AN ACT

Amending the act of December 4, 1996 (P.L.893, No.141), entitled "An act providing for volunteer health services; limiting liability of a volunteer license holder; and requiring reports," providing for volunteer mental health services for military families; limiting liability of persons who hold volunteer licenses and provide mental health services to military families; and making editorial changes.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. The act of December 4, 1996 (P.L.893, No.141), known as the Volunteer Health Services Act, is amended by adding a chapter heading to read:

CHAPTER 1
PRELIMINARY PROVISIONS

Section 2. Section 1 of the act is renumbered to read:


This act shall be known and may be cited as the Volunteer Health Services Act.
Section 3. Section 2 of the act is renumbered and amended to read:


It is the purpose of this act to [increase]:

(1) Increase the availability of primary health care services by establishing a procedure through which physicians and other health care practitioners who are retired from active practice may provide professional services as a volunteer in approved clinics serving financially qualified persons and in approved clinics located in medically underserved areas or health professionals shortage areas.

(2) Increase the availability of mental health services by establishing a procedure through which physicians and other health care practitioners who are retired from active practice may provide mental health services WITHIN THEIR SCOPE OF PRACTICE as a volunteer to United States military personnel and their families whether inside or outside a clinic setting.

Section 4. The act is amended by adding a chapter heading to read:

CHAPTER 3

PRIMARY HEALTH SERVICES AT APPROVED CLINICS

Section 5. Sections 3 and 4 of the act, amended June 19, 2002 (P.L.406, No.58), are renumbered and amended to read:


The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Approved clinic." An organized community-based clinic offering primary health care services to individuals and
families who cannot pay for their care, to medical assistance clients or to residents of medically underserved areas or health professionals shortage areas. The term may include, but shall not be limited to, a State health center, nonprofit community-based clinic and federally qualified health center, as designated by Federal rulemaking or as approved by the Department of Health or the Department of Public Welfare.

"Board." The State Board of Medicine, the State Board of Osteopathic Medicine, the State Board of Dentistry, the State Board of Podiatry, the State Board of Nursing, the State Board of Optometry and the State Board of Chiropractic.

"Health care practitioner." An individual licensed to practice a component of the healing arts by a licensing board within the Department of State.

"Licensee." An individual who holds a current, active, unrestricted license as a health care practitioner issued by the appropriate board.

"Primary health care services." The term includes, but is not limited to, regular checkups, immunizations, school physicals, health education, prenatal and obstetrical care, early periodic screening and diagnostic testing and health education.

"Volunteer license." A license issued by the appropriate board to a health care practitioner who documents, to the board's satisfaction, that the individual will practice only in approved clinics without remuneration, who is:

(1) a retired health care practitioner; or
(2) a nonretired health care practitioner who is not required to maintain professional liability insurance under [the act of October 15, 1975 (P.L.390, No.111), known as the

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Health Care Services Malpractice Act, or the act of March 20, 2002 (P.L.154, No.13), known as the Medical Care Availability and Reduction of Error (Mcare) Act, because the health care practitioner is not otherwise practicing medicine or providing health care services in this Commonwealth.

Section 4. Volunteer status.

A licensee in good standing who retires from active practice or a nonretired licensee who does not otherwise currently practice or provide health care services in this Commonwealth and is not required to maintain professional liability insurance under the act of October 15, 1975 (P.L.390, No.111), known as the Health Care Services Malpractice Act, or the act of March 20, 2002 (P.L.154, No.13), known as the Medical Care Availability and Reduction of Error (Mcare) Act, may apply, on forms provided by the appropriate board, for a volunteer license.

Section 6. Section 5 of the act, amended June 19, 2002 (P.L.406, No.58), is renumbered to read:

Section 5. Regulations.

Each board shall promulgate regulations governing the volunteer license category. The regulations shall include qualifications for obtaining a volunteer license.

Section 7. Section 6 of the act, amended July 8, 2007 (P.L.91, No.29), is renumbered and amended to read:

Section 6. License renewal; disciplinary and corrective measures.

(a) Renewal term.--A volunteer license shall be subject to biennial renewal.

(b) Fee exemption.--[Holders of] Persons who hold volunteer licenses shall be exempt from renewal fees imposed by the
appropriate licensing board.

(c) Continuing education.--Except as set forth in subsection (d), holders of persons who hold volunteer licenses shall comply with any continuing education requirements imposed by board rulemaking as a general condition of biennial renewal.

