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Short Title: Enact Volunteer Health Care Services Act. (Public)

Sponsors:

Referred to:

April 5, 2011

A BILL TO BE ENTITLED

AN ACT ALLOWING REGISTERED SPONSORING ORGANIZATIONS TO ARRANGE FOR THE VOLUNTARY PROVISION OF HEALTH CARE SERVICES IN THIS STATE, RELIEVING PROVIDERS OF VOLUNTARY HEALTH CARE SERVICES FROM ADDITIONAL LICENSURE REQUIREMENTS, AND PROVIDING LIMITED PROTECTION FROM CIVIL LIABILITY TO PERSONS PROVIDING VOLUNTARY HEALTH CARE SERVICES IN ASSOCIATION WITH SPONSORING ORGANIZATIONS.

The General Assembly of North Carolina enacts:

**SECTION 1.** Chapter 90 of the General Statutes is amended by adding a new Article to read:

"Article 1J.

"Voluntary Health Care Services Act.

**"§ 90-21.100. Short title.**

This Article shall be known and may be cited as the Volunteer Health Care Services Act.

**"§ 90-21.101. Findings.**

(a) The General Assembly makes the following findings:

- (1) Access to high-quality health care services is a concern of all persons.
- (2) Access to high-quality health care services may be limited for some residents of this State, particularly those who reside in remote, rural areas or in the inner city.
- (3) Physicians and other health care providers have traditionally worked to ensure broad access to health care services.
- (4) Many health care providers from North Carolina and elsewhere are willing to volunteer their services to address the health care needs of North Carolinians who may otherwise not be able to obtain high-quality health care services.

(b) The General Assembly further finds that it is the public policy of this State to encourage and facilitate the voluntary provision of health care services.

**"§ 90-21.102. Definitions.**

The following definitions apply in this Article:

- (1) Department. – The North Carolina Department of Health and Human Services.



- 1           (2) Free clinic. – A nonprofit, 501(c)(3) tax-exempt organization organized for  
2 the purpose of providing health care services without charge or for a  
3 minimum fee to cover administrative costs and that maintains liability  
4 insurance covering the acts and omissions of the free clinic and any liability  
5 pursuant to G.S. 90-21.16(a).
- 6           (3) Health care provider. – Any person who:
- 7           a. Is licensed to practice as a physician or a physician assistant under  
8 Article 1 of this Chapter.
- 9           b. Holds a limited volunteer license under G.S. 90-12.1A.
- 10          c. Holds a retired limited volunteer license under G.S. 90-12.1B.
- 11          d. Holds a physician assistant limited volunteer license under  
12 G.S. 90-12.4.
- 13          e. Holds a physician assistant retired limited volunteer license under  
14 90-12.4B.
- 15          f. Is a volunteer health care professional to whom G.S. 90-21.16  
16 applies.
- 17          g. Is licensed to practice dentistry under Article 2 of this Chapter.
- 18          h. Is licensed to practice pharmacy under Article 4A of this Chapter.
- 19          i. Is licensed to practice optometry under Article 6 of this Chapter.
- 20          j. Is licensed to practice as a registered nurse or licensed practical nurse  
21 under Article 9A of this Chapter.
- 22          k. Is licensed to practice as a dental hygienist under Article 16 of this  
23 Chapter.
- 24          l. Holds a license as a registered licensed optician under Article 17 of  
25 this Chapter.
- 26          m. Is licensed to practice as a physician, physician assistant, dentist,  
27 pharmacist, optometrist, registered nurse, licensed practical nurse,  
28 dental hygienist, or optician under provisions of law of another state  
29 of the United States comparable to the provisions referenced in  
30 sub-subdivisions a. through n. of this subdivision.
- 31          (4) Sponsoring organization. – Any nonprofit organization that organizes or  
32 arranges for the voluntary provision of health care services pursuant to this  
33 Article.
- 34          (5) Voluntary provision of health care services. – The provision of health care  
35 services by a health care provider in association with a sponsoring  
36 organization in which both of the following circumstances exist:
- 37           a. The health care services are provided without charge to the recipient  
38 of the services or to a third party on behalf of the recipient.
- 39           b. The health care provider receives no compensation or other  
40 consideration in exchange for the health care services provided.
- 41          For the purposes of this Article, the provision of health care services in  
42 non-profit community health centers, local health department facilities, free  
43 clinic facilities, or at a providers place of employment when the patient is  
44 referred by a non-profit community health referral service shall not be  
45 considered the voluntary provision of health care.

