

1 **PLEASE NOTE: THE LINE NUMBERS ARE NOT THE SAME AS**
2 **IN THE ORIGINAL BILL THIS WAS COPIED FROM, WHICH IS**
3 **ON PAGES 306 THROUGH 314. BILL SISSON 3/5/2010**
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6 SECTION 102. REPEALER 74 O.S. 2001, Section 840-2.27C, as
7 last amended by Section 5, Chapter 12, O.S.L. 2009 (74 O.S. Supp.
8 2009, Section 840-2.27C), is hereby repealed.

9 SECTION 103. AMENDATORY Section 34, Chapter 368, O.S.L.
10 2004, as last amended by Section 2, Chapter 255, O.S.L. 2009 (76
11 O.S. Supp. 2009, Section 32), is amended to read as follows:

12 Section 32. A. This section shall be known and may be cited as
13 the "Volunteer Professional Services Immunity Act".

14 B. Any volunteer professional or volunteer health practitioner
15 and any organization that arranges for the care given by the
16 volunteer professional shall be immune from liability in a civil
17 action on the basis of any act or omission of the volunteer
18 professional or volunteer health practitioner resulting in damage or
19 injury if:

20 1. The volunteer professional or volunteer health practitioner
21 services were provided at a free clinic where neither the
22 professional or practitioner nor the clinic receives any kind of
23 compensation for any treatment provided at the clinic;
24

1 2. The volunteer professional or volunteer health practitioner
2 was acting in good faith and, if licensed, the services provided
3 were within the scope of the license of the volunteer professional
4 or volunteer health practitioner;

5 3. The volunteer professional or volunteer health practitioner
6 commits the act or omission in the course of providing services; and

7 4. The damage or injury was not caused by gross negligence or
8 willful and wanton misconduct by the volunteer professional or
9 volunteer health practitioner; ~~and~~

10 ~~5. Before the volunteer professional or volunteer health
11 practitioner provides services, the volunteer professional and the
12 person receiving the services or, if that person is a minor or
13 otherwise legally incapacitated, the person's parent, conservator,
14 legal guardian, or other person with legal responsibility for the
15 care of the person signs a written statement that acknowledges:~~

16 ~~a. that the volunteer professional or volunteer health
17 practitioner providing services has no expectation of
18 and will receive no compensation of any kind for
19 providing the services, and~~

20 ~~b. an understanding of the limitations on the recovery of
21 damages from the volunteer professional or volunteer
22 health practitioner in exchange for receiving free
23 services.~~

24

1 C. In the event the volunteer professional or volunteer health
2 practitioner refers the patient covered by this section to another
3 volunteer professional or volunteer health practitioner for
4 additional treatment, the referred volunteer professional or
5 volunteer health practitioner shall be subject to the provisions of
6 this section if:

7 1. The referred volunteer professional or volunteer health
8 practitioner provides services without receiving any compensation
9 for the treatment;

10 2. The referred volunteer professional or volunteer health
11 practitioner was acting in good faith and, if licensed, the services
12 provided were within the scope of the license of the referred
13 volunteer professional or volunteer health practitioner;

14 3. The referred volunteer professional or volunteer health
15 practitioner commits the act or omission in the course of providing
16 services; and

17 4. The damage or injury was not caused by gross negligence or
18 willful and wanton misconduct by the referred volunteer professional
19 or volunteer health practitioner; ~~and~~

20 ~~5. Before the referred volunteer professional or volunteer~~
21 ~~health practitioner provides services, the referred volunteer~~
22 ~~professional or volunteer health practitioner and the person~~
23 ~~receiving the services or, if that person is a minor or otherwise~~
24 ~~legally incapacitated, the person's parent, conservator, legal~~

1 ~~guardian, or other person with legal responsibility for the care of~~
2 ~~the person signs a written statement that acknowledges:~~

3 ~~a. that the referred volunteer professional or volunteer~~
4 ~~health practitioner providing services has no~~
5 ~~expectation of and will receive no compensation of any~~
6 ~~kind for providing the services, and~~

7 ~~b. an understanding of the limitations on the recovery of~~
8 ~~damages from the volunteer professional or volunteer~~
9 ~~health practitioner in exchange for receiving free~~
10 ~~services.~~

11 D. The provisions of this section shall not affect the
12 liability that any person may have which arises from the operation
13 of a motor vehicle, watercraft, or aircraft in rendering the
14 service, care, assistance, advice or other benefit as a volunteer
15 professional or volunteer health practitioner.

