

Model Legislation: Volunteer Health Services

SECTION 1. NEW LAW. A new section of law concerning the provision of free quality healthcare services to uninsured and underserved populations of the state; providing sovereign immunity to medical professionals who provide such services under contract as agents of the state; providing continuing education credits to medical professionals who provide such services.

SECTION 2. DEFINITIONS. As used in this section, the term:

- (A) "Contract" means an agreement executed in compliance with this section between a medical professional and a free or charitable health care clinic licensed by the state Department of Health or a governmental contractor.
- (B) "Department" means the Department of Health.
- (C) "Governmental Contractor" means the Department, county health departments, special purpose districts with healthcare responsibilities, a hospital owned and operated by a governmental entity, or any other health care entity designated by the Department.
- (D) "Health Care Provider" or "Provider" means:
 - a. A birth center licensed under [APPLICABLE CODE SECTION]
 - b. An ambulatory surgical center licensed under [APPLICABLE CODE SECTION]
 - c. A hospital licensed under [APPLICABLE CODE SECTION]
 - d. A health maintenance organization
 - e. A health care professional association
 - f. A free or charitable clinic qualified as exempt from federal income taxation under s. 501(a) of the Internal Revenue Code, and described in s. 501(c) of the Internal Revenue Code, which delivers medical services free of charge to low-income patients, any state or federally funded community health center, or any volunteer corporation or volunteer health care provider that delivers health care services to low-income patients
 - g. Any other medical facility the primary purpose of which is to deliver human medical services or treatment, and which includes an office maintained by a medical professional
- (E) "Medical Professional" or "Professional" means:
 - a. A physician or physician's assistant licensed under [APPLICABLE CODE SECTION]
 - b. An osteopathic physician or osteopathic physician's assistant licensed under [APPLICABLE CODE SECTION]
 - c. A chiropractic physician licensed under [APPLICABLE CODE SECTION]
 - d. A podiatric physician licensed under [APPLICABLE CODE SECTION]
 - e. A registered nurse, nurse midwife, licensed practical nurse, or registered nurse practitioner licensed or registered under [APPLICABLE CODE SECTION]
 - f. A midwife licensed under [APPLICABLE CODE SECTION]
 - g. A dentist or dental hygienist licensed under [APPLICABLE CODE SECTION]
 - h. A student enrolled in an accredited program that prepares the student for licensure as any one of the professionals listed in this subsection.
- (F) "Low-income" means:
 - a. A person eligible for Medicaid under [STATE] law; or

- b. A person who is without health insurance and whose annual household income does not exceed 200 percent of the federal poverty level as defined by the federal Office of Management and Budget

SECTION 3. VOLUNTEER SERVICES FOR LOW-INCOME PATIENTS

- (A) A health care provider or individual medical professional that executes a contract with the Department or Governmental Contractor to deliver volunteer health care services to eligible low-income patients shall be considered an agent of the state for purposes of [STATE'S SOVERIGN IMMUNITY STATUTE] while acting within the scope of duties under the contract so long as the contract complies with the requirements of this section and regardless of whether the individual treated is later found to be ineligible. As an agent of the state, the health care provider or medical professional under contract with the state may not be named as a defendant in any action arising out of medical care or treatment provided under the terms of contracts entered into under this section.
 - 1) A contract entered into by a health care provider under this section shall cover all employees of the health care provider, and the individual employee shall not be required to enter into a contract under this section with respect to the health care services they deliver in connection with their employment.
- (B) CONTINUING EDUCATION CREDIT. Medical professionals may fulfill one hour of continuing education credit by the performance of one hour of volunteer services to eligible patients as provided in this section, up to a maximum of eight credits per licensure period.
- (C) CONTRACT REQUIREMENTS. The contract shall provide that:
 - 1) Scope: The contract applies only to volunteer health care services delivered by the health care provider or individual medical professional to low-income individuals eligible to receive such services.
 - 2) The health care provider or individual medical professional may not be named as a defendant in any action arising out of medical care or treatment provided within the scope of the contract.
 - 3) In the event that a patient treated by the health care provider or medical professional under the contract is later found to be ineligible, the health care provider or medical professional shall still enjoy immunity from liability in any action arising out of medical care or treatment provided to the individual prior to a determination of ineligibility.
 - 4) The right of dismissal or termination of any health care provider or individual medical professional under the contract is retained by the Department or the government contractor.
 - 5) The Department and/or Governmental Contractor shall have the right to terminate the contract with the health care provider or individual medical professional with appropriate cause.
 - i. The Department and/or Governmental Contractor shall provide the health care provider or individual medical professional with written notice of its intent to terminate the contract, and reasons for such decision, at least five (5) business days in advance of the contract termination date.

