



Free Clinics Federal Tort Claims Act (FTCA) Program Deeming Technical Assistance Webcast for Calendar Year (CY) 2023 Coverage

FTCA Division, Office of Quality Improvement
Bureau of Primary Health Care (BPHC)

Vision: Healthy Communities, Healthy People



Learning Objectives

- Overview of the Free Clinics FTCA Program requirements
- Detail the deeming sponsorship application requirements for CY 2023 Coverage
- Review available resources



AGENDA

- Program Benefits, Background, & Requirements
- Application Process
- Data Reporting
- Important Dates
- Resources

Program Benefits, Background, & Requirements



FTCA Benefits to Free Clinics



Has no limit/infinite medical malpractice insurance plan



Provides coverage in addition to & beyond Good Samaritan law for volunteers



Covers legal costs such as attorney fees

Coverage Benefit	Good Samaritan Law (Immunity Law)	Private Malpractice Insurance	FTCA Coverage
Cost	\$	\$\$\$	Free
Unlimited Coverage (no \$ dollar caps)	✓ (If dismissed)	X	✓
Legal costs such as attorney fees*	X	Possible Coverage	✓
United States is defendant, not free clinic individual(s)	X	X	✓
Coverage for allegations of simple negligence**	✓	✓	✓
Coverage for allegations for gross negligence**	X	Possible coverage	✓

For more information, see Free Clinic PIN 2011-02 and other tools at:

<https://bphc.hrsa.gov/initiatives/ftca/policies-program-guidance>

For any questions about state specific laws, discuss with your own legal counsel.



Program Background & Requirements - Overview

- The Free Clinics FTCA Program extends free medical malpractice liability coverage to individuals who:
 - Meet program and statutory requirements; and
 - Are deemed as federal employees for such purposes.
- Individuals in the following categories may be eligible for the Free Clinics FTCA Program:
 - Volunteer health care professionals;
 - Officers;
 - Governing board members;
 - Employees; and
 - Individual contractors.



Program Background & Requirements - Sponsoring Free Clinics

- An eligible free clinic must be operated by a non-profit, private entity that:
 - Does not accept reimbursement from any third party payer;
 - Does not impose charges on patients; and
 - Is licensed or certified per applicable law to provide health services.
- A free clinic must meet and maintain the following program requirements:
 - Credentialing and Privileging;
 - Risk Management and Quality Improvement/Quality Assurance;
 - Patient Notice of Limited Legal Liability;
 - Review of Medical Malpractice Claims; and
 - Annual Data Reporting.



Frequently Asked Question (FAQ) #1

- My clinic receives grant funding and donations. Does that make us ineligible for the program?



FAQ #1 Answer

- A free clinic can receive grant funding and donations as long as the funding and donations are not for a specific service per person (per capita).



Program Background & Requirements - Individuals (1/2)

- Who is eligible?
 - Volunteer health care professionals;
 - Officers;
 - Governing board members;
 - Employees; and
 - Individual contractors.
- These eligible healthcare professionals:
 - Must be sponsored by an eligible free clinic;
 - Must meet all statutory and program requirements; and
 - Provide a qualifying health service (i.e., medical assistance required or authorized to be provided under Title XIX of the Social Security Act (42 U.S.C. §1396,et seq.).



Program Background & Requirements - Individuals (2/2)

- Eligible healthcare professionals must provide patients with written notification of limited legal liability (if not provided by the free clinic).
- A special note for individual contractors:
 - These individuals must have a contract directly with the free clinic.
 - A contract between a free clinic and a corporation does not provide sufficient basis for deemed status under the Free Clinics FTCA Program.



