
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 81 Session of
2013

INTRODUCED BY GREENLEAF, FARNESE, ALLOWAY, BAKER, MENSCH,
TARTAGLIONE, ERICKSON, BREWSTER, WILLIAMS, STACK, FONTANA,
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RAFFERTY, BROWNE, PILEGGI, WOZNIAK, WAUGH AND BRUBAKER,
JANUARY 9, 2013

REFERRED TO CONSUMER PROTECTION AND PROFESSIONAL LICENSURE,
JANUARY 9, 2013

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," providing for volunteer mental health services for
5 military families; limiting liability of persons who hold
6 volunteer licenses and provide mental health services to
7 military families; and making editorial changes.

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

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

13 CHAPTER 1

14 PRELIMINARY PROVISIONS

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

16 Section [1] 101. Short title.

17 This act shall be known and may be cited as the Volunteer
18 Health Services Act.

1 Section 3. Section 2 of the act is renumbered and amended to
2 read:

3 Section [2] 102. Purpose.

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

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

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

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

20 CHAPTER 3

21 PRIMARY HEALTH SERVICES AT APPROVED CLINICS

22 Section 5. Sections 3 and 4 of the act, amended June 19,
23 2002 (P.L.406, No.58), are renumbered and amended to read:

24 Section [3] 301. Definitions.

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

28 "Approved clinic." An organized community-based clinic
29 offering primary health care services to individuals and
30 families who cannot pay for their care, to medical assistance

1 clients or to residents of medically underserved areas or health
2 professionals shortage areas. The term may include, but shall
3 not be limited to, a State health center, nonprofit community-
4 based clinic and federally qualified health center, as
5 designated by Federal rulemaking or as approved by the
6 Department of Health or the Department of Public Welfare.

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

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

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

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

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

- 26 (1) a retired health care practitioner; or
27 (2) a nonretired health care practitioner who is not
28 required to maintain professional liability insurance under
29 [the act of October 15, 1975 (P.L.390, No.111), known as the
30 Health Care Services Malpractice Act, or] the act of March

1 20, 2002 (P.L.154, No.13), known as the Medical Care
2 Availability and Reduction of Error (Mcare) Act, because the
3 health care practitioner is not otherwise practicing medicine
4 or providing health care services in this Commonwealth.

5 Section [4] 302. Volunteer status.

6 A licensee in good standing who retires from active practice
7 or a nonretired licensee who does not otherwise currently
8 practice or provide health care services in this Commonwealth
9 and is not required to maintain professional liability insurance
10 under [the act of October 15, 1975 (P.L.390, No.111), known as
11 the 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, may apply, on
14 forms provided by the appropriate board, for a volunteer
15 license.

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

18 Section [5] 303. Regulations.

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

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

24 Section [6] 304. License renewal; disciplinary and corrective
25 measures.

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

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

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

5 (d) Physicians.--

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

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

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

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

27 Section [7] 305. Liability.

28 (a) General rule.--A [holder of] person who holds a
29 volunteer license [who] and, in good faith, renders professional
30 health care services under this act shall not be liable for

1 civil damages arising as a result of any act or omission in the
2 rendering of care unless the conduct of the [volunteer licensee]
3 person falls substantially below professional standards which
4 are generally practiced and accepted in the community and unless
5 it is shown that the [volunteer licensee] person did an act or
6 omitted the doing of an act which the person was under a
7 recognized duty to a patient to do, knowing or having reason to
8 know that the act or omission created a substantial risk of
9 actual harm to the patient.

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

19 Section 9. Section 8 of the act is renumbered to read:
20 Section [8] 306. Report.

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

1 Section 10. Section 9 of the act, amended June 19, 2002
2 (P.L.406, No.58), is renumbered and amended to read:
3 Section [9] 307. Exemptions.

4 For the purposes of this [act, volunteer licensees who]
5 chapter, persons who hold volunteer licenses and are otherwise
6 subject to the provisions of [the act of October 15, 1975
7 (P.L.390, No.111), known as the Health Care Services Malpractice
8 Act, or] the act of March 20, 2002 (P.L.154, No.13), known as
9 the Medical Care Availability and Reduction of Error (Mcare)
10 Act, shall be exempt from the requirements of that act with
11 regard to the maintenance of liability insurance coverage.
12 [Volunteer licensees holding] If the persons hold a license
13 issued by the State Board of Chiropractic, the persons shall be
14 exempt from the provisions of section 508 of the act of December
15 16, 1986 (P.L.1646, No.188), known as the Chiropractic Practice
16 Act.

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

19 Section [10] 308. State health centers.

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

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

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

27 (a) General rule.--A [holder of] person who holds a
28 volunteer license [who] and was able to prescribe medication
29 pursuant to the laws of this Commonwealth while a licensee may
30 prescribe medication to any member of [his] the person's family

1 notwithstanding the family member's ability to pay for that
2 member's own care or whether that member is being treated at an
3 approved clinic.

