

Amendment No. 1 to HB2468

Sexton C
Signature of Sponsor

AMEND Senate Bill No. 2445*

House Bill No. 2468

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 68, is amended by adding the following as a new chapter:

68-61-101. As used in this chapter:

(1) "Contract" means an agreement executed under § 68-61-102(a);

(2) "Department" means the department of health;

(3) "Government contractor" means the department, a county health department, a district health department, a hospital owned and operated by a governmental entity, and any other entity authorized by the department to operate as a government contractor;

(4) "Healthcare provider" or "provider" means:

(A) A birthing center licensed under § 68-11-204;

(B) An ambulatory surgical center licensed under § 68-11-204;

(C) A hospital licensed under § 68-11-204;

(D) A health maintenance organization as defined in § 56-32-102; or

(E) A free or charitable clinic qualified as exempt from federal income taxation under § 501(a) of the Internal Revenue Code, and described in § 501(c) of the Internal Revenue Code, which delivers volunteer healthcare services free of charge to low-income patients, any state or federally funded community health center, or any sponsoring organization as defined in § 63-6-703 that delivers volunteer healthcare services to low-income patients.

(5) "Medical professional" or "professional" means:

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- (A) A physician or physician's assistant licensed under chapters 6 or 19 of title 63;
- (B) An osteopathic physician licensed under chapter 9 of title 63;
- (C) A chiropractic physician licensed under chapter 4 of title 63;
- (D) A podiatrist licensed under chapter 3 of title 63;
- (E) A registered nurse, nurse midwife, licensed practical nurse, or advanced practice nurse licensed or registered under chapter 7 of title 63;
- (F) An optometrist licensed under chapter 8 of title 63;
- (G) A midwife licensed under chapter 29 of title 63;
- (H) A dentist or dental hygienist licensed under chapter 5 of title 63; or
- (I) A student enrolled in a program that prepares the student for licensure as any one of the professionals listed in this subsection that is accredited by an accrediting agency recognized by the United States department of education or the Council for Higher Education;
- (6) "Low-income patient" means a person who is without health insurance or other healthcare coverage and whose annual household income does not exceed two hundred percent (200%) of the federal poverty level; and
- (7) "Volunteer healthcare services" means the provision of health care without charge to the recipient or to third party.

68-61-102.

(a) Notwithstanding other provisions of this title or title 63, a healthcare provider may enter into a contract with a government contractor to provide volunteer healthcare

services or to supervise a professional providing volunteer healthcare services to low-income patients in accordance with this chapter and rules promulgated by the department under § 68-61-108.

(b) A contract entered into by a healthcare provider shall cover the medical professionals, employees, and agents of the healthcare provider. The medical professional, employee, or agent shall not be required to enter into a contract under subsection (a) for the purposes of delivering volunteer healthcare services as the employee or agent of the healthcare provider.

(c) A government contractor that is a healthcare provider is not required to enter into a contract for the purposes of providing volunteer healthcare services under this chapter.

68-61-103. A contract shall contain the following terms and conditions:

(1) The contract applies only to volunteer healthcare services delivered by a healthcare provider to eligible low-income patients;

(2) The government contractor shall have the right to terminate or dismiss the healthcare provider, or to terminate the contract with the healthcare provider, for good cause;

(3) If the government contractor intends to terminate the contract, the government contractor shall provide written notice to the healthcare provider of its intent to terminate the contract, including the grounds for termination, at least five (5) business days before the date of termination;

(4) The government contractor shall be entitled to access the healthcare records of any low-income patient served by the healthcare provider under the contract, upon receiving written authorization from the low-income patient authorizing the release of the records to the department;

(5) The healthcare provider shall report adverse incidents and information on treatment outcomes to the government contractor with respect to the treatment of low-

income patients under the contract. If the incident involves a licensed or certified healthcare provider, the healthcare provider shall report the incident to the appropriate regulatory authority for review to determine whether the incident involves conduct by the provider that may subject the provider to disciplinary action;

(6) Any medical records and personal identifying information of low-income patients in the possession of the government contractor shall be confidential and not subject to the open records law, compiled in title 10, chapter 7;

