

Stricken language would be deleted from present law. Underlined language would be added to present law.

1 State of Arkansas
2 81st General Assembly
3 Regular Session, 1997

As Engrossed: H1/24/97 S1/30/97

A Bill

HOUSE BILL 1218

4
5 By: Representative Sheppard
6 By: Senator Mahony

For An Act To Be Entitled

7
8
9
10 "AN ACT TO GRANT VOLUNTEER IMMUNITY FOR LICENSED HEALTH CARE
11 PROFESSIONALS; TO AMEND TITLE 16, CHAPTER 6 PERTAINING TO THE
12 ARKANSAS VOLUNTEER IMMUNITY ACT; AND FOR OTHER PURPOSES."

Subtitle

13
14
15
16 "AN ACT TO GRANT VOLUNTEER IMMUNITY FOR
17 LICENSED HEALTH CARE PROFESSIONALS; TO
18 AMEND TITLE 16, CHAPTER 6 PERTAINING TO
19 THE ARKANSAS VOLUNTEER IMMUNITY ACT; AND
20 FOR OTHER PURPOSES."

21
22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

23
24
25 SECTION 1. (a) Physicians and health care professionals who are
26 licensed under the laws of the State of Arkansas, and who render medical
27 services voluntarily and without compensation to any person at any free or
28 low-cost medical clinic located in the State of Arkansas and registered by the
29 State Board of Health, which accepts no insurance payments and provides
30 medical services free of charge to persons unable to pay or provides medical
31 services for a nominal fee, shall not be liable for any civil damages for any
32 act or omission resulting from the rendering of such medical services, unless
33 such act or omission was the result of such licensee's gross negligence or
34 willful misconduct.

35 (b) The State Board of Health is empowered to adopt such regulations as
36 it may determine necessary to provide for the registration of free or low-cost

1 medical clinics under this section. The regulations shall require that each
2 person, to whom medical services are provided:

3 (i) has been fully informed before any treatment by the physician
4 providing the services or by the staff of the medical clinic of the immunity
5 from civil suit provisions of this section, and

6 (ii) has acknowledged that fact in writing on a form approved or
7 designated by the Department of Health.

8 (c) The State Board of Health and its members, and the Department of
9 Health and its agents and employees, are exempt and immune from liability for
10 any claims or damages when performing their duties pursuant to this section.

11 (d) The provisions of this section supersede the exception for licensed
12 medical professionals under the Arkansas Volunteer Immunity Act, §16-6-105.

13

14 SECTION 2. Arkansas Code 16-6-105(4) is amended to read as follows:

15 "A qualified volunteer shall not be liable in damages for personal
16 injury or property damage sustained by one who is a participant in, or a
17 recipient, consumer, or user of, the services or benefits of a volunteer by
18 reason of any act or omission of a qualified volunteer in connection with the
19 volunteer except as follows:

20 (1) Where the qualified volunteer is covered by a policy of insurance,
21 in which case liability for ordinary negligence is limited to the amount of
22 coverage provided;

23 (2) Where the qualified volunteer acts in bad faith or is guilty of
24 gross negligence;

25 (3) Where the qualified volunteer negligently operates a motor vehicle,
26 aircraft, boat, or other powered mode of conveyance. If the actionable
27 conduct of the qualified volunteer is covered by a policy of liability
28 insurance, his liability for ordinary negligence shall be limited to the
29 amount of the coverage provided;

30 (4) Where the qualified volunteer negligently performs professional
31 services extended to an individual, which the qualified volunteer is licensed
32 under state law to perform, including, but not limited to, legal, ~~medical,~~
33 engineering, and accounting services. If the volunteer agency either provides
34 or requires its professional volunteers to carry professional liability
35 insurance in an amount customarily carried by a member of the profession
36 involved ~~and if recipients of the professional services are clearly informed~~

1 ~~of the amount of coverage provided and the limitation of liability arising~~
2 ~~from the coverage,~~ liability for ordinary negligence in rendering professional
3 service shall be limited to the amount of coverage available or the amount
4 required by the agency, whichever is larger. This exception does not apply to
5 nurses or similar health care providers rendering health care services or
6 other professionals rendering professional services to a government entity,
7 business, or volunteer agency."

8

9 SECTION 3. All provisions of this act of a general and permanent nature
10 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
11 Revision Commission shall incorporate the same in the Code.

12

13 SECTION 4. If any provision of this act or the application thereof to
14 any person or circumstance is held invalid, such invalidity shall not affect
15 other provisions or applications of the act which can be given effect without
16 the invalid provision or application, and to this end the provisions of this
17 act are declared to be severable.

18

19 SECTION 5. All laws and parts of laws in conflict with this act are
20 hereby repealed.

21

/s/Rep. Sheppard

22

23

24

25

26

27

28

29

30

31

32

33

34

35