- 6) The Department and/or Governmental Contractor has access to the records of any patient served by the health care provider or individual medical professional under the contract.
 - 7) Adverse incidents and information on treatment outcomes must be reported by any health care provider or individual medical professional to the Department and/or Governmental Contractor if the incidents and information pertain to a patient treated under the contract. If the incident involves a licensed professional or facility, the incident report must also be submitted to the appropriate licensing body, which shall review the incident to determine whether it involves conduct by the licensee that is subject to disciplinary action. All patient medical records and any identifying information contained in adverse incident reports and treatment outcomes which are obtained by governmental entities or licensing bodies under this paragraph are confidential.
 - 8) Patient selection and initial referral may be made by the Department, Governmental Contractor, health care provider, or individual medical professional.
 - 9) If emergency care is required the patient need not be referred before receiving treatment, but must be referred within 48 hours after treatment is commenced or within 48 hours after the patient has the mental capacity to consent to treatment, whichever occurs later.
 - 10) The health care provider or individual medical professional is subject to supervision and regular inspection by the Department or Governmental Contractor.
- (D) A Governmental Contractor that is also a health care provider is not required to enter into a contract under this section with respect to the health care services delivered by its employees.
- (E) NOTICE OF AGENCY RELATIONSHIP. The health care provider or the individual medical professional shall provide written notice to each patient served under the contract, or the patient's legal representative, receipt of which must be acknowledged in writing, that the provider, individual medical professional, or any employee or agent thereof is an agent of the state with respect to the services provided and that the exclusive remedy for injury or damage suffered as the result of any act or omission of the provider, individual medical professional, or any employee or agent thereof acting within the scope of duties pursuant to the contract is by commencement of an action pursuant to the provisions of [CODE SECTION DEALING WITH WAIVER OF SOVERIGN IMMUNITY]. The health care provider or individual medical professional may comply with the requirements of this paragraph by posting the notice in a place conspicuous to all persons visiting the provider's or medical professional's place of business.
- (F) QUALITY ASSURANCE PROGRAM REQUIRED. The Department shall establish a quality assurance program to monitor services delivered under any contract entered into pursuant to this section.
- (G) REPORT TO THE LEGISLATURE. Annually, the Department shall report to the President of the Senate, the Speaker of the House of Representatives, and the minority leaders and relevant substantive committee chairpersons of both houses, summarizing the efficacy of access and treatment outcomes with respect to providing health care services for low-income patients pursuant to this section. The report shall also include statistics for any and all claims pending and paid, and defense and handling costs associated with all claims brought against contract providers under this section. The Department shall provide online a listing of all providers volunteering under this program with hours, number of patient visits, and value of health care related goods and services provided.

- (H) MALPRACTICE LITIGATION COSTS. Governmental contractors other than the Department, health care providers, and individual medical professionals are responsible for their own costs and attorney's fees for malpractice litigation arising out of health care services delivered under a contract brought pursuant to the provisions of [CODE SECTION DEALING WITH WAIVER OF SOVERIGN IMMUNITY].
- (I) RULES. The Department shall adopt rules to administer this section in a manner consistent with its purpose to provide and facilitate access to appropriate, safe, and cost-effective health care services and to maintain health care quality.