Program Background & Requirements - Coverage Approval

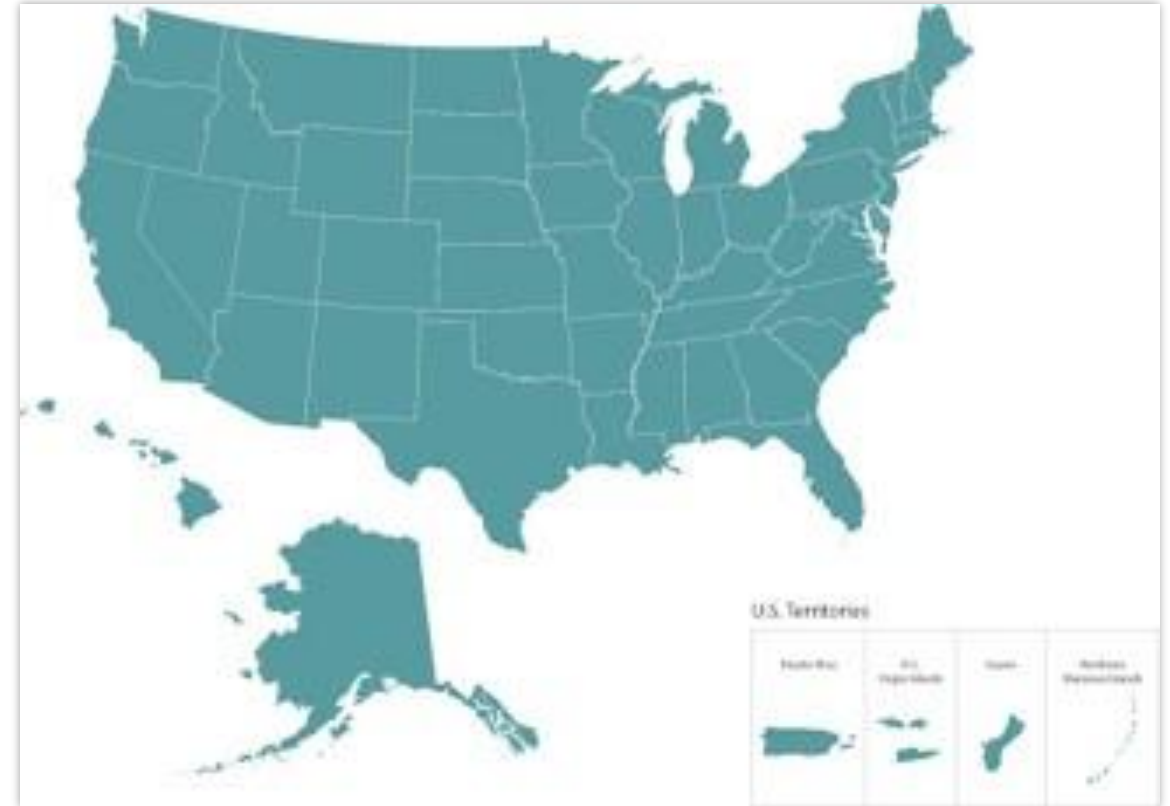
- Medical malpractice coverage under the Free Clinics FTCA Program does not occur automatically.
 - FTCA coverage requires HRSA's approval of applications for deeming of certain individuals from the sponsoring free clinic.
 - FTCA coverage is not retroactive and is not effective until the date shown on the deeming letter.
 - Free clinic coverage does not extend to free clinic entities.
- Coverage is only for medical malpractice claims, specifically medical, surgical, dental, and related functions.



Program & Background Requirements - Impact



Over the years we have grown to over 10,000 providers nationwide, and this number continues to steadily increase.



FAQ #2

- Are there a minimum number of hours for providers in order to qualify for the program?



FAQ #2 Answer

- Deemed individuals do not have a requirement for a minimum amount of hours in order to qualify for the program.



FAQ #3

- How do I demonstrate compliance with the Free Clinics FTCA Program areas of risk management, Quality Improvement/Quality Assurance (QI/QA), credentialing & privileging, and claims management?



