

Stricken language would be deleted from and underlined language would be added to present law.

1 State of Arkansas
2 91st General Assembly
3 Regular Session, 2017
4

As Engrossed: S3/20/17

A Bill

HOUSE BILL 1901

5 By: Representative Bentley
6 *By: Senator Irvin*
7

For An Act To Be Entitled

9 AN ACT TO CREATE THE VOLUNTEER HEALTH CARE ACT; TO
10 PROVIDE SOVEREIGN IMMUNITY TO HEALTHCARE PROVIDERS
11 AND MEDICAL PROFESSIONALS THAT PARTICIPATE IN THE
12 VOLUNTEER HEALTHCARE PROGRAM; AND FOR OTHER PURPOSES.
13
14

Subtitle

15 TO CREATE THE VOLUNTEER HEALTH CARE ACT.
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
20

21 SECTION 1. Arkansas Code Title 20, Chapter 8, is amended to add an
22 additional subchapter to read as follows:

Subchapter 7 – Volunteer Health Care Act

20-8-701. Title.

26 This subchapter shall be known and may be cited as the "Volunteer
27 Health Care Act".
28

20-8-702. Legislative purpose.

30 It is the purpose of the General Assembly to:

31 (1) Provide and facilitate access to appropriate, safe, and
32 cost-effective healthcare services; and

33 (2) Maintain health care quality.
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20-8-703. Definitions.

36 As used in this subchapter:



1 (1) "Contract" means an agreement executed in compliance with
2 this subchapter between a healthcare professional or a medical professional
3 and the Department of Health or a governmental contractor;

4 (2) "Governmental contractor" means the county health units,
5 special purpose districts with healthcare responsibilities, a hospital owned
6 and operated by a governmental entity, or any other healthcare entity
7 designated by the department;

8 (3) "Healthcare provider" means:

9 (A) A free or charitable healthcare clinic qualified as
10 exempt from federal income taxation;

11 (B) A state or federally funded community health center;

12 (C) A volunteer corporation or volunteer healthcare
13 provider that delivers healthcare services to low income patients; and

14 (D) Other medical facilities with the primary purpose to
15 deliver medical services or treatment to humans and that includes an office
16 maintained by a medical professional;

17 (4) "Low income patient" means a person who:

18 (A) Is eligible for any category of the Arkansas Medicaid
19 Program; or

20 (B) Does not have health insurance and whose annual
21 household income does not exceed three hundred percent (300%) of the federal
22 poverty level; and

23 (5) "Medical professional" means:

24 (A) A physician, osteopathic physician, or optometric
25 physician;

26 (B) An osteopathic physician's assistant, physician's
27 assistant, or optometric physician's assistant;

28 (C) A chiropractic physician;

29 (D) A podiatric physician;

30 (E) A nurse licensed under § 17-87-101 et seq.;

31 (F) A dentist or dental hygienist;

32 (G) A pharmacist;

33 (H) An optometrist;

34 (I) A dietitian or an individual who offers dietary
35 services; and

36 (J) A student enrolled in an accredited program that

1 prepares the student for licensure in one (1) or more of the healthcare
2 professions listed in subdivisions (4)(A)-(H) of this section.

3
4 20-8-704. Volunteer Healthcare Program.

5 (a)(1) A healthcare provider or medical professional may enter into a
6 contract with the Department of Health or governmental contractor to deliver
7 volunteer health services to eligible low income patients.

8 (2) A healthcare provider or medical professional that enters
9 into a contract as described in subdivision (a)(1) of this section shall be
10 an agent of the state with sovereign immunity while the healthcare provider
11 or medical professional is acting within the scope of duties under the
12 contract as described in this subchapter.

13 (3) A governmental contractor that is also a healthcare provider
14 is not required to enter into a contract under this subchapter with respect
15 to the healthcare services delivered by employees of the governmental
16 contractor.

17 (b) The contract shall:

18 (1) Apply only to volunteer healthcare services delivered by the
19 healthcare provider or medical professional to low income patients who are
20 eligible to receive healthcare services;

21 (2) Include all employees of the healthcare provider; and

22 (3) State that:

23 (A) The healthcare provider or medical professional has
24 sovereign immunity and may not be named as a defendant in an action arising
25 due to medical care or treatment provided within the scope of the contract;

26 (B) If a patient treated by the healthcare provider or
27 medical professional is ineligible for services, the healthcare provider or
28 medical professional shall still have sovereign immunity and may not be named
29 as a defendant in an action arising due to medical care or treatment
30 provided;

31 (C) The department or the governmental contractor has the
32 right to:

33 (i) Dismiss or terminate any healthcare provider or
34 medical professional employed under the contract; and

35 (ii)(a) Terminate the contact with a healthcare
36 provider or medical professional with appropriate cause.

