

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 129
97TH GENERAL ASSEMBLY

Reported from the Committee on Financial and Governmental Organizations and Elections, February 28, 2013, with recommendation that the Senate Committee Substitute do pass.

0865S.04C

TERRY L. SPIELER, Secretary.

AN ACT

To amend chapter 191, RSMo, by adding thereto six new sections relating to volunteer health services.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 191, RSMo, is amended by adding thereto six new sections, to be known as sections 191.1100, 191.1102, 191.1104, 191.1106, 191.1110, and 191.1112, to read as follows:

191.1100. 1. Sections 191.1100 to 191.1112 shall be known and may be cited as the "Volunteer Health Services Act".

2. As used in sections 191.1100 to 191.1112, the following terms shall mean:

(1) "Gross negligence", when a person acts with a conscious disregard for the safety of others such that the action or inaction constitutes a gross deviation from the ordinary standard of care;

(2) "Health care provider", any physician, surgeon, dentist, nurse, optometrist, mental health professional, or other practitioner of a health care discipline, the professional practice of which requires licensure or certification under state law or under comparable laws of another state, territory, district, or possession of the United States;

(3) "Licensed health care provider", any health care provider holding a current license or certificate issued under:

(a) Missouri state law;

(b) Comparable laws of another state, territory, district, or possession of the United States;

(4) "Regularly practice", to practice more than sixty days within any ninety-day period;

20 **(5) "Sponsoring organization", any organization that organizes or**
21 **arranges for the voluntary provision of health care services and**
22 **registers with the department of health and senior services as a**
23 **sponsoring organization in accordance with section 191.1106;**

24 **(6) "Voluntary provision of health care services", the providing**
25 **of professional health care services by a health care provider without**
26 **charge to a recipient of the services or a third party.**

191.1102. 1. Notwithstanding any provision of law to the
2 **contrary, no additional license or certificate otherwise required by**
3 **state law is necessary for the voluntary provision of health care**
4 **services by any person who:**

5 **(1) Is a licensed health care provider;**

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

10 **2. The provisions of subsection 1 of this section shall not apply**
11 **to:**

12 **(1) Any person whose license or certificate is suspended or**
13 **revoked under disciplinary proceedings in any jurisdiction; or**

14 **(2) A licensed health care provider who renders services outside**
15 **the scope of practice authorized by the provider's licensure,**
16 **certification, or exception to such licensure or certification.**

191.1104. With regard to a person who voluntarily provides
2 **health care services and who is covered by the provisions of subsection**
3 **1 of section 191.1102, all requirements regarding display of a license or**
4 **certificate shall be satisfied by the presentation for inspection, upon**
5 **request, of a photocopy of the applicable license, certificate, or**
6 **statement of exemption.**

191.1106. 1. Before providing volunteer health care services in
2 **this state, a sponsoring organization shall register with the department**
3 **of health and senior services by submitting a registration fee of fifty**
4 **dollars and filing a registration form. The registration and fee shall be**
5 **submitted annually to the department with the fee to be used for the**
6 **administration of sections 191.1100 to 191.1112. Such registration form**
7 **shall contain:**

8 **(1) The name of the sponsoring organization;**

9 **(2) The name of the principal individual or individuals who are**
10 **the officers or organization's officials responsible for the operation of**
11 **the sponsoring organization;**

12 **(3) The address, including street, city, zip code, and county, of**
13 **the sponsoring organization's principal office address and the same**
14 **address information for each principal or official listed in subdivision**
15 **(2) of this subsection;**

16 **(4) Telephone numbers for the principal office of the sponsoring**
17 **agency and each principal or official listed in subdivision (2) of this**
18 **subsection; and**

19 **(5) Such additional information as the department shall require.**
20 **Upon any change in the information required under this subsection, the**
21 **sponsoring organization shall notify the department in writing of such**
22 **change within thirty days of its occurrence.**

23 **2. The sponsoring organization shall file a quarterly voluntary**
24 **services report with the department during the current quarter that**
25 **lists all licensed health care providers who provided voluntary health**
26 **care services during the preceding quarter. The sponsoring**
27 **organization shall maintain on file for five years following the date of**
28 **service additional information, including the date, place, and type of**
29 **services provided.**

30 **3. Each sponsoring organization shall maintain a list of health**
31 **care providers associated with its provision of voluntary health care**
32 **services. For each such health care provider, the organization shall**
33 **maintain a copy of a current license, certificate, or statement of**
34 **exemption from licensure or certification, or in the event that the**
35 **health care provider is currently licensed in the state of Missouri, a**
36 **copy of the health care provider's license verification obtained from a**
37 **state-sponsored website, if available.**

38 **4. The sponsoring organization shall maintain such records for**
39 **a period of at least five years following the provision of health care**
40 **services and shall furnish such records upon request to any regulatory**
41 **board of any healing arts profession established under state law.**

42 **5. Compliance with subsections 1 and 2 of this section shall be**
43 **prima facie evidence that the sponsoring organization has exercised**
44 **due care in its selection of health care providers.**

45 **6. The department may revoke the registration of any sponsoring**

46 organization that fails to comply with the requirements of this section.

