WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 1999

ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 2961

(By Delegates Amores, Ashley, Azinger, Beane and Martin)

Passed March 13, 1999

In Effect Ninety Days from Passage
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FOR

H. B. 2961

(BY DELEGATES AMORES, ASHLEY, AZINGER, BEANE AND MARTIN)

[Passed March 13, 1999; in effect ninety days from passage.]

AN ACT to amend article three, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section ten-a; and to amend article fourteen of said chapter by adding thereto a new section, designated section twelve-b, all relating to establishing a special volunteer medical license for retired or retiring physicians treating indigents and the needy without compensation; providing for issuance without payment of fees; specifying requirements of license; providing for civil immunity for voluntary medical services rendered to indigents; limitations thereon; and required insurance coverage.

Be it enacted by the Legislature of West Virginia:

That article three, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section ten-a; and that article fourteen of said chapter be amended by adding thereto a new section, designated section twelve-b, all to read as follows:
ARTICLE 3. WEST VIRGINIA MEDICAL PRACTICE ACT.
§30-3-10a. Special volunteer medical license; civil immunity for voluntary services rendered to indigents.

(a) There is hereby established a special volunteer medical license for physicians retired or retiring from the active practice of medicine who wish to donate their expertise for the medical care and treatment of indigent and needy patients in the clinic setting of clinics organized, in whole or in part, for the delivery of health care services without charge. The special volunteer medical license shall be issued by the West Virginia board of medicine to physicians licensed or otherwise eligible for licensure under this article and the rules promulgated hereunder without the payment of any application fee, license fee or renewal fee, shall be issued for a fiscal year or part thereof, and shall be renewable annually. The board shall develop application forms for the special license provided for in this subsection which shall contain the physician’s acknowledgment that: (1) the physician’s practice under the special volunteer medical license will be exclusively and totally devoted to providing medical care to needy and indigent persons in West Virginia; (2) the physician will not receive any payment or compensation, either direct or indirect, or have the expectation of any payment or compensation, for any medical services rendered under the special volunteer medical license; (3) the physician will supply any supporting documentation that the board may reasonably require; and (4) the physician agrees to continue to participate in continuing medical education as required of physicians in active practice.

(b) Any physician who renders any medical 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 medical license authorized under subsection (a) of this section without payment or compensation or the expectation or promise of payment or compensation is immune from liability for any civil action arising out of any act or omission resulting from the rendering of the medical service at the clinic unless the act or omission was the result of the physician’s gross negligence or willful misconduct. In order for
the immunity under this subsection to apply, there must be a
written agreement between the physician and the clinic pursuant
to which the physician will provide voluntary noncompensated
medical services under the control of the clinic to patients of the
clinic before the rendering of any services by the physician at
the clinic: Provided, That any clinic entering into such written
agreement shall be required to maintain liability coverage of not
less than one million dollars per occurrence.

(c) Notwithstanding the provisions of subsection (a) of this
section, a clinic organized, in whole or in part, for the delivery
of health care services without charge shall not be relieved from
imputed liability for the negligent acts of a physician rendering
voluntary medical services at or for the clinic under a special
volunteer medical license authorized under subsection (a) of
this section.

(d) For purposes of this section, “otherwise eligible for
licensure” means the satisfaction of all the requirements for
licensure as listed in section ten of this article and in the
legislative rules promulgated hereunder, except the fee require-
ments of subsections (b) and (d) of said section and of the
legislative rule promulgated by the board relating to fees.

(e) Nothing in this section may be construed as requiring
the board to issue a special volunteer medical license to any
physician whose medical license is or has been subject to any
disciplinary action or to any physician who has surrendered a
medical 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 medical license, or who has
elected to place a medical license in inactive status in lieu of
having a complaint initiated or other action taken against his or
her medical license, or who have been denied a medical license.

(f) Any policy or contract of liability insurance providing
coverage for liability sold, issued or delivered in this state to
any physician 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 a physician who holds a special volunteer medical license.

ARTICLE 14. OSTEOPATHIC PHYSICIANS AND SURGEONS.

§30-14-12b. Special volunteer medical license; civil immunity for voluntary services rendered to indigents.

(a) There is hereby established a special volunteer medical license for physicians retired or retiring from the active practice of osteopathy who wish to donate their expertise for the medical care and treatment of indigent and needy patients in the clinic patients of clinics organized, in whole or in part, for the delivery of health care services without charge. The special volunteer medical license shall be issued by the West Virginia board of osteopathy to physicians licensed or otherwise eligible for licensure under this article and the rules promulgated hereunder without the payment of any application fee, license fee or renewal fee, shall be issued for a fiscal year or part thereof, and shall be renewable annually. The board shall develop application forms for the special license provided for in this subsection which shall contain the physician's acknowledgment that: (1) The physician's practice under the special volunteer medical license will be exclusively and totally devoted to providing medical care to needy and indigent persons in West Virginia; (2) the physician will not receive any payment or compensation, either direct or indirect, or have the expectation of any payment or compensation, for any medical services rendered under the special volunteer medical license; (3) the physician will supply any supporting documentation that the board may reasonably require; and (4) that the physician agrees to continue to participate in continuing medical education as required of physicians in active practice.

(b) Any physician who renders any medical service to indigent and needy patients of clinics organized, in whole or in part, for the delivery of health care services without charge under a special volunteer medical license authorized under subsection (a) of this section without payment or compensation
or the expectation or promise of payment or compensation is
immune from liability for any civil action arising out of any act
or omission resulting from the rendering of the medical service
at the clinic unless the act or omission was the result of the
physician's gross negligence or willful misconduct. In order for
the immunity under this subsection to apply, there must be a
written agreement between the physician and the clinic pursuant
to which the physician will provide voluntary noncompensated
medical services under the control of the clinic to patients of the
clinic before the rendering of any services by the physician at
the clinic: Provided, That any clinic entering into such written
agreement shall be required to maintain liability coverage of not
less than one million dollars per occurrence.

(c) Notwithstanding the provisions of subsection (a) of this
section, a clinic organized, in whole or in part, for the delivery
of health care services without charge shall not be relieved from
imputed liability for the negligent acts of a physician rendering
voluntary medical services at or for the clinic under a special
volunteer medical license authorized under subsection (a) of
this section.

(d) For purposes of this section, "otherwise eligible for
licensure" means the satisfaction of all the requirements for
licensure as listed in section ten of this article and in the
legislative rules promulgated hereunder, except the fee require-
ments of subsections (b) and (d) of said section and of the
legislative rule promulgated by the board relating to fees.

(e) Nothing in this section may be construed as requiring
the board to issue a special volunteer medical license to any
physician whose medical license is or has been subject to any
disciplinary action or to any physician who has surrendered a
medical 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 medical license, or who has
elected to place a medical license in inactive status in lieu of
having a complaint initiated or other action taken against his or
her medical license, or who have been denied a medical license.

(f) Any policy or contract of liability insurance providing
coverage for liability sold, issued or delivered in this state to
any physician covered under the provisions of this article shall be read so as to contain a provision or endorsement 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 a physician who holds a special volunteer medical license.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within _______ approved _______ this the _______ day of ________, 1999.

Governor