicable 249
law of this state or rule of an agency of this state. 250

(5) This section does not affect any legal responsibility of 251
a ~~nonprofit shelter or~~ health care facility or location to comply 252
with any applicable law of this state, rule of an agency of this 253
state, or local code, ordinance, or regulation that pertains to or 254
regulates building, housing, air pollution, water pollution, 255
sanitation, health, fire, zoning, or safety. 256

Sec. 3701.071. (A) As used in this section, ~~"nonprofit:~~ 257

(1) "Indigent and uninsured person" has the same meaning as 258
in section 2305.234 of the Revised Code. 259

(2) "Nonprofit shelter or health care facility" has the same 260
meaning as in section 2305.234 of the Revised Code means a 261
charitable nonprofit corporation organized and operated pursuant 262
to Chapter 1702. of the Revised Code, or any charitable 263
organization not organized and not operated for profit, that 264

provides shelter, health care services, or shelter and health care 265
services to indigent and uninsured persons. "Nonprofit shelter or 266
health care facility" does not include a hospital, as defined in 267
section 3727.01 of the Revised Code, a facility licensed under 268
Chapter 3721. of the Revised Code, or a medical facility that is 269
operated for profit. 270

(B) A nonprofit shelter or health care facility operating in 271
this state shall register on the first day of January each year 272
with the department of health. The immunity provided by division 273
(D)(E) of section 2305.234 of the Revised Code is not available to 274
a nonprofit shelter or health care facility until the shelter or 275
facility registers with the department in accordance with this 276
section. 277

(C) A nonprofit shelter or health care facility operating in 278
this state shall keep records of all patients who receive medical, 279
dental, or other health-related diagnosis, care, or treatment at 280
the shelter or facility. The department of health shall monitor 281
the quality of care provided to patients at nonprofit shelters or 282
health care facilities. The monitoring program may be conducted by 283
contracting with another entity or through any other method 284
authorized by law. The department may solicit and accept funds 285
from private sources to fund the monitoring program. 286

Sec. 4715.42. (A)(1) As used in this section, "indigent and 287
uninsured person," ~~"nonprofit shelter or health care facility,"~~ 288
and "operation" have the same meanings as in section 2305.234 of 289
the Revised Code. 290

(2) For the purposes of this section, a person shall be 291
considered retired from practice if the person's license has been 292
surrendered or allowed to expire with the intention of ceasing to 293
practice as a dentist or dental hygienist for remuneration. 294

(B) The state dental board may issue, without examination, a 295

volunteer's certificate to a person who is retired from practice 296
so that the person may provide dental services to indigent and 297
uninsured persons ~~at nonprofit shelters or health care facilities.~~ 298

(C) An application for a volunteer's certificate shall 299
include all of the following: 300

(1) A copy of the applicant's degree from dental college or 301
dental hygiene school. 302

(2) One of the following, as applicable: 303

(a) A copy of the applicant's most recent license to practice 304
dentistry or dental hygiene issued by a jurisdiction in the United 305
States that licenses persons to practice dentistry or dental 306
hygiene. 307

(b) A copy of the applicant's most recent license equivalent 308
to a license to practice dentistry or dental hygiene in one or 309
more branches of the United States armed services that the United 310
States government issued. 311

(3) Evidence of one of the following, as applicable: 312

(a) The applicant has maintained for at least ten years prior 313
to retirement full licensure in good standing in any jurisdiction 314
in the United States that licenses persons to practice dentistry 315
or dental hygiene. 316

(b) The applicant has practiced as a dentist or dental 317
hygienist in good standing for at least ten years prior to 318
retirement in one or more branches of the United States armed 319
services. 320

(4) A notarized statement from the applicant, on a form 321
prescribed by the board, that the applicant will not accept any 322
form of remuneration for any dental services rendered while in 323
possession of a volunteer's certificate. 324

(D) The holder of a volunteer's certificate may provide 325

dental services ~~only on the premises of a nonprofit shelter or~~ 326
~~health care facility and~~ only to indigent and uninsured persons. 327
The holder shall not accept any form of remuneration for providing 328
dental services while in possession of the certificate. Except in 329
a dental emergency, the holder shall not perform any operation. 330
The board may revoke a volunteer's certificate on receiving proof 331
satisfactory to the board that the holder has engaged in practice 332
in this state outside the scope of the holder's certificate or 333
that there are grounds for action against the person under section 334
4715.30 of the Revised Code. 335

