

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

S

3

SENATE BILL 83
Health Care Committee Substitute Adopted 3/20/13
House Committee Substitute Favorable 4/24/13

Short Title: Encourage Volunteer Care in Free Clinics.

(Public)

Sponsors:

Referred to:

February 14, 2013

A BILL TO BE ENTITLED

AN ACT TO ENCOURAGE VOLUNTEER HEALTH CARE IN FREE CLINICS BY
LIMITING THE LIABILITY OF MEDICAL AND HEALTH CARE PROVIDERS IF
THE FREE CLINIC PROVIDES PATIENTS WITH NOTICE OF LIMITED LIABILITY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-21.16 reads as rewritten:

"§ 90-21.16. Volunteer health care professionals; liability limitation.

(a) This section applies as follows:

- (1) Any volunteer medical or health care provider at a facility of a local health department or at a nonprofit community health center,
- (2) Any volunteer medical or health care provider rendering services to a patient referred by a local health department as defined in G.S. 130A-2(5), nonprofit community health center, or nonprofit community health referral service at the provider's place of employment,
- (3) Any volunteer medical or health care provider serving as medical director of an emergency medical services (EMS) agency, or
- (4) Repealed by Session Laws 2011-355, s. 7, effective June 27, 2011.
- (5) Any volunteer medical or health care provider licensed or certified in this State who provides services within the scope of the provider's license or certification at a free clinic facility, who receives no compensation for medical services or other related services rendered at the facility, center, agency, or clinic, or who neither charges nor receives a fee for medical services rendered to the patient referred by a local health department, nonprofit community health center, or nonprofit community health referral service at the provider's place of employment shall not be liable for damages for injuries or death alleged to have occurred by reason of an act or omission in the rendering of the services unless it is established that the injuries or death were caused by gross negligence, wanton conduct, or intentional wrongdoing on the part of the person rendering the services. The free clinic, local health department facility, nonprofit community health center, nonprofit community health referral service, or agency shall use due care in the selection of volunteer medical or health care providers, and this subsection shall not excuse the free clinic, health department facility, community health center, or agency for the failure of the volunteer medical



1 or health care provider to use ordinary care in the provision of medical
2 services to its patients.

3 (b) Nothing in this section shall be deemed or construed to relieve any person from
4 liability for damages for injury or death caused by an act or omission on the part of such person
5 while rendering health care services in the normal and ordinary course of his or her business or
6 profession. Services provided by a medical or health care provider who receives no
7 compensation for his or her services and who voluntarily renders such services at the provider's
8 place of employment, facilities of free clinics, local health departments as defined in
9 G.S. 130A-2, nonprofit community health centers, or as a volunteer medical director of an
10 emergency medical services (EMS) agency, are deemed not to be in the normal and ordinary
11 course of the volunteer medical or health care provider's business or profession.

12 (c) As used in this section, a "free clinic" is a nonprofit, 501(c)(3) tax-exempt
13 organization organized for the purpose of providing health care services without charge or for a
14 minimum fee to cover administrative ~~eosts~~ costs ~~and that maintains liability insurance covering~~
15 ~~the acts and omissions of the free clinic and any liability pursuant to subsection (a) of this~~
16 ~~section.~~

17 (c1) For a volunteer medical or health care provider who provides services at a free
18 clinic to receive the protection from liability provided in this section, the free clinic shall
19 provide the following notice to the patient, or person authorized to give consent for treatment,
20 for the patient's retention prior to the delivery of health care services:

21 "NOTICE

22 Under North Carolina law, a volunteer medical or health care provider shall not be liable for
23 damages for injuries or death alleged to have occurred by reason of an act or omission in the
24 medical or health care provider's voluntary provision of health care services unless it is
25 established that the injuries or death were caused by gross negligence, wanton conduct, or
26 intentional wrongdoing on the part of the volunteer medical or health care provider."

27 (d) A nonprofit community health referral service that refers low-income patients to
28 ~~physicians~~ medical or health care providers for free services is not liable for the acts or
29 omissions of the ~~physician~~ medical or health care providers in rendering service to that patient
30 if the nonprofit community health referral service maintains liability insurance covering the
31 acts and omissions of the nonprofit health referral service and any liability pursuant to
32 subsection (a) of this section.

33 (e) As used in this section, a "nonprofit community health referral service" is a
34 nonprofit, 501(c)(3) tax-exempt organization organized to provide for no charge the referral of
35 low-income, uninsured patients to volunteer health care providers who provide health care
36 services without charge to patients."

37 **SECTION 2.** G.S. 90-21.102(2) reads as rewritten:

38 "(2) Free clinic. — A nonprofit, 501(c)(3) tax-exempt organization organized for
39 the purpose of providing health care services without charge or for a
40 minimum fee to cover administrative ~~eosts~~ costs ~~and that maintains liability~~
41 ~~insurance covering the acts and omissions of the free clinic and any liability~~
42 ~~pursuant to G.S. 90-21.16(a)."~~

43 **SECTION 3.** This act becomes effective October 1, 2013, and applies to claims
44 that arise on or after that date.