

Addressing Unmet Medical Need Through Changes in Medical Licensure Law
Ramsay M. Hoguet, JD, MPH

Contacts:

Ramsay M. Hoguet, JD, MPH - hoguetr@gmail.com

Dr. Robert Fulton, MA, DDS, FADI - norway330@windstream.net

Valerie Lindon Tracey, RN, BSN - lindontracey@gmail.com

DRAFT LEGISLATIVE LANGUAGE

Inspired by:

20 Ill. Comp. Stat. 2105/2105-355

Tenn. Stat. §63-6-701 et seq.

Okla. Stat. §59-439.5

Volunteer Health Care Provider Licensure Act

1. Definitions.

As used in this chapter:

(1) “Health care provider” means any physician, surgeon, dentist, nurse, optometrist or other practitioner of a health care discipline, the practice of which requires licensure, certification or registration under any section of the Ohio Revised Code.

(2) “Out-of-state health care provider” means any health care provider holding a current license or certificate issued under the laws of another state, territory, district or possession of the United States.

(3) “Voluntary provision of health care services” means the providing of professional health care services by the health care provider without charge to the recipient of the services or to a third party.

(4) “Sponsoring organization” means any organization that organizes or arranges for the voluntary provision of health care services and that does not charge patients for those services.

(5) “Temporary volunteer health care clinic” means any clinic:

(A) At which one or more out-of-state health care providers will engage in the voluntary provision of health care services in Ohio under the licensing exemption of this chapter;

(B) That does not operate regularly on a weekly or monthly basis at a single location in Ohio; and

(C) That does not charge the recipient of care or a third party.

(6) “Regularly practice” means to practice any health care discipline for more than sixty (60) days within any ninety-day (90) period.

2. Licensing exemption for voluntary provision of health care services.

Any out-of-state health care provider may engage in voluntary provision of health care services in Ohio, provided that the out-of-state health care provider:

(1) Restricts his or her licensed or authorized services and duties solely to the voluntary provision of health care services;

- (2) Provides only the care or services that the individual is licensed or otherwise authorized to provide by any state or territory of the United States; and
- (3) Does not and will not regularly practice in the State of Ohio; and
- (4) Provides a copy of his or her current out-of-state license or authorization to practice to the sponsoring organization on whose behalf he or she will be engaging in voluntary provision of health care services.

3. Liability protections for out-of-state medical providers.

Ohio Revised Code 2305.234 shall apply to the acts or omissions of out-of-state health care providers who are rendering voluntary provision of health care services in Ohio under authorization of this chapter at the time of those acts or omissions.

4. Requirements for sponsoring organizations.

(A) Before allowing any out-of-state health care provider to engage in voluntary provision of health care services in Ohio on the sponsoring organization's behalf, the sponsoring organization shall:

- (1) Obtain a photocopy of the out-of-state provider's license or authorization to practice;
- (2) Verify that the out-state health care provider's license or authorization is current, valid and not subject to disciplinary proceedings;
- (3) Bar the out-of-state health care provider from engaging in voluntary provision of health care services on its behalf if:
 - (a) The out-of-state health care provider's license in any jurisdiction has been revoked or is subject to disciplinary proceedings; or
 - (b) The licensure record of the out-of-state health care provider indicates failure to maintain continuing education requirements or otherwise indicates that the out-of-state health care provider is incompetent to render health care services in Ohio.

(B) The sponsoring organization shall retain the copy of each out-of-state-medical provider's licensure for two (2) years after the date on which the out-of-state medical provider first engages in voluntary provision of health services on the sponsoring organization's behalf.

(C) The sponsoring organization shall, if the out-of-state medical provider will continue to engage in voluntary provision of health services on its behalf after the two-year period described in division (B), re-evaluate the out-of-state provider's license as described in division (A), and shall retain a copy of the license for an additional two (2) years following the end of the preceding two-year period.

5. Requirements for temporary volunteer health care clinics.

Any sponsoring organization may arrange to produce a temporary volunteer health care clinic, provided that:

(1) The board of health of the county, and if applicable the board of health of the municipality, in which the temporary volunteer health care clinic will occur, invite(s) the sponsoring organization to produce a temporary volunteer health care clinic at least six (6) months before the date on which the temporary volunteer health care clinic will commence operation;

(2) If the temporary volunteer health care clinic will be produced for the purpose of aiding the victims of a natural or man-made disaster shortly after the disaster occurs, the county or municipal board of health may waive the six-month invitation required by division (1);

(3) The sponsoring organization provides in writing to the county board of health and, if applicable, the municipal board of health:

(A) The name of the sponsoring organization;

(B) The name of principal individual or individuals who are the officers or organizational officials responsible for the operation of the sponsoring organization;

