

STATE OF OKLAHOMA

2nd Session of the 43rd Legislature (1992)

HOUSE BILL NO. 2244

BY: FALLIN

AS INTRODUCED

AN ACT RELATING TO TORTS; CREATING THE UNCOMPENSATED CARE LIABILITY ACT; STATING INTENT; PROVIDING EXEMPTION FROM LIABILITY TO PHYSICIAN FOR UNCOMPENSATED CARE; LIMITING EXEMPTION; PROVIDING EXEMPTION FROM LIABILITY TO CERTAIN ORGANIZATIONS FOR PREVENTATIVE HEALTH SCREENING; LIMITING EXEMPTION; PROVIDING DEFINITIONS; AND PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 30 of Title 76, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Uncompensated Care Liability Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 31 of Title 76, unless there is created a duplication in numbering, reads as follows:

The Legislature hereby finds, determines, and declares that many residents of this state do not receive medical care and preventative health care because they lack health insurance or because of

financial difficulties or cost. The Legislature also finds that many physicians, hospitals, and other health care providers in this state would be willing to provide medical and allied services without compensation if they were not subject to the high exposure of liability connected with the practice of medicine. The Legislature therefore declares that the intent in enacting this act is to encourage the provision of uncompensated medical care in exchange for a limitation on liability for the physicians, surgeons, hospitals, and other health care providers who provide those services. The Legislature further declares that the operation of preventative health screening clinics is beneficial to the citizens of this state and that the intent in enacting this act is to encourage the use of such clinics by limiting the exposure to liability.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 32 of Title 76, unless there is created a duplication in numbering, reads as follows:

A. Any physician licensed under the laws of this state, any hospital licensed pursuant to the laws of this state, or any other health care provider who provides medical care to any patient without receiving any direct remuneration or compensation in exchange for rendering such care shall not be liable for any civil damages for acts or omissions unless such acts or omissions were grossly negligent or were willful and wanton.

B. The exemption from liability provided under subsection A of this section shall only apply if, prior to rendering such services, the physician, surgeon, hospital, or other health care provider discloses to the patient, or, if a minor, to the minor's parent or legal guardian, in writing that he is providing such services without receiving direct remuneration or compensation and that, in exchange for receiving uncompensated medical care, the patient consents to waive any right to sue for professional negligence

except for acts or omissions which are grossly negligent or are willful and wanton.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 33 of Title 76, unless there is created a duplication in numbering, reads as follows:

A. Any organization, including a church, which sponsors, promotes, or organizes a preventative health screening clinic or provides a health screening service to check such indicators as blood pressure or cholesterol levels or other preventative health signs without receiving any direct remuneration or compensation in exchange for the services received shall not be liable for any civil damages for acts or omissions unless such acts or omissions are grossly negligent or are willful and wanton.

B. The exemption from liability under subsection A of this section shall only apply if the organization posts in a conspicuous place a notice that in accordance with this act the organization is not liable for any civil damages for acts or omissions except for those acts or omissions that are grossly negligent or are willful and wanton.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 34 of Title 76, unless there is created a duplication in numbering, reads as follows:

As used in this act, "direct remuneration or compensation" means direct receipt by the physician, surgeon, hospital, other health care provider, or organization of payment from the patient, or payment or reimbursement from a health insurance company, health maintenance organization or payment from the patient, or payment or reimbursement from a health insurance company, health maintenance organization, or nonprofit hospital and health services corporation on behalf of the patient, or payment or reimbursement under medicare, or medicaid, or under the state program for the medically indigent on behalf of the patient. The term direct remuneration or

compensation shall not include any grant or donation, unless the grant or donation is based on the volume of patients receiving care or treatment.

SECTION 6. This act shall become effective September 1, 1992.

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