

# AN ACT

To amend section 2305.231 of the Revised Code and to amend Sections 2, 3, and 5 of Am. Sub. H.B. 218 of the 121st General Assembly, as subsequently amended, to exempt dentists who volunteer as school athletic team dentists and provide emergency dental care or first aid treatment to participants in school athletic events from civil liability unless their actions constitute willful or wanton misconduct, to delay until November 15, 2000, the repeal of the laws that establish qualified immunity from civil liability for health care providers who provide free health care services to indigent and uninsured persons, to repeal the duty of the Department of Health to commence a survey May 15, 1998, to measure specified health care services provided pursuant to that qualified immunity, to require the Department of Health to survey nonprofit shelters and health care facilities to measure health care services provided pursuant to that qualified immunity and grievances related to the provision of those health care services, and to declare an emergency.

*Be it enacted by the General Assembly of the State of Ohio:*

SECTION 1. That section 2305.231 of the Revised Code be amended to read as follows:

Sec. 2305.231. (A) As used in this section:

(1) "Dentist" means a person who is licensed under Chapter 4715. Of the Revised Code to practice dentistry.

(2) ~~"Medical practitioner~~ Physician" means a person who ~~is licensed or certified~~ holds a certificate issued by the state medical board to practice medicine ~~or and surgery, to practice~~ osteopathic medicine ~~or and surgery, or~~

~~to practice podiatry~~ podiatric medicine and surgery.

~~(2)~~(3) "Registered nurse" means a nurse who is ~~certificated~~ licensed as a registered nurse under Chapter 4723. of the Revised Code.

(B) No ~~medical practitioner~~ physician who volunteers ~~his~~ the physician's services as a team physician or team podiatrist to a school's athletics program, no dentist who volunteers the dentist's services as a team dentist to a school's athletics program, and no registered nurse who volunteers ~~his~~ the registered nurse's services as a team nurse to a school's athletics program; is liable in damages in a civil action for administering emergency medical care, emergency dental care, other emergency professional care, or first aid treatment to a participant in an athletic event involving the school, at the scene of the event or while the participant is being transported to a hospital, physician's or dentist's office, or other medical or dental facility, or for acts performed in administering the care or treatment, unless the acts of the ~~medical practitioner~~ physician, dentist, or registered nurse constitute willful or wanton misconduct.

(C) This section does not apply if the administration of emergency medical care, emergency dental care, other emergency professional care, or first aid treatment; is rendered for remuneration, or with the expectation of remuneration, from the recipient of the care or treatment or from someone on ~~his~~ the recipient's behalf.

SECTION 2. That existing section 2305.231 of the Revised Code is hereby repealed.

SECTION 3. The qualified immunity from civil liability afforded to team dentists by this act shall apply only in connection with team dentists who administer emergency dental care or first aid treatment under the circumstances described in division (B) of section 2305.231 of the Revised Code on or after the effective date of this act. The civil liability, or the immunity from or defenses to civil liability, of team dentists who administered emergency dental care or first aid treatment prior to the effective date of this act under the circumstances described in division (B) of section 2305.231 of the Revised Code shall be determined in accordance with the statutory and common law of this state, including, but not limited to, section 2305.23 of the Revised Code, as that law existed prior to the effective date of this act and as if the qualified immunity from civil liability afforded to team dentists by this act had not been enacted.

SECTION 4. That Sections 2, 3, and 5 of Am. Sub. H.B. 218 of the 121st General Assembly, as amended by Am. Sub. S.B. 259 of the 121st General Assembly, be amended to read as follows:

"Sec. 2. Sections 2305.234, 3701.071, and 4731.295 of the Revised Code are hereby repealed, effective November 15, ~~1998~~ 2000.

Sec. 3. A volunteer's certificate the State Medical Board has issued pursuant to section 4731.295 of the Revised Code shall automatically terminate on November 15, ~~1998~~ 2000.

Sec. 5. (A) As used in this section, "health care professional," "health care worker," "indigent and uninsured person," "nonprofit shelter or health care facility," and "volunteer" have the same meanings as in section 2305.234 of the Revised Code.

(B) The Department of Health shall conduct ~~surveys~~ a survey of health care professionals, health care workers, nonprofit shelters or health care facilities, and indigent and uninsured persons who receive services at the shelters or facilities for the following purposes:

(1) To determine whether there has been any increase in the number of health care professionals and workers who provide medical, dental, or other health-related diagnosis, care, or treatment to indigent and uninsured persons as volunteers at nonprofit shelters or health care facilities;

(2) To determine, to the extent it is possible to do so, whether any increase is attributable to the qualified immunities provided by section 2305.234 of the Revised Code or the volunteer's certificate the State Medical Board may issue pursuant to section 4731.295 of the Revised Code;

(3) To determine whether the quality of care provided to indigent and uninsured persons, as measured against generally accepted standards of care, is adversely affected by the qualified immunity or volunteer's certificates.

