

North Carolina Good Samaritan Act

SENATE BILL 160 Judiciary I Committee Substitute Adopted 4/24/01

AN ACT TO APPLY THE LIABILITY LIMITATIONS OF THE GOOD SAMARITAN LAW TO CERTAIN MEDICAL CARE PROVIDERS

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 90-21.14(a1) is recodified as G.S. 90-21.16.

SECTION 1.(b) G.S. 90-21.16, as enacted in

Section 1(a) of this act, 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 center 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, or

(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 charge 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.

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

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

(d) To the extent that a volunteer medical or health care provider has liability insurance covering its acts and omissions while providing health care services at a free clinic, local health department, or nonprofit community health center, that volunteer medical or health care provider is deemed to have waived the qualified immunity provided under this section to the extent of indemnification by insurance for negligence by the volunteer medical or health care provider."

SECTION 2. G.S. 90-21.14(b) reads as rewritten:

"(b) Nothing in this section shall be deemed or construed to relieve any person from liability for damages for injury or death caused by an act or omission on the part of such person while rendering health care services in the normal and ordinary course of his business or profession. Services provided by a volunteer health care provider who receives no compensation for his services and who renders first aid or emergency treatment to members of athletic teams are deemed not to be in the normal and ordinary course of the volunteer health care provider's business or profession.

SECTION 3. This act becomes effective October 1, 2001, and applies to acts or omissions occurring on and after that date.