(7) The government contractor or healthcare provider shall select and refer low-income patients for treatment under the contract. If a low-income patient requires emergency care, the patient does not need to be referred before receiving treatment; provided, that the government contractor or healthcare provider shall refer the low-income patient for treatment no later than forty-eight (48) hours after the commencement of treatment, or no later than forty-eight (48) hours after the patient has the capacity to consent to treatment, whichever occurs later;

(8) The healthcare provider is subject to supervision and inspection by the government contractor and the department; and

(9) Any other terms or conditions that may be required under rules promulgated by the department.

68-61-104.

(a)

(1)

(A) No government contractor shall be liable for any civil damages for any act or omission resulting from the rendering of volunteer healthcare services under this chapter, except as provided under title 9, chapter 8, part 3, and only if the professional is engaging in the voluntary provision of health care services within the scope of practice limits of the person's license, certification, or authorization.

(B) A healthcare provider or medical professional that executes a contract with a government contractor to deliver volunteer healthcare services to eligible low-income patients shall be considered a state employee for purposes of chapter 42 of title 8 while acting within the scope of duties under the contract so long as the contract complies with the requirements of this section and regardless of whether the individual treated is later found to be ineligible. As an agent of the state, the healthcare provider or medical professional under contract with the state may not be named as a defendant in any action arising out of medical care or treatment provided under the terms of contracts entered into under this section; provided, that a health care provider or medical professional under contract with the state is not immune from liability for willfully malicious or criminal acts or for acts or omissions done for personal gain.

(2) Neither the healthcare provider who is offering voluntary healthcare services nor the medical professional shall receive compensation of any type, directly or indirectly, or any benefits of any type whatsoever, or any consideration of any nature, from anyone for the voluntary healthcare services nor shall such services be part of the professional's training or assignment.

(3) The medical professional must be acting within the scope of the professional's license, certification, or authority.

(4) Healthcare providers and medical professionals offering volunteer healthcare services shall not engage in activities at a clinic or at a health care licensee's office unless those activities are authorized by the appropriate authorities to be performed at the clinic or office and the clinic or office is in compliance with all applicable rules and regulations.

(5) The healthcare provider shall provide written notice to each patient served under the contract, or the patient's legal representative, that the medical professional is an agent of the state with respect to the services provided and that the exclusive remedy for injury or damage suffered as the result of any act or omission of the provider, medical professional, or any employee or agent thereof acting within the scope of duties pursuant to the contract is by commencement of an action pursuant to the provisions of § 9-8-301 et seq. The healthcare provider may comply with the requirements of this subdivision (5) by posting the notice in a place conspicuous to all persons visiting the provider's or medical professional's place of business.

68-61-105.

(a) The department shall annually prepare a report detailing:

(1) The number of hours of care donated under this chapter;

(2) The number of qualified low-income patients served under this chapter; and

(3) The estimated value of care donated under this chapter.

(b) Any health care provider who enters into a contract with a government contractor to provide volunteer healthcare services to low-income patients in accordance with this chapter and rules promulgated by the department under § 68-61-108, shall report to the department quarterly on the information listed under subsection (a) and § 68-61-106.

(c) The department shall submit the report prepared under subsection (a) to the speaker of the senate, the speaker of the house of representatives, the minority leaders of both houses of the general assembly, the chair of the health and welfare committee of the senate, and the chair of the health committee of the house of representatives, by no later than February 1 of each year.

68-61-106. The department shall maintain on its web site a list of all healthcare providers authorized to provide volunteer healthcare services under this chapter, including each provider's hours of operation, annual number of patient visits, and the services provided.

68-61-107. Government contractors, other than the department or any agency, institution, or entity of the state, are responsible for their own costs and attorney's fees for health care liability actions arising out of the provision of volunteer healthcare services under this chapter.

68-61-108. The department shall promulgate rules in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, for the purposes of implementing this chapter.

SECTION 2. For the purposes of promulgating rules, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect July 1, 2017, the public welfare requiring it.