(d) Physicians.--

(1) [Holders of] Persons who hold volunteer licenses [who] and are physicians shall complete a minimum of 20 credit hours of American Medical Association Physician's Recognition Award Category 2 activities during the preceding biennial period as a condition of biennial renewal and are otherwise exempt from any continuing education requirement imposed by section 910 of the act of March 20, 2002 (P.L.154, No.13), known as the Medical Care Availability and Reduction of Error (Mcare) Act, or by board rulemaking.

(2) Physicians who are covered by section [10.2] 310 and hold an unrestricted license to practice medicine shall complete the continuing medical education requirements established by the boards under section 910 of the Medical Care Availability and Reduction of Error (Mcare) Act to be eligible for renewal of the unrestricted license.

(e) Disciplinary matters.--In the enforcement of disciplinary matters, persons who hold volunteer licenses shall be subject to those standards of conduct applicable to all licensees licensed by the appropriate board.

Section 8. Section 7 of the act is renumbered and amended to read:


(a) General rule.--A person who holds a volunteer license [who] and, in good faith, renders professional
health care services under this act shall not be liable for
civil damages arising as a result of any act or omission in the
rendering of care unless the conduct of the [volunteer licensee]
\textbf{person} falls substantially below professional standards which
are generally practiced and accepted in the community and unless
it is shown that the [volunteer licensee] \textbf{person} did an act or
omitted the doing of an act which the person was under a
recognized duty to a patient to do, knowing or having reason to
know that the act or omission created a substantial risk of
actual harm to the patient.

(b) Application.---This section shall not apply unless the
approved clinic posts in a conspicuous place on its premises an
explanation of the exemptions from civil liability provided
under subsection (a). The protections provided by this section
shall not apply to institutional health care providers, such as
hospitals or approved clinics, subject to vicarious liability
for the conduct of a volunteer license holder. The liability of
such institutional defendants shall be governed by the standard
of care established by common law.

Section 9. Section 8 of the act is renumbered to read:

Beginning 30 days after the effective date of this act and
every 30 days thereafter until such regulations are in effect,
the chairmen of the appropriate boards shall report in writing
to the Commissioner of Professional and Occupational Affairs on
the status of the volunteer license regulations, who shall
convey the required reports to the standing committees on
Consumer Protection and Professional Licensure and Public Health
and Welfare of the Senate and the standing committees on
Professional Licensure and Health and Human Services of the
House of Representatives.

Section 10. Section 9 of the act, amended June 19, 2002 (P.L.406, No.58), is renumbered and amended to read:


For the purposes of this [act, volunteer licensees who]
chapter, persons who hold volunteer licenses and are otherwise subject to the provisions of [the act of October 15, 1975 (P.L.390, No.111), known as the Health Care Services Malpractice Act, or] the act of March 20, 2002 (P.L.154, No.13), known as the Medical Care Availability and Reduction of Error (Mcare) Act, shall be exempt from the requirements of that act with regard to the maintenance of liability insurance coverage.

[Volunteer licensees holding] If the persons hold a license issued by the State Board of Chiropractic, the persons shall be exempt from the provisions of section 508 of the act of December 16, 1986 (P.L.1646, No.188), known as the Chiropractic Practice Act.

Section 11. Section 10 of the act is renumbered and amended to read:


[Services] Primary health care services of [volunteers] a person who holds a volunteer license shall not be substituted for those of Commonwealth employees.

Section 12. Section 10.1 of the act, added October 18, 2000 (P.L.599, No.76), is renumbered and amended to read:

Section [10.1] 309. Prescription of medication for family members.

(a) General rule.--A [holder of] person who holds a volunteer license [who] and was able to prescribe medication pursuant to the laws of this Commonwealth while a licensee may
prescribe medication to any member of [his] the person's family
notwithstanding the family member's ability to pay for that
member's own care or whether that member is being treated at an
approved clinic.

(b) Liability.--The liability provisions of section [7(a)]
305(a) shall apply to a [holder of] person who holds a volunteer
license [who] and prescribes medication to a family member
pursuant to this section, whether or not the provisions of
section [7(b)] 305(b) have been followed.

(c) Construction.--Nothing in this section shall be
construed to allow a person who holds a volunteer license
(holder) to prescribe medication of a type or in a manner
prohibited by the laws of this Commonwealth.

