

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                                   STATE OF OKLAHOMA

3                                   2nd Session of the 53rd Legislature (2012)

4 COMMITTEE SUBSTITUTE  
5 FOR  
6 HOUSE BILL NO. 2521

By: Kern of the House

and

Paddack of the Senate

7  
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10                                   COMMITTEE SUBSTITUTE

11                   An Act relating to torts; amending 76 O.S. 2011,  
12                   Section 32, which relates to the Volunteer  
13                   Professional Services Immunity Act; defining certain  
14                   term; and providing an effective date.

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

17                   SECTION 1.           AMENDATORY           76 O.S. 2011, Section 32, is  
18 amended to read as follows:

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

21                   B.   As used in the Volunteer Professional Services Immunity Act,  
22 "charitable clinic" means a nonprofit entity organized for the

1 purpose of providing health care services without charge or for a  
2 minimal fee.

3 C. Any volunteer professional or volunteer health practitioner  
4 and any organization that arranges for the care given by the  
5 volunteer professional shall be immune from liability in a civil  
6 action on the basis of any act or omission of the volunteer  
7 professional or volunteer health practitioner resulting in damage or  
8 injury if:

9 1. The volunteer professional or volunteer health practitioner  
10 services were provided at a ~~free~~ charitable clinic where ~~neither~~ the  
11 professional or practitioner ~~nor the clinic~~ receives ~~any kind of~~ no  
12 compensation for any treatment provided at the clinic;

13 2. The volunteer professional or volunteer health practitioner  
14 was acting in good faith and, if licensed, the services provided  
15 were within the scope of the license of the volunteer professional  
16 or volunteer health practitioner;

17 3. The volunteer professional or volunteer health practitioner  
18 commits the act or omission in the course of providing services; and

19 4. The damage or injury was not caused by gross negligence or  
20 willful and wanton misconduct by the volunteer professional or  
21 volunteer health practitioner.

22 ~~C.~~ D. In the event the volunteer professional or volunteer  
23 health practitioner refers the patient covered by this section to

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1 another volunteer professional or volunteer health practitioner for  
2 additional treatment, the referred volunteer professional or  
3 volunteer health practitioner shall be subject to the provisions of  
4 this section if:

5 1. The referred volunteer professional or volunteer health  
6 practitioner provides services without receiving any compensation  
7 for the treatment;

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

12 3. The referred volunteer professional or volunteer health  
13 practitioner commits the act or omission in the course of providing  
14 services; and

15 4. The damage or injury was not caused by gross negligence or  
16 willful and wanton misconduct by the referred volunteer professional  
17 or volunteer health practitioner.

18 ~~D.~~ E. The provisions of this section shall not affect the  
19 liability that any person may have which arises from the operation  
20 of a motor vehicle, watercraft, or aircraft in rendering the  
21 service, care, assistance, advice or other benefit as a volunteer  
22 professional or volunteer health practitioner.

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UNDERLINED language denotes Amendments to present Statutes.  
**BOLD FACE CAPITALIZED** language denotes Committee Amendments.  
~~Strike thru~~ language denotes deletion from present Statutes.

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

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

- 18           1. Physician;
- 19           2. Physician assistant;
- 20           3. Registered nurse;
- 21           4. Advanced practice nurse or vocational nurse;
- 22           5. Pharmacist;
- 23           6. Podiatrist;

1 7. Dentist or dental hygienist; or

2 8. Optometrist.

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

7 ~~G.~~ H. For the purposes of this section, the term "volunteer  
8 health practitioner" and "referred volunteer health practitioner"  
9 means a person who voluntarily provides health-related services  
10 without compensation or expectation of compensation of any kind. A  
11 volunteer health practitioner or referred volunteer health  
12 practitioner shall include the following:

- 13 1. Certified nurse aide;
- 14 2. Chiropractor;
- 15 3. Dental assistant;
- 16 4. Dental technician;
- 17 5. Dietitian/nutritionist;
- 18 6. Emergency medical technician;
- 19 7. Licensed alcohol and drug counselor;
- 20 8. Licensed behavioral practitioner;
- 21 9. Licensed clinical social worker;
- 22 10. Licensed practical nurse;
- 23 11. Licensed professional counselor;

- 1 12. Marital/family therapist;
- 2 13. Medical assistant;
- 3 14. Medical laboratory technologist;
- 4 15. Medical technician;
- 5 16. Nuclear medicine technologist;
- 6 17. Occupational therapist;
- 7 18. Orthopedic technologist;
- 8 19. Paramedic;
- 9 20. Pharmacy technician;
- 10 21. Physical therapist;
- 11 22. Psychologist;
- 12 23. Radiology technician/technologist;
- 13 24. Respiratory therapist;
- 14 25. Sonographer;
- 15 26. Speech/language pathologist;
- 16 27. Veterinarian; and
- 17 28. Veterinary technician.

18 A volunteer health practitioner shall be engaged as an active  
19 health practitioner or retired from a health-related practice if  
20 still eligible to provide health-related services within this state.

21 ~~H.~~ I. Any person or entity participating in the Oklahoma  
22 Medical Reserve Corps and assisting with emergency management,  
23 emergency operations, or hazard mitigation in response to any

1 emergency, man-made disaster, or natural disaster, or participating  
2 as authorized in public health initiatives, disaster drills, or  
3 other activities designed to strengthen emergency response that are  
4 endorsed by a city-county health department, county health  
5 department or the state health department in the State of Oklahoma,  
6 shall not be liable for civil damages on the basis of any act or  
7 omission, if:

8 1. The person was acting in good faith and within the scope of  
9 the official duties and functions of the Oklahoma Medical Reserve  
10 Corps; and

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

13 ~~F~~ J. This section shall apply to all civil actions filed on or  
14 after:

15 1. November 1, 2004, for those persons listed in subsection ~~F~~ G  
16 of this section; and

17 2. November 1, 2009, for all other persons listed in subsection  
18 ~~G~~ H of this section.

19 SECTION 2. This act shall become effective November 1, 2012.

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21 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 02/15/2012 - DO  
22 PASS, As Amended and Coauthored.

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