

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 COMMITTEE SUBSTITUTE
4 FOR
5 HOUSE BILL NO. 1481

By: Kern

6
7 COMMITTEE SUBSTITUTE

8 An Act relating to professions and occupations; amending Section 1, Chapter
9 138, O.S.L. 2003, as last amended by Section 3, Chapter 133, O.S.L. 2007 (59
10 O.S. Supp. 2008, Section 493.5), which relates to the special volunteer medical
11 license; expanding class of persons eligible for license; amending Section 34,
12 Chapter 368, O.S.L. 2004 (76 O.S. Supp. 2008, Section 32), which relates to the
13 Volunteer Medical Professional Services Immunity Act; eliminating certain
14 requirements; specifying certain licensing covered by act; and providing an
15 effective date.

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

17 SECTION 1. AMENDATORY Section 1, Chapter 138, O.S.L. 2003, as last amended by
18 Section 3, Chapter 133, O.S.L. 2007 (59 O.S. Supp. 2008, Section 493.5), is amended to read as
19 follows:

20 Section 493.5 A. There is established a special volunteer medical license for physicians,
21 physician assistants, nurse practitioners, or pharmacists who are retired from active practice or actively
22 licensed in another state and practicing in that state and wish to donate their expertise for the medical
23 care and treatment of indigent and needy persons of this state. The special volunteer medical license
24 shall be:

1 1. Issued by the State Board of Medical Licensure and Supervision to eligible physicians and
2 physician assistants, the Oklahoma Board of Nursing to eligible nurse practitioners, and the State
3 Board of Pharmacy to eligible pharmacists;

4 2. Issued without the payment of an application fee, license fee or renewal fee;

5 3. Issued or renewed without any continuing education requirements in this state;

6 4. Issued for a fiscal year or part thereof; and

7 5. Renewable annually upon approval of the applicable Board.

8 B. A physician ~~must~~, physician assistant, nurse practitioner, or pharmacist shall meet the
9 following requirements to be eligible for a special volunteer medical license:

10 1. Completion of a special volunteer medical license application, including, as applicable,
11 documentation of:

12 a. the physician's medical school graduation of the physician,

13 b. the completion of a physician assistant program by a physician assistant,

14 c. the completion of the basic professional curricula of a school of nursing by the
15 nurse practitioner, or

16 d. the school or college of pharmacy graduation of a pharmacist, and

17 e. the relevant practice history of the applicant;

18 2. Documentation that the physician, physician assistant, nurse practitioner, or pharmacist has
19 been previously issued a full and unrestricted license to practice medicine in Oklahoma or in another
20 state of the United States and that he or she has never been the subject of any medical professional
21 disciplinary action in any jurisdiction;

22 3. Acknowledgement and documentation that the physician's practice of the physician,
23 physician assistant, nurse practitioner, or pharmacist under the special volunteer medical license will
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1 be exclusively and totally devoted to providing ~~medical~~ care to needy and indigent persons in
2 Oklahoma or to providing care under the Oklahoma Medical Reserve Corps; and

3 4. Acknowledgement and documentation that the physician, physician assistant, nurse
4 practitioner, or pharmacist will not receive or have the expectation to receive any payment or
5 compensation, either direct or indirect, for any ~~medical~~ services rendered in this state under the special
6 volunteer medical license. The only exception to the indirect compensation provision is for those out-
7 of-state physicians, physician assistants, nurse practitioners, or pharmacists that participate in the free
8 ~~medical~~ care given by means of Telemedicine through the Shriners Hospitals for Children national
9 network.

10 SECTION 2. AMENDATORY Section 34, Chapter 368, O.S.L. 2004 (76 O.S. Supp. 2008,
11 Section 32), is amended to read as follows:

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

14 B. Any volunteer medical professional shall be immune from liability in a civil action on the
15 basis of any act or omission of the volunteer medical professional resulting in damage or injury if:

16 1. The volunteer medical professional services were provided at a free clinic where neither the
17 professional nor the clinic receives any kind of compensation for any treatment provided at the clinic;

18 2. The volunteer medical professional was acting in good faith and, if licensed, the services
19 provided were within the scope of the license of the volunteer medical professional;

20 3. The volunteer medical professional commits the act or omission in the course of providing
21 professional services; and

22 4. The damage or injury was not caused by gross negligence or willful and wanton misconduct
23 by the volunteer medical professional; ~~and~~
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1 ~~5. Before the volunteer medical professional provides professional medical services, the~~
2 ~~volunteer medical professional and the person receiving the services or, if that person is a minor or~~
3 ~~otherwise legally incapacitated, the person's parent, conservator, legal guardian, or other person with~~
4 ~~legal responsibility for the care of the person signs a written statement that acknowledges:~~

- 5 a. ~~that the volunteer medical professional providing professional medical services~~
6 ~~has no expectation of and will receive no compensation of any kind for providing~~
7 ~~the professional medical services, and~~
8 b. ~~an understanding of the limitations on the recovery of damages from the volunteer~~
9 ~~medical professional in exchange for receiving free professional medical services.~~

10 C. In the event the volunteer medical professional refers the patient covered by this section to
11 another volunteer medical professional for additional treatment, the referred volunteer medical
12 professional shall be subject to the provisions of this section if:

- 13 1. The referred volunteer medical professional provides services without receiving any
14 compensation for the treatment;
15 2. The referred volunteer medical professional was acting in good faith and, if licensed, the
16 services provided were within the scope of the license of the referred volunteer medical professional;
17 3. The referred volunteer medical professional commits the act or omission in the course of
18 providing professional services; and
19 4. The damage or injury was not caused by gross negligence or willful and wanton misconduct
20 by the referred volunteer medical professional; and

21 ~~5. Before the referred volunteer medical professional provides professional services, the referred~~
22 ~~volunteer medical professional and the person receiving the services or, if that person is a minor or~~
23

1 ~~otherwise legally incapacitated, the person's parent, conservator, legal guardian, or other person with~~
2 ~~legal responsibility for the care of the person signs a written statement that acknowledges:~~

- 3 a. ~~that the referred volunteer medical professional providing professional medical~~
4 ~~services has no expectation of and will receive no compensation of any kind for~~
5 ~~providing the professional medical services, and~~
- 6 b. ~~an understanding of the limitations on the recovery of damages from the volunteer~~
7 ~~medical professional in exchange for receiving free professional medical services.~~

8 D. The provisions of this section shall not affect the liability that any person may have which
9 arises from the operation of a motor vehicle, watercraft, or aircraft in rendering the service, care,
10 assistance, advice or other benefit as a volunteer medical professional.

11 E. The immunity from civil liability provided by this section shall extend only to the actions
12 taken by a person rendering the service, care, assistance, advice or other benefit as a volunteer medical
13 professional, and does not confer any immunity to any person for actions taken by the volunteer
14 medical professional prior to or after the rendering of the service, care, assistance, advice or other
15 benefit as a volunteer medical professional.

16 F. For the purpose of this section, the term "volunteer medical professional" and "referred
17 volunteer medical professional" means a person who voluntarily provides professional medical
18 services without compensation or expectation of compensation of any kind. A volunteer medical
19 professional or a referred volunteer medical professional shall include the following licensed
20 professionals, including those persons licensed in accordance with Section 493.5 of Title 59 of the

21 Oklahoma Statutes:

- 22 1. Physician;
23 2. Physician's assistant;
24

- 1 3. Registered nurse;
- 2 4. Advanced nurse practitioner or vocational nurse;
- 3 5. Pharmacist;
- 4 6. Podiatrist;
- 5 7. Dentist or dental hygienist; or
- 6 8. Optometrist.

7 A volunteer medical professional shall be engaged in the active practice of a medical professional or
8 retired from a medical profession, if still eligible to provide medical professional services within this
9 state.

10 G. Any person participating in a Medical Reserve Corps and assisting with emergency
11 management, emergency operations, or hazard mitigation in response to any emergency, man-made
12 disaster, or natural disaster, or participating in public health initiatives endorsed by a city, county or
13 state health department in the State of Oklahoma, shall not be liable for civil damages on the basis of
14 any act or omission, if:

- 15 1. The person was acting in good faith and within the scope of the official duties and functions
16 of the Medical Reserve Corps; and
- 17 2. The acts or omissions were not caused from gross, willful, or wanton acts of negligence.

18 H. This section shall apply to all civil actions filed on or after November 1, 2004.

19 SECTION 3. This act shall become effective November 1, 2009.

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21 52-1-6933 SAB 02/17/09
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