(C) The address, including street, city, zip code and county, of the sponsoring organization's principal office address and the same address information for each principal or official listed in the writing; and

(D) Telephone numbers for the principal office of the sponsoring agency and each principal or official listed in the writing;

and

(4) The sponsoring organization, in coordination with the county board of health, and if applicable the city board of health, makes reasonable efforts to:

(A) Recruit health care providers, who are fully licensed to regularly practice in Ohio, to engage in voluntary provision of health care services during the temporary volunteer health care clinic;

(B) Seek assistance in the planning and operation of the temporary volunteer health care clinic from medical facilities, health care providers, community health centers, federally qualified health centers and charitable organizations within the municipality and county in which the temporary volunteer health care clinic will occur; and

(C) Refer all patients of the temporary volunteer health care clinic to low-cost, free or charitable sources of dental, vision, medical or other health care services located within the municipality and county.

Oklahoma Special Volunteer License Law

Okla. Stat. §59-493.5

§59-493.5. Special volunteer license.

A. 1. There is established a special volunteer license for eligible volunteers from a medically related field who are retired from active practice or actively licensed in another state and practicing in that state and wish to donate their expertise for the care and treatment of indigent and needy persons of this state.

2. For purposes of this section:

a. “eligible volunteer” means a physician, physician assistant, nurse, dentist, optometrist or pharmacist, and

b. “nurse” means an advanced practice nurse, advanced registered nurse practitioner, registered nurse, or licensed practical nurse.

3. The special volunteer license shall be:

a. issued by the State Board of Medical Licensure and Supervision to eligible physicians and physician assistants, by the Board of Osteopathic Examiners to eligible physicians, by the Oklahoma Board of Nursing to eligible nurses, the Board of Dentistry to eligible dentists, the Board of Examiners in Optometry to eligible optometrists, and by the Board of Pharmacy to eligible pharmacists,

b. issued without the payment of an application fee, license fee or renewal fee,

c. issued or renewed without any continuing education requirements in this state,

d. issued for a period of time to be determined by the applicable board, and

e. renewable upon approval of the applicable Board.

B. An eligible volunteer shall meet the following requirements before obtaining a special volunteer license:

1. Completion of a special volunteer license application, including, as applicable, documentation of:
 - a. the medical school graduation of the physician,
 - b. the completion of a physician assistant program by a physician assistant,
 - c. the completion of the basic professional curricula of a school of nursing by the nurse,
 - d. the dental school graduation of the dentist,
 - e. the optometry school graduation of the optometrist, or
 - f. the school or college of pharmacy graduation of a pharmacist, and
 - g. the relevant practice history of the applicant;
2. Documentation or electronic verification that the eligible volunteer has been previously issued a full and unrestricted license to practice in Oklahoma or in another state of the United States and written acknowledgment that he or she has never been the subject of any professional disciplinary action in any jurisdiction;
3. Written acknowledgement that the practice of the eligible volunteer under the special volunteer license will be exclusively and totally devoted to providing care to needy and indigent persons in Oklahoma or to providing care under the Oklahoma Medical Reserve Corps; and
4. Written acknowledgement that the eligible volunteer shall not receive or have the expectation to receive any payment or compensation, either direct or indirect, for any services rendered in this state under the special volunteer license. The only exception to the indirect compensation provision is for those out-of-state physicians, physician assistants, nurses, dentists, optometrists or pharmacists that participate in the free care given by means of Telemedicine through the Shriners Hospitals for Children national network.

Added by Laws 2003, c. 138, § 1, eff. Nov. 1, 2003. Amended by Laws 2004, c. 313, § 17, emerg. eff. May 19, 2004; Laws 2004, c. 523, § 24, emerg. eff. June 9, 2004; Laws 2007, c. 133, § 3, eff. Nov. 1, 2007; Laws 2009, c. 255, § 1, eff. Nov. 1, 2009; Laws 2010, c. 247, § 2, emerg. eff. May 10, 2010.

Illinois Volunteer Licensure Law
20 Ill. Comp. Stat. 2105/2105-355

Sec. 2105-355. Licensing exemptions related to free medical clinics.

(a) Any health care professional authorized by law to provide services at a free medical clinic may do so without being licensed under any Act administered by the Department, provided that the health care professional:

- (1) is duly licensed by, or otherwise authorized to practice the profession by, any state or territory of the United States;
- (2) restricts his, her, or its licensed or authorized services and duties solely to the provision of care or service at a free medical clinic;
- (3) provides only the care or services that the individual or entity is licensed or otherwise authorized to provide by any state or territory of the United States; and
- (4) provides a copy of his or her current out-of-state license or authorization to practice to the free medical clinic, which shall retain the copy for 2 years.

