

ASSEMBLY BILL NO. 4—ASSEMBLYMAN MABEY

PREFILED DECEMBER 12, 2006

Referred to Committee on Judiciary

SUMMARY—Revises provisions providing immunity from civil liability for certain medical facilities and certain medical professionals who render certain emergency care. (BDR 3-450)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

~

EXPLANATION – Matter in **bolded italics** is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to civil actions; revising certain provisions providing immunity from civil liability for certain medical facilities and certain medical professionals who render certain emergency care or assistance under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides immunity from civil liability to certain medical professionals who provide certain services at the scene of an emergency or during the transportation of a person from the scene of an emergency. (Subsection 1 of NRS 41.505) **Sections 2 and 5** of this bill move that immunity into a new separate section.

Existing law provides immunity from civil liability to certain medical professionals who provide emergency obstetrical care or assistance to a pregnant woman during the birth of a child and the medical facilities in which such care or assistance is rendered for damages caused by the care or assistance if certain conditions are satisfied. (Subsection 3 of NRS 41.505) **Sections 3 and 5** of this bill move that immunity into a new separate section.

Existing law provides immunity from civil liability to physicians and nurses who render emergency care or assistance gratuitously and in good faith in an emergency in certain circumstances. An exception is included in that provision so that it does not apply if the provision concerning immunity to physicians who provide obstetrical care or assistance to a pregnant woman during labor or the delivery of a child applies. **Section 5** of this bill removes that exception and specifies that the immunity applies to emergency obstetrical care or assistance which is provided gratuitously and in good faith.



* A B 4 R 1 *

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 41 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. 1. *Any physician or registered nurse who in good faith gives instruction or provides supervision to an emergency medical attendant or registered nurse, at the scene of an emergency or while transporting an ill or injured person from the scene of an emergency, is not liable for any civil damages as a result of any act or omission, not amounting to gross negligence, in giving that instruction or providing that supervision.*

2. *An emergency medical attendant, registered nurse or licensed practical nurse who obeys an instruction given by a physician, registered nurse or licensed practical nurse and thereby renders emergency care, at the scene of an emergency or while transporting an ill or injured person from the scene of an emergency, is not liable for any civil damages as a result of any act or omission, not amounting to gross negligence, in rendering that emergency care.*

Sec. 3. 1. *Any person licensed under the provisions of chapter 630, 632 or 633 of NRS and any person who holds an equivalent license issued by another state who renders emergency obstetrical care or assistance to a pregnant woman during labor or the delivery of the child is not liable for any civil damages as a result of any act or omission by him in rendering that care or assistance if:*

(a) The care or assistance is rendered in good faith and in a manner not amounting to gross negligence or reckless, willful or wanton conduct;

(b) The person has not previously provided prenatal or obstetrical care to the woman; and

(c) The damages are reasonably related to or primarily caused by a lack of prenatal care received by the woman.

2. *A licensed medical facility in which such care or assistance is rendered is not liable for any civil damages as a result of any act or omission by the person in rendering that care or assistance if that person is not liable for any civil damages pursuant to subsection 1 and the actions of the medical facility relating to the rendering of that care or assistance do not amount to gross negligence or reckless, willful or wanton conduct.*

Sec. 4. NRS 41.503 is hereby amended to read as follows:

41.503 1. Except as otherwise provided in subsection 2 and NRS 41.505 **H** and sections 2 and 3 of this act:



* A B 4 R 1 *

(a) A hospital which has been designated as a center for the treatment of trauma by the Administrator of the Health Division of the Department of Health and Human Services pursuant to NRS 450B.237 and which is a nonprofit organization;

(b) A hospital other than a hospital described in paragraph (a);

(c) An employee of a hospital described in paragraph (a) or (b) who renders care or assistance to patients;

(d) A physician or dentist licensed under the provisions of chapter 630, 631 or 633 of NRS who renders care or assistance in a hospital described in paragraph (a) or (b), whether or not the care or assistance was rendered gratuitously or for a fee; and

(e) A physician or dentist licensed under the provisions of chapter 630, 631 or 633 of NRS:

(1) Whose liability is not otherwise limited pursuant to NRS 41.032 to 41.0337, inclusive; and

(2) Who renders care or assistance in a hospital of a governmental entity that has been designated as a center for the treatment of trauma by the Administrator of the Health Division of the Department of Health and Human Services pursuant to NRS 450B.237, whether or not the care or assistance was rendered gratuitously or for a fee,

↳ that in good faith renders care or assistance necessitated by a traumatic injury demanding immediate medical attention, for which the patient enters the hospital through its emergency room or trauma center, may not be held liable for more than \$50,000 in civil damages, exclusive of interest computed from the date of judgment, to or for the benefit of any claimant arising out of any act or omission in rendering that care or assistance if the care or assistance is rendered in good faith and in a manner not amounting to gross negligence or reckless, willful or wanton conduct.

2. The limitation on liability provided pursuant to this section does not apply to any act or omission in rendering care or assistance:

(a) Which occurs after the patient is stabilized and is capable of receiving medical treatment as a nonemergency patient, unless surgery is required as a result of the emergency within a reasonable time after the patient is stabilized, in which case the limitation on liability provided by subsection 1 applies to any act or omission in rendering care or assistance which occurs before the stabilization of the patient following the surgery; or

(b) Unrelated to the original traumatic injury.