4 (b) Liability.--The liability provisions of section [7(a)]
5 305(a) shall apply to a [holder of] person who holds a volunteer
6 license [who] and prescribes medication to a family member
7 pursuant to this section, whether or not the provisions of
8 section [7(b)] 305(b) have been followed.

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

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

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

22 A health care practitioner who provides health care services
23 at an approved clinic without remuneration under an active
24 nonvolunteer license shall be entitled to indemnity and defense
25 under the terms of whatever liability insurance coverage is
26 maintained by or provided to the practitioner to comply with
27 [the act of October 15, 1975 (P.L.390, No.111), known as the
28 Health Care Services Malpractice Act, or] the act of March 20,
29 2002 (P.L.154, No.13), known as the Medical Care Availability
30 and Reduction of Error (Mcare) Act, in the scope of their

1 regular practice. No health care practitioner may be surcharged
2 or denied coverage for rendering services at an approved clinic.
3 Nothing set forth in this section shall limit a carrier's right
4 to refuse coverage or to adjust premiums on the basis of
5 meritorious claims against the practitioner.

6 Section [10.3] 311. Optional liability coverage.

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

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

15 CHAPTER 5

16 MENTAL HEALTH SERVICES FOR

17 MILITARY FAMILIES

18 Section 501. Definitions.

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

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

30 "Board." The State Board of Medicine, the State Board of

1 Osteopathic Medicine, the State Board of Psychology and the
2 State Board of Social Workers, Marriage and Family Therapists
3 and Professional Counselors.

4 "Licensee." An individual who holds a current, active,
5 unrestricted license to provide mental health services by the
6 appropriate board.

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

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

16 (1) a retired health care practitioner; or

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

24 Section 502. Volunteer status.

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

1 the appropriate board, for a mental health volunteer license.

2 Section 503. Regulations.

3 Each board shall promulgate regulations governing the mental
4 health volunteer license category. The regulations shall include
5 qualifications for obtaining a mental health volunteer license.

6 Section 504. License renewal; disciplinary and corrective
7 measures.

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

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

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

17 (d) Physicians.--

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

27 (2) Physicians who are covered by section 510 and hold
28 an unrestricted license to practice medicine shall complete
29 the continuing medical education requirements established by
30 the boards under section 910 of the Medical Care Availability

1 and Reduction of Error (Mcare) Act to be eligible for renewal
2 of the unrestricted license.

3 (e) Disciplinary matters.--In the enforcement of
4 disciplinary matters, persons who hold mental health volunteer
5 licenses shall be subject to those standards of conduct
6 applicable to all licensees licensed by the appropriate board.
7 Section 505. Liability.

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

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

28 Section 506. Report.

29 Beginning 30 days after the effective date of this chapter
30 and every 30 days thereafter until such regulations applicable

1 to this chapter are in effect, the chairmen of the appropriate
2 boards shall report in writing to the Commissioner of
3 Professional and Occupational Affairs on the status of the
4 mental health volunteer license regulations who shall convey the
5 required reports to the standing committees on Consumer
6 Protection and Professional Licensure and Public Health and
7 Welfare of the Senate and the standing committees on
8 Professional Licensure, Health and Human Services of the House
9 of Representatives.

10 Section 507. Exemptions.

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

21 Section 508. State health centers.

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

25 Section 509. Prescription of medication for family members.

26 (a) General rule.--A person who holds a mental health
27 volunteer license and was able to prescribe medication pursuant
28 to the laws of this Commonwealth while a licensee may prescribe
29 medication to any member of the person's family notwithstanding
30 the family member's ability to pay for that member's own care or

1 whether that member is being treated at an approved provider.

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

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

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

16 Section 510. Indemnity and defense for active practitioners.

17 A health care practitioner who provides mental health
18 services upon the referral of an approved organization without
19 remuneration under an active nonvolunteer license shall be
20 entitled to indemnity and defense under the terms of whatever
21 liability insurance coverage is maintained by or provided to the
22 practitioner to comply with the act of March 20, 2002 (P.L.154,
23 No.13), known as the Medical Care Availability and Reduction of
24 Error (Mcare) Act, in the scope of their regular practice. No
25 health care practitioner may be surcharged or denied coverage
26 for rendering mental health services upon the referral of an
27 approved organization. Nothing set forth in this section shall
28 limit a carrier's right to refuse coverage or to adjust premiums
29 on the basis of meritorious claims against the practitioner.
30 Section 511. Optional liability coverage.

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

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

10 CHAPTER 7

11 MISCELLANEOUS PROVISIONS

12 Section 16. The act is amended by adding a section to read:
13 Section 701. (Reserved).

14 Section 17. Section 11 of the act is renumbered to read:
15 Section [11] 702. Effective date.

16 This act shall take effect in 60 days.

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