16 E. The immunity from civil liability provided by this section
17 shall extend only to the actions taken by a person rendering the
18 service, care, assistance, advice or other benefit as a volunteer
19 professional or volunteer health practitioner, and does not confer
20 any immunity to any person for actions taken by the volunteer
21 professional or volunteer health practitioner prior to or after the
22 rendering of the service, care, assistance, advice or other benefit
23 as a volunteer professional or volunteer health practitioner.

1 F. For the purpose of this section, the term "volunteer
2 professional" and "referred volunteer professional" means a person
3 who voluntarily provides professional medically related services
4 without compensation or expectation of compensation of any kind. A
5 volunteer professional or a referred volunteer professional shall
6 include the following licensed professionals, including those
7 persons licensed in accordance with Section 493.5 of Title 59 of the
8 Oklahoma Statutes:

- 9 1. Physician;
- 10 2. Physician assistant;
- 11 3. Registered nurse;
- 12 4. Advanced practice nurse or vocational nurse;
- 13 5. Pharmacist;
- 14 6. Podiatrist;
- 15 7. Dentist or dental hygienist; or
- 16 8. Optometrist.

17 A volunteer professional shall be engaged in the active practice of
18 a medical professional or retired from a medically related
19 profession, if still eligible to provide medically related
20 professional services within this state.

21 G. For the purposes of this section, the term "volunteer health
22 practitioner" and "referred volunteer health practitioner" means a
23 person who voluntarily provides health-related services without
24 compensation or expectation of compensation of any kind. A

1 volunteer health practitioner or referred volunteer health
2 practitioner shall include the following:

- 3 1. Certified nurse aide;
- 4 2. Chiropractor;
- 5 3. Dental assistant;
- 6 4. Dental technician;
- 7 5. Dietitian/nutritionist;
- 8 6. Emergency medical technician;
- 9 7. Licensed alcohol and drug counselor;
- 10 8. Licensed behavioral practitioner;
- 11 9. Licensed clinical social worker;
- 12 10. Licensed practical nurse;
- 13 11. Licensed professional counselor;
- 14 12. Marital/family therapist;
- 15 13. Medical assistant;
- 16 14. Medical laboratory technologist;
- 17 15. Medical technician;
- 18 16. Nuclear medicine technologist;
- 19 17. Occupational therapist;
- 20 18. Orthopedic technologist;
- 21 19. Paramedic;
- 22 20. Pharmacy technician;
- 23 21. Physical therapist;
- 24 22. Psychologist;

- 1 23. Radiology technician/technologist;
- 2 24. Respiratory therapist;
- 3 25. Sonographer;
- 4 26. Speech/language pathologist;
- 5 27. Veterinarian; and
- 6 28. Veterinary technician.

7 A volunteer health practitioner shall be engaged as an active health
8 practitioner or retired from a health-related practice if still
9 eligible to provide health-related services within this state.

10 H. Any person or entity participating in the Oklahoma Medical
11 Reserve Corps and assisting with emergency management, emergency
12 operations, or hazard mitigation in response to any emergency, man-
13 made disaster, or natural disaster, or participating as authorized
14 in public health initiatives, disaster drills, or other activities
15 designed to strengthen emergency response that are endorsed by a
16 city-county health department, county health department or the state
17 health department in the State of Oklahoma, shall not be liable for
18 civil damages on the basis of any act or omission, if:

19 1. The person was acting in good faith and within the scope of
20 the official duties and functions of the Oklahoma Medical Reserve
21 Corps; and

22 2. The acts or omissions were not caused from gross, willful,
23 or wanton acts of negligence.

1 I. This section shall apply to all civil actions filed on or
2 after:

3 1. November 1, 2004, for those persons listed in subsection F
4 of this section; and

5 2. November 1, 2009, for all other persons listed in subsection
6 G of this section.

7 SECTION 2. REPEALER Section 34, Chapter 368, O.S.L.
8 2004, as last amended by Section 2, Chapter 247, O.S.L. 2009 (76
9 O.S. Supp. 2009, Section 32), is hereby repealed.

10 SECTION 3. REPEALER Section 34, Chapter 368, O.S.L.
11 2004, as last amended by Section 2, Chapter 313, O.S.L. 2009 (76
12 O.S. Supp. 2009, Section 32), is hereby repealed.

13 SECTION 4. The provisions of Sections 32 through 43 and
14 Sections 96 and 97 of this act shall be effective and shall become
15 operative on the effective date of the appointment of the first
16 Chief Information Officer by the Governor as provided in Section
17 34.11.1 of Title 62 of the Oklahoma Statutes.

18 SECTION 5. Sections 66 and 67 of this act shall become
19 effective July 1, 2010.

20 SECTION 6. It being immediately necessary for the preservation
21 of the public peace, health and safety, an emergency is hereby
22 declared to exist, by reason whereof this act shall take effect and
23 be in full force from and after its passage and approval.

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