

## SUMMARY OF SENATE BILL 86

On December 11, 2003 the Ohio General Assembly passed legislation (Senate Bill 86) which extends the immunity provided under Ohio's Good Samaritan Statute to treatment provided by volunteer health care professionals regardless of the setting in which the treatment is provided. The following Q & A relays important facts about what Senate Bill 86 will do for physicians providing voluntary health care services to indigent and uninsured individuals.\*

***Q: What was Ohio's Good Samaritan Law prior to the passage of Senate Bill 86?***

**A: Prior to the passage of Senate Bill 86, Ohio law only granted immunity to volunteer health care professionals when treatment was provided in a not-for-profit shelter or health care facility. Essentially, immunity was only available when a volunteer physician would render care in a "free-clinic" setting.**

***Q: How does Senate Bill 86 change Ohio's Good Samaritan Law?***

**A: Senate Bill 86 grants immunity to volunteer health care professionals regardless of the setting in which the voluntary care is provided. Consequently, a physician can provide free care to an indigent and uninsured individual in his/her own office and immunity will apply, as long as the physician qualifies as a "volunteer", the care is rendered to an indigent and uninsured patient, and the physician obtains the patient's written informed consent.**

***Q: How does a physician qualify as a volunteer?***

**A: A physician qualifies as a volunteer if he/she agrees to provide medical care to the patient without the expectation of receiving and without receiving compensation for that care.**

***Q: What qualifies a patient as indigent and uninsured?***

**A: Essentially, "indigent and uninsured" refers to an individual who has an income of less than or equal to two hundred percent of the poverty line, does not have health insurance and is not eligible for Medicare or Medicaid.**

***Q: What are the elements of a valid informed consent?***

**A: In order for immunity to apply, a volunteer physician must obtain the informed consent of the indigent and uninsured patient. To obtain a valid informed consent, Ohio's Good Samaritan Statute requires the physician to take the following steps:**

---

\* This document is intended to provide general guidance with regard to the provisions of Senate Bill 86 and Ohio's Good Samaritan Statute. It is not intended to constitute formal legal advice regarding how compliance with Senate Bill 86 or the Good Samaritan Statute can be achieved.

- Determine, in good faith, that the patient is mentally capable of giving informed consent to the provision of the diagnosis, care, or treatment and is not subject to duress or undue influence; and
- Have the patient, or an individual on behalf of the patient, sign a written waiver stating that the patient is mentally capable of giving informed consent, is not under duress or undue influence, and consents to the provision of the diagnosis, care and treatment with full knowledge that he/she cannot file a lawsuit against the physician for any injury that occurs as a result of the diagnosis, care and treatment provided.

***Q: Are there any limits to the immunity provided under the Good Samaritan Statute?***

**A: The immunity provided under the Good Samaritan Statute will not apply to the extent that the diagnosis, treatment or care provided by a physician rises to the level of wanton or willful misconduct. Also, Good Samaritan immunity generally does not apply when the physician is engaging in the performance of an operation or the delivery of a baby.**

***Q: Can retired physicians receive immunity when providing voluntary care?***

**A: Yes. A retired physician may apply for and receive a volunteer's certificate from the Ohio State Medical Board, which enables the physician to provide volunteer medical services to indigent and uninsured individuals. Upon satisfying the informed consent and other requirements previously mentioned, a retired physician is entitled to the same immunity granted to practicing physicians when providing voluntary care to indigent and uninsured individuals.**