FAQ #3 Answer

- Review the program policy and application guidance documents online at <https://bphc.hrsa.gov/ftca/freeclinics/policies.html> :
 - Policy Information Notice (PIN) 2011-02
 - Program Assistance Letter (PAL) 2022-02
 - Determination of Coverage for COVID19-Related Activities by Free Clinic Providers
 - Application resources & ECRI



Application Process



Application Process - Types of Applications

- Initial (first time applicants) Deeming Sponsorship Application
 - Accepted on a rolling basis throughout the year as long as HRSA's Electronic Handbooks (EHBs) system are open to accept applications.
 - The Free Clinic EHB system will be closed for maintenance from Friday, July 22 through Thursday, August 11, 2022.
 - System open to accept applications **on** Friday, August 12, 2022.
 - Coverage for initial (first time applicants) starts on day of approval and will extend through December 31, 2023.
- Supplemental Deeming Sponsorship Application
 - Accepted year round on a rolling basis when the system is open (starting November 1st)
- Annual Redeeming Sponsorship Application
 - For coverage during CY 2023 (January 1, 2023 to December 31, 2023)
 - System open to accept applications **on** Friday, August 12, 2022.
 - All applications due **on or before** Friday, October 7, 2022.



Application Process - Initial Deeming

- In addition to a complete initial deeming sponsorship application, the clinic must also submit the following:
 - Documentation of non-profit status;
 - Board-approved QI/QA plan; and
 - Description of any and all disciplinary actions and filed medical malpractice lawsuits and claims alleged against the free clinic and/or its sponsored individuals within ten (10) years prior to the submission of this FTCA application (including pending claims).

Application Process - Supplemental Deeming

- In addition to a complete supplemental deeming sponsorship application, the clinic must also submit the following:
 - Copy of a new QI/QA plan only if it has changed since the initial deeming or redeeming sponsorship application; and
 - Description of any and all disciplinary actions and filed medical malpractice lawsuits and claims alleged against any new sponsored eligible individuals within ten (10) years prior to the submission of this FTCA application (including pending claims).



Application Process - Redeeming

- In addition to a complete redeeming sponsorship application, the clinic must also submit the following:
 - Board-approved QI/QA plan; and
 - Description of any and all disciplinary actions and filed medical malpractice lawsuits and claims alleged against any sponsored eligible individuals within five (5) years prior to the submission of this FTCA application (including pending claims).
- The EHBs will be open to receive redeeming sponsorship applications on August 12, 2022.



FAQ #4

- When should we begin our redeeming sponsorship application for CY 2023?



FAQ #4 Answer

- You can begin collecting the information you need for your redeeming sponsoring application at any time.

Application Process - When to Begin for CY 2023

Begin preparing your application NOW!

- While you cannot enter the information into the EHBs prior to August 12, 2022, you can begin collecting and reviewing policies and other information that must be submitted.
- You can also start obtaining the necessary approvals, which may include Board approval.
- You can review all the application questions by reading the Free Clinics FTCA Program application questions found at the end of the PAL.



Application Process - Application Sections I-V

- Section I. Contact Information
- Section II. Site Information
- Section III. Sponsoring Free Clinic Eligibility
- Section IV. Credentialing & Privileging Systems
- Section V. Risk Management Systems



Application Process - Application Section VI

- Section VI. Free Clinic Volunteer Health Care Professionals, Board Members, Officers, Employees, and Individual Contractors
 - Individual details
 - Contact information
 - COVID-19 Questions
 - Roles and Specialty
 - Individual Type
 - Service Type
 - Clinical Work activities (Individuals that provide clinical care or participate in the supervision and oversight of clinical care)
 - Non-Clinical Activities (Individuals who conduct purely non-clinical or administrative activities)
 - Credentialing and Privileging (including COVID-19 questions)
 - Medical Malpractice Claims
 - Enter Your Comments



