

No. 2014-86

AN ACT

HB 43

Amending the act of December 4, 1996 (P.L.893, No.141), entitled "An act providing for volunteer health services; limiting liability of a volunteer license holder; and requiring reports," further providing for purpose and for definitions; providing for approved organization procedure; and further providing for liability and for prescription of medication for family members.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 2 of the act of December 4, 1996 (P.L.893, No.141), known as the Volunteer Health Services Act, is amended to read:

Section 2. Purpose.

It is the purpose of this act to **[increase]**:

(1) Increase the availability of primary health care services, **including mental health services**, by establishing a procedure through which physicians and other health care practitioners who are retired from active practice may provide professional services **within their scope of practice** as a volunteer in approved clinics serving financially qualified persons and in approved clinics located in medically underserved areas or health professionals shortage areas.

(2) Increase the availability of mental health services to military personnel and their families by establishing a procedure through which physicians and other health care practitioners who are retired from active practice may provide mental health services within their scope of practice as a volunteer upon referral from approved organizations.

Section 2. Section 3 of the act, amended June 19, 2002 (P.L.406, No.58), is amended to read:

Section 3. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Approved clinic." An organized community-based clinic offering primary health care services to individuals and families who cannot pay for their care, to medical assistance clients or to residents of medically underserved areas or health professionals shortage areas. The term may include, but shall not be limited to, a State health center, nonprofit community-based clinic and federally qualified health center, as designated by Federal rulemaking or as approved by the Department of Health or the Department of Public Welfare.

"Approved organization." A nonprofit organization as defined under section 501(c)(3) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 501(c)(3)) whose purpose is to refer military personnel and their families, regardless of income and who are in need of mental health services, to licensed volunteers who provide mental health services, whether or not the mental health services are provided at an approved

clinic and which organization is approved by the Department of Military and Veterans Affairs under section 4.1.

"Board." The State Board of Medicine, the State Board of Osteopathic Medicine, the State Board of Dentistry, the State Board of Podiatry, the State Board of Nursing, the State Board of Optometry [and], the State Board of Chiropractic, *the State Board of Psychology and the State Board of Social Workers, Marriage and Family Therapists and Professional Counselors.*

"Health care practitioner." An individual licensed to practice a component of the healing arts by a licensing board within the Department of State.

"Licensee." An individual who holds a current, active, unrestricted license as a health care practitioner issued by the appropriate board.

"Mental health services." The term includes, but is not limited to, providing social work, marital and family therapy, substance abuse counseling and treatment for post-traumatic stress disorder and traumatic brain injury.

"Military personnel." An individual who has served or is serving in the United States Armed Forces, reserve component or National Guard.

"Primary health care services." The term includes, but is not limited to, regular checkups, immunizations, school physicals, health education, prenatal and obstetrical care, early periodic screening and diagnostic testing [and], health education *and mental health services.*

"Volunteer license." A license issued by the appropriate board to a health care practitioner who documents, to the board's satisfaction, that the individual will practice only in approved clinics, *or upon referral from approved organizations*, without remuneration, who is:

- (1) a retired health care practitioner; or
- (2) a nonretired health care practitioner who is not required to maintain professional liability insurance under [the act of October 15, 1975 (P.L.390, No.111), known as the Health Care Services Malpractice Act, or] the act of March 20, 2002 (P.L.154, No.13), known as the Medical Care Availability and Reduction of Error (Mcare) Act, because the health care practitioner is not otherwise practicing medicine or providing health care services in this Commonwealth.

Section 3. The act is amended by adding a section to read:

Section 4.1. Approved organization procedure.

(a) Submission of application.—Any 501(c)(3) nonprofit organization whose purpose is to refer military personnel and their families to licensed volunteers who provide mental health services without remuneration may submit an application to the Department of Military and Veterans Affairs.

(b) Contents of information.—An application submitted under subsection (a) shall contain:

- (1) The name and address of the organization and a copy of its corporate filing.*
- (2) The charitable purpose for which it is operating in this Commonwealth.*
- (3) The latest filing with the Department of State.*
- (4) The level of insurance obtained by the organization for its activities.*

(5) *The location, hours, facilities and staff who will oversee the volunteer effort.*

(6) *The confirmation of tax-exempt status of the organization under section 501(c)(3) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 501(c)(3)) issued by the United States Internal Revenue Service.*

(7) *The most recent Federal tax return (IRS Form 990, 990EZ or 990N) filed by the organization.*

(8) *Any other information the Department of Military and Veterans Affairs, or any Commonwealth agency consulted by the department, deems necessary.*

(c) *Review of application.—The Department of Military and Veterans Affairs shall review the information provided on the application and, after coordination with the Department of State and any other Commonwealth agency the Department of Military and Veterans Affairs deems appropriate, may approve or disapprove that organization for sponsoring persons who hold volunteer licenses as provided under this act. The Department of Military and Veterans Affairs shall provide the appropriate licensing board with the information and a list of approved organizations pursuant to this section.*

Section 4. Section 7 of the act is amended to read:

Section 7. Liability.

(a) General rule.—A holder of a volunteer license who, in good faith, renders professional health care services *within his scope of practice* under this act shall not be liable for civil damages arising as a result of any act or omission in the rendering of care unless the conduct of the volunteer licensee falls substantially below professional standards which are generally practiced and accepted in the community and unless it is shown that the volunteer licensee did an act or omitted the doing of an act which the person was under a recognized duty to a patient to do, knowing or having reason to know that the act or omission created a substantial risk of actual harm to the patient.

(b) Application.—

(1) This section shall not apply unless:

(i) the approved clinic posts in a conspicuous place on its premises an explanation of the exemptions from civil liability provided under subsection (a)[.]; *or*

(ii) *the volunteer licensee providing mental health services upon referral from an approved organization provides the military personnel or family member being treated with a written explanation of the exemptions from civil liability provided under subsection (a).*

(2) The protections provided by this section shall not apply to institutional health care providers, such as hospitals or approved clinics *or approved organizations*, subject to vicarious liability for the conduct of a volunteer license holder. The liability of such institutional defendants shall be governed by the standard of care established by common law.

Section 5. Section 10.1(c) of the act, added October 18, 2000 (P.L.599, No.76), is amended to read:

Section 10.1. Prescription of medication for family members.

* * *

(c) Construction.—Nothing in this section shall be construed to allow a volunteer license holder to prescribe medication of a type or in a manner prohibited by the laws of this Commonwealth *or to practice outside his scope of practice.*

* * *

Section 6. This act shall take effect immediately.

APPROVED—The 2nd day of July, A.D. 2014

TOM CORBETT