

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## HOUSE BILL

No. 43 Session of  
2013

INTRODUCED BY HARPER, HAHN, HAGGERTY, RAVENSTAHL, LONGIETTI,  
BOBACK, YOUNGBLOOD, HALUSKA, TOEPEL, FABRIZIO, MILLARD, ROCK,  
TOOHIL, COHEN, KORTZ, SWANGER, WATSON, KAVULICH, O'NEILL,  
R. BROWN, SCHLEGEL CULVER, CALTAGIRONE, MATZIE, R. MILLER,  
GOODMAN, MURT, SIMMONS, EVERETT, FARRY, READSHAW AND  
BRADFORD, JANUARY 8, 2013

SENATOR TOMLINSON, CONSUMER PROTECTION AND PROFESSIONAL  
LICENSURE, IN SENATE, AS AMENDED, MAY 7, 2014

## AN ACT

1 Amending the act of December 4, 1996 (P.L.893, No.141), entitled  
2 "An act providing for volunteer health services; limiting  
3 liability of a volunteer license holder; and requiring  
4 reports," further providing for purpose and for definitions;  
5 providing for approved organization procedure; and further  
6 providing for liability and for prescription of medication  
7 for family members.

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

10 Section 1. Section 2 of the act of December 4, 1996  
11 (P.L.893, No.141), known as the Volunteer Health Services Act,  
12 is amended to read:

13 Section 2. Purpose.

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

15 (1) Increase the availability of primary health care  
16 services, including mental health services, by establishing a  
17 procedure through which physicians and other health care

1 practitioners who are retired from active practice may  
2 provide professional services within their scope of practice  
3 as a volunteer in approved clinics serving financially  
4 qualified persons and in approved clinics located in  
5 medically underserved areas or health professionals shortage  
6 areas.

7 (2) Increase the availability of mental health services  
8 to military personnel and their families by establishing a  
9 procedure through which physicians and other health care  
10 practitioners who are retired from active practice may  
11 provide mental health services within their scope of practice  
12 as a volunteer upon referral from approved organizations.

13 Section 2. Section 3 of the act, amended June 19, 2002  
14 (P.L.406, No.58), is amended to read:

15 Section 3. Definitions.

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

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

28 "Approved organization." A nonprofit organization as defined  
29 under section 501(c)(3) of the Internal Revenue Code of 1986  
30 (Public Law 99-514, 26 U.S.C. § 501(c)(3)) whose purpose is to

1 refer military personnel and their families, regardless of  
2 income and who are in need of mental health services, to  
3 licensed volunteers who provide mental health services, whether  
4 OR NOT the mental health services are provided inside or outside <--  
5 a clinic setting AT AN APPROVED CLINIC and which organization is <--  
6 approved by the Department of Military and Veterans Affairs  
7 under section 4.1.

8 "Board." The State Board of Medicine, the State Board of  
9 Osteopathic Medicine, the State Board of Dentistry, the State  
10 Board of Podiatry, the State Board of Nursing, the State Board  
11 of Optometry [and], the State Board of Chiropractic, the State  
12 Board of Psychology and the State Board of Social Workers,  
13 Marriage and Family Therapists and Professional Counselors.

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

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

20 "Mental health services." The term includes, but is not  
21 limited to, providing social work, marital and family therapy,  
22 substance abuse counseling and treatment for post-traumatic  
23 stress disorder and traumatic brain injury.

24 "Military personnel." An individual who has served or is  
25 serving in the United States Armed Forces, reserve component or  
26 National Guard.

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

1 education and mental health services.

2 "Volunteer license." A license issued by the appropriate  
3 board to a health care practitioner who documents, to the  
4 board's satisfaction, that the individual will practice only in  
5 approved clinics, or upon referral from approved organizations,  
6 without remuneration, who is:

7 (1) a retired health care practitioner; or

8 (2) a nonretired health care practitioner who is not  
9 required to maintain professional liability insurance under  
10 [the act of October 15, 1975 (P.L.390, No.111), known as the  
11 Health Care Services Malpractice Act, or] the act of March  
12 20, 2002 (P.L.154, No.13), known as the Medical Care  
13 Availability and Reduction of Error (Mcare) Act, because the  
14 health care practitioner is not otherwise practicing medicine  
15 or providing health care services in this Commonwealth.