(d) Definition.--As used in this section, the term "family
member" means a volunteer license holder's spouse, child,
daughter-in-law, son-in-law, mother, father, sibling, mother-in-
law, father-in-law, sister-in-law, brother-in-law, grandparent,
grandchild, niece, nephew or cousin.

Section 13. Sections 10.2 and 10.3 of the act, added June
19, 2002 (P.L.406, No.58), are renumbered and amended to read:
Section [10.2] 310. Indemnity and defense for active
practitioners.

A health care practitioner who provides health care services
at an approved clinic without remuneration under an active
nonvolunteer license shall be entitled to indemnity and defense
under the terms of whatever liability insurance coverage is
maintained by or provided to the practitioner to comply with
[the act of October 15, 1975 (P.L.390, No.111), known as the
Health Care Services Malpractice Act, or] the act of March 20,
2002 (P.L.154, No.13), known as the Medical Care Availability
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and Reduction of Error (Mcare) Act, in the scope of their regular practice. No health care practitioner may be surcharged or denied coverage for rendering services at an approved clinic. Nothing set forth in this section shall limit a carrier's right to refuse coverage or to adjust premiums on the basis of meritorious claims against the practitioner.

Section 10.3. Optional liability coverage.

A person who holds a volunteer license, or an approved clinic acting on behalf of such person, and elects to purchase primary insurance to cover services rendered at an approved clinic shall not be obligated to purchase excess coverage through the Medical Professional Catastrophe Loss Fund or the Medical Care Availability and Reduction of Error (Mcare) Fund.

Section 14. The act is amended by adding a chapter to read:

CHAPTER 5

MENTAL HEALTH SERVICES FOR MILITARY FAMILIES

Section 501. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Approved organization." A nonprofit organization as defined under section 501(c)(3) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 501(c)(3)) whose purpose is to refer United States military personnel and their families, regardless of income and who are in need of mental health services, to licensed volunteers who provide mental health services, whether the mental health services are provided inside or outside a clinic setting AND WHICH ORGANIZATION IS APPROVED

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BY THE DEPARTMENT UNDER SECTION 502.

"Board." The State Board of Medicine, the State Board of Osteopathic Medicine, the State Board of Psychology and, the State Board of Social Workers, Marriage and Family Therapists, and Professional Counselors—AND THE STATE BOARD OF NURSING.

"DEPARTMENT." THE DEPARTMENT OF MILITARY AND VETERANS AFFAIRS OF THE COMMONWEALTH.

"FAMILIES OF MILITARY PERSONNEL." THE DEPENDENT SPOUSES OR DEPENDENT CHILDREN OF MILITARY PERSONNEL OR THE PARENTS OR SIBLINGS OF MILITARY PERSONNEL.

"Licensee." An individual who holds a current, active, unrestricted license to provide mental health services WITHIN THE INDIVIDUAL’S SCOPE OF PRACTICE IN THIS COMMONWEALTH by the appropriate board.

"Mental health services." The term includes, but is not limited to, PROVIDING SOCIAL WORK, marital and family therapy, substance abuse counseling and treatment for post-traumatic stress disorder and traumatic brain injury.

"Mental health volunteer license." A license issued by the appropriate board to a health care practitioner LICENSEE who documents, to the board's satisfaction, that the individual will practice only upon referral from approved organizations without remuneration, who is:

(1) a retired health care practitioner LICENSEE; or

(2) a nonretired health care practitioner LICENSEE who is not required to maintain professional liability insurance under the act of March 20, 2002 (P.L.154, No.13), known as the Medical Care Availability and Reduction of Error (Mcare) Act, because the health care practitioner LICENSEE is not otherwise practicing medicine or providing mental health.
services in this Commonwealth; OR

(3) A NONRETIRED LICENSEE WHO IS NOT WORKING WITHIN THE LICENSEE'S SCOPE OF PRACTICE AT THE PRESENT TIME.

"MILITARY PERSONNEL." A MEMBER OR MEMBERS OF THE ARMED FORCES OF THE UNITED STATES OR ITS RESERVE COMPONENTS, INCLUDING THE PENNSYLVANIA NATIONAL GUARD, SERVING ON ACTIVE DUTY, OTHER THAN ACTIVE DUTY FOR TRAINING, FOR A PERIOD OF 30 OR MORE CONSECUTIVE DAYS. THE TERM INCLUDES A FORMER MEMBER OR MEMBERS OF THE ARMED FORCES OF THE UNITED STATES OR ITS RESERVE COMPONENTS, INCLUDING THE PENNSYLVANIA NATIONAL GUARD, PROVIDED THAT A VETERAN WHO WAS DISCHARGED OR RELEASED FROM SUCH SERVICE UNDER HONORABLE CONDITIONS SHALL BE ACCORDED PRIORITY IN RECEIVING MENTAL HEALTH SERVICES UNDER THIS CHAPTER.

