

State of Arkansas
91st General Assembly
Regular Session, 2017

A Bill

HOUSE BILL 1901

By: Representative Bentley

For An Act To Be Entitled

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

Subtitle

TO CREATE THE VOLUNTEER HEALTH CARE ACT.

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

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

Subchapter 7 – Volunteer Health Care Act

20-8-701. Title.

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

20-8-702. Legislative purpose.

It is the purpose of the General Assembly to:

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

(2) Maintain health care quality.

20-8-703. Definitions.

As used in this subchapter:

(1) "Contract" means an agreement executed in compliance with



this subchapter between a healthcare professional or a medical professional and the Department of Health or a governmental contractor;

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

(3) "Healthcare provider" means:

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

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

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

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

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

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

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

(5) "Medical professional" means:

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

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

(C) A chiropractic physician;

(D) A podiatric physician;

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

(F) A dentist or dental hygienist;

(G) A pharmacist;

(H) An optometrist;

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

(J) A student enrolled in an accredited program that prepares the student for licensure in one (1) or more of the healthcare

1 professions listed in subdivisions (4)(A)-(H) of this section.

2
3 20-8-704. Volunteer Healthcare Program.

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

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

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

16 (b) The contract shall:

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

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

21 (3) State that:

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

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

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

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

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

36 (b) At least five (5) business days before the

1 termination date of a contract, the department or governmental contractor
2 shall provide the healthcare provider or medical professional with written
3 notice of intent to terminate the contract and reasons for the decision; and

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

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

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

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

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

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

25 (G) The department or governmental contractor shall
26 inspect regularly and supervise the healthcare provider or medical
27 professional.

28
29 20-8-705. Continuing education credit.

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

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

1 20-8-706. Notice of agency relationship.

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

5 (b) The written notice shall:

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

8 (2) Contain information that:

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

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

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

19
20 20-8-707. Quality assurance.

21 The Department of Health shall establish a quality assurance program to
22 monitor the healthcare services delivered under a contract described in this
23 subchapter.

24
25 20-8-708. Reports.

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

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

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

29 (3) The minority leaders of the Senate and the House of
30 Representatives;

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

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

35 (b) The report shall include without limitation:

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

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

2 (3) The amount of defense and handling costs associated with all
3 claims brought against healthcare providers or medical professional under the
4 Volunteer Healthcare Program and the quality assurance program; and

5 (4) A listing of all healthcare providers and medical
6 professionals volunteering under the Volunteer Healthcare Program and the
7 quality assurance program with the operation hours of each healthcare
8 provider and medical professional;

9 (5) The number of patient visits under the Volunteer Healthcare
10 Program and the quality assurance program; and

11 (6) The value of healthcare related goods and services provided
12 by the Volunteer Healthcare Program and the quality assurance program.

13
14 20-8-709. Malpractice litigation costs.

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

18
19 20-8-710. Rule promulgation.

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