16 Section 3. The act is amended by adding a section to read:

17 Section 4.1. Approved organization procedure.

18 (a) Submission of application.--Any 501(c)(3) nonprofit  
19 organization whose purpose is to refer military personnel and  
20 their families to licensed volunteers who provide mental health  
21 services without remuneration may submit an application to the  
22 Department of Military and Veterans Affairs.

23 (b) Contents of information.--An application submitted under  
24 subsection (a) shall contain:

25 (1) The name and address of the organization and a copy  
26 of its corporate filing.

27 (2) The charitable purpose for which it is operating in  
28 this Commonwealth.

29 (3) The latest filing with the Department of State.

30 (4) The level of insurance obtained by the organization

1 for its activities.

2 (5) The location, hours, facilities and staff who will  
3 oversee the volunteer effort.

4 (6) The confirmation of tax-exempt status of the  
5 organization under section 501(c)(3) of the Internal Revenue  
6 Code of 1986 (Public Law 99-514, 26 U.S.C. § 501(c)(3))  
7 issued by the United States Internal Revenue Service.

8 (7) The most recent Federal tax return (IRS Form 990,  
9 990EZ or 990N) filed by the organization.

10 (8) Any other information the Department of Military and  
11 Veterans Affairs, or any Commonwealth agency consulted by the  
12 department, deems necessary.

13 (c) Review of application.--The Department of Military and  
14 Veterans Affairs shall review the information provided on the  
15 application and, after coordination with the Department of State  
16 and any other Commonwealth agency the Department of Military and  
17 Veterans Affairs deems appropriate, may approve or disapprove  
18 that organization for sponsoring persons who hold volunteer  
19 licenses as provided under this act. The Department of Military  
20 and Veterans Affairs shall provide the appropriate licensing  
21 board with the information and a list of approved organizations  
22 pursuant to this section.

23 Section 4. Section 7 of the act is amended to read:

24 Section 7. Liability.

25 (a) General rule.--A holder of a volunteer license who, in  
26 good faith, renders professional health care services within his  
27 scope of practice under this act shall not be liable for civil  
28 damages arising as a result of any act or omission in the  
29 rendering of care unless the conduct of the volunteer licensee  
30 falls substantially below professional standards which are

1 generally practiced and accepted in the community and unless it  
2 is shown that the volunteer licensee did an act or omitted the  
3 doing of an act which the person was under a recognized duty to  
4 a patient to do, knowing or having reason to know that the act  
5 or omission created a substantial risk of actual harm to the  
6 patient.

7 (b) Application.--

8 (1) This section shall not apply unless:

9 (i) the approved clinic posts in a conspicuous place  
10 on its premises an explanation of the exemptions from  
11 civil liability provided under subsection (a)[.]; or

12 (ii) the volunteer licensee providing mental health  
13 services upon referral from an approved organization  
14 provides the military personnel or family member being  
15 treated with a written explanation of the exemptions from  
16 civil liability provided under subsection (a).

17 (2) The protections provided by this section shall not  
18 apply to institutional health care providers, such as  
19 hospitals or approved clinics or approved organizations,  
20 subject to vicarious liability for the conduct of a volunteer  
21 license holder. The liability of such institutional  
22 defendants shall be governed by the standard of care  
23 established by common law.

24 Section 5. Section 10.1(c) of the act, added October 18,  
25 2000 (P.L.599, No.76), is amended to read:

26 Section 10.1. Prescription of medication for family members.

27 \* \* \*

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

1 this Commonwealth or to practice outside his scope of practice.

2 \* \* \*

3 Section 6. This act shall take effect immediately.