

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S

D

SENATE BILL 802
PROPOSED COMMITTEE SUBSTITUTE S802-PCS75262-RW-45

Short Title: Immunity for Nonprofit Health Ref. Service.

(Public)

Sponsors:

Referred to:

March 25, 2009

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT A NONPROFIT COMMUNITY HEALTH REFERRAL SERVICE THAT REFERS LOW-INCOME PATIENTS TO PHYSICIANS FOR FREE SERVICES IS NOT LIABLE FOR THE ACTS OR OMISSION OF THE PHYSICIAN IN RENDERING SERVICE TO THAT PATIENT, IF THE PHYSICIAN MAINTAINS PROFESSIONAL LIABILITY COVERAGE FOR THAT SERVICE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-21.16 reads as rewritten:

"§ 90-21.16. Volunteer health care professionals; liability limitation.

(a) This section applies as follows:

- (1) Any volunteer medical or health care provider at a facility of a local health department or at a nonprofit community health center,
- (2) Any volunteer medical or health care provider rendering services to a patient referred by a local health department as defined in G.S. 130A-2(5) or nonprofit community health at the provider's place of employment,
- (3) Any volunteer medical or health care provider serving as medical director of an emergency medical services (EMS) agency,
- (4) Any retired physician holding a "Limited Volunteer License" under G.S. 90-12(d), or
- (5) Any volunteer medical or health care provider licensed or certified in this State who provides services within the scope of the provider's license or certification at a free clinic facility,

who receives no compensation for medical services or other related services rendered at the facility, center, agency, or clinic, or who neither charges nor receives a fee for medical services rendered to the patient referred by a local health department or nonprofit community health center at the provider's place of employment shall not be liable for damages for injuries or death alleged to have occurred by reason of an act or omission in the rendering of the services unless it is established that the injuries or death were caused by gross negligence, wanton conduct, or intentional wrongdoing on the part of the person rendering the services. The free clinic, local health department facility, nonprofit community health center, or agency shall use due care in the selection of volunteer medical or health care providers, and this subsection shall not excuse the free clinic, health department facility, community health center, or agency for the failure of the volunteer medical or health care provider to use ordinary care in the provision of medical services to its patients.



* S 8 0 2 - P C S 7 5 2 6 2 - R W - 4 5 *

1 (b) Nothing in this section shall be deemed or construed to relieve any person from
2 liability for damages for injury or death caused by an act or omission on the part of such person
3 while rendering health care services in the normal and ordinary course of his or her business or
4 profession. Services provided by a medical or health care provider who receives no
5 compensation for his or her services and who voluntarily renders such services at facilities of
6 free clinics, local health departments as defined in G.S. 130A-2, nonprofit community health
7 centers, or as a volunteer medical director of an emergency medical services (EMS) agency, are
8 deemed not to be in the normal and ordinary course of the volunteer medical or health care
9 provider's business or profession.

10 (c) As used in this section, a "free clinic" is a nonprofit, 501(c)(3) tax-exempt
11 organization organized for the purpose of providing health care services without charge or for a
12 minimum fee to cover administrative costs and that maintains liability insurance covering the
13 acts and omissions of the free clinic and any liability pursuant to subsection (a) of this section.

14 (d) A nonprofit community health referral service that refers low-income patients to
15 physicians for free services is not liable for the acts or omission of the physician in rendering
16 service to that patient if the physician maintains professional liability coverage for that service.

17 (e) As used in this section, a "nonprofit community health referral service" is a
18 nonprofit, 501(c)(3) tax-exempt organization organized to provide for no charge the referral of
19 low-income, uninsured patients to volunteer health care providers who provide health care
20 services without charge to patients."

21 **SECTION 2.** This act becomes effective October 1, 2009, and applies to any
22 alleged acts or omissions in the providing of medical services occurring on or after that date.