46 **"§ 90-21.103. Limitation on duration of voluntary health care services.**

47 A sponsoring organization duly registered in accordance with G.S. 90-21.104 may organize  
48 or arrange for the voluntary provision of health care services at a location in this State for a  
49 period not to exceed seven calendar days in any calendar year.

50 **"§ 90-21.104. Registration, reporting, and record-keeping requirements.**

1       (a) A sponsoring organization shall not organize or arrange for the voluntary provision  
2 of health care services in this State without first registering with the Department on a form  
3 prescribed by the Department. The registration form shall contain all of the following  
4 information:

- 5           (1) The name of the sponsoring organization.
- 6           (2) The name of the principal individuals who are the officers or organizational  
7 officials responsible for the operation of the sponsoring organization.
- 8           (3) The street address, city, zip code, and county of the sponsoring  
9 organization's principal office and each of the principal individuals described  
10 in subdivision (2) of this subsection.
- 11           (4) Telephone numbers for the principal office of the sponsoring organization  
12 and for each of the principal individuals described in subdivision (2) of this  
13 subsection.
- 14           (5) Any additional information requested by the Department.

15       (b) Each sponsoring organization that applies for registration under this Article shall  
16 pay a one-time registration fee in the amount of fifty dollars (\$50.00), which it shall submit to  
17 the Department along with the completed registration form required by subsection (a) of this  
18 section. Upon approval by the Department, a sponsoring organization's registration remains  
19 valid unless revoked by the Department pursuant to subsection (f) of this section.

20       (c) Upon any change in the information required under subsection (a) of this section,  
21 the sponsoring organization shall notify the Department of the change, in writing, within 30  
22 days after the effective date of the change.

23       (d) Each registered sponsoring organization has the duty and responsibility to do all of  
24 the following:

- 25           (1) Except as provided in this subdivision, by no later than 14 days before a  
26 sponsoring organization initiates voluntary health care services in this State,  
27 the sponsoring organization shall submit to the Department a list containing  
28 the following information regarding each health care provider who is to  
29 provide voluntary health care services on behalf of the sponsoring  
30 organization during any part of the time period in which the sponsoring  
31 organization is authorized to provide voluntary health care services in the  
32 State:
  - 33           a. Name.
  - 34           b. Date of birth.
  - 35           c. State of licensure.
  - 36           d. License number.
  - 37           e. Area of practice.
  - 38           f. Practice address.

39           By no later than 3 days prior to voluntary health care services being  
40 rendered, a sponsoring organization may amend the list to add health care  
41 providers defined in G.S. 90-21.102(3)a. through G.S. 90-21.102(3)m.

- 42           (2) Beginning April 1, 2013, submit quarterly reports to the Department  
43 identifying all health care providers who engaged in the provision of  
44 voluntary health care services in association with the sponsoring  
45 organization in this State during the preceding calendar quarter. The  
46 quarterly report must include the date, place, and type of voluntary health  
47 care services provided by each health care provider.
- 48           (3) Maintain a list of health care providers associated with its provision of  
49 voluntary health care services in this State. For each health care provider  
50 listed, the sponsoring organization shall maintain a copy of a current license  
51 or statement of exemption from licensure or certification. For health care

1 providers currently licensed or certified under this Chapter, the sponsoring  
2 organization may maintain a copy of the health care provider's license or  
3 certification verification obtained from a State-sponsored Internet Web site.

4 (4) Maintain records of the quarterly reports and records required under this  
5 subsection for a period of five years from the date of voluntary service and  
6 make these records available upon request to any State licensing board  
7 established under this Chapter.

8 (e) Compliance with subsections (a) through (d) of this section is prima facie evidence  
9 that the sponsoring organization has exercised due care in its selection of health care providers.

