

1 HOUSE BILL NO. 858
2 INTRODUCED BY J. HAMILTON

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE MONTANA VOLUNTEER HEALTH CARE
5 SERVICES ACT; ALLOWING HEALTH CARE PROVIDERS LICENSED IN ANY STATE AND RETIRED
6 HEALTH CARE PROVIDERS TO ENGAGE IN THE VOLUNTARY PROVISION OF HEALTH CARE
7 SERVICES IN MONTANA; PROVIDING REQUIREMENTS FOR SPONSORING ORGANIZATIONS;
8 PROVIDING DEFINITIONS; AND PROVIDING IMMUNITY FOR HEALTH CARE PROVIDERS WHO
9 PARTICIPATE IN THE VOLUNTARY PROVISION OF HEALTH CARE SERVICES."

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11 WHEREAS, access to high-quality health care services is important to the well-being of all Montanans;
12 and

13 WHEREAS, access to those services is severely limited for some residents of this state, particularly
14 those who reside in remote, rural areas or reservations; and

15 WHEREAS, health care professionals regularly work in both paid and volunteer capacities to assure
16 broad access to health care services; and

17 WHEREAS, many health care providers from the state and elsewhere are willing to volunteer their
18 services to address the health care needs of Montanans who may otherwise not be able to obtain these
19 services.

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21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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23 NEW SECTION. Section 1. Short title. This part may be cited as the "Montana Volunteer Health
24 Care Services Act".

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26 NEW SECTION. Section 2. Definitions. As used in this part, the following definitions apply:

27 (1) "Free clinic" means a nonprofit, outpatient, nonhospital facility in which a health care provider
28 engages in the voluntary provision of health care services to patients without charge to the recipient of the

1 services or to a third party.

2 (2) "Health care provider" means any physician, surgeon, advanced practice registered nurse,
3 physician assistant, nurse, dentist, dental hygienist, optometrist, or other health care provider.

4 (3) "Licensed health care provider" means:

5 (a) a physician, surgeon, advanced practice registered nurse, physician assistant, nurse,
6 optometrist, or other health care provider who holds a current license issued by this state or another state
7 without pending disciplinary action;

8 (b) a dentist or dental hygienist with a restricted temporary license for voluntary services pursuant
9 to 37-4-341; or

10 (c) a retired physician, surgeon, advanced practice registered nurse, physician assistant, nurse,
11 optometrist, or other health care provider who can certify the provider's license was in good standing before
12 retirement.

13 (4) "Regularly practice" means to practice for more than 60 days within any 90-day period.

14 (5) "Sponsoring organization" means any organization that is not under the control of the state or a
15 local government entity that organizes or arranges for the voluntary provision of health care services and that
16 registers with the department of public health and human services as a sponsoring organization in accordance
17 with [section 5].

18 (6) "Voluntary provision of health care services" means the providing of professional health care
19 services by the health care provider without charge to the recipient of the services or to a third party.

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21 **NEW SECTION. Section 3. Licensure requirements.** No additional license or certificate otherwise
22 required under the provisions of this title is necessary for the voluntary provision of health care services by any
23 person who:

24 (1) (a) is a licensed health care provider as defined in [section 2]; or

25 (b) is a retired health care provider who can certify the provider's license was in good standing
26 before retirement;

27 (2) renders services within the scope of practice authorized by the provider's licensure and
28 experience; and

1 (3) does not regularly practice in the state.

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3 **NEW SECTION. Section 4. Organization registration requirements.** (1) (a) Before providing
4 volunteer medical services in this state, a sponsoring organization shall register with the department of public
5 health and human services by submitting a registration fee of \$50 and filing a registration form prescribed by
6 the department.

7 (b) The department shall waive the fee when a sponsoring organization is providing volunteer
8 health care services in cases of natural or manmade disasters.

9 (2) The registration form prescribed by the department pursuant to subsection (1) must include:

10 (a) the name of the sponsoring organization;

11 (b) the name of principal individual or individuals who are the officers or organizational officials
12 responsible for the operation of the sponsoring organization;

13 (c) the physical address and the mailing address of the organization's principal office;

14 (d) telephone numbers for the organization's principal office of the sponsoring agency and
15 leadership; and

16 (e) any additional information required by the department.

17 (3) Each sponsoring organization shall:

18 (a) notify the department in writing of a change in information under subsection (2) within 30 days
19 of the change;

20 (b) by the deadline set by the department, file an annual voluntary services report with the
21 department that lists all licensed health care providers who provided voluntary health care services during the
22 preceding year;

23 (c) maintain records of provided services for 5 years following the date of service, including the
24 date, provider, place, and service provided; and

25 (d) maintain a record of each health care provider associated with the sponsoring organization's
26 provision of voluntary health services for 5 years following the date of the last service rendered by the provider,
27 including a copy of each health care provider's current license or certification of a license in good standing
28 before retirement.

1 (4) The sponsoring organization shall furnish records on request to any regulatory board in the
2 state.

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4 **NEW SECTION. Section 5. Liability.** (1) A health care provider as defined in [section 2] who renders
5 care within the scope of the provider's license and experience, voluntarily and without compensation, and as
6 authorized by a sponsoring organization, is not liable to a person for civil damages resulting from the rendering
7 of the care unless the damages were the result of gross negligence or willful or wanton acts or omissions by the
8 health care provider. Each patient must be given notice that under state law the health care provider cannot be
9 held legally liable for ordinary negligence if the provider does not have malpractice insurance.

10 (2) Subsection (1) applies only to a health care provider who:

11 (a) does not have malpractice insurance coverage because the health care provider is retired or is
12 otherwise not engaged in active practice; or

13 (b) has malpractice insurance coverage that has a rider or exclusion that excludes coverage for
14 services provided under this section.

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16 **NEW SECTION. Section 6. Immunity for voluntary provision of health care services.** A person
17 who is licensed or certified pursuant to [section 3] may not be liable for any civil damages for any act or
18 omission resulting from the rendering of the services, unless the act or omission was the result of the person's
19 gross negligence or willful misconduct if the person:

20 (1) engaged in the voluntary provision of health care services within the limits and scope of the
21 person's license and experience;

22 (2) delivered services to a patient of a sponsoring organization or a free clinic;

23 (3) did not receive compensation of any type or consideration of any nature from anyone for the
24 free services; and

25 (4) was authorized by the sponsoring organization to render the services.

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27 **NEW SECTION. Section 7. Codification instruction.** [Sections 1 through 6] are intended to be
28 codified as an integral part of Title 37, chapter 3, and the provisions of Title 37, chapter 3, apply to [sections 1

1 through 6].

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