



# Ohio Legislative Service Commission

## Bill Analysis

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### H.B. 320

130th General Assembly  
(As Introduced)

**Reps.** Young, Amstutz, Becker, Boose, Brenner, Buchy, Burkley, Derickson, Hood, Roegner, Thompson

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## BILL SUMMARY

- Permits a retired health care professional holding a volunteer's certificate to provide certain health care services without compensation to any person at any location, including a free clinic.
- Authorizes the Board of Nursing to issue a volunteer's certificate to a retired registered nurse or licensed practical nurse under specified conditions.
- Extends a qualified immunity from civil liability to volunteer health care professionals providing services without compensation to individuals eligible for or receiving Medicaid.
- Creates a state income tax deduction for certain health care professionals and workers who provide volunteer services at free clinics.
- Designates December as "Free Clinic Appreciation Month."

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## CONTENT AND OPERATION

### Retired health care volunteers

The bill extends the existing retired health care professional volunteer's certificate to registered nurses (RNs) and licensed practical nurses (LPNs). The certificate is currently available to physicians, dentists, and dental hygienists. The bill permits a health care professional who holds a volunteer's certificate to provide certain health care services to persons at any location, including a free clinic, instead of only to

persons who are indigent and uninsured.<sup>1</sup> A person is considered "indigent and uninsured" under current law if the person's income is not greater than 200% of the federal poverty line and the person has neither private health insurance nor eligibility for a government health care program.

The bill establishes procedures to be followed by the Board of Nursing in issuing volunteer's certificates to retired RNs and LPNs. These are substantially the same as those to be followed by the State Medical Board and State Dental Board in issuing volunteer's certificates to retired physicians, dentists, and dental hygienists.

### **Retired nurses**

An RN or LPN is considered retired from practice under the bill if the nurse's license has been surrendered or allowed to expire with the intention of ceasing to practice.<sup>2</sup> A retired nurse who chooses to provide nursing services without compensation may apply to the Board of Nursing for a volunteer's certificate.

### **Application for volunteer's certificate**

An application for a volunteer's certificate must include all of the following:

- (1) A copy of the applicant's degree from a school of registered nursing or practical nursing;
- (2) A copy of the applicant's most recent license to practice issued by a jurisdiction in the United States or most recent license equivalent issued by the U.S. government to practice in one or more branches of the U.S. armed services;
- (3) Evidence that the applicant has maintained for at least ten years prior to retirement full licensure in good standing in any U.S. jurisdiction or has practiced in good standing for at least ten years prior to retirement in one or more branches of the U.S. armed services.

### **Certificate issuance and renewal**

Within 30 days after receiving an application that includes all of the required information and evidence, the Board must issue a volunteer's certificate without examination to a nurse who has retired from practice.<sup>3</sup> The certificate holder may

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<sup>1</sup> R.C. 4715.42, 4723.26, and 4731.295.

<sup>2</sup> R.C. 4723.26(A).

<sup>3</sup> R.C. 4723.26(B).



provide nursing services to persons at any location, including a free clinic. A certificate holder cannot accept any form of remuneration for providing nursing services while in possession of the certificate.

The board may revoke a volunteer's certificate on receiving satisfactory proof that the certificate holder has engaged in practice outside the scope of the certificate or that there are the same grounds for discipline that apply to current license holders.<sup>4</sup>

A certificate is valid for a three-year period and may be renewed upon the holder's application, unless the certificate was previously revoked. To be eligible for renewal, the certificate holder must certify to the Board completion of the same continuing education as other nurses: 24 hours in a two-year period. Any entity for which the holder provides nursing services may pay for or reimburse the certificate holder for any costs incurred in obtaining the required continuing education.<sup>5</sup>

The Board may not charge a fee for issuing or renewing a volunteer's certificate.<sup>6</sup>

The bill specifies that a retired nurse who holds a volunteer's certificate is subject to the existing qualified immunity provisions for health care professionals who provide volunteer services for persons who are indigent and uninsured (see "**Qualified immunity**," below).

### **Register of certificate holders and types of certificates issued**

The Board must maintain a register of all nurses holding volunteer's certificates and must issue to each nurse who qualifies a wall certificate and a wallet certificate. The certificate holder must keep the wallet certificate on his or her person while providing nursing services and must display the wall certificate prominently at the location where he or she primarily practices.

