

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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SENATE BILL 877

Short Title: Volunteer Health Care Providers/Free Clinics. (Public)

Sponsors: Senator Bingham.

Referred to: Judiciary I (Civil).

March 19, 2007

1 A BILL TO BE ENTITLED
2 AN ACT TO DEEM VOLUNTEER HEALTH CARE PROVIDERS AS STATE
3 AGENTS FOR DELIVERY OF CERTAIN HEALTH CARE SERVICES TO
4 PATIENTS OF CLINICS THAT PROVIDE HEALTH CARE SERVICES
5 WITHOUT CHARGE TO ENCOURAGE VOLUNTEERISM AT SUCH CLINICS.

6 The General Assembly of North Carolina enacts:

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

9 **"§ 143-300.1B. Volunteer health care providers deemed State agents.**

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

11 (1) "Health care provider". – Any person who is certified or licensed in
12 this State to deliver health care services by occupational licensing
13 boards regulating the following professions: medicine, nursing,
14 pharmacy, and dentistry.

15 (2) "Health care services". – Health promotion, health monitoring, health
16 education, diagnosis, treatment, minor surgical procedures, the
17 administration of local anesthesia, primary dental services, and
18 dispensation of pharmaceuticals. Health care services do not include
19 administration of general anesthesia or surgical procedures other than
20 minor surgical procedures.

21 (3) "Free Clinic". – A nonprofit, 501(c)(3) tax-exempt organization
22 organized for the purpose of providing health care services without
23 charge or for a minimum requested fee to cover administrative costs,
24 and that delivers health care services through volunteer health care
25 providers.

26 (4) "Volunteer health care provider". – Any health care provider who
27 provides health care services that are within the scope of the provider's
28 license or certification to a patient of a free clinic at a free clinic or at
29 the provider's place of employment, and who neither charges or

1 receives compensation for such health care services from the patient or
2 the clinic.

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

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

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

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

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

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

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

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

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

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

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