

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 2093

By: Kirby

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6 AS INTRODUCED

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

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

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

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

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

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

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

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

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

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

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

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

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

23 a. that the referred volunteer medical professional
24 providing professional medical services has no

1 expectation of and will receive no compensation of any
2 kind for providing the professional medical services,
3 and

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

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

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

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

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

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

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

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

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

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

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

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