47 7. Any rule or portion of a rule, as that term is defined in section
48 536.010 that is created under the authority delegated in this section
49 shall become effective only if it complies with and is subject to all of
50 the provisions of chapter 536, and, if applicable, section 536.028. This
51 section and chapter 536 are nonseverable and if any of the powers
52 vested with the general assembly pursuant to chapter 536, to review, to
53 delay the effective date, or to disapprove and annul a rule are
54 subsequently held unconstitutional, then the grant of rulemaking
55 authority and any rule proposed or adopted after August 28, 2013, shall
56 be invalid and void.

57 8. Nothing in the volunteer health services act shall require a
58 health care provider or organization providing health care services
59 without charge to register with the department and receive the liability
60 protection under sections 191.1100 to 191.1112.

191.1110. 1. (1) No person who is licensed, certified, or
2 authorized by the board of any of the professions of the healing arts or
3 board of nursing and who engages in the voluntary provision of health
4 care services within the limits of the person's license, certificate, or
5 authorization to any patient of a sponsoring organization shall be liable
6 for any civil damages for any act or omission resulting from the
7 rendering of such services, unless the act or omission was the result of
8 such person's gross negligence or willful misconduct.

9 (2) The volunteer licensee who is providing free care shall not
10 receive compensation of any type, directly or indirectly, or any benefits
11 of any type whatsoever, or any consideration of any nature, from any
12 person for the free care. Nor shall such service be a part of the
13 provider's training or assignment.

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

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

22 2. For purposes of this section, any commissioned or contract

23 **medical officer or dentist serving on active duty in the United States**
24 **Armed Forces and assigned to duty as a practicing, commissioned, or**
25 **contract medical officer or dentist at any military hospital or medical**
26 **facility owned and operated by the United States government shall be**
27 **deemed to be licensed.**

191.1112. 1. For purposes of this section, the following terms
2 shall mean:

3 (1) "Crisis intervention", a session at which crisis response
4 services are rendered by a critical incident stress management team
5 member or qualified mental health professional during or after a crisis
6 or disaster;

7 (2) "Crisis response services", consultation, risk assessment,
8 referral, and crisis intervention services provided by a critical incident
9 stress management team or qualified mental health professional or
10 paraprofessional trained within the Federal Emergency Management
11 Agency (FEMA) Crisis Counseling Program or in psychological first aid
12 to individuals affected by crisis or disaster;

13 (3) "Critical incident stress management team member" or "team
14 member", an individual specially trained to provide crisis response
15 services as a member of an organized community or local crisis
16 response team that holds membership in a registered critical incident
17 stress management team;

18 (4) "Registered team", a team formally registered with a
19 recognized training agency. For purposes of this section, a recognized
20 training agency shall include the International Critical Incident Stress
21 Foundation, the National Organization for Victim Assistance, the
22 National Red Cross, the Missouri department of mental health, and
23 other such organizations;

24 (5) "Training session", a session providing crisis response
25 training by a qualified trainer utilizing the standards established by
26 the accrediting agencies set out in subdivision (4) of this subsection;

27 (6) "Volunteer", a person who serves and receives no
28 remuneration for services except reimbursement for actual expenses.

29 2. (1) Any volunteer crisis response team member who
30 participates in a crisis intervention shall not be liable in tort for any
31 personal injuries or infliction of emotional distress of any participant
32 to the crisis intervention that is caused by the act or omission of a

33 crisis response team member during the course of a crisis intervention.

34 (2) No volunteer crisis response team member who participates
35 in a crisis intervention conducted within generally accepted protocols
36 of a registered team, as defined by a nationally recognized accrediting
37 agency, shall be liable for any civil damages for any act or omission
38 resulting from the rendering of such services, unless the act or
39 omission was the result of such person's gross negligence or willful
40 misconduct.

41 (3) Subdivision (1) of this subsection shall not apply unless the
42 intervention or training is conducted within generally accepted
43 protocols of a registered team, as defined by a nationally recognized
44 accrediting agency.

45 3. The tort immunity in subsection 2 of this section shall not
46 apply if:

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

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

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

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

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

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

57 (7) If damages resulted from gross negligence or willful
58 misconduct.

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