10 (f) The Department may revoke the registration of any sponsoring organization that  
11 fails to comply with the requirements of this Article. A sponsoring organization may challenge  
12 the Department's decision to revoke its registration by filing a contested case under Article 3 of  
13 Chapter 150B of the General Statutes.

14 (g) The Department may waive any of the requirements of this section during a natural  
15 disaster or other emergency circumstance.

16 **"§ 90-21.105. Department and licensure boards to review licensure status of volunteers.**

17 The Department shall forward the information received from a sponsoring organization  
18 under G.S. 90-21.104(d)(1) to the appropriate licensure board within seven days after receipt.  
19 Upon receipt of any information or notice from a licensure board that a health care provider on  
20 the list submitted by the sponsoring organization pursuant to G.S. 90-21.104(d)(1) is not  
21 licensed, authorized, or in good standing, or is the subject of an investigation or pending  
22 disciplinary action, the Department shall immediately notify the sponsoring organization that  
23 the health care provider is not permitted to engage in the voluntary provision of health care  
24 services on behalf of the sponsoring organization.

25 **"§ 90-21.106. On-site requirements.**

26 A sponsoring organization that organizes or arranges for the provision of voluntary health  
27 care services at a location in this State shall ensure that at least one health care provider  
28 licensed to practice in this State, with access to the controlled substances reporting system  
29 established under G.S. 90-113.73, is located on the premises where the provision of voluntary  
30 health care services is occurring. In addition, every sponsoring organization shall post in a clear  
31 and conspicuous manner the following notice in the premises where the provision of voluntary  
32 health care services is occurring:

33 **"NOTICE**

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

38 **"§ 90-21.107. Additional licensure not required for certain volunteers.**

39 (a) A health care provider who engages in the voluntary provision of health care  
40 services in association with a sponsoring organization for no more than seven days during any  
41 calendar year shall not be required to obtain additional licensure or authorization in connection  
42 therewith if the health care provider meets any of the following criteria:

43 (1) The health care provider is duly licensed or authorized under the laws of this  
44 State to practice in the area in which the health care provider is providing  
45 voluntary health care services and is in good standing with the applicable  
46 licensing board.

47 (2) The health care provider lawfully practices in another state or district in the  
48 area in which the health care provider is providing voluntary health care  
49 services and is in good standing with the applicable licensing board.

50 (b) This exemption from additional licensure or authorization requirements does not  
51 apply if any of the following circumstances exist:

- 1           (1)    The health care provider has been subjected to public disciplinary action or  
2           is the subject of a pending disciplinary proceeding in any state in which the  
3           health care provider is or ever has been licensed.  
4           (2)    The health care provider's license has been suspended or revoked pursuant to  
5           disciplinary proceedings in any state in which the health care provider is or  
6           ever has been licensed.  
7           (3)    The health care provider renders services outside the scope of practice  
8           authorized by the health care provider's license or authorization.

9    "**§ 90-21.108. Immunity from civil liability for acts or omissions.**

10       (a)    Subject to subsection (b) of this section, a health care provider who engages in the  
11       voluntary provision of health care services at any location in this State in association with a  
12       sponsoring organization shall not be liable for damages for injuries or death alleged to have  
13       occurred by reason of an act or omission in the health care provider's voluntary provision of  
14       health care services, unless it is established that the injuries or death were caused by gross  
15       negligence, wanton conduct, or intentional wrongdoing on the part of the health care provider.

16       (b)    The immunity from civil liability provided by subsection (a) of this section does not  
17       apply if any of the following circumstances exist:

- 18           (1)    The health care provider receives, directly or indirectly, any type of  
19           compensation, benefits, or other consideration of any nature from any person  
20           for the health care services provided.  
21           (2)    The health care services provided are not part of the health care provider's  
22           training or assignment.  
23           (3)    The health care services provided are not within the scope of the health care  
24           provider's license or authority.  
25           (4)    The health care services provided are not authorized by the appropriate  
26           authorities to be performed at the location."

27       **SECTION 2.** This act becomes effective January 1, 2013.