

ASSEMBLY, No. 354

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblywoman QUIGLEY and Assemblyman GARCIA

1 AN ACT concerning volunteer health care professionals and
2 supplementing Title 2A of the New Jersey Statutes.

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4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

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7 1. As used in this act:

8 "Licensed health care professional" means a health care professional
9 licensed pursuant to Title 45 of the Revised Statutes.

10 "Indigent person" means a person whose total annual household
11 income does not exceed 150% of the official poverty level, adjusted
12 for family size, established pursuant to section 673(2) of Subtitle B,
13 the "Community Services Block Grant Act," of Pub.L. 97-35 (42
14 U.S.C. §9902(2)).

15 "Shelter or health care facility" means any nonprofit corporation,
16 society or association which provides shelter or health care services to
17 an indigent person.

18 "Volunteer licensed health care professional" or "volunteer" means
19 a licensed health care professional who provides a health care service
20 to an indigent person at a shelter or health care facility without
21 compensation or the expectation of compensation or any other form
22 of remuneration.

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24 2. a. Notwithstanding the provisions of section 1 of P.L.1959,
25 c.90 (C.2A:53A-7) to the contrary, a volunteer licensed health care
26 professional who provides a health care service within the scope of the
27 person's professional license, other than the performance of a surgical
28 procedure, to an indigent person at a shelter or health care facility,
29 shall not be liable in damages to any person in a civil action, for
30 damages to person or property resulting from an act or omission,
31 unless the act or omission was the result of willful or wanton
32 misconduct.

33 b. Prior to providing a health care service pursuant to subsection
34 a. of this section, a volunteer shall determine in good faith that the
35 indigent person is mentally capable of giving informed consent and that

1 he is not under any duress or undue influence, shall inform the indigent
2 person of the provisions of this act and shall obtain his informed
3 consent. The indigent person or another person acting on his behalf
4 and in his presence, shall sign a waiver stating that the indigent person
5 is mentally competent to give informed consent to the health care
6 service and is not under any duress or undue influence.

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8 3. Notwithstanding the provisions of section 2 of P.L.1959, c.90
9 (C.2A:53A-8) to the contrary, a shelter or health care facility shall not
10 be liable in damages to any person in a civil action, for damages to
11 person or property resulting from an act or omission by a volunteer
12 licensed health care professional who provides a health care service
13 within the scope of the person's professional license, other than the
14 performance of a surgical procedure, to an indigent person at a shelter
15 or health care facility, unless the act or omission was the result of
16 willful or wanton misconduct.

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18 4. a. Nothing in this act shall be construed to limit any defense or
19 immunity from civil liability otherwise available by State law or by
20 common law.

21 b. Nothing in this act shall be construed to exempt a licensed health
22 care professional or a shelter or health care facility, from immunity
23 from civil liability for an act that is outside the scope of the
24 professional's license.

25 c. Nothing in this act shall be construed to limit the requirement of
26 a shelter or health care facility to comply with laws or regulations
27 pertaining to housing, building, environmental, health, fire, zoning or
28 other appropriate safety standards.

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30 5. The Commissioner of Health, in consultation with the Director
31 of the Division of Consumer Affairs in the Department of Law and
32 Public Safety, shall inform the licensees of health care professional
33 boards of the provisions of this act and shall conduct a survey of
34 licensed health care professionals six months after the effective date of
35 this act to determine any increase in health care services provided to
36 indigents as a result of this act. The commissioner, in consultation
37 with the director, shall report to the Governor and the Legislature, no
38 later than one year after the effective date of this act on the number of
39 volunteer licensed health care professionals who have provided a
40 health care service to an indigent person at a shelter or health care
41 facility pursuant to this act, and whether any increase in service is
42 attributable to this act.

43 The commissioner, in consultation with the director, shall conduct
44 a second survey of the licensing boards three years and six months
45 after the effective date of this act and shall compare the results of both
46 surveys and report to the Governor and the Legislature no later than

1 four years after the effective date of this act on any increase or
2 decrease in service attributable to this act. The commissioner shall
3 accompany that report with any recommendations for changes in the
4 law or regulations governing this act that the commissioner deems
5 necessary.

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7 6. This act shall take effect immediately.
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10 STATEMENT

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12 This bill provides qualified immunity from civil liability to health
13 care professionals licensed pursuant to Title 45 of the Revised
14 Statutes, who render a health care service, other than the performance
15 of a surgical procedure, as a volunteer to an indigent person at a
16 shelter or health care facility. An indigent person means a person
17 whose total annual household income does not exceed 150 percent of
18 the official poverty level, adjusted for family size. Prior to providing
19 the health care service, the licensed health care professional shall
20 obtain the indigent person's informed consent, after first determining
21 that he is mentally capable of giving informed consent and is not under
22 any duress or undue influence.

23 Also, the shelters or health care facilities are granted qualified
24 immunity for damages resulting from an act or omission of a volunteer.
25 The immunity from liability does not apply if there was an act or
26 omission which was the result of willful or wanton misconduct.

27 The Commissioner of Health, in consultation with the Director of
28 the Division of Consumer Affairs in the Department of Law and Public
29 Safety shall inform licensees of the health care professional boards of
30 the provisions of this bill and shall conduct a survey of health care
31 professionals licensed pursuant to Title 45 of the Revised Statutes six
32 months after the effective date of this bill to determine any increase in
33 health care services provided to indigent persons. The commissioner
34 shall report to the Governor and the Legislature, no later than one year
35 after the effective date of this bill on the number of volunteer licensed
36 health care professionals who have provided a health care service to
37 an indigent person at a shelter or health care facility and whether any
38 increase in service is attributable to this bill.

39 A comparison survey shall be conducted three and a half years after
40 the effective date of this bill. The commissioner shall report to the
41 Governor and the Legislature on any increase or decrease in services
42 attributable to this bill no later than four years after the effective date
43 of this bill.

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3 Provides qualified immunity for volunteers providing health care
4 services to indigent persons at a shelter or health care facility.