SECTION 502. APPROVED ORGANIZATION PROCEDURE.

(A) SUBMISSION OF APPLICATION.--ANY 501(C)(3) NONPROFIT ORGANIZATION WHOSE PURPOSE IS TO REFER UNITED STATES MILITARY PERSONNEL AND THEIR FAMILIES TO LICENSED VOLUNTEERS WHO PROVIDE MENTAL HEALTH SERVICES WITHOUT REMUNERATION MAY SUBMIT AN APPLICATION TO THE DEPARTMENT.

(B) CONTENTS OF INFORMATION.--AN APPLICATION SUBMITTED UNDER SUBSECTION (A) SHALL CONTAIN:

(1) THE NAME AND ADDRESS OF THE ORGANIZATION AND A COPY OF ITS CORPORATE FILING.

(2) THE CHARITABLE PURPOSE FOR WHICH IT IS OPERATING IN THIS COMMONWEALTH.

(3) THE LATEST FILING WITH THE DEPARTMENT OF STATE.

(4) THE LEVEL OF INSURANCE OBTAINED BY THE ORGANIZATION FOR ITS ACTIVITIES.

(5) THE LOCATION, HOURS, FACILITIES AND STAFF WHO WILL OVERSEE THE VOLUNTEER EFFORT.

(7) The most recent federal tax return (IRS Form 990, 990EZ or 990N) filed by the organization.

(8) Any other information the department, or any Commonwealth agency consulted by the department, deems necessary.

(C) Review of application.--The department shall review the information provided on the application and, after coordination with the department of state and any other Commonwealth agency the department deems appropriate, may approve or disapprove that organization for sponsoring persons who hold mental health volunteer licenses as provided under this act. The department shall provide the appropriate licensing board with the information and a list of approved organizations pursuant to this section.

Section 502. Volunteer status.

A licensee in good standing who retires from active practice or a nonretired licensee who does not otherwise currently practice in this Commonwealth and is not required to maintain professional liability insurance under the act of March 20, 2002 (P.L.154, No.13), known as the Medical Care Availability and Reduction of Error (Mcare) Act, may apply, on forms provided by the appropriate board, for a mental health volunteer license.

Section 503. Regulations.

Each board shall promulgate regulations governing the mental health volunteer license category. The regulations shall include qualifications for obtaining a mental health volunteer license.
SECTION 504. PUBLICATION.

THE COMMISSIONER OF THE BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS IN THE DEPARTMENT OF STATE SHALL PUBLISH AN APPLICATION FORM AND NOTICE IN THE PENNSYLVANIA BULLETIN REGARDING A MENTAL HEALTH VOLUNTEER LICENSE AND CONTINUING EDUCATION REQUIREMENTS.

Section 504. License renewal; disciplinary and corrective measures.

(a) Renewal term.--A mental health volunteer license shall be subject to biennial renewal.

(b) Fee exemption.--Persons who hold mental health volunteer licenses shall be exempt from renewal fees imposed by the appropriate licensing board.

(c) Continuing education.--Except as set forth in subsection (d), persons who hold mental health volunteer licenses shall comply with any continuing education requirements imposed by A board rulemaking THROUGH SECTION 504 as a general condition of biennial renewal.

(d) Physicians.--

(1) Persons who hold mental health volunteer licenses and are physicians shall complete a minimum of 20 credit hours of American Medical Association Physician's Recognition Award Category 2 activities during the preceding biennial period as a condition of biennial renewal and are otherwise exempt from any continuing education requirement imposed by section 910 of the act of March 20, 2002 (P.L.154, No.13), known as the Medical Care Availability and Reduction of Error (Meare) Act, or by board rulemaking.

(2) Physicians who are covered by section 510 and hold an unrestricted license to practice medicine shall complete...
the continuing medical education requirements established by the boards under section 910 of the Medical Care Availability and Reduction of Error (Mcare) Act to be eligible for renewal of the unrestricted license.

(D) Disciplinary matters.--In the enforcement of disciplinary matters, persons who hold mental health volunteer licenses shall be subject to those standards of conduct applicable to all licensees licensed by the appropriate board.

