

**ASSEMBLY, No. 892**

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**STATE OF NEW JERSEY**

**220th LEGISLATURE**

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PRE-FILED FOR INTRODUCTION IN THE 2022 SESSION

**Sponsored by:**

**Assemblyman BRIAN BERGEN**  
**District 25 (Morris and Somerset)**

**Co-Sponsored by:**

**Assemblymen Space and Wirths**

**SYNOPSIS**

“Volunteer Medical Professional Health Care Act.”

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



**(Sponsorship Updated As Of: 2/14/2022)**

1 AN ACT concerning immunity for civil liability for certain volunteer  
2 medical professionals and supplementing Title 2A of the New  
3 Jersey Statutes.

4  
5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7  
8 1. This act shall be known and may be cited as the “Volunteer  
9 Medical Professional Health Care Act.”

10

11 2. The Legislature finds and declares that:

12 a. There are over one million residents in the State of New  
13 Jersey without health insurance;

14 b. The State of New Jersey provides over \$700 million in  
15 charity care per year;

16 c. Hospital emergency rooms are treating many non-urgent  
17 medical conditions because patients perceive that they have no  
18 other choices;

19 d. Medicaid expenditures in the State of New Jersey now  
20 exceed \$10 billion per year;

21 e. Medicaid mandates are placing additional financial burdens  
22 on hospitals, physicians, and dentists, directly impacting the quality  
23 and delivery of health care services;

24 f. There is an impending fiscal crisis with the proposed  
25 expansion of Medicaid;

26 g. Federal law provides full immunity to physicians and other  
27 health care professionals while they volunteer in nonprofit free  
28 clinics that treat the poor and charge no fee; and

29 h. Expanding physicians’ civil immunity from tort claims in  
30 exchange for their ongoing commitments to charitable practice in  
31 free clinics can improve low-income patients’ access to a range of  
32 medical options while reducing Medicaid utilization and  
33 expenditures.

34

35 3. As used in this act:

36 “Department” means the Department of Health.

37 “Free clinic” means a health care facility licensed by the  
38 Department of Health pursuant to P.L.1971, c.136 (C.26:2H-1 et  
39 seq.) and operated by a nonprofit private entity, and defined in  
40 section 224 of the "Public Health Service Act," (42 U.S.C. s.233)  
41 and meeting the following criteria:

42 (1) The facility does not accept reimbursement for health care  
43 services from any third-party payer, including reimbursement under  
44 any insurance policy or health benefits plan, or under any federal or  
45 State health benefits program, but the facility may accept voluntary  
46 donations for the provision of services; and

1 (2) The facility either does not impose charges on the patients,  
2 or imposes a charge according to the patient's ability to pay the  
3 charge.

4 "Free clinic offsite program" means a program or event operated  
5 by a free clinic through which qualifying health services are  
6 provided to patients at a site other than the free clinic, which may  
7 include a volunteer medical professional's customary practice  
8 location or another location, as appropriate.

9 "Qualifying health services" means qualifying health services  
10 pursuant to section 224 of the "Public Health Service Act," (42  
11 U.S.C. s.233).

12 "Volunteer medical professional" means a licensed physician or  
13 dentist who is certified as a volunteer medical professional pursuant  
14 to this act.

15

16 4. a. The department shall certify a physician or dentist as a  
17 volunteer medical professional pursuant to this act if, at the time of  
18 application for certification:

19 (1) the physician or dentist is licensed pursuant to Title 45 of the  
20 Revised Statutes to practice a health care profession that is regulated  
21 by the State Board of Medical Examiners or the New Jersey State  
22 Board of Dentistry;

23 (2) the physician or dentist provides documentation to the  
24 department certifying that the physician or dentist is deemed to be  
25 an employee of the federal Public Health Service as a free clinic  
26 health professional providing qualifying health services pursuant to  
27 section 224 of the "Public Health Service Act," (42 U.S.C. s.233);  
28 and

29 (3) the physician or dentist and the medical director of a free  
30 clinic provide documentation to the department certifying that the  
31 physician or dentist, prior to the application date and within the  
32 calendar quarter of application, has performed at least four hours of  
33 qualifying health services at the free clinic or free clinic offsite  
34 program per week for four consecutive weeks.