Application Process - Application Section VI Continued

Section VI. Individual Type Updates

- New or renewal applicant
- Volunteer health care professional, officer/governing board member, employee, or individual contractor
- Licensed or certified
- Upload primary source verification of current licensure and/or certification (if applicable)
- Service Type identification to indicate whether the individual is doing clinical and/or non-clinical activities



Application Process - Application Section VI

Section VI. Individual Type Updates

- PIN 2011-02, Section V. Program Requirements, A. Credentialing and Privileging
- Licensed and/or Certified Individuals
 - Applicable for volunteers and other individuals providing health care services in your free clinic
- Primary & Secondary Source Verification
- Credentialing & Privileging:
 - Licensed Independent Practitioners
 - Other Licensed or Certified Practitioners



Application Process - Application Sections VII-X

- Section VII. Patient Visit Data
- Section VIII. Attachments
- Section IX. Remarks
- Section X. Signatures



Application Process - Common Application Pitfalls

- Credentialing & Privileging
 - Review PIN 2011-02 to ensure that you are credentialing and privileging individuals according to program requirements.
 - Provide the following information for volunteer health care professionals:
 - ✓ Primary source verification of current licensure and/or certification (or COVID-19 alternative).
- QI/QA Plan or Risk Management Plan
 - Must be approved, signed, and dated on a recurring basis, such as every three years.
 - Include methodology on how to identify concerns.
- Risk Management
 - Do NOT submit the National Practitioner Data Bank report.
 - Include credentialing & privileging within the QI/QA plan.



Application Process: Guidance on Primary Source Verification (PSV) Requirements

- Who?
- Why?
- How?



Who needs to submit a primary source verification?

- For individuals who are indicated to be licensed/certified, these individuals' licensure/certification verification must be from the primary source and the credentials must not be expired.

Why are Primary Sources for PSVs so important?

- A PSV is a crucial patient safety step to ensure that you obtain accurate, real documentation from the organization that issues the credential.
- PSVs ensure up to date information and indicate any active restrictions on a provider's ability to serve patients.
- A secondary source such as the original diploma is not necessarily up to date and would not reflect any current issues such as a physician's license that is currently revoked or suspended.



What is an acceptable PSV?

- PSV must come directly from the original source of the credential, or an approved agent of that source.

