THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1961 Session of 2011

INTRODUCED BY HARPER, MURPHY, RAPP, BOYD, V. BROWN, CALTAGIRONE, CLYMER, CREIGHTON, DALEY, FABRIZIO, FARRY, GEORGE, GINGRICH, GOODMAN, HORNAMAN, KAUFFMAN, KILLION, KORTZ, KOTIK, LONGIETTI, MANN, MILLER, MILNE, D. O'BRIEN, O'NEILL, QUINN, READSHAW, ROCK, ROSS, SCAVELLO, SIMMONS, K. SMITH, SWANGER, TAYLOR, THOMAS, TOEPEL, TOOHIL, VULAKOVICH, WATSON AND YOUNGBLOOD, NOVEMBER 3, 2011

REFERRED TO COMMITTEE ON PROFESSIONAL LICENSURE, NOVEMBER 3, 2011

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
- liability of a volunteer license holder; and requiring
- 4 reports, "further providing for purpose, for definitions and
- for liability.
- 6 The General Assembly of the Commonwealth of Pennsylvania
- 7 hereby enacts as follows:
- 8 Section 1. Section 2 of the act of December 4, 1996
- 9 (P.L.893, No.141), known as the Volunteer Health Services Act,
- 10 is amended to read:
- 11 Section 2. Purpose.
- 12 It is the purpose of this act to [increase]:
- 13 (1) Increase the availability of primary health care
- services by establishing a procedure through which physicians
- 15 and other health care practitioners who are retired from
- 16 active practice may provide professional services as a

- 1 volunteer in approved clinics serving financially qualified
- 2 persons and in approved clinics located in medically
- 3 underserved areas or health professionals shortage areas.
- 4 (2) Increase the availability of mental health services
- 5 by establishing a procedure through which physicians and
- 6 <u>other health care practitioners who are retired from active</u>
- 7 practice may provide mental health services as a volunteer to
- 8 United States military personnel and their families through
- 9 <u>an approved clinic.</u>
- 10 Section 2. Section 3 of the act, amended June 19, 2002
- 11 (P.L.406, No.58), is amended to read:
- 12 Section 3. Definitions.
- 13 The following words and phrases when used in this act shall
- 14 have the meanings given to them in this section unless the
- 15 context clearly indicates otherwise:
- 16 "Approved clinic." An organized community-based clinic
- 17 offering primary health care services to individuals and
- 18 families who cannot pay for their care, to medical assistance
- 19 clients or to residents of medically underserved areas or health
- 20 professionals shortage areas. The term may include, but shall
- 21 not be limited to, a State health center, nonprofit community-
- 22 based clinic and federally qualified health center, as
- 23 designated by Federal rulemaking or as approved by the
- 24 Department of Health or the Department of Public Welfare. The_
- 25 term shall also include a nonprofit organization as defined
- 26 under section 501(c)(3) of the Internal Revenue Code of 1986
- 27 (Public Law 99-514, 26 U.S.C. § 501(c)(3)) whose purpose is to
- 28 provide free mental health services offered by licensed
- 29 <u>volunteers</u>, whether inside or outside a clinic setting, to
- 30 United States military personnel and their families regardless

- 1 of income.
- 2 "Board." The State Board of Medicine, the State Board of
- 3 Osteopathic Medicine, the State Board of Dentistry, the State
- 4 Board of Podiatry, the State Board of Nursing, the State Board
- 5 of Optometry [and], the State Board of Chiropractic, the State
- 6 Board of Psychology and the State Board of Social Workers,
- 7 Marriage and Family Therapists and Professional Counselors.
- 8 "Health care practitioner." An individual licensed to
- 9 practice a component of the healing arts by a licensing board
- 10 within the Department of State.
- 11 "Licensee." An individual who holds a current, active,
- 12 unrestricted license as a health care practitioner issued by the
- 13 appropriate board.
- 14 <u>"Mental health services." The term includes, but is not</u>
- 15 limited to, marital and family therapy, substance abuse
- 16 counseling and treatment for post-traumatic stress disorder and
- 17 traumatic brain injury.
- 18 "Primary health care services." The term includes, but is
- 19 not limited to, regular checkups, immunizations, school
- 20 physicals, health education, prenatal and obstetrical care,
- 21 early periodic screening and diagnostic testing [and], health
- 22 education and mental health services.
- "Volunteer license." A license issued by the appropriate
- 24 board to a health care practitioner who documents, to the
- 25 board's satisfaction, that the individual will practice only in
- 26 approved clinics without remuneration, who is:
- 27 (1) a retired health care practitioner; or
- 28 (2) a nonretired health care practitioner who is not
- required to maintain professional liability insurance under
- 30 the act of October 15, 1975 (P.L.390, No.111), known as the

- 1 Health Care Services Malpractice Act, or the act of March 20,
- 2 2002 (P.L.154, No.13), known as the Medical Care Availability
- and Reduction of Error (Mcare) Act, because the health care
- 4 practitioner is not otherwise practicing medicine or
- 5 providing health care services in this Commonwealth.
- 6 Section 3. Section 7(b) of the act is amended to read:
- 7 Section 7. Liability.
- 8 * * *
- 9 (b) Application.--
- 10 <u>(1)</u> This section shall not apply unless:
- 11 (i) the approved clinic posts in a conspicuous place
 12 on its premises an explanation of the exemptions from
- civil liability provided under subsection (a)[.]; or
- 14 (ii) in the case of an approved clinic that is a
- nonprofit organization providing free mental health
- 16 <u>services to United States military personnel and their</u>
- families, the volunteer licensee posts an explanation of
- 18 the exemptions from civil liability in a conspicuous
- 19 <u>place on the premises in which the volunteer licensee is</u>
- 20 providing the services.
- 21 (2) The protections provided by this section shall not
- apply to institutional health care providers, such as
- 23 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.
- 27 Section 4. This act shall take effect immediately.