AN ACT

relating to the liability of certain health care providers.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 84.003, Civil Practice and Remedies Code, is amended by amending Subdivision (2) and adding Subdivision (5) to read as follows:

(2) "Volunteer" means a person rendering services for or on behalf of a charitable organization who does not receive compensation in excess of reimbursement for expenses incurred. The term includes a person serving as a director, officer, trustee, or direct service volunteer, including a volunteer health care provider.

(5) "Volunteer health care provider" means an individual who voluntarily provides health care services without compensation or expectation of compensation and who is:

(A) an individual who is licensed to practice medicine under the Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes);

(B) a retired physician who is eligible to provide health care services, including a retired physician who is licensed but exempt from paying the required annual registration fee under Section 3.01(g), Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes);

(C) a physician assistant licensed under the Physician Assistant Licensing Act (Article 4495b-1, Vernon's Texas Civil Statutes) or a retired physician assistant who is eligible to provide health care services under the law of this state;

(D) a registered nurse, including an advanced nurse practitioner, licensed under Chapter 7, Title 71, Revised Statutes, or a retired registered nurse, including a retired advanced nurse practitioner, who is eligible to provide health care services under the law of this state;
(E) a licensed vocational nurse licensed under Chapter 118, Acts of the 52nd Legislature, Regular Session, 1951 (Article 4528c, Vernon's Texas Civil Statutes), or a retired licensed vocational nurse who is eligible to provide health care services under the law of this state;

(F) a pharmacist licensed under the Texas Pharmacy Act (Article 4542a-1, Vernon's Texas Civil Statutes) or a retired pharmacist who is eligible to provide health care services under the law of this state;

(G) a podiatrist licensed under Chapter 11, Title 71, Revised Statutes, or a retired podiatrist who is eligible to provide health care services under the law of this state;

(H) a dentist licensed under the Dental Practice Act (Chapter 9, Title 71, Revised Statutes) or a retired dentist who is eligible to provide health care services under the law of this state;

(I) a dental hygienist licensed under Chapter 475, Acts of the 52nd Legislature, Regular Session, 1951 (Article 4551e, Vernon's Texas Civil Statutes), or a retired dental hygienist who is eligible to provide health care services under the law of this state; or

(J) an optometrist or therapeutic optometrist licensed under the Texas Optometry Act (Article 4552-1.01 et seq., Vernon's Texas Civil Statutes) or a retired optometrist or therapeutic optometrist who is eligible to provide health care services under the law of this state.

SECTION 2. Section 84.004, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 84.004. VOLUNTEER LIABILITY. (a) Except as provided by Subsection (d) [or (e) of this section] and Section 84.007 [of this Act], a volunteer who is serving as an officer, director, or trustee of a charitable organization is immune from civil liability for any act or omission resulting in death, damage, or injury if the volunteer was acting in the course and scope of his duties or functions as an officer, director, or trustee within the organization.
(b) Except as provided by Subsection (c) or (d) [of this section] and Section 84.007 [of this Act], a volunteer who is serving as a direct service volunteer of a charitable organization is immune from civil liability for any act or omission resulting in death, damage, or injury if the volunteer was acting in good faith and in the course and scope of his duties or functions within the organization.

(c) Except as provided by Subsection (d) and Section 84.007, a volunteer health care provider who is serving as a direct service volunteer of a charitable organization is immune from civil liability for any act or omission resulting in death, damage, or injury to a patient if:

1. the volunteer was acting in good faith and in the course and scope of the volunteer's duties or functions within the organization;

2. the volunteer commits the act or omission in the course of providing health care services to the patient;

3. the services provided are within the scope of the license of the volunteer; and

4. before the volunteer provides health care services, the patient or, if the patient is a minor or is otherwise legally incompetent, the patient's parent, managing conservator, legal guardian, or other person with legal responsibility for the care of the patient signs a written statement that acknowledges:
   
   A) that the volunteer is providing care that is not administered for or in expectation of compensation; and

   B) the limitations on the recovery of damages from the volunteer in exchange for receiving the health care services.

(d) A volunteer of a charitable organization is liable to a person for death, damage, or injury to the person or his property proximately caused by any act or omission arising from the operation or use of any motor-driven equipment, including an airplane, to the extent insurance coverage is required by Chapter 601, Transportation Code, and to the extent of any existing insurance coverage applicable to the act or omission.
The provisions of this section apply only to the liability of volunteers and do not apply to the liability of the organization for acts or omissions of volunteers.

SECTION 3. This Act takes effect September 1, 1999, and applies only to a cause of action that accrues on or after that date. An action that accrued before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

President of the Senate  Speaker of the House

I hereby certify that S.B. No. 215 passed the Senate on April 30, 1999, by a viva-voce vote.

Secretary of the Senate

I hereby certify that S.B. No. 215 passed the House on May 23, 1999, by a non-record vote.

Chief Clerk of the House

Approved: