

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 AND SCHEGEL CULVER, JANUARY 8, 2013

REFERRED TO COMMITTEE ON PROFESSIONAL LICENSURE, JANUARY 8, 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," further providing for purpose, for definitions and  
 5 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  
 14 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  
 17 volunteer in approved clinics serving financially qualified  
 18 persons and in approved clinics located in medically

1 underserved areas or health professionals shortage areas.

2 (2) Increase the availability of mental health services  
3 by establishing a procedure through which physicians and  
4 other health care practitioners who are retired from active  
5 practice may provide mental health services as a volunteer to  
6 United States military personnel and their families through  
7 an approved clinic.

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

10 Section 3. Definitions.

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

14 "Approved clinic." An organized community-based clinic  
15 offering primary health care services to individuals and  
16 families who cannot pay for their care, to medical assistance  
17 clients or to residents of medically underserved areas or health  
18 professionals shortage areas. The term may include, but shall  
19 not be limited to, a State health center, nonprofit community-  
20 based clinic and federally qualified health center, as  
21 designated by Federal rulemaking or as approved by the  
22 Department of Health or the Department of Public Welfare. The  
23 term shall also include a nonprofit organization as defined  
24 under section 501(c)(3) of the Internal Revenue Code of 1986  
25 (Public Law 99-514, 26 U.S.C. § 501(c)(3)) whose purpose is to  
26 provide free mental health services offered by licensed  
27 volunteers, whether inside or outside a clinic setting, to  
28 United States military personnel and their families regardless  
29 of income.

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

1 Osteopathic Medicine, the State Board of Dentistry, the State  
2 Board of Podiatry, the State Board of Nursing, the State Board  
3 of Optometry [and], the State Board of Chiropractic, the State  
4 Board of Psychology and the State Board of Social Workers,  
5 Marriage and Family Therapists and Professional Counselors.

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

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

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

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

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

- 25 (1) a retired health care practitioner; or  
26 (2) a nonretired health care practitioner who is not  
27 required to maintain professional liability insurance under  
28 [the act of October 15, 1975 (P.L.390, No.111), known as the  
29 Health Care Services Malpractice Act, or] the act of March  
30 20, 2002 (P.L.154, No.13), known as the Medical Care

1 Availability and Reduction of Error (Mcare) Act, because the  
2 health care practitioner is not otherwise practicing medicine  
3 or providing health care services in this Commonwealth.

4 Section 3. Section 7(b) of the act is amended to read:

5 Section 7. Liability.

6 \* \* \*

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) in the case of an approved clinic that is a  
13 nonprofit organization providing free mental health  
14 services to United States military personnel and their  
15 families, the volunteer licensee posts an explanation of  
16 the exemptions from civil liability in a conspicuous  
17 place on the premises in which the volunteer licensee is  
18 providing the services.

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

25 Section 4. This act shall take effect immediately.