35 b. To maintain certification as a volunteer medical professional  
36 pursuant to this act, a volunteer medical professional shall:

37 (1) continue to meet the criteria specified in paragraphs (1) and  
38 (2) of subsection a. of this section; and

39 (2) provide documentation to the department, on a quarterly  
40 basis, certifying that the volunteer medical professional has  
41 provided no fewer than 48 hours per calendar quarter of qualifying  
42 health services at a free clinic or a free clinic offsite program. This  
43 documentation shall include verification by the medical director of  
44 a free clinic of the qualifying health services provided.

45 c. the department shall immediately terminate the certification  
46 of a physician or dentist as a volunteer medical professional  
47 pursuant to this act if the physician or dentist fails to meet the  
48 criteria specified in subsection b. of this section.

1       5. a. A physician or dentist who is certified by the department  
2 as a volunteer medical professional pursuant to this act shall be  
3 immune from civil liability for any personal injury or wrongful  
4 death to a patient that is a result of any act or omission in the course  
5 of providing care or treatment if the care or treatment was  
6 reasonably provided in good faith and the volunteer medical  
7 professional was acting within the scope of his practice, except that  
8 the immunity granted under this section does not extend to an act or  
9 omission that was the result of gross negligence or willful or  
10 wanton misconduct.

11       b. The exclusive remedy for injury or damage suffered as the  
12 result of any act or omission of the volunteer medical professional  
13 is by commencement of an action against the State in a court of  
14 competent jurisdiction.

15  
16       6. The Commissioner of Health shall adopt rules and  
17 regulations, pursuant to the "Administrative Procedure Act,"  
18 P.L.1968, c.410 (C.52:14B-1 et seq.), in order to effectuate the  
19 purposes of this act.

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21       7. This act shall take effect on the first day of the seventh  
22 month next following the date of enactment, but the Commissioner  
23 of Health may take such anticipatory administrative action in  
24 advance thereof as shall be necessary for the implementation of this  
25 act.

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STATEMENT

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30       This bill, which is designated as the "Volunteer Medical  
31 Professional Health Care Act," provides that a physician or dentist  
32 who is certified as a volunteer medical professional by the  
33 Department of Health (DOH) is immune from civil liability in  
34 accordance with its provisions.

35       In order to be certified as a volunteer medical professional and  
36 receive civil immunity under the bill, an individual must, at the time  
37 of application for certification:

- 38       • be a physician or dentist licensed to practice in New Jersey;  
39       • be deemed to be an employee of the federal Public Health  
40       Service as a free clinic health professional providing qualifying  
41       health services pursuant to section 224 of the "Public Health  
42       Service Act," (42 U.S.C. s.233); and  
43       • have provided at least four hours of qualifying health services at  
44       a free clinic or a free clinic offsite program each week for four  
45       consecutive weeks within the calendar quarter of application.

46       In order to maintain certification as a volunteer medical  
47 professional, an individual must:

- 1     • continue to meet the State licensure requirement;  
2     • continue to be deemed as an employee of the federal Public  
3       Health Service as a free clinic health professional; and  
4     • provide a total of at least 48 hours per calendar quarter of  
5       qualifying health services (equivalent to approximately four  
6       hours per week) at a free clinic or a free clinic offsite program.

7       Physicians and dentists seeking and maintaining certification,  
8     and medical directors of free clinics, as applicable, are required to  
9     provide DOH with documentation certifying that the above criteria  
10    have been met.

11    The bill provides that a volunteer medical professional certified  
12    by DOH is immune from civil liability for any personal injury or  
13    wrongful death that is a result of any act or omission in the course  
14    of providing care or treatment if the care or treatment was  
15    reasonably provided in good faith and the volunteer medical  
16    professional was acting within the scope of his practice, except that  
17    the immunity does not extend to an act or omission that was the  
18    result of gross negligence or willful or wanton misconduct. The  
19    exclusive remedy for injury or damage suffered as the result of any  
20    act or omission of the volunteer medical professional is by  
21    commencement of an action against the State in a court of  
22    competent jurisdiction.

23    The bill takes effect on the first day of the seventh month next  
24    following the date of enactment, but the Commissioner of Health is  
25    authorized to take prior administrative action as necessary for its  
26    implementation.