Section 505. Liability.

(a) General rule.--A person who holds a mental health volunteer license and, in good faith, renders professional mental health services under this chapter shall not be liable for civil damages arising as a result of any act or omission in the rendering of care unless the conduct of the person falls substantially below professional standards which are generally practiced and accepted in the community and unless it is shown that the person did an act or omitted the doing of an act which the person was under a recognized duty to a patient to do, knowing or having reason to know that the act or omission created a substantial risk of actual harm to the patient.

(b) Application.--This section shall not apply unless the person posts in a conspicuous place on the person's premises an explanation of the exemptions from civil liability provided under subsection (a). The protections provided by this section shall not apply to institutional health care providers, such as hospitals or approved clinics, subject to vicarious liability for the conduct of a volunteer license holder. The liability of such institutional defendants shall be governed by the standard of care established by common law.

Section 506. Report.
Beginning 30 days after the effective date of this chapter and every 30 days thereafter until such regulations applicable to this chapter are in effect, the chairmen of the appropriate boards shall report in writing to the Commissioner of Professional and Occupational Affairs on the status of the mental health volunteer license regulations who shall convey the required reports to the standing committees on Consumer Protection and Professional Licensure and Public Health and Welfare of the Senate and the standing committees on Professional Licensure, Health and Human Services of the House of Representatives.

Section 507. Exemptions.

For the purposes of this chapter, persons who hold a mental health volunteer license and are otherwise subject to the provisions of the act of March 20, 2002 (P.L.154, No.13), known as the Medical Care Availability and Reduction of Error (Mcare) Act, shall be exempt from the requirements of that act with regard to the maintenance of liability insurance coverage. If the persons hold a license issued by the State Board of Chiropractic, the persons shall be exempt from the provisions of section 508 of the act of December 16, 1986 (P.L.1646, No.188), known as the Chiropractic Practice Act.

Section 508. State health centers.

Mental health services of persons who hold a mental health volunteer license shall not be substituted for those of Commonwealth employees.

Section 509. Prescription of medication for family members.

(a) General rule.--A person who holds a mental health volunteer license and was able to prescribe medication pursuant to the laws of this Commonwealth while a licensee may prescribe...
medication to any member of the person's family notwithstanding the family member's ability to pay for that member's own care or whether that member is being treated at an approved provider.

(b) Liability.--The liability provisions of section 505(a) shall apply to a person who holds a mental health volunteer license and prescribes medication to a family member pursuant to this section, whether or not the provisions of section 505(b) have been followed.

(c) Construction.--Nothing in this section shall be construed to allow a person who holds a mental health volunteer license to prescribe medication of a type or in a manner prohibited by the laws of this Commonwealth OR TO PRACTICE OUTSIDE THE PERSON'S SCOPE OF PRACTICE.

(d) Definition.--As used in this section, the term "family member" means a volunteer license holder's spouse, child, daughter-in-law, son-in-law, mother, father, sibling, mother-in-law, father-in-law, sister-in-law, brother-in-law, grandparent, grandchild, niece, nephew or cousin.

Section 510 509. Indemnity and defense for active practitioners.

A health care practitioner who provides mental health services upon the referral of an approved organization without remuneration under an active nonvolunteer license shall be entitled to indemnity and defense under the terms of whatever liability insurance coverage is maintained by or provided to the practitioner to comply with the act of March 20, 2002 (P.L.154, No.13), known as the Medical Care Availability and Reduction of Error (Mcare) Act, in the scope of their regular practice. No health care practitioner may be surcharged or denied coverage for rendering mental health services upon the referral of an
approved organization. Nothing set forth in this section shall
limit a carrier's right to refuse coverage or to adjust premiums
on the basis of meritorious claims against the practitioner.

Section 511 510. Optional liability coverage.

A person who holds a mental health volunteer license or an
approved organization and elects to purchase primary insurance
to cover mental health services rendered upon referral of the
approved organization shall not be obligated to purchase excess
coverage through the Medical Professional Catastrophe Loss Fund
or the Medical Care Availability and Reduction of Error (Mcare)
Fund.

Section 15. The act is amended by adding a chapter heading
to read:

CHAPTER 7
MISCELLANEOUS PROVISIONS

Section 16. The act is amended by adding a section to read:

Section 701. (Reserved).

Section 17. Section 11 of the act is renumbered to read:


This act shall take effect in 60 days.

Section 18. This act shall take effect in 60 days.