1 (b) At least five (5) business days before the
2 termination date of a contract, the department or governmental contractor
3 shall provide the healthcare provider or medical professional with written
4 notice of intent to terminate the contract and reasons for the decision; and

5 (iii) Access the records of any patient served by
6 the healthcare provider or medical professional under the contract;

7 (D)(i) The healthcare provider or medical professional
8 shall report any adverse incidents and information on treatment outcomes to
9 the department or governmental contractor if pertaining to a patient treated
10 under the contract.

11 (ii) The healthcare provider or medical professional
12 shall also report the adverse incident to the appropriate licensing body to
13 determine whether the adverse incident involves conduct subject to
14 disciplinary action.

15 (iii) Patient medical records and identifying
16 information contained in the adverse incident report shall be confidential
17 and not subject to the Freedom of Information Act of 1967, § 25-19-101 et
18 seq.;

19 (E) The department, governmental contractor, healthcare
20 provider, or medical provider may make patient selection and initial
21 referrals; and

22 (F) If emergency care is required, the patient shall be
23 referred within forty-eight (48) hours after the latter of the time when
24 treatment commences or the patient has the mental capacity to consent to
25 treatments.

26 (c) Annually, the healthcare provider or medical professional shall
27 report the following information to the Department of Health:

28 (1) A summary of the efficacy of access and treatment outcomes;

29 (2) Statistics for claims pending and claims paid;

30 (3) The amount of defense and handling costs associated with all
31 claims brought against healthcare providers or medical professionals by the
32 healthcare provider or medical professional working under the Volunteer
33 Healthcare Program;

34 (4) The operation hours of the healthcare provider or medical
35 professional;

36 (5) The number of patient visits by the healthcare provider or

1 medical professional working under the Volunteer Healthcare Program; and
2 (6) The value of healthcare-related goods and services provided
3 by the healthcare provider or medical professional working under the
4 Volunteer Healthcare Program.

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6 20-8-705. Continuing education credit.

7 (a) A medical professional may fulfill one (1) hour of continuing
8 education credit with the performance of eight (8) hours of volunteer
9 services under this subchapter.

10 (b) A medical professional shall not obtain more than eight (8) hours
11 of credits as described in subsection (a) of this section in a licensing
12 period.

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14 20-8-706. Notice of agency relationship.

15 (a) The healthcare provider or medical professional shall provide
16 written notice to each patient, parent of the patient, or legal guardian of
17 the patient served under a contract described in this subchapter.

18 (b) The written notice shall:

19 (1) Be acknowledged in writing by the patient, the parent of the
20 patient, or the legal guardian of the patient; and

21 (2) Contain information that:

22 (A) The healthcare provider or medical professional is an
23 agent of the state; and

24 (B) The exclusive remedy for damage or injury suffered as
25 a result of any act or omission by the healthcare provider or medical
26 professional acting within the scope of duties under a contract described in
27 this subchapter is to file a claim in the Arkansas Claims Commission.

28 (c) The healthcare provider or medical professional may comply with
29 the requirements of subdivisions (b)(2)(A) and (b)(2)(B) of this section by
30 posting the notice in a conspicuous place within the place of business of the
31 healthcare provider or medical professional.

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33 20-8-707. Reports.

34 (a) Annually, the Department of Health shall report to:

35 (1) The President Pro Tempore of the Senate;

36 (2) The Speaker of the House of Representatives;

1 (3) The minority leaders of the Senate and the House of
2 Representatives;

3 (4) The Chair of the Senate Committee on Public Health, Welfare,
4 and Labor; and

5 (5) The Chair of the House Committee on Public Health, Welfare,
6 and Labor.

7 (b) The report shall include without limitation:

8 (1) A summary of the efficacy of access and treatment outcomes;

9 (2) Statistics for claims pending and claims paid;

10 (3) The amount of defense and handling costs associated with all
11 claims brought against healthcare providers or medical professional under the
12 Volunteer Healthcare Program; and

13 (4) A listing of all healthcare providers and medical
14 professionals volunteering under the Volunteer Healthcare Program with the
15 operation hours of each healthcare provider and medical professional;

16 (5) The number of patient visits under the Volunteer Healthcare
17 Program; and

18 (6) The value of healthcare related goods and services provided
19 by the Volunteer Healthcare Program.

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21 20-8-708. Malpractice litigation costs.

22 A governmental contractor is responsible for costs and attorney's fees
23 for malpractice litigation arising out of healthcare services delivered under
24 a contract brought to the Arkansas Claims Commission.

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26 20-8-709. Rule promulgation.

27 The Department of Health shall promulgate rules necessary to implement
28 this subchapter in a manner consistent with the purpose of this subchapter.

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30 /s/Bentley

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