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THE STATE SENATE  
Thursday, March 26, 2009

ENGROSSED  
House Bill No. 1678  
As Amended

ENGROSSED HOUSE BILL NO. 1678 - By: Ownbey, Tibbs, Faught and  
McDaniel (Randy) of the House and Paddock of the Senate.

[ torts - Volunteer Medical Professional Services Immunity  
Act - codification - 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;

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

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

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

13           a. that the volunteer medical professional providing  
14 professional medical services has no expectation of  
15 and will receive no compensation of any kind for  
16 providing the professional medical services, and

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

21           C. In the event the volunteer medical professional refers the  
22 patient covered by this section to another volunteer medical  
23 professional for additional treatment, the referred volunteer

1 medical professional shall be subject to the provisions of this  
2 section if:

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

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

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

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

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

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

1 kind for providing the professional medical services,  
2 and

3 b. an understanding of the limitations on the recovery of  
4 damages from the volunteer medical professional in  
5 exchange for receiving free professional medical  
6 services.

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

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

19 F. For the purpose of this section, the term "volunteer medical  
20 professional" and "referred volunteer medical professional" means a  
21 person who voluntarily provides professional medical services  
22 without compensation or expectation of compensation of any kind. A

1 volunteer medical professional or a referred volunteer medical  
2 professional shall include ~~the following licensed professionals:~~

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

- 1        22. Orthopedic technologist;  
2        23. Paramedic;  
3        24. Pharmacist;  
4        25. Pharmacy technician;  
5        26. Physical therapist;  
6        **27. Medical Doctor or Osteopathic Doctor;**  
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

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 **medical doctor, osteopathic doctor,**  
20 physician's assistant, registered nurse, advanced nurse  
21 practitioner, pharmacist, podiatrist, dentist, dental hygienist, and  
22 optometrist; and

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

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

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

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

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

15            a. in preparation for, anticipation of, or during a time  
16 of emergency, and

17            b. in a place of emergency, as declared by the Governor;  
18 and

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

21            a. biological, chemical, or nuclear agents,

22            b. terrorism,

23            c. pandemic or epidemic of infectious disease,

1           d.    catastrophic acts of nature, including but not limited  
2                   to fire, flood, earthquake, wind, storm, or wave  
3                   action, or

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

10          C.    The immunity from liability provided in subsection B of this  
11 section shall:

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

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

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

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

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

7 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 3-24-09 - DO  
8 PASS, As Amended.