

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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SENATE DRS85177-LN-219 (03/13)

Short Title: Volunteer Health Care Providers/Free Clinics.

(Public)

Sponsors: Senator Bingham.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO DEEM VOLUNTEER HEALTH CARE PROVIDERS AS STATE AGENTS FOR DELIVERY OF CERTAIN HEALTH CARE SERVICES TO PATIENTS OF CLINICS THAT PROVIDE HEALTH CARE SERVICES WITHOUT CHARGE TO ENCOURAGE VOLUNTEERISM AT SUCH CLINICS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 31 of Chapter 143 of the General Statutes is amended by adding the following new section to read:

"§ 143-300.1B. Volunteer health care providers deemed State agents.

(a) As used in this section, the following definitions apply:

- (1) "Health care provider". – Any person who is certified or licensed in this State to deliver health care services by occupational licensing boards regulating the following professions: medicine, nursing, pharmacy, and dentistry.
- (2) "Health care services". – Health promotion, health monitoring, health education, diagnosis, treatment, minor surgical procedures, the administration of local anesthesia, primary dental services, and dispensation of pharmaceuticals. Health care services do not include administration of general anesthesia or surgical procedures other than minor surgical procedures.
- (3) "Free Clinic". – A nonprofit, 501(c)(3) tax-exempt organization organized for the purpose of providing health care services without charge or for a minimum requested fee to cover administrative costs, and that delivers health care services through volunteer health care providers.
- (4) "Volunteer health care provider". – Any health care provider who provides health care services that are within the scope of the provider's

1 license or certification to a patient of a free clinic at a free clinic or at
2 the provider's place of employment, and who neither charges or
3 receives compensation for such health care services from the patient or
4 the clinic.

5 (b) For the purposes of this Article, a volunteer health care provider is deemed an
6 agent of the Department of Health and Human Services acting in an authorized
7 governmental capacity with respect to the delivery of health care services only if:

8 (1) The provider registers with the Department before providing health
9 care services, and

10 (2) The provider has no financial interest in the clinic at which the
11 provider serves as a volunteer.

12 The Commission shall have exclusive original jurisdiction over all tort claims
13 against a volunteer health care provider for any act or omission arising out of the
14 delivery of health care services at a free clinic.

15 (c) The liability of a volunteer health care provider, the defenses which may be
16 asserted against such claim, the amount of damages which may be awarded to the
17 claimant, the procedure for filing, hearing, and determining such claim, the right of
18 appeal from such determination, the effect of such appeal, and the procedure for taking,
19 hearing, and determining any appeal shall be the same in all respects for tort claims
20 against volunteer health care providers as is provided in this Article except as otherwise
21 provided in this section. The liability standard of negligence, as referenced in
22 G.S. 143-291(a) shall not be applicable, and the standard for tort claims against
23 volunteer health care providers requires a finding by the Commission of gross
24 negligence, wanton conduct, or intentional wrongdoing on the part of the volunteer
25 health care provider. Nothing in this section shall be deemed to waive or diminish the
26 immunity for volunteers pursuant to G.S. 1-539.10, the immunity for volunteer health
27 care professionals pursuant to G.S. 90-21.16, or any other immunity otherwise provided
28 by law.

29 (d) The Attorney General has a duty to defend a volunteer health care provider
30 for all tort claims asserted against such a provider for any act or omission arising out of
31 the delivery of health care services at a free clinic.

32 (e) The Department of Health and Human Services may purchase insurance to
33 provide coverage for any claims within the jurisdiction of the Commission pursuant to
34 this section and for any resulting liability.

35 (f) The Department of Health and Human Services shall adopt rules in
36 accordance with Chapter 150B of the General Statutes, including temporary rules under
37 G.S. 150B-21.1, establishing procedures and requirements for registering volunteer
38 health care providers."

39 **SECTION 2.** G.S. 90-21.16(c) reads as rewritten:

40 "(c) As used in this section, a "free clinic" is a nonprofit, 501(c)(3) tax-exempt
41 organization organized for the purpose of providing health care services without charge
42 or for a minimum fee to cover administrative costs and that maintains liability insurance
43 covering the acts and omissions of the free clinic and any liability pursuant to
44 subsection (a) of this section costs."

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SECTION 3. This act becomes effective July 1, 2008.