(E)(1) A volunteer's certificate shall be valid for a period 336
of three years, and may be renewed upon the application of the 337
holder, unless the certificate was previously revoked under 338
division (D) of this section. The board shall maintain a register 339
of all persons who hold volunteer's certificates. The board shall 340
not charge a fee for issuing or renewing a certificate pursuant to 341
this section. 342

(2) To be eligible for renewal of a volunteer's certificate, 343
the holder of the certificate shall certify to the board 344
completion of sixty hours of continuing dental education that 345
meets the requirements of section 4715.141 of the Revised Code and 346
the rules adopted under that section, or completion of eighteen 347
hours of continuing dental hygiene education that meets the 348
requirements of section 4715.25 of the Revised Code and the rules 349
adopted under that section, as the case may be. The board may not 350
renew a certificate if the holder has not complied with the 351
appropriate continuing education requirements. ~~The nonprofit~~ 352
~~shelter or health care facility in~~ Any entity for which the holder 353
provides dental services may pay for or reimburse the holder for 354
any costs incurred in obtaining the required continuing education 355
credits. 356

(3) The board shall issue to each person who qualifies under 357

this section for a volunteer's certificate a wallet certificate 358
and a wall certificate that state that the certificate holder is 359
authorized to provide dental services pursuant to the laws of this 360
state. The holder shall keep the wallet certificate on the 361
holder's person while providing dental services and shall display 362
the wall certificate prominently ~~in the nonprofit shelter or~~ 363
~~health care facility~~ at the location where the holder primarily 364
practices. 365

(4) The holder of a volunteer's certificate issued pursuant 366
to this section is subject to the immunity provisions in section 367
2305.234 of the Revised Code. 368

(F) The board shall adopt rules in accordance with Chapter 369
119. of the Revised Code to administer and enforce this section. 370

Sec. 4731.295. (A)(1) As used in this section, "indigent and 371
uninsured person," ~~"nonprofit shelter or health care facility,"~~ 372
and "operation" have the same meanings as in section 2305.234 of 373
the Revised Code. 374

(2) For the purposes of this section, a person shall be 375
considered retired from practice if the person's license or 376
certificate has expired with the person's intention of ceasing to 377
practice medicine and surgery or osteopathic medicine and surgery 378
for remuneration. 379

(B) The state medical board may issue, without examination, a 380
volunteer's certificate to a person who is retired from practice 381
so that the person may provide medical services to indigent and 382
uninsured persons ~~at nonprofit shelters or health care facilities.~~ 383
The board shall deny issuance of a volunteer's certificate to a 384
person who is not qualified under this section to hold a 385
volunteer's certificate. 386

(C) An application for a volunteer's certificate shall 387

include all of the following:	388
(1) A copy of the applicant's degree of medicine or osteopathic medicine.	389 390
(2) One of the following, as applicable:	391
(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.	392 393 394 395 396
(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.	397 398 399 400
(3) Evidence of one of the following, as applicable:	401
(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.	402 403 404 405
(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.	406 407 408 409
(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.	410 411 412 413
(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	414 415 416 417

medical services while in possession of the certificate. Except in 418
a medical emergency, the holder shall not perform any operation or 419
deliver babies. The board may revoke a volunteer's certificate on 420
receiving proof satisfactory to the board that the holder has 421
engaged in practice in this state outside the scope of the 422
certificate. 423

(E)(1) A volunteer's certificate shall be valid for a period 424
of three years, unless earlier revoked under division (D) of this 425
section or pursuant to section 4731.22 of the Revised Code. A 426
volunteer's certificate may be renewed upon the application of the 427
holder. The board shall maintain a register of all persons who 428
hold volunteer's certificates. The board shall not charge a fee 429
for issuing or renewing a certificate pursuant to this section. 430

(2) To be eligible for renewal of a volunteer's certificate 431
the holder of the certificate shall certify to the board 432
completion of one hundred fifty hours of continuing medical 433
education that meets the requirements of section 4731.281 of the 434
Revised Code regarding certification by private associations and 435
approval by the board. The board may not renew a certificate if 436
the holder has not complied with the continuing medical education 437
requirements. ~~The nonprofit shelter or health care facility in~~ Any 438
entity for which the holder provides medical services may pay for 439
or reimburse the holder for any costs incurred in obtaining the 440
required continuing medical education credits. 441

(3) The board shall issue to each person who qualifies under 442
this section for a volunteer's certificate a wallet certificate 443
and a wall certificate that state that the certificate holder is 444
authorized to provide medical services pursuant to the laws of 445
this state. The holder shall keep the wallet certificate on the 446
holder's person while providing medical services and shall display 447
the wall certificate prominently ~~in the nonprofit shelter or~~ 448
~~health care facility~~ at the location where the holder primarily 449

practices. 450

(4) The holder of a volunteer's certificate issued pursuant 451
to this section is subject to the immunity provisions in section 452
2305.234 of the Revised Code. 453