3. If:

(a) A physician or dentist provides follow-up care to a patient to whom he rendered care or assistance pursuant to subsection 1;



* A B 4 R 1 *

(b) A medical condition arises during the course of the follow-up care that is directly related to the original traumatic injury for which care or assistance was rendered pursuant to subsection 1; and

(c) The patient files an action for malpractice based on the medical condition that arises during the course of the follow-up care,

↳ there is a rebuttable presumption that the medical condition was the result of the original traumatic injury and that the limitation on liability provided by subsection 1 applies with respect to the medical condition that arises during the course of the follow-up care.

4. For the purposes of this section:

(a) "Reckless, willful or wanton conduct," as it applies to a person to whom subsection 1 applies, shall be deemed to be that conduct which the person knew or should have known at the time he rendered the care or assistance would be likely to result in injury so as to affect the life or health of another person, taking into consideration to the extent applicable:

(1) The extent or serious nature of the prevailing circumstances;

(2) The lack of time or ability to obtain appropriate consultation;

(3) The lack of a prior medical relationship with the patient;

(4) The inability to obtain an appropriate medical history of the patient; and

(5) The time constraints imposed by coexisting emergencies.

(b) "Traumatic injury" means any acute injury which, according to standardized criteria for triage in the field, involves a significant risk of death or the precipitation of complications or disabilities.

Sec. 5. NRS 41.505 is hereby amended to read as follows:

~~41.505 1. [Any physician or registered nurse who in good faith gives instruction or provides supervision to an emergency medical attendant or registered nurse, at the scene of an emergency or while transporting an ill or injured person from the scene of an emergency, is not liable for any civil damages as a result of any act or omission, not amounting to gross negligence, in giving that instruction or providing that supervision. An emergency medical attendant, registered nurse or licensed practical nurse who obeys an instruction given by a physician, registered nurse or licensed practical nurse and thereby renders emergency care, at the scene of an emergency or while transporting an ill or injured person from the scene of an emergency, is not liable for any civil damages as a result of any act or omission, not amounting to gross negligence, in rendering that emergency care.~~

~~— 2. Except as otherwise provided in subsection 3, any~~ Any person licensed under the provisions of chapter 630, 632 or 633 of



* A B 4 R 1 *

1 NRS and any person who holds an equivalent license issued by
2 another state, who renders emergency care or assistance, *including,*
3 *without limitation, emergency obstetrical care or assistance,* in an
4 emergency, gratuitously and in good faith, is not liable for any civil
5 damages as a result of any act or omission, not amounting to gross
6 negligence, by him in rendering the emergency care or assistance or
7 as a result of any failure to act, not amounting to gross negligence,
8 to provide or arrange for further medical treatment for the injured or
9 ill person. This section does not excuse a physician or nurse from
10 liability for damages resulting from his acts or omissions which
11 occur in a licensed medical facility relative to any person with
12 whom there is a preexisting relationship as a patient.

13 ~~[3. Any person licensed under the provisions of chapter 630,~~
14 ~~632 or 633 of NRS and any person who holds an equivalent license~~
15 ~~issued by another state who renders emergency obstetrical care or~~
16 ~~assistance to a pregnant woman during labor or the delivery of the~~
17 ~~child is not liable for any civil damages as a result of any act or~~
18 ~~omission by him in rendering that care or assistance if:~~

19 ~~—(a) The care or assistance is rendered in good faith and in a~~
20 ~~manner not amounting to gross negligence or reckless, willful or~~
21 ~~wanton conduct;~~

22 ~~—(b) The person has not previously provided prenatal or~~
23 ~~obstetrical care to the woman; and~~

24 ~~—(c) The damages are reasonably related to or primarily caused~~
25 ~~by a lack of prenatal care received by the woman.~~

26 ~~➔ A licensed medical facility in which such care or assistance is~~
27 ~~rendered is not liable for any civil damages as a result of any act or~~
28 ~~omission by the person in rendering that care or assistance if that~~
29 ~~person is not liable for any civil damages pursuant to this subsection~~
30 ~~and the actions of the medical facility relating to the rendering of~~
31 ~~that care or assistance do not amount to gross negligence or~~
32 ~~reckless, willful or wanton conduct.]~~

33 ~~[4.]~~ 2. Any person licensed under the provisions of chapter
34 630, 632 or 633 of NRS and any person who holds an equivalent
35 license issued by another state who:

36 (a) Is retired or otherwise does not practice on a full-time basis;
37 and

38 (b) Gratuitously and in good faith, renders medical care within
39 the scope of his license to an indigent person,

40 ➔ is not liable for any civil damages as a result of any act or
41 omission by him, not amounting to gross negligence or reckless,
42 willful or wanton conduct, in rendering that care.

43 ~~[5.]~~ 3. Any person licensed to practice medicine under the
44 provisions of chapter 630 or 633 of NRS or licensed to practice
45 dentistry under the provisions of chapter 631 of NRS who renders



* A B 4 R 1 *

1 care or assistance to a patient for a governmental entity or a
2 nonprofit organization is not liable for any civil damages as a result
3 of any act or omission by him in rendering that care or assistance if
4 the care or assistance is rendered gratuitously, in good faith and in a
5 manner not amounting to gross negligence or reckless, willful or
6 wanton conduct.

7 ~~{6-}~~ 4. As used in this section:

8 (a) "Emergency medical attendant" means a person licensed as
9 an attendant or certified as an emergency medical technician,
10 intermediate emergency medical technician or advanced emergency
11 medical technician pursuant to chapter 450B of NRS.

12 (b) "Gratuitously" has the meaning ascribed to it in NRS 41.500.

13 **Sec. 6.** The provisions of this act apply only to a cause of
14 action that accrues on or after October 1, 2007.

