

Federal Tort Claims Act

**Malpractice Protection: Free Clinic
Volunteer Health Professionals**

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FTCA Free Clinic History

- **Legislated 1996 - HIPPA**
- **Funds appropriated FY2005 - \$5 million**
- **Guidelines published & Report to Congress released - 2005**
- **First successful free clinic applicant - 2005**



Free Clinic Definition

- **FREE CLINIC** is a health care facility operated by a nonprofit entity that:
- Accepts no reimbursement from any third party payer including any insurance policy, health plan or Federal or State benefit plan.
- Does not impose charges on patients to whom service is provided OR impose charges on patients according to their ability to pay.
- May accept voluntary donations for health care service provision.
- Must be licensed or certified to provide health services according to state law.



Who is Covered?

- A Volunteer Free Clinic Health Professional:
- Provides services at a Free Clinic or through off-site programs or events carried out by a Free Clinic.
- Is sponsored by a Free Clinic.
- Provides a qualifying health service - provided under Section XIX of Social Security Act (Medicaid) without regard to inclusion in state plan where the professional practices.
- Does not receive compensation for provided services from patients directly or any third party payer.
- May receive payment from Free Clinic for reasonable expenses incurred in services to patients.
- Licensed or certified to provide services at time services are provided.
- Provides written notice of extent to which his/her legal liability is limited pursuant to PHS Act if sponsoring Free Clinic has not already done so.



Policy Requirements

- Credentialing - External Verification
 - Credentialing Verification Organization (CVO)
- Privileging- Internal Authorization
- Risk Management
- Quality Assurance



Considerations for Application

- Each Free Clinic should conduct an assessment to determine value of program to their clinic and work.
- Financial Savings - cost of insurance premium if volunteers are removed from plan.
- Volunteer impact pro and con.
 - Eliminate potential barrier for new volunteers.
 - Create operational challenges for existing volunteers.
- Potential for Quality Improvement.
- Allocation of resources for implementation & maintenance.
- Subrogation - duplication of coverage.
- Tail Coverage - cost factor to calculate.
- Long term program potential for free clinics.



FTCA Decision Point

- Free Clinic decision-makers must ALL be involved.
- Executive Director - Allocation of manpower and resources.
- Medical Director - Policy guiding practice.
- Board of Trustees - Change of Policy and Culture
- Final Step is a Board Decision



Current Status

- Free Clinics enrolled - **108**
- Volunteer providers covered - **3,247**
- Range of Deemed Volunteers (**1-148**)
- States represented - **32**



FTCA Future

- **Expanded Coverage - Paid Staff & Entity**
- **Refined Free Clinic definition**
- **Specific allowance of non-insurance government funding streams - Title I, Title X, BCCPP, etc.**
- **Accommodation of all free clinic models of service delivery**



FTCA Deeming Application

- <http://bphc.hrsa.gov/policy/pin0424.htm>

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