(F) The board shall adopt rules in accordance with Chapter 454
119. of the Revised Code to administer and enforce this section. 455

Section 2. That existing sections 2305.234, 3701.071, 456
4715.42, and 4731.295 of the Revised Code are hereby repealed. 457

Section 3. That the version of section 2305.234 of the 458
Revised Code that is scheduled to take effect January 1, 2004, be 459
amended to read as follows: 460

Sec. 2305.234. (A) As used in this section: 461

(1) "Chiropractic claim," "medical claim," and "optometric 462
claim" have the same meanings as in section 2305.113 of the 463
Revised Code. 464

(2) "Dental claim" has the same meaning as in section 465
2305.113 of the Revised Code, except that it does not include any 466
claim arising out of a dental operation or any derivative claim 467
for relief that arises out of a dental operation. 468

(3) "Governmental health care program" has the same meaning 469
as in section 4731.65 of the Revised Code. 470

(4) "Health care facility or location" means a hospital, 471
clinic, ambulatory surgical facility, office of a health care 472
professional or associated group of health care professionals, 473
training institution for health care professionals, or any other 474
place where medical, dental, or other health-related diagnosis, 475
care, or treatment is provided to a person. 476

(5) "Health care professional" means any of the following who 477

provide medical, dental, or other health-related diagnosis, care,	478
or treatment:	479
(a) Physicians authorized under Chapter 4731. of the Revised	480
Code to practice medicine and surgery or osteopathic medicine and	481
surgery;	482
(b) Registered nurses, advanced practice nurses <u>as defined in</u>	483
<u>section 2305.113 of the Revised Code</u> , and licensed practical	484
nurses licensed under Chapter 4723. of the Revised Code;	485
(c) Physician assistants authorized to practice under Chapter	486
4730. of the Revised Code;	487
(d) Dentists and dental hygienists licensed under Chapter	488
4715. of the Revised Code;	489
(e) Physical therapists, <u>physical therapist assistants,</u>	490
<u>occupational therapists, and occupational therapy assistants</u>	491
licensed under Chapter 4755. of the Revised Code;	492
(f) Chiropractors licensed under Chapter 4734. of the Revised	493
Code;	494
(g) Optometrists licensed under Chapter 4725. of the Revised	495
Code;	496
(h) Podiatrists authorized under Chapter 4731. of the Revised	497
Code to practice podiatry;	498
(i) Dietitians licensed under Chapter 4759. of the Revised	499
Code;	500
(j) Pharmacists licensed under Chapter 4729. of the Revised	501
Code;	502
(k) Emergency medical technicians-basic, emergency medical	503
technicians-intermediate, and emergency medical	504
technicians-paramedic, certified under Chapter 4765. of the	505
Revised Code;	506

<u>(1) Respiratory care professionals licensed under Chapter</u>	507
<u>4761. of the Revised Code;</u>	508
<u>(m) Speech-language pathologists and audiologists licensed</u>	509
<u>under Chapter 4753. of the Revised Code.</u>	510
(5) <u>(6)</u> "Health care worker" means a person other than a	511
health care professional who provides medical, dental, or other	512
health-related care or treatment under the direction of a health	513
care professional with the authority to direct that individual's	514
activities, including medical technicians, medical assistants,	515
dental assistants, orderlies, aides, and individuals acting in	516
similar capacities.	517
(6) <u>(7)</u> "Indigent and uninsured person" means a person who	518
meets all of the following requirements:	519
(a) The person's income is not greater than one <u>two</u> hundred	520
fifty per cent of the current poverty line as defined by the	521
United States office of management and budget and revised in	522
accordance with section 673(2) of the "Omnibus Budget	523
Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C. 9902, as	524
amended.	525
(b) The person is not eligible to receive medical assistance	526
under Chapter 5111., disability assistance medical assistance	527
under Chapter 5115. of the Revised Code, or assistance under any	528
other governmental health care program.	529
(c) Either of the following applies:	530
(i) The person is not a policyholder, certificate holder,	531
insured, contract holder, subscriber, enrollee, member,	532
beneficiary, or other covered individual under a health insurance	533
or health care policy, contract, or plan.	534
(ii) The person is a policyholder, certificate holder,	535
insured, contract holder, subscriber, enrollee, member,	536

beneficiary, or other covered individual under a health insurance 537
or health care policy, contract, or plan, but the insurer, policy, 538
contract, or plan denies coverage or is the subject of insolvency 539
or bankruptcy proceedings in any jurisdiction. 540

