

ENROLLED HOUSE
BILL NO. 2093

By: Kirby, Tibbs and Walker of
the House

and

Crain of the Senate

An Act relating to torts; amending Section 34, Chapter 368, O.S.L. 2004 (76 O.S. Supp. 2008, Section 32), which relates to the Volunteer Medical Professional Services Immunity Act; expanding scope of act; and providing an effective date.

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

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

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

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

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

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

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

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

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

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

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

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

5. Before the referred volunteer medical professional provides professional services, the referred volunteer medical professional

and the person receiving the services or, if that person is a minor or otherwise legally incapacitated, the person's parent, conservator, legal guardian, or other person with legal responsibility for the care of the person signs a written statement that acknowledges:

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

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

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

F. For the purpose of this section, the term "volunteer medical professional" and "referred volunteer medical professional" means a person who voluntarily provides professional medical services without compensation or expectation of compensation of any kind. A volunteer medical professional or a referred volunteer medical professional shall include the following licensed professionals:

1. Physician;
2. Physician's assistant;
3. Registered nurse;
4. Advanced nurse practitioner or vocational nurse;

5. Pharmacist;
6. Podiatrist;
7. Dentist or dental hygienist; or
8. Optometrist.

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

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

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

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

SECTION 2. This act shall become effective November 1, 2009.

Passed the House of Representatives the 2nd day of March, 2009.

Presiding Officer of the House of
Representatives

Passed the Senate the 15th day of April, 2009.

Presiding Officer of the Senate