(b) The requirements of this Section 2105-355 do not apply to the exemptions authorized by the Department pursuant to Section 2105-400 of this Act.

(Source: P.A. 96-931, eff. 6-21-10.)

[20 ILCS 2105/2105-400 states that when the governor proclaims a disaster, certain other exemptions from various professional licensure requirements may be granted.]

Tennessee Volunteer Health Care Services Act

Tenn. Stat. 63-6-701 – 63-6-709

63-6-701. Short title. —

This part shall be known and may be cited as the “Volunteer Health Care Services Act.”

63-6-702. Legislative findings. —

(a) The general assembly finds that:

- (1) Access to high quality health care services is a concern of all persons;
- (2) Access to such services is severely limited for some residents of this state, particularly those who reside in remote, rural areas or in the inner city;
- (3) Physicians and other health care professionals have traditionally worked to assure broad access to health care services; and
- (4) Many health care providers from Tennessee and elsewhere are willing to volunteer their services to address the health care needs of Tennesseans who may otherwise not be able to obtain such services.

(b) The general assembly further finds that it is the public policy of this state to encourage and facilitate voluntary provision of health care services.

[Acts 1995, ch. 299, § 2.]

63-6-703. Part definitions. —

As used in this part, unless the context otherwise requires:

- (1) “Health care provider” means any physician, surgeon, dentist, nurse, optometrist or other practitioner of a health care discipline, the professional practice of which requires licensure or certification under the provisions of this title or under a comparable provision of law of another state, territory, district or possession of the United States;
- (2) “Licensed health care provider” means any health care provider holding a current license or certificate issued under:
 - (A) This title; or
 - (B) A comparable provision of the law of another state, territory, district or possession of the United States;
- (3) “Regularly practice” means to practice for more than sixty (60) days within any ninety-day period;
- (4) “Sponsoring organization” means any organization that organizes or arranges for the voluntary provision of health care services and that registers with the department of health as a sponsoring organization in accordance with § 63-6-706 and charges clients on a sliding scale according to income; and

(5) “Voluntary provision of health care services” means the providing of professional health care services by the health care provider without charge to the recipient of the services or to a third party.

[Acts 1995, ch. 299, § 3; 2009, ch. 581, § 1.]

63-6-704. Licensure requirements. —

(a) Notwithstanding any provision of law to the contrary, no additional license or certificate otherwise required under the provisions of this title is necessary for the voluntary provision of health care services by any person who:

(1) Is a duly licensed health care provider as defined under § 63-6-703; or

(2) Lawfully practices under an exception to the licensure or certification requirements of any state, territory, district or possession of the United States; provided, that the person does not and will not regularly practice in Tennessee.

(b) The provisions of subsection (a) does not apply to any person whose license or certificate is suspended or revoked pursuant to disciplinary proceedings in any jurisdiction. Furthermore, the provisions of subsection (a) do not apply to a licensed health care provider who renders services outside the scope of practice authorized by the provider's licensure, certification or exception to such licensure or certification.

[Acts 1995, ch. 299, § 4.]

63-6-705. Applicability. —

With regard to a person who voluntarily provides health care services and who is covered by the provisions of § 63-6-704(a), the prohibitions expressed in § 63-6-202, relative to itinerant physicians, shall not apply and all requirements regarding display of a license or certificate shall be satisfied by the presentation for inspection, upon request, of a photocopy of the applicable license, certificate or statement of exemption.

[Acts 1995, ch. 299, § 5.]

63-6-706. Registration requirements — Revocation. —

(a) (1) Before providing volunteer medical services in this state, a sponsoring organization shall register with the department of health by submitting a registration fee of fifty dollars (\$50.00) and filing a registration form. The fifty-dollar registration fee shall not apply to any sponsoring organization as defined in § 63-6-703 when providing volunteer health care services in cases of natural or man-made disasters. Such registration form shall contain:

(A) The name of the sponsoring organization;

(B) The name of principal individual or individuals who are the officers or organizational officials responsible for the operation of the sponsoring organization;

(C) The address, including street, city, zip code and county, of the sponsoring organization's principal office address and the same address information for each principal or official listed in subdivision (a)(1)(B);

(D) Telephone numbers for the principal office of the sponsoring agency and each principal or official listed in subdivision (a)(1)(B); and

(E) Such additional information as the department shall require.

(2) Upon any change in the information required under subdivision (a)(1), the sponsoring organization shall notify the department in writing of such change within thirty (30) days of its occurrence.

(b) The sponsoring organization shall file a quarterly voluntary services report with the department during the current quarter that lists all licensed health care providers who provided voluntary health care services during the preceding quarter. The sponsoring organization shall maintain on file for five (5) years following the date of service additional information, including the date, place and type of services provided.

