

Federal Tort Claims Act

Summary of Recommendations

- **Sign into law the Community Health Center Volunteer Physician Protection Act**, extending the full malpractice protections of the FTCA to volunteer medical providers at community health centers and Health Care for the Homeless projects.
- **Provide FTCA malpractice protections to volunteer nurses, mid-level practitioners, and contractors**, enabling health centers and HCH projects to grow their workforce to meet the needs of their patients and the goals of the Administration.

Volunteers remain vulnerable. Volunteer health care professionals are an invaluable asset to Health Care for the Homeless projects and the individuals whom they serve. Yet the prohibitive cost of malpractice insurance often limits the ability of nonprofit health care organizations to recruit volunteer providers. Congress sought to address this problem in 1997 when it passed the Volunteer Protection Act (VPA), which was enacted to protect volunteer physicians at health centers against claims of “ordinary negligence.” Despite its intentions, however, the legislation failed to fully protect volunteers; a legal loophole still leaves these doctors vulnerable to “gross negligence” claims and punitive damages.¹

The Federal Tort Claims Act goes the extra mile. Federal employees receive medical malpractice coverage from the Federal Tort Claims Act. The FTCA holds the United States legally responsible for the acts of its employees (acting within the scope of their job).² In 1992 FTCA coverage was given to paid physicians at community health centers. In 1996 volunteers at free health clinics were also granted FTCA protection. Malpractice insurance under the FTCA covers ordinary negligence, gross negligence, and punitive damages, whereas the Volunteer Protection Act only deals with the first of the three. If extended to include community health center volunteers, the FTCA would fill the gap left by the VPA.^{3,4}

As health centers grow, so must their workforce. The Administration continues to work toward its goals for the expansion of the Consolidated Health Centers program, budgeting \$1.963 billion for the account in FY 2007 (an increase of \$181 million). As this growth will require thousands of new workers, all impediments to volunteerism, including lack of medical malpractice coverage, must be removed.

Recommendations

1. **Sign into law the Community Health Center Volunteer Protection Act (HR 1313/S 1344/S 1058).** This legislation aims to close the loophole in the Volunteer Protection Act of 1997 through which volunteers at health centers are still susceptible to claims of “gross negligence.” Its passage would extend the thorough malpractice protections of the FTCA to these physicians.
2. **Provide FTCA malpractice protections to volunteer nurses, mid-level practitioners, and contractors.** Many health centers (particularly HCH projects) rely heavily on the work of nurses, nurse practitioners, physician assistants, clinical nurse specialists, and contract employees. Extending the coverage of the FTCA to include these providers would show appreciation for their contributions, further promote volunteerism, and improve the health of those served by health centers and HCH projects.

¹ Carpenter, Mark. “Protect Volunteer Physicians at Community Health Centers.” *US Congressman Tim Murphy, Working for the 18th District of Pennsylvania*. Feb 2005.

² Center for Risk Management. “Federal Tort Claims Act and Health Centers.” *Bureau of Primary Health Care*. Apr 2005.

³ Carpenter.

⁴ Post P, Martin L. Clinical Volunteers in Homeless Health Care. National Health Care for the Homeless Council, 2005. <http://www.nhchc.org/Publications/ClinicalVolunteersinHomelessHealthCare.pdf>