

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, TOOHL, COHEN, KORTZ, SWANGER, WATSON, KAVULICH, O'NEILL, R. BROWN, SCHLEGEL CULVER, CALTAGIRONE, MATZIE, R. MILLER, GOODMAN, MURT, SIMMONS, EVERETT, FARRY AND READSHAW, JANUARY 8, 2013

AS REPORTED FROM COMMITTEE ON PROFESSIONAL LICENSURE, HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 17, 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, AND for definitions <--
5 and; PROVIDING FOR APPROVED ORGANIZATION PROCEDURE; AND <--
6 FURTHER PROVIDING for liability AND FOR PRESCRIPTION OF <--
7 MEDICATION 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
18 practitioners who are retired from active practice may

1 provide professional services WITHIN THEIR SCOPE OF PRACTICE <--  
2 as a volunteer in approved clinics serving financially  
3 qualified persons and in approved clinics located in  
4 medically underserved areas or health professionals shortage  
5 areas.

6 (2) Increase the availability of mental health services  
7 TO MILITARY PERSONNEL AND THEIR FAMILIES by establishing a <--  
8 procedure through which physicians and other health care  
9 practitioners who are retired from active practice may  
10 provide mental health services WITHIN THEIR SCOPE OF PRACTICE <--  
11 as a volunteer to United States military personnel and their <--  
12 families through an approved clinic UPON REFERRAL FROM <--  
13 APPROVED ORGANIZATIONS.

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

16 Section 3. Definitions.

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

20 "Approved clinic." An organized community-based clinic  
21 offering primary health care services to individuals and  
22 families who cannot pay for their care, to medical assistance  
23 clients or to residents of medically underserved areas or health  
24 professionals shortage areas. The term may include, but shall  
25 not be limited to, a State health center, nonprofit community-  
26 based clinic and federally qualified health center, as  
27 designated by Federal rulemaking or as approved by the  
28 Department of Health or the Department of Public Welfare. ~~The~~ <--  
29 ~~term shall also include a nonprofit organization as defined~~  
30 ~~under section 501(c)(3) of the Internal Revenue Code of 1986~~

1 ~~(Public Law 99-514, 26 U.S.C. § 501(c)(3)) whose purpose is to~~  
2 ~~provide free mental health services offered by licensed~~  
3 ~~volunteers, whether inside or outside a clinic setting, to~~  
4 ~~United States military personnel and their families regardless~~  
5 ~~of income.~~

6 "APPROVED ORGANIZATION." A NONPROFIT ORGANIZATION AS DEFINED <--  
7 UNDER SECTION 501(C)(3) OF THE INTERNAL REVENUE CODE OF 1986  
8 (PUBLIC LAW 99-514, 26 U.S.C. § 501(C)(3)) WHOSE PURPOSE IS TO  
9 REFER MILITARY PERSONNEL AND THEIR FAMILIES, REGARDLESS OF  
10 INCOME AND WHO ARE IN NEED OF MENTAL HEALTH SERVICES, TO  
11 LICENSED VOLUNTEERS WHO PROVIDE MENTAL HEALTH SERVICES, WHETHER  
12 THE MENTAL HEALTH SERVICES ARE PROVIDED INSIDE OR OUTSIDE A  
13 CLINIC SETTING AND WHICH ORGANIZATION IS APPROVED BY THE  
14 DEPARTMENT OF MILITARY AND VETERANS AFFAIRS UNDER SECTION 4.1.

15 "Board." The State Board of Medicine, the State Board of  
16 Osteopathic Medicine, the State Board of Dentistry, the State  
17 Board of Podiatry, the State Board of Nursing, the State Board  
18 of Optometry [and], the State Board of Chiropractic, the State  
19 Board of Psychology and the State Board of Social Workers,  
20 Marriage and Family Therapists and Professional Counselors.

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

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

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

1 "MILITARY PERSONNEL." AN INDIVIDUAL WHO HAS SERVED OR IS <--  
2 SERVING IN THE UNITED STATES ARMED FORCES, RESERVE COMPONENT OR  
3 NATIONAL GUARD.

4 "Primary health care services." The term includes, but is  
5 not limited to, regular checkups, immunizations, school  
6 physicals, health education, prenatal and obstetrical care,  
7 early periodic screening and diagnostic testing [and], health  
8 education and mental health services.

9 "Volunteer license." A license issued by the appropriate  
10 board to a health care practitioner who documents, to the  
11 board's satisfaction, that the individual will practice only in  
12 approved clinics, OR UPON REFERRAL FROM APPROVED ORGANIZATIONS, <--  
13 without remuneration, who is:

- 14 (1) a retired health care practitioner; or  
15 (2) a nonretired health care practitioner who is not  
16 required to maintain professional liability insurance under  
17 [the act of October 15, 1975 (P.L.390, No.111), known as the  
18 Health Care Services Malpractice Act, or] the act of March  
19 20, 2002 (P.L.154, No.13), known as the Medical Care  
20 Availability and Reduction of Error (Mcare) Act, because the  
21 health care practitioner is not otherwise practicing medicine  
22 or providing health care services in this Commonwealth.

23 SECTION 3. THE ACT IS AMENDED BY ADDING A SECTION TO READ: <--  
24 SECTION 4.1. APPROVED ORGANIZATION PROCEDURE.

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

30 (B) CONTENTS OF INFORMATION.--AN APPLICATION SUBMITTED UNDER

1 SUBSECTION (A) SHALL CONTAIN:

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

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

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

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

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

11 (6) THE CONFIRMATION OF TAX-EXEMPT STATUS OF THE  
12 ORGANIZATION UNDER SECTION 501(C) (3) OF THE INTERNAL REVENUE  
13 CODE OF 1986 (PUBLIC LAW 99-514, 26 U.S.C. § 501(C) (3))  
14 ISSUED BY THE UNITED STATES INTERNAL REVENUE SERVICE.

