

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE BILL 802

Short Title: Immunity for Volunteer Physicians. (Public)

Sponsors: Senator Rand.

Referred to: Judiciary I.

March 25, 2009

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE IMMUNITY FOR PHYSICIANS WORKING IN VOLUNTEER
3 NETWORKS.

4 The General Assembly of North Carolina enacts:

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

6 "**§ 90-21.16. Volunteer health care professionals; liability limitation.**

7 (a) This section applies as follows:

- 8 (1) Any volunteer medical or health care provider at a facility of a local health
9 department or at a nonprofit community health center,
10 (2) Any volunteer medical or health care provider rendering services to a patient
11 referred by a local health department as defined in G.S. 130A-2(5) or
12 nonprofit community health center or nonprofit community health referral
13 service at the provider's place of employment,
14 (3) Any volunteer medical or health care provider serving as medical director of
15 an emergency medical services (EMS) agency,
16 (4) Any retired physician holding a "Limited Volunteer License" under
17 G.S. 90-12(d), or
18 (5) Any volunteer medical or health care provider licensed or certified in this
19 State who provides services within the scope of the provider's license or
20 certification at a free clinic facility,

21 who receives no compensation for medical services or other related services rendered at the
22 facility, center, agency, or clinic, or who neither charges nor receives a fee for medical services
23 rendered to the patient referred by a local health ~~department~~ department, nonprofit
24 community health ~~center~~ center, or nonprofit community health referral service at the provider's
25 place of employment shall not be liable for damages for injuries or death alleged to have
26 occurred by reason of an act or omission in the rendering of the services unless it is established
27 that the injuries or death were caused by gross negligence, wanton conduct, or intentional
28 wrongdoing on the part of the person rendering the services. The free clinic, local health
29 department facility, nonprofit community health center, nonprofit community health referral
30 service, or agency shall use due care in the selection of volunteer medical or health care
31 providers, and this subsection shall not excuse the free clinic, health department facility,
32 community health center, or agency for the failure of the volunteer medical or health care
33 provider to use ordinary care in the provision of medical services to its patients.

34 (b) Nothing in this section shall be deemed or construed to relieve any person from
35 liability for damages for injury or death caused by an act or omission on the part of such person
36 while rendering health care services in the normal and ordinary course of his or her business or
37 profession. Services provided by a medical or health care provider who receives no



1 compensation for his or her services and who voluntarily renders such services at facilities of
2 free clinics, local health departments as defined in G.S. 130A-2, nonprofit community health
3 centers, or as a volunteer medical director of an emergency medical services (EMS) agency, are
4 deemed not to be in the normal and ordinary course of the volunteer medical or health care
5 provider's business or profession.

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

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

14 **SECTION 2.** This act becomes effective October 1, 2009, and applies to any
15 alleged acts or omissions in the providing of medical services occurring on or after that date.