~~(7)(8) "Nonprofit health care referral organization" means an 541
entity that is not operated for profit and refers patients to, or 542
arranges for the provision of, health-related diagnosis, care, or 543
treatment by a health care professional or health care worker. 544~~

(9) "Operation" means any procedure that involves cutting or 545
otherwise infiltrating human tissue by mechanical means, including 546
surgery, laser surgery, ionizing radiation, therapeutic 547
ultrasound, or the removal of intraocular foreign bodies. 548
"Operation" does not include the administration of medication by 549
injection, unless the injection is administered in conjunction 550
with a procedure infiltrating human tissue by mechanical means 551
other than the administration of medicine by injection. 552

~~(8) "Nonprofit shelter or health care facility" means a 553
charitable nonprofit corporation organized and operated pursuant 554
to Chapter 1702. of the Revised Code, or any charitable 555
organization not organized and not operated for profit, that 556
provides shelter, health care services, or shelter and health care 557
services to indigent and uninsured persons, except that "shelter 558
or health care facility" does not include a hospital as defined in 559
section 3727.01 of the Revised Code, a facility licensed under 560
Chapter 3721. of the Revised Code, or a medical facility that is 561
operated for profit. 562~~

(9)(10) "Tort action" means a civil action for damages for 563
injury, death, or loss to person or property other than a civil 564
action for damages for a breach of contract or another agreement 565
between persons or government entities. 566

~~(10)(11)~~ (11) "Volunteer" means an individual who provides any 567

medical, dental, or other health-care related diagnosis, care, or 568
treatment without the expectation of receiving and without receipt 569
of any compensation or other form of remuneration from an indigent 570
and uninsured person, another person on behalf of an indigent and 571
uninsured person, any ~~shelter or~~ health care facility or location, 572
any nonprofit health care referral organization, or any other 573
person or government entity. 574

~~(11)~~(12) "Community control sanction" has the same meaning as 575
in section 2929.01 of the Revised Code. 576

(B)(1) Subject to divisions ~~(E)~~(F) and ~~(F)~~(G)(3) of this 577
section, a health care professional who is a volunteer and 578
complies with division (B)(2) of this section is not liable in 579
damages to any person or government entity in a tort or other 580
civil action, including an action on a medical, dental, 581
chiropractic, optometric, or other health-related claim, for 582
injury, death, or loss to person or property that allegedly arises 583
from an action or omission of the volunteer in the provision ~~at a~~ 584
~~nonprofit shelter or health care facility~~ to an indigent and 585
uninsured person of medical, dental, or other health-related 586
diagnosis, care, or treatment, including the provision of samples 587
of medicine and other medical products, unless the action or 588
omission constitutes willful or wanton misconduct. 589

(2) To qualify for the immunity described in division (B)(1) 590
of this section, a health care professional shall do all of the 591
following prior to providing diagnosis, care, or treatment: 592

(a) Determine, in good faith, that the indigent and uninsured 593
person is mentally capable of giving informed consent to the 594
provision of the diagnosis, care, or treatment and is not subject 595
to duress or under undue influence; 596

(b) Inform the person of the provisions of this section; 597

(c) Obtain the informed consent of the person and a written 598

waiver, signed by the person or by another individual on behalf of 599
and in the presence of the person, that states that the person is 600
mentally competent to give informed consent and, without being 601
subject to duress or under undue influence, gives informed consent 602
to the provision of the diagnosis, care, or treatment subject to 603
the provisions of this section. 604

(3) A physician or podiatrist who is not covered by medical 605
malpractice insurance, but complies with division (B)(2) of this 606
section, is not required to comply with division (A) of section 607
4731.143 of the Revised Code. 608

(C) Subject to divisions ~~(E)~~(F) and ~~(F)~~(G)(3) of this 609
section, health care workers who are volunteers are not liable in 610
damages to any person or government entity in a tort or other 611
civil action, including an action upon a medical, dental, 612
chiropractic, optometric, or other health-related claim, for 613
injury, death, or loss to person or property that allegedly arises 614
from an action or omission of the health care worker in the 615
provision ~~at a nonprofit shelter or health care facility~~ to an 616
indigent and uninsured person of medical, dental, or other 617
health-related diagnosis, care, or treatment, unless the action or 618
omission constitutes willful or wanton misconduct. 619