Upon the request of certificate holder, the Board must provide a replacement copy of a wall certificate. Also, upon the request of a certificate holder, the Board must verify to an agency of another jurisdiction or foreign country that the nurse holds a volunteer's certificate issued by the Board.<sup>7</sup>

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<sup>4</sup> R.C. 4723.26(D).

<sup>5</sup> R.C. 4723.26(E).

<sup>6</sup> R.C. 4723.26(E)(1).

<sup>7</sup> R.C. 4723.271.

## **Rulemaking authority**

The Board must adopt rules in accordance with the Administrative Procedure Act (R.C. Chapter 119.) to administer and enforce the bill's requirements regarding volunteer certificates for nurses.<sup>8</sup>

## **Qualified immunity**

Under existing law, a health care professional who provides health care services as a volunteer to a person who is indigent and uninsured is not liable in damages for injury, death, or loss to person or property that allegedly arises from an action or omission of the volunteer, unless the action or omission constitutes willful or wanton misconduct.<sup>9</sup> "Health care professional" is defined for purposes of the immunity provision as any of the following: a physician, registered nurse, licensed practical nurse, physician assistant, dentist, dental hygienist, physical therapist, physical therapist assistant, occupational therapist, occupational therapist assistant, chiropractor, optometrist, podiatrist, dietitian, pharmacist, emergency medical technician, respiratory care professional, speech-language pathologist, audiologist, counselor, social worker, marriage and family therapist, psychologist, or chemical dependency counselor.<sup>10</sup>

The bill revises the definition of "indigent and uninsured person" for purposes of the immunity provision by providing that it includes a person who is eligible for the Medicaid program or is a Medicaid recipient. As a result, the qualified immunity extends to health care professionals who treat Medicaid-eligible persons or Medicaid recipients, as long as no compensation is received or expected.<sup>11</sup>

## **Free clinics**

Current law defines "free clinic" for purposes of the medical liability insurance reimbursement program as a tax-exempt nonprofit organization, or its program component, whose primary mission is to provide health care services for free or for a minimal administrative fee to individuals with limited resources. A free clinic facilitates the delivery of health care services through the use of volunteer health care professionals and voluntary care networks. A clinic is not a free clinic if it (1) bills Medicaid, Medicare, or other third-party payers for health care services rendered at the

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<sup>8</sup> R.C. 4715.42(E) and (F), 4723.26(E) and (F), and 4731.295(E) and (F).

<sup>9</sup> R.C. 2305.234(B).

<sup>10</sup> R.C. 2305.234(A).

<sup>11</sup> R.C. 2305.234(A)(7) and (11).



clinic and (2) receives 25% or more of its annual revenue from the third-party payments.<sup>12</sup>

Under current law, a free clinic participating in the medical liability insurance reimbursement program is not permitted to perform operations. The bill permits these clinics to perform operations in medical and dental emergencies, but only if the operations are performed by persons who hold volunteer certificates for retired practitioners issued by the State Medical Board and State Dental Board.<sup>13</sup>

### **State income tax deduction for free clinic volunteers**

The bill allows physicians, dentists, nurses, medical assistants, phlebotomists, and medical secretaries who provide services free of charge to a free clinic to deduct certain amounts associated with those services when computing Ohio adjusted gross income. "Free clinic" has the same meaning as in the medical liability insurance reimbursement program referred to above; however, the bill specifies that "free clinic" does not include a clinic that performs or induces abortions. The bill does not include dental hygienists among those eligible for the tax deduction.

If taken, the deduction must equal the sum of the following amounts:

- (1) The number of hours of service provided free of charge to the free clinic during the taxable year, multiplied by \$85 in the case of a physician or dentist, \$30 in the case of a nurse, \$18 in the case of a medical assistant or phlebotomist, or \$13 in the case of a medical secretary;
- (2) The number of miles traveled to and from the free clinic during the taxable year to provide the free services, multiplied by the mileage rate provided for in Office of Budget and Management rules for the reimbursement of state agent travel expenses.<sup>14</sup>

### **Free clinic appreciation month**

The bill designates December as "Free Clinic Appreciation Month."<sup>15</sup>

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<sup>12</sup> R.C. 2305.2341(D)(2).

<sup>13</sup> R.C. 2305.2341(D)(2)(c).

<sup>14</sup> R.C. 5747.01 and 5747.78.

<sup>15</sup> R.C. 5.2290.



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## HISTORY

ACTION

DATE

Introduced

10-29-13

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