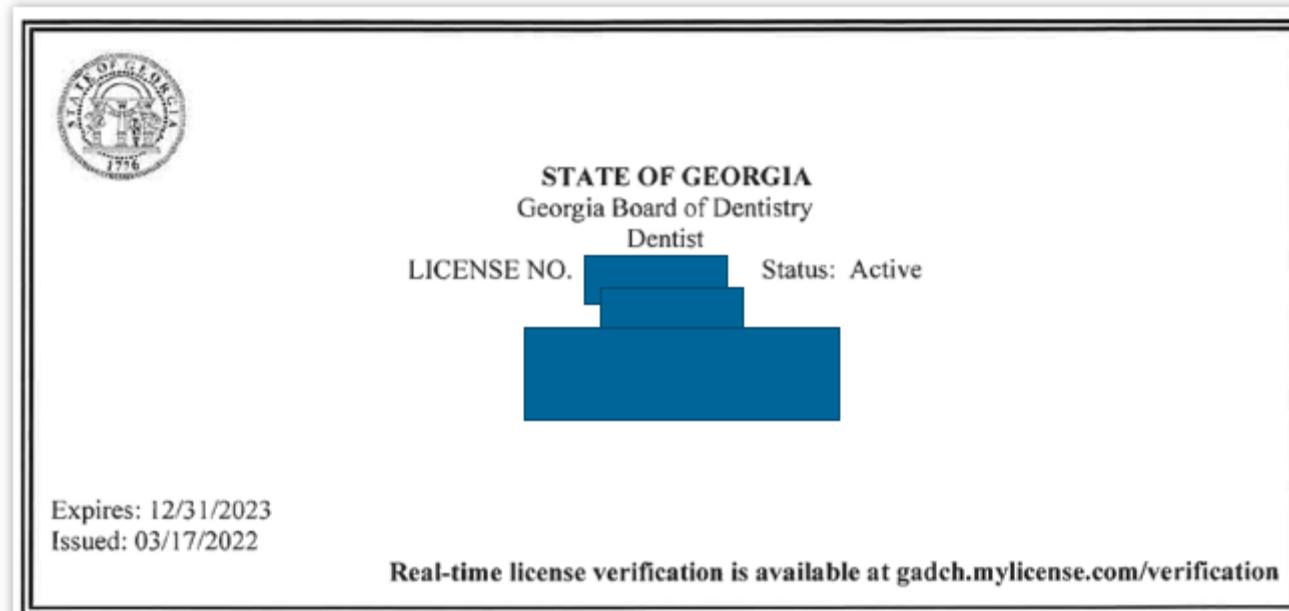
Examples of PSVs for Licensure

- **What are examples of acceptable PSVs for Licensure?**
 - Documentation from a state licensing board
 - A state department of Financial and Professional Regulation verification/look up page with active status.
- **What are examples of insufficient PSVs for Licensure?**
 - Expired license (a copy of a license)
 - Documents that are secondary sources and not primary sources such as:
 - ✓ State certificate of nursing
 - ✓ State license card
 - ✓ Diploma
 - ✓ National Practitioner Databank query.

Note: If your PSV submission is missing, illegible, expired, or not a primary source, then your application will be returned to you.



Knowledge Check 1: Is This An Acceptable PSV?



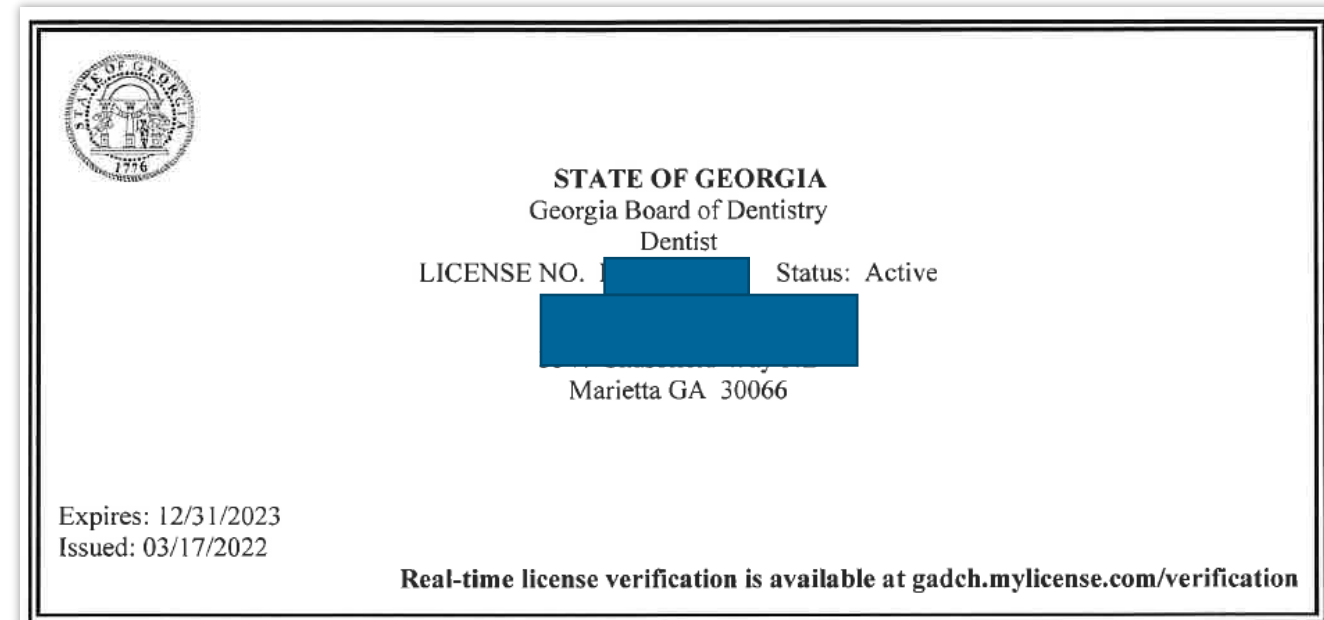
Above is your wall certificate license to practice as a **Dentist** in the State of Georgia. A pocket-sized license card is below.