(D) Subject to divisions (F) and (G)(3) of this section, a 620
nonprofit health care referral organization is not liable in 621
damages to any person or government entity in a tort or other 622
civil action, including an action on a medical, dental, 623
chiropractic, optometric, or other health-related claim, for 624
injury, death, or loss to person or property that allegedly arises 625
from an action or omission of the nonprofit health care referral 626
organization in referring indigent and uninsured persons to, or 627
arranging for the provision of, medical, dental, or other 628
health-related diagnosis, care, or treatment by a health care 629
professional described in division (B)(1) of this section or a 630

health care worker described in division (C) of this section, 631
unless the action or omission constitutes willful or wanton 632
misconduct. 633

(E) Subject to divisions ~~(E)~~(F) and ~~(F)~~(G)(3) of this section 634
and to the extent that the registration requirements of section 635
3701.071 of the Revised Code apply, a ~~nonprofit shelter or~~ health 636
care facility or location associated with a health care 637
professional described in division (B)(1) of this section or a 638
health care worker described in division (C) of this section, or a 639
nonprofit health care referral organization described in division 640
(D) of this section is not liable in damages to any person or 641
government entity in a tort or other civil action, including an 642
action on a medical, dental, chiropractic, optometric, or other 643
health-related claim, for injury, death, or loss to person or 644
property that allegedly arises from an action or omission of the 645
health care professional or worker ~~in providing for~~ or nonprofit 646
health care referral organization relative to the shelter or 647
~~facility~~ medical, dental, or other health-related diagnosis, care, 648
or treatment provided to an indigent and uninsured person on 649
behalf of or at the health care facility or location, unless the 650
action or omission constitutes willful or wanton misconduct. 651

~~(E)~~(F)(1) Except as provided in division ~~(E)~~(F)(2) of this 652
section, the immunities provided by divisions (B), (C), ~~and~~ (D), 653
and (E) of this section are not available to ~~an individual or to a~~ 654
~~nonprofit shelter~~ a health care professional, health care worker, 655
nonprofit health care referral organization, or health care 656
facility or location if, at the time of an alleged injury, death, 657
or loss to person or property, the ~~individuals~~ health care 658
professionals or health care workers involved are providing one of 659
the following: 660

(a) Any medical, dental, or other health-related diagnosis, 661
care, or treatment pursuant to a community service work order 662

entered by a court under division (B) of section 2951.02 of the Revised Code or imposed by a court as a community control sanction;

(b) Performance of an operation;

(c) Delivery of a baby.

(2) Division ~~(E)~~(F)(1) of this section does not apply to ~~an individual who provides, or a nonprofit shelter or health care facility at which the individual~~ when a health care professional or health care worker provides, medical, dental, or other health-related diagnosis, care, or treatment that is necessary to preserve the life of a person in a medical emergency.

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

(2) This section does not affect any immunities from civil liability or defenses established by another section of the Revised Code or available at common law to which ~~an individual or a nonprofit shelter~~ health care professional, health care worker, nonprofit health care referral organization, or health care facility or location may be entitled in connection with the provision of emergency or other medical, dental, or other health-related diagnosis, care, or treatment.

(3) This section does not grant an immunity from tort or other civil liability to ~~an individual or a nonprofit shelter~~ health care professional, health care worker, nonprofit health care referral organization, or health care facility or location for actions that are outside the scope of authority of health care professionals or health care workers.

(4) This section does not affect any legal responsibility of a health care professional ~~or,~~ health care worker, or nonprofit

health care referral organization to comply with any applicable 694
law of this state or rule of an agency of this state. 695

(5) This section does not affect any legal responsibility of 696
a ~~nonprofit shelter or~~ health care facility or location to comply 697
with any applicable law of this state, rule of an agency of this 698
state, or local code, ordinance, or regulation that pertains to or 699
regulates building, housing, air pollution, water pollution, 700
sanitation, health, fire, zoning, or safety. 701

Section 4. That the existing version of section 2305.234 of 702
the Revised Code that is scheduled to take effect January 1, 2004, 703
is hereby repealed. 704

Section 5. That Sections 3 and 4 of this act shall take 705
effect January 1, 2004. 706

Section 6. Section 2305.234 of the Revised Code is presented 707
in Section 3 of this act as a composite of the section as amended 708
by both Am. Sub. H.B. 490 and Am. Sub. S.B. 281 of the 124th 709
General Assembly. The General Assembly, applying the principle 710
stated in division (B) of section 1.52 of the Revised Code that 711
amendments are to be harmonized if reasonably capable of 712
simultaneous operation, finds that the composite is the resulting 713
version of the section in effect prior to the effective date of 714
the section as presented in Section 3 of this act. 715