

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013**

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SENATE BILL 83

Short Title: Encourage Volunteer Care in Free Clinics. (Public)

Sponsors: Senator Bingham (Primary Sponsor).

Referred to: Health Care.

February 14, 2013

A BILL TO BE ENTITLED
AN ACT TO ENCOURAGE VOLUNTEER HEALTH CARE IN FREE CLINICS BY
LIMITING THE LIABILITY OF HEALTH CARE PROVIDERS IF THE FREE CLINIC
POSTS A NOTICE OF LIMITED LIABILITY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-21.16 reads as rewritten:

"§ 90-21.16. Volunteer health care professionals; liability limitation.

(a) This section applies as follows:

- (1) Any volunteer medical or health care provider at a facility of a local health department or at a nonprofit community health center,
- (2) Any volunteer medical or health care provider rendering services to a patient referred by a local health department as defined in G.S. 130A-2(5), nonprofit community health center, or nonprofit community health referral service at the provider's place of employment,
- (3) Any volunteer medical or health care provider serving as medical director of an emergency medical services (EMS) agency, or
- (4) Repealed by Session Laws 2011-355, s. 7, effective June 27, 2011.
- (5) Any volunteer medical or health care provider licensed or certified in this State who provides services within the scope of the provider's license or certification at a free clinic facility, who receives no compensation for medical services or other related services rendered at the facility, center, agency, or clinic, or who neither charges nor receives a fee for medical services rendered to the patient referred by a local health department, nonprofit community health center, or nonprofit community health referral service at the provider's place of employment shall not be liable for damages for injuries or death alleged to have occurred by reason of an act or omission in the rendering of the services unless it is established that the injuries or death were caused by gross negligence, wanton conduct, or intentional wrongdoing on the part of the person rendering the services. The free clinic, local health department facility, nonprofit community health center, nonprofit community health referral service, or agency shall use due care in the selection of volunteer medical or health care providers, and this subsection shall not excuse the free clinic, health department facility, community health center, or agency for the failure of the volunteer medical or health care provider to use ordinary care in the provision of medical services to its patients.



1 (b) Nothing in this section shall be deemed or construed to relieve any person from
2 liability for damages for injury or death caused by an act or omission on the part of such person
3 while rendering health care services in the normal and ordinary course of his or her business or
4 profession. Services provided by a medical or health care provider who receives no
5 compensation for his or her services and who voluntarily renders such services at the provider's
6 place of employment, facilities of free clinics, local health departments as defined in
7 G.S. 130A-2, nonprofit community health centers, or as a volunteer medical director of an
8 emergency medical services (EMS) agency, are deemed not to be in the normal and ordinary
9 course of the volunteer medical or health care provider's business or profession.

10 (c) As used in this section, a "free clinic" is a nonprofit, 501(c)(3) tax-exempt
11 organization organized for the purpose of providing health care services without charge or for a
12 minimum fee to cover administrative costs and that ~~maintains liability insurance covering the~~
13 ~~acts and omissions of the free clinic and any liability pursuant to subsection (a) of this section.~~
14 posts in a clear and conspicuous manner the following notice in the premises where the
15 provision of health care services is occurring:

16 "NOTICE

17 Under North Carolina law, there is no liability for damages for injuries or death alleged to have
18 occurred by reason of an act or omission in the health care provider's voluntary provision of
19 health care services, unless it is established that the injuries or death were caused by gross
20 negligence, wanton conduct, or intentional wrongdoing on the part of the health care provider."

21 (d) A nonprofit community health referral service that refers low-income patients to
22 physicians for free services is not liable for the acts or omissions of the physician in rendering
23 service to that patient if the nonprofit community health referral service maintains liability
24 insurance covering the acts and omissions of the nonprofit health referral service and any
25 liability pursuant to subsection (a) of this section.

26 (e) As used in this section, a "nonprofit community health referral service" is a
27 nonprofit, 501(c)(3) tax-exempt organization organized to provide for no charge the referral of
28 low-income, uninsured patients to volunteer health care providers who provide health care
29 services without charge to patients."

30 **SECTION 2.** G.S. 90-21.102(2) reads as rewritten:

31 "(2) Free clinic. — A nonprofit, 501(c)(3) tax-exempt organization organized for
32 the purpose of providing health care services without charge or for a
33 minimum fee to cover administrative costs and that ~~maintains liability~~
34 ~~insurance covering the acts and omissions of the free clinic and any liability~~
35 posts, pursuant to G.S. 90-21.16(a). G.S. 90-21.16(c), a notice of limited
36 liability."

37 **SECTION 3.** This act becomes effective October 1, 2013.