Please make note of the expiration date on your license. It is your responsibility to renew your license before it expires.

Please notify the Board if you have a change of address

Knowledge Check 1: Answer

- The correct answer is no, this not an acceptable PSV because:
- The bottom box implies the document was sent directly to the provider who then submitted the document to the applicant.
- The document notes availability of real time verification on the website, it is therefore not a PSV.




Above is your wall certificate license to practice as a **Dentist** in the State of Georgia. A pocket-sized license card is below.

Please make note of the expiration date on your license. It is your responsibility to renew your license before it expires.

Please notify the Board if you have a change of address.

Knowledge Check 2: Is This An Acceptable PSV?


BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
P. O. Box 2649
Harrisburg, PA 17105-2649
09/25/2018

License Information

[REDACTED]

PHILADELPHIA, Pennsylvania 19140

Board/Commission:	Radiology Personnel	Status Effective Date:	
LicenseType:	Auxiliary Person by App	Issue Date:	08/14/2000
Specialty Type:	Dental Auxiliary Personnel	Expiration Date:	
License Number:	[REDACTED]	Last Renewal:	
Status:	Active		


Disciplinary Action Details

No disciplinary actions were found for this license.

This site is considered a primary source for verification of license credentials provided by the Pennsylvania Department of State.

Knowledge Check 2: Answer

- Yes, this is an acceptable PSV.
- The applicant submitted a state department of Financial and Professional Regulation verification/look up page with active status.
- Although the expiration date is blank, this primary source includes a date at the top and indicates active status, which is sufficient in this case, because FTCA went to the primary source website and verified how the license type is issued.



BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
P. O. Box 2649
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09/25/2018

License Information

[REDACTED]

PHILADELPHIA, Pennsylvania 19140

Board/Commission:	Radiology Personnel	Status Effective Date:	
LicenseType:	Auxiliary Person by App	Issue Date:	08/14/2000
Specialty Type:	Dental Auxiliary Personnel	Expiration Date:	
License Number:	[REDACTED]	Last Renewal:	
Status:	Active		

Disciplinary Action Details

No disciplinary actions were found for this license.

This site is considered a primary source for verification of license credentials provided by the Pennsylvania Department of State.

Knowledge Check 3: Is This An Acceptable PSV?

9/15/21, 5:20 PM Credential Verification System V3

[Request Email Version](#) [Printer Friendly Version](#)

Commission on Dietetic Registration

the credentialing agency for the Academy of Nutrition and Dietetics

Credential Verification

This certifies that

has met all appropriate academic, supervised practice (minimum 900 hours), verification and examination requirements as established by the Commission on Dietetic Registration through completion of an Accreditation Council for Education in Nutrition and Dietetics accredited/approved supervised practice program, is in good standing, and is entitled to use the credential "Registered Dietitian Nutritionist" "RDN" or "Registered Dietitian" "RD"

**beginning 08/21/2002, the original date of registration,
through the period ending 08/31/2022**



Sharon M. McCauley, MS, MBA, RDN, LDN, FADA, FAND
Interim Executive Director

Date: 09/15/2021

Commission on Dietetic Registration
120 South Riverside Plaza, Suite 2000
Chicago, IL 60606
312/899-0040, extension 5500
cdr@eatright.org

<https://secure.eatright.org/CGI-BIN/lansaweb?wam=CDