

1 ENGROSSED HOUSE  
2 BILL NO. 1678

By: Ownbey, Tibbs, Faught and  
McDaniel (Randy) of the  
House

3  
4 and

Paddack of the Senate  
5  
6  
7

8 An Act relating to torts; amending Section 34,  
Chapter 368, O.S.L. 2004 (76 O.S. Supp. 2008, Section  
9 32), which relates to the Volunteer Medical  
Professional Services Immunity Act; modifying  
10 definition; expanding scope of certain circumstances  
in which certain persons are immune from liability;  
11 specifying application; defining term; providing for  
certain immunity from liability for certain entities;  
12 specifying application; providing certain  
limitations; providing for codification; and  
13 providing an effective date.  
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16 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

17 SECTION 1. AMENDATORY Section 34, Chapter 368, O.S.L.  
18 2004 (76 O.S. Supp. 2008, Section 32), is amended to read as  
19 follows:

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

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

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

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

7           3. The volunteer medical professional commits the act or  
8 omission in the course of providing professional services;

9           4. The damage or injury was not caused by gross negligence or  
10 willful and wanton misconduct by the volunteer medical professional;  
11 and

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

19           a. that the volunteer medical professional providing  
20 professional medical services has no expectation of  
21 and will receive no compensation of any kind for  
22 providing the professional medical services, and

23           b. an understanding of the limitations on the recovery of  
24 damages from the volunteer medical professional in

1 exchange for receiving free professional medical  
2 services.

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

8 1. The referred volunteer medical professional provides  
9 services without receiving any compensation for the treatment;

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

13 3. The referred volunteer medical professional commits the act  
14 or omission in the course of providing professional services;

15 4. The damage or injury was not caused by gross negligence or  
16 willful and wanton misconduct by the referred volunteer medical  
17 professional; and

18 5. Before the referred volunteer medical professional provides  
19 professional services, the referred volunteer medical professional  
20 and the person receiving the services or, if that person is a minor  
21 or otherwise legally incapacitated, the person's parent,  
22 conservator, legal guardian, or other person with legal  
23 responsibility for the care of the person signs a written statement  
24 that acknowledges:

1 a. that the referred volunteer medical professional  
2 providing professional medical services has no  
3 expectation of and will receive no compensation of any  
4 kind for providing the professional medical services,  
5 and

6 b. an understanding of the limitations on the recovery of  
7 damages from the volunteer medical professional in  
8 exchange for receiving free professional medical  
9 services.

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

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

22 F. For the purpose of this section, the term "volunteer medical  
23 professional" and "referred volunteer medical professional" means a  
24 person who voluntarily provides professional medical services

1 without compensation or expectation of compensation of any kind. A  
2 volunteer medical professional or a referred volunteer medical  
3 professional shall include ~~the following licensed professionals:~~

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

1     22. Orthopedic technologist;

2     23. Paramedic;

3     24. Pharmacist;

4     25. Pharmacy technician;

5     26. Physical therapist;

6     27. Physician (MD/DO);

7     ~~28. Physician's assistant;~~

8     ~~29. Podiatrist;~~

9     30. Psychologist;

10    31. Radiology technician/technologist;

11    32. Registered nurse;

12    ~~4. Advanced nurse practitioner or vocational nurse;~~

13    ~~5. Pharmacist;~~

14    ~~6. Podiatrist;~~

15    ~~7. Dentist or dental hygienist; or~~

16    ~~8. Optometrist~~

17    33. Respiratory therapist;

18    34. Sonographer;

19    35. Speech/Language pathologist;

20    36. Veterinarian; and

21    37. Veterinary technician.

22 A volunteer medical professional shall be engaged in the active  
23 practice of a medical professional or retired from a medical  
24

1 profession, if still eligible to provide medical professional  
2 services within this state.

3 G. Any person participating in a the Oklahoma Medical Reserve  
4 Corps and assisting with emergency management, emergency operations,  
5 or hazard mitigation in response to any emergency, man-made  
6 disaster, or natural disaster, or participating in public health  
7 initiatives, disaster drills, or other activities designed to  
8 strengthen emergency response that are endorsed by a city-county  
9 health department, county health department or the state health  
10 department in the State of Oklahoma, shall not be liable for civil  
11 damages on the basis of any act or omission, if:

12 1. The person was acting in good faith and within the scope of  
13 the official duties and functions of the Oklahoma Medical Reserve  
14 Corps; and

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

17 H. This section shall apply to all civil actions filed on or  
18 after:

19 1. November 1, 2004, for a physician, physician's assistant,  
20 registered nurse, advanced nurse practitioner, pharmacist,  
21 podiatrist, dentist, dental hygienist, and optometrist; and

22 2. November 1, 2009, for all other persons listed in subsection  
23 F of this section.

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1           SECTION 2.           NEW LAW           A new section of law to be codified  
2 in the Oklahoma Statutes as Section 33 of Title 76, unless there is  
3 created a duplication in numbering, reads as follows:

4           A. For the purposes of this section, "person" means an  
5 individual, association, for-profit or nonprofit artificial entity  
6 created under state law, religious organization, or charitable  
7 organization.

8           B. Any person, or any agent of that person, who:

9           1. Voluntarily and without the expectation or receipt of  
10 compensation provides services and goods at any place in this state  
11 subject to the order or control of, or pursuant to a request of, the  
12 state government or any political subdivision thereof:

13               a. in preparation for, anticipation of, or during a time  
14 of emergency, and

15               b. in a place of emergency, as declared by the Governor;  
16 and

17           2. For the benefit of any person or to prevent, minimize, or  
18 repair injury or damage to the property of a person resulting from:

19               a. biological, chemical, or nuclear agents,

20               b. terrorism,

21               c. pandemic or epidemic of infectious disease,

22               d. catastrophic acts of nature, including but not limited  
23 to fire, flood, earthquake, wind, storm, or wave  
24 action, or

1           e. any other emergency situation as declared by the  
2           Governor by executive order under Oklahoma law,  
3 shall not be liable to any person receiving assistance as a result  
4 of any act or omission in rendering the service if the person was  
5 acting in good faith and the damage or injury was not caused by the  
6 will or wanton negligence or misconduct of the person.

7           C. The immunity from liability provided in subsection B of this  
8 section shall:

9           1. Not apply to any person, or any employee or agent thereof,  
10 whose act or omission caused in whole or in part the actual or  
11 imminent disaster or emergency, or whose act or omission  
12 necessitated emergency management measures; and

13           2. Only apply to a person for such person's act or omission  
14 that directly relates to preparation for, anticipation of, or  
15 responding to an emergency. For purposes of this paragraph,  
16 "directly relates to" means providing goods or services pursuant to  
17 a request of an official or employee of state government, or any  
18 political subdivision thereof, who is authorized to make such a  
19 request.

20           D. This section shall apply to all civil actions filed on or  
21 after November 1, 2009.

22           E. Nothing contained in this section shall amend, repeal,  
23 alter, or affect any other immunity or limitation of liability  
24 provided for under Oklahoma law.