15 (7) THE MOST RECENT FEDERAL TAX RETURN (IRS FORM 990,  
16 990EZ OR 990N) FILED BY THE ORGANIZATION.

17 (8) ANY OTHER INFORMATION THE DEPARTMENT OF MILITARY AND  
18 VETERANS AFFAIRS, OR ANY COMMONWEALTH AGENCY CONSULTED BY THE  
19 DEPARTMENT, DEEMS NECESSARY.

20 (C) REVIEW OF APPLICATION.--THE DEPARTMENT OF MILITARY AND  
21 VETERANS AFFAIRS SHALL REVIEW THE INFORMATION PROVIDED ON THE  
22 APPLICATION AND, AFTER COORDINATION WITH THE DEPARTMENT OF STATE  
23 AND ANY OTHER COMMONWEALTH AGENCY THE DEPARTMENT OF MILITARY AND  
24 VETERANS AFFAIRS DEEMS APPROPRIATE, MAY APPROVE OR DISAPPROVE  
25 THAT ORGANIZATION FOR SPONSORING PERSONS WHO HOLD VOLUNTEER  
26 LICENSES AS PROVIDED UNDER THIS ACT. THE DEPARTMENT OF MILITARY  
27 AND VETERANS AFFAIRS SHALL PROVIDE THE APPROPRIATE LICENSING  
28 BOARD WITH THE INFORMATION AND A LIST OF APPROVED ORGANIZATIONS  
29 PURSUANT TO THIS SECTION.

30 Section 3. ~~Section 7(b)~~ 4. SECTION 7 of the act is amended <--

1 to read:

2 Section 7. Liability.

3 \* \* \*

<--

4 (A) GENERAL RULE.--A HOLDER OF A VOLUNTEER LICENSE WHO, IN <--

5 GOOD FAITH, RENDERS PROFESSIONAL HEALTH CARE SERVICES WITHIN HIS

6 SCOPE OF PRACTICE UNDER THIS ACT SHALL NOT BE LIABLE FOR CIVIL

7 DAMAGES ARISING AS A RESULT OF ANY ACT OR OMISSION IN THE

8 RENDERING OF CARE UNLESS THE CONDUCT OF THE VOLUNTEER LICENSEE

9 FALLS SUBSTANTIALLY BELOW PROFESSIONAL STANDARDS WHICH ARE

10 GENERALLY PRACTICED AND ACCEPTED IN THE COMMUNITY AND UNLESS IT

11 IS SHOWN THAT THE VOLUNTEER LICENSEE DID AN ACT OR OMITTED THE

12 DOING OF AN ACT WHICH THE PERSON WAS UNDER A RECOGNIZED DUTY TO

13 A PATIENT TO DO, KNOWING OR HAVING REASON TO KNOW THAT THE ACT

14 OR OMISSION CREATED A SUBSTANTIAL RISK OF ACTUAL HARM TO THE

15 PATIENT.

16 (b) Application.--

17 (1) This section shall not apply unless:

18 (i) the approved clinic posts in a conspicuous place

19 on its premises an explanation of the exemptions from

20 civil liability provided under subsection (a)[.]; or

21 ~~(ii) in the case of an approved clinic that is a~~ <--

22 ~~nonprofit organization providing free mental health~~

23 ~~services to United States military personnel and their~~

24 ~~families, the volunteer licensee posts an explanation of~~

25 ~~the exemptions from civil liability in a conspicuous~~

26 ~~place on the premises in which the volunteer licensee is~~

27 ~~providing the services.~~ THE VOLUNTEER LICENSEE PROVIDING <--

28 MENTAL HEALTH SERVICES UPON REFERRAL FROM AN APPROVED

29 ORGANIZATION PROVIDES THE MILITARY PERSONNEL OR FAMILY

30 MEMBER BEING TREATED WITH A WRITTEN EXPLANATION OF THE

1           EXEMPTIONS FROM CIVIL LIABILITY PROVIDED UNDER SUBSECTION

2           (A).

3           (2) The protections provided by this section shall not  
4 apply to institutional health care providers, such as  
5 hospitals or approved clinics OR APPROVED ORGANIZATIONS,       <--  
6 subject to vicarious liability for the conduct of a volunteer  
7 license holder. The liability of such institutional  
8 defendants shall be governed by the standard of care  
9 established by common law.

10          SECTION 5.   SECTION 10.1(C) OF THE ACT, ADDED OCTOBER 18,       <--  
11 2001 (P.L.599, NO.76), IS AMENDED TO READ:

12          SECTION 10.1.   PRESCRIPTION OF MEDICATION FOR FAMILY MEMBERS.

13           \* \* \*

14           (C)   CONSTRUCTION.--NOTHING IN THIS SECTION SHALL BE  
15 CONSTRUED TO ALLOW A VOLUNTEER LICENSE HOLDER TO PRESCRIBE  
16 MEDICATION OF A TYPE OR IN A MANNER PROHIBITED BY THE LAWS OF  
17 THIS COMMONWEALTH OR TO PRACTICE OUTSIDE HIS SCOPE OF PRACTICE.

18           \* \* \*

19          Section ~~4~~ 6. This act shall take effect immediately.       <--