(c) Each sponsoring organization shall maintain a list of health care providers associated with its provision of voluntary health services. For each such health care provider, the organization shall maintain a copy of a current license, certificate or statement of exemption from licensure or certification or, in the event that the health care provider is currently licensed in the state of Tennessee, a copy of the health care provider's license verification obtained from a state-sponsored web site.

(d) The sponsoring organization shall maintain such records for a period of at least five (5) years following the provision of health care services and shall furnish such records upon request to any regulatory board established under this title.

(e) Compliance with subsections (a) and (b) shall be prima facie evidence that the sponsoring organization has exercised due care in its selection of health care providers.

(f) The department may revoke the registration of any sponsoring organization that fails to comply with the requirements of subsections (a)-(e). Any such revocation shall be conducted in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

[Acts 1995, ch. 299, §§ 6, 7; 2000, ch. 723, § 1; 2007, ch. 69, § 1.]

63-6-707. Liability insurance coverage. —

No contract of professional liability insurance covering a health care provider in this state, issued or renewed on or after May 26, 1995, shall exclude coverage to any provider who engages in the voluntary provision of health care services; provided, that the sponsoring organization and the health care provider comply with the requirements of this part.

[Acts 1995, ch. 299, § 8.]

63-6-708. Immunity for voluntary provision of health care services. —

(a) (1) No person who is licensed, certified or authorized by the board of any of the professions of the healing arts, as enumerated in this title, and who engages in the voluntary provision of health care services within the limits of the person's license, certification or authorization to any patient of a sponsoring organization within the meaning of this part, shall be liable for any civil damages for any act or omission resulting from the rendering of such services, unless the act or omission was the result of such person's gross negligence or willful misconduct.

(2) The volunteer licensee who is providing free care shall not receive compensation of any type, directly or indirectly, or any benefits of any type whatsoever, or any consideration of any nature, from anyone for the free care. Nor shall such services be part of the provider's training or assignment.

(3) The volunteer licensee must be acting within the scope of such license, certification or authority.

(4) A health care licensee providing free health care shall not engage in activities at a clinic or at the health care licensee's office, if the activities are performed on behalf of the sponsoring organization, unless those activities are authorized by the appropriate authorities to be performed at the clinic or office and the clinic or office is in compliance with all applicable rules and regulations.

(b) For purposes of this section, any commissioned or contract medical officer or dentist serving on active duty in the United States armed forces and assigned to duty as a practicing, commissioned or contract medical officer or dentist at any military hospital or medical facility owned and operated by the United States government shall be deemed to be licensed pursuant to this part.

[Acts 2005, ch. 208, § 1; 2007, ch. 69, § 2; 2009, ch. 581, § 2.]

63-6-709. Liability of volunteer crisis response team member — Applicability. —

(a) (1) “Crisis intervention” means a session at which crisis response services are rendered by a critical incident stress management team member during or after a crisis or disaster;

(2) “Crisis response services” means consultation, risk assessment, referral and crisis intervention services provided by a critical incident stress management team to individuals affected by crisis or disaster;

(3) “Critical incident stress management team member,” referred to also as “team member,” means an individual specially trained to provide crisis response services as a member of an organized community or local crisis response team that holds membership in a registered critical incident stress management team;

(4) “Registered team” means a team formally registered with a recognized training agency. For the purposes of this section, a recognized training agency shall include the International Critical Incident Stress Foundation, the National Organization for Victim Assistance, the National Red Cross, the Tennessee Public Safety Network and other such organizations;

(5) “Training session” means a session providing crisis response training by a qualified, trained trainer utilizing the standards established by the accrediting agencies set out in subdivision (a)(4); and

(6) “Volunteer” means a person who serves and receives no remuneration for services except reimbursement for actual expenses.

(b) (1) Any volunteer crisis response team member who participates in a crisis intervention shall not be liable in tort for any personal injuries or infliction of emotional distress of any participant to the crisis intervention that is caused by the act or an omission of a crisis response team member during the course of a crisis intervention.

(2) Subdivision (b)(1) shall not apply unless the intervention or training is conducted within generally accepted protocols of a registered team as defined by a nationally recognized accrediting agency.

(c) The tort immunity in subsection (b) does not apply if:

(1) The team member acted with actual malice or willful intent to injure the subject;

(2) The team member acted outside the scope of assigned duties;

(3) The team member acted without team coordination and dispatch;

(4) The action involved the commission of a crime;

(5) The action involved sexual harassment, sexual or physical abuse;

(6) The actions involved any form of moral turpitude or moral misconduct within the normally accepted community standards; or

(7) If damages resulted from gross negligence of the team member.

[Acts 2008, ch. 921, § 1.]