SENATE FLOOR VERSION
March 29, 2012

ENGROSSED HOUSE
BILL NO. 2521 By: Kern and Peterson of the House

and

Paddack of the Senate

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

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

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

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

B. <u>As used in the Volunteer Professional Services Immunity Act, "charitable clinic" means a nonprofit entity organized for the purpose of providing health care services without charge or for a minimal fee.</u>

<u>C.</u> Any volunteer professional or volunteer health practitioner and any organization that arranges for the care given by the volunteer professional shall be immune from liability in a civil

action on the basis of any act or omission of the volunteer professional or volunteer health practitioner resulting in damage or injury if:

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

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

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

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

~~C.~~ D. In the event the volunteer professional or volunteer health practitioner refers the patient covered by this section to another volunteer professional or volunteer health practitioner for additional treatment, the referred volunteer professional or volunteer health practitioner shall be subject to the provisions of this section if:

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

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

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

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

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

~~E.~~ F. The immunity from civil liability provided by this section shall extend only to the actions taken by a person rendering the service, care, assistance, advice or other benefit as a volunteer professional or volunteer health practitioner, and does not confer any immunity to any person for actions taken by the volunteer professional or volunteer health practitioner prior to or

after the rendering of the service, care, assistance, advice or other benefit as a volunteer professional or volunteer health practitioner.

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

1. Physician;
2. Physician assistant;
3. Registered nurse;
4. Advanced practice nurse or vocational nurse;
5. Pharmacist;
6. Podiatrist;
7. Dentist or dental hygienist; or
8. Optometrist.

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

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

1. Certified nurse aide;
2. Chiropractor;
3. Dental assistant;
4. Dental technician;
5. Dietitian/nutritionist;
6. Emergency medical technician;
7. Licensed alcohol and drug counselor;
8. Licensed behavioral practitioner;
9. Licensed clinical social worker;
10. Licensed practical nurse;
11. Licensed professional counselor;
12. Marital/family therapist;
13. Medical assistant;
14. Medical laboratory technologist;
15. Medical technician;
16. Nuclear medicine technologist;
17. Occupational therapist;
18. Orthopedic technologist;

19. Paramedic;

20. Pharmacy technician;

21. Physical therapist;

22. Psychologist;

23. Radiology technician/technologist;

24. Respiratory therapist;

25. Sonographer;

26. Speech/language pathologist;

27. Veterinarian; and

28. Veterinary technician.

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

~~H.~~ I. Any person or entity participating in the Oklahoma Medical Reserve Corps and assisting with emergency management, emergency operations, or hazard mitigation in response to any emergency, man-made disaster, or natural disaster, or participating as authorized in public health initiatives, disaster drills, or other activities designed to strengthen emergency response that are endorsed by a city-county health department, county health department or the state health department in the State of Oklahoma, shall not be liable for civil damages on the basis of any act or omission, if:

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

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

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

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

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

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

COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 3-27-12 - DO PASS, As Coauthored.