WEST VIRGINIA CODE: §30-8-16

§30-8-16. Special volunteer license; civil immunity for voluntary services rendered to indigents.

(a) There is established a special volunteer license for optometrists who are retired or are retiring from the active practice of optometry and wish to donate their expertise for the care and treatment of indigent and needy patients in the clinical setting of clinics organized, in whole or in part, for the delivery of health care services without charge.

(b) The special volunteer license shall be issued by the board to optometrists licensed or otherwise eligible for licensure under this article without the payment of an application fee, license fee or renewal fee, and shall be issued for the remainder of the licensing period, and renewed consistent with the boards other licensing requirements.

(c) The board shall develop application forms for the special volunteer license provided in this section which shall contain the optometrist's acknowledgment that:

(1) The optometrist's practice under the special volunteer license will be exclusively devoted to providing optometrical care to needy and indigent persons in West Virginia;

(2) The optometrist will not receive any payment or compensation, either direct or indirect, or have the expectation of any payment or compensation but may donate to the clinic the proceeds of any reimbursement, for any optometrical services rendered under the special volunteer license;

(3) The optometrist will supply any supporting documentation that the board may reasonably require; and

(4) The optometrist agrees to continue to participate in continuing education as required by the board for a special volunteer license.

(d) Any person engaged in the active practice of optometry in this state whose license is in good standing may donate their expertise for the care and treatment of indigent and needy patients pursuant to an arrangement with a clinic organized, in whole or in part, for the delivery of health care services without charge to the patient. Services rendered pursuant to an arrangement may be performed in either the office of the optometrist or the clinical setting.

(e) Any optometrist who renders any optometrical service to indigent and needy patients of a clinic organized, in whole or in part, for the delivery of health care services without charge, under a special volunteer license authorized under this section or pursuant to an arrangement with a clinic as authorized pursuant to subsection (d) of this section without payment or compensation or the expectation or promise of payment or compensation is

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immune from liability for any civil action arising out of any act or omission resulting from the rendering of the optometrical service at the clinic unless the act or omission was the result of the optometrist's gross negligence or willful misconduct. In order for the immunity under this subsection to apply, before the rendering of any services by the optometrist at the clinic, there must be a written agreement between the optometrist and the clinic stating that the optometrist will provide voluntary uncompensated optometrical services under the control of the clinic to patients of the clinic before the rendering of any services by the optometrist at the clinic: Provided, That any clinic entering into such written agreement is required to maintain liability coverage of not less than $1 million per occurrence.

(f) Notwithstanding the provisions of subsection (d) of this section, a clinic organized, in whole or in part, for the delivery of health care services without charge is not relieved from imputed liability for the negligent acts of an optometrist rendering voluntary optometrical services at or for the clinic under a special volunteer license under this section or who renders such care and treatment pursuant to an arrangement with a clinic as authorized pursuant to subsection (d) of this section.

(g) For purposes of this section, "otherwise eligible for licensure" means the satisfaction of all the requirements for licensure in this article except the fee requirements.

(h) Nothing in this section may be construed as requiring the board to issue a special volunteer license to any optometrist whose license is or has been subject to any disciplinary action or to any optometrist who has surrendered a license or caused such license to lapse, expire and become invalid in lieu of having a complaint initiated or other action taken against his or her license, or who has elected to place a license in inactive status in lieu of having a complaint initiated or other action taken against his or her license, or who has been denied a license.

(i) Any policy or contract of liability insurance providing coverage for liability sold, issued or delivered in this state to any optometrist covered under the provisions of this article shall be read so as to contain a provision or endorsement whereby the company issuing such policy waives or agrees not to assert as a defense on behalf of the policyholder or any beneficiary thereof, to any claim covered by the terms of such policy within the policy limits, the immunity from liability of the insured by reason of the care and treatment of needy and indigent patients by an optometrist who holds a special volunteer license or who renders such care and treatment pursuant to an arrangement with a clinic as authorized pursuant to subsection (d) of this section.

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