

THE HOUSE OF REPRESENTATIVES
Monday, February 23, 2009

Committee Substitute for
House Bill No. 1481

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 1481 - By: KERN AND DENNEY
of the House and PADDACK of the Senate.

An Act relating to professions and occupations; amending Section 1, Chapter 138, O.S.L. 2003, as last amended by Section 3, Chapter 133, O.S.L. 2007 (59 O.S. Supp. 2008, Section 493.5), which relates to the special volunteer medical license; expanding class of persons eligible for license; 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; eliminating certain requirements; specifying certain licensing covered by act; and providing an effective date.

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

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

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

1 1. Issued by the State Board of Medical Licensure and Supervision to eligible
2 physicians and physician assistants, the Oklahoma Board of Nursing to eligible nurse
3 practitioners, and the State 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
9 meet the following requirements to be eligible for a special volunteer medical license:

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

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

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

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

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

18 e. the relevant practice history of the applicant;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 a. ~~that the referred volunteer medical professional providing professional~~
16 ~~medical services has no expectation of and will receive no~~
17 ~~compensation of any kind for providing the professional medical~~
18 ~~services, and~~

19 b. ~~an understanding of the limitations on the recovery of damages from~~
20 ~~the volunteer medical professional in exchange for receiving free~~
21 ~~professional medical services.~~

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

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

11 F. For the purpose of this section, the term “volunteer medical professional” and
12 “referred volunteer medical professional” means a person who voluntarily provides
13 professional medical services without compensation or expectation of compensation of
14 any kind. A volunteer medical professional or a referred volunteer medical professional
15 shall include the following licensed professionals, including those persons licensed in
16 accordance with Section 493.5 of Title 59 of the Oklahoma Statutes:

- 17 1. Physician;
- 18 2. Physician’s assistant;
- 19 3. Registered nurse;
- 20 4. Advanced nurse practitioner or vocational nurse;
- 21 5. Pharmacist;
- 22 6. Podiatrist;

1 7. Dentist or dental hygienist; or

2 8. Optometrist.

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

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

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

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

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

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

17 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC HEALTH, dated 02-19-09 - DO
18 PASS, As Amended and Coauthored.