

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 1927

By: Cox

4
5 AS INTRODUCED

6 An Act relating to torts; amending Section 34,
7 Chapter 368, O.S.L. 2004 (76 O.S. Supp. 2008, Section
8 32), which relates to the Volunteer Medical
9 Professional Services Immunity Act; expanding scope
of the act for actions filed on or after certain
date; and providing an effective date.

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

13 SECTION 1. AMENDATORY Section 34, Chapter 368, O.S.L.
14 2004 (76 O.S. Supp. 2008, Section 32), is amended to read as
15 follows:

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

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

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

1 federally qualified community health center, as defined in Section
2 254b of Title 42 of the United States Code, and the volunteer
3 medical professional does not receive any kind of compensation for
4 any treatment provided at the center;

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

8 3. The volunteer medical professional commits the act or
9 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 volunteer medical professional;
12 and

13 5. Before the volunteer medical professional provides
14 professional medical services, the 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 volunteer medical professional providing
21 professional medical services has no expectation of
22 and will receive no compensation of any kind for
23 providing the professional medical services, and
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1 b. an understanding of the limitations on the recovery of
2 damages from the volunteer medical professional in
3 exchange for receiving free professional medical
4 services.

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

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

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

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

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

20 5. Before the referred volunteer medical professional provides
21 professional services, the referred volunteer medical professional
22 and the person receiving the services or, if that person is a minor
23 or otherwise legally incapacitated, the person's parent,
24 conservator, legal guardian, or other person with legal

1 responsibility for the care of the person signs a written statement
2 that acknowledges:

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

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

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

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

- 7 1. Physician;
- 8 2. Physician's assistant;
- 9 3. Registered nurse;
- 10 4. Advanced nurse practitioner or vocational nurse;
- 11 5. Pharmacist;
- 12 6. Podiatrist;
- 13 7. Dentist or dental hygienist; or
- 14 8. Optometrist.

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

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

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

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

7 H. This section shall apply to all civil actions for volunteer
8 medical professional services provided at a free clinic filed on or
9 after November 1, 2004, and to all civil actions for volunteer
10 medical professional services provided at a federally qualified
11 community health center filed on or after November 1, 2009.

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

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14 52-1-5514 SD 01/04/09

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