~~An initial~~ The survey shall be commenced not later than May 15, 1996, and concluded not later than November 15, 1996. The survey shall attempt to compare the number of health care professionals and workers who immediately prior to November 15, 1995, the effective date of Am. Sub. H.B. 218 of the 121st General Assembly, volunteered their services at nonprofit shelters or health care facilities with the number of health care professionals and workers who six months after that date are volunteering their services.

~~A second survey shall be commenced May 15, 1998, and concluded not later than October 15, 1998. The survey shall attempt to compare the number of health care professionals and workers who six months after November 15, 1995, the effective date of Am. Sub. H.B. 218 of the 121st~~

~~General Assembly, are volunteering their services at nonprofit shelters or health care facilities with the number of health care professionals and workers who two years and six months after the effective date of that act are volunteering their services.~~

The State Medical Board; Board of Nursing; State Dental Board; Physical Therapy Section of the Ohio Occupational Therapy, Physical Therapy, and Athletic Trainers Board; Chiropractic Examining Board; State Board of Optometry; Ohio Board of Dietetics; and State Board of Pharmacy shall cooperate with the Department of Health in the conduct of the ~~surveys~~ survey described in this division. To facilitate the prompt and accurate conduct of ~~those surveys~~ the survey, the licensing entities periodically may inform the licensees, certificate holders, and registrants under their jurisdiction of the provisions of Am. Sub. H.B. 218 of the 121st General Assembly and inquire whether the licensees and registrants have within specified time periods volunteered their services at nonprofit shelters or health care facilities.

The Department of Health shall tabulate the results of the ~~surveys~~ survey conducted pursuant to this division and, no later than July 1, 1998, shall file a report of the results of ~~each~~ the survey with the Governor, the President of the Senate, and the Speaker of the House of Representatives.

(C) The committee of each house of the General Assembly that has primary jurisdiction over insurance legislation shall, beginning November 15, 1997, review the effect of sections 2305.234, 3701.071, and 4731.295 of the Revised Code on the availability and quality of health care provided to indigent and uninsured persons in this state. Each committee shall report its findings and recommendations to its respective house not later than September 16, 1998."

SECTION 5. That existing Sections 2, 3, and 5 of Am. Sub. H.B. 218 of the 121st General Assembly, as amended by Am. Sub. S.B. 259 of the 121st General Assembly, are hereby repealed.

SECTION 6. (A) As used in this section, "health care professional," "health care worker," "indigent and uninsured person," and "nonprofit shelter or health care facility" have the same meanings as in section 2305.234 of the Revised Code.

(B)(1) The Department of Health shall survey nonprofit shelters and health care facilities to measure the amount, type, and quality of health care services provided to indigent and uninsured persons pursuant to sections

2305.234, 3701.071, and 4731.295 of the Revised Code, the number of persons using the health care services, and the number and type of grievances that the persons receiving the health care services have against the health care professionals and workers who provided the health care services under those sections.

(2) The Department of Health shall work with representatives of the following associations to develop the contents of the survey:

- (a) The Ohio State Medical Association;
- (b) The Ohio Nurses Association;
- (c) The Ohio Dental Association;
- (d) The Ohio State Chiropractic Association;
- (e) The Ohio Optometric Association;
- (f) The Ohio Dietitians Association;
- (g) The Ohio Pharmacists Association;
- (h) The Ohio Osteopathic Association;
- (i) The Ohio Podiatric Medical Association;
- (j) The Ohio Academy of Trial Lawyers;
- (k) The Ohio State Bar Association;
- (l) The Ohio Academy of Family Physicians;
- (m) The Ohio Physical Therapy Association;
- (n) The Ohio Occupational Therapy Association;
- (o) The Ohio Athletic Trainers Association.

(3) No later than July 15, 2000, the Department of Health shall report the findings of the survey to the Speaker of the House, the President of the Senate, the Governor, the chairperson of the committee of the House of Representatives that has primary jurisdiction over insurance legislation, and the chairperson of the committee of the Senate that has primary jurisdiction over insurance legislation.

SECTION 7. If this act is enacted as an emergency measure, Sections 1, 2, 3, and 6 of this act shall take effect on the ninety-first day after the effective date of this act. If this act is not enacted as an emergency measure, Sections 1, 2, 3, and 6 of this act take effect at the earliest time permitted by law.

SECTION 8. This act is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety. The reason for such necessity is that the duty of the Department of Health to commence the survey repealed by Section 4 of this act would result in unnecessary expense to the state, diverting funds that are crucially needed elsewhere. Therefore, this act shall go into immediate effect.

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*Speaker \_\_\_\_\_ of the House of Representatives.*

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*President \_\_\_\_\_ of the Senate.*

Passed \_\_\_\_\_, 20\_\_\_\_

Approved \_\_\_\_\_, 20\_\_\_\_

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*Governor.*

Am. Sub. H. B. No. 612

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The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

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*Director, Legislative Service Commission.*

Filed in the office of the Secretary of State at Columbus, Ohio, on the  
\_\_\_\_ day of \_\_\_\_\_, A. D. 20\_\_\_\_.

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*Secretary of State.*

File No. \_\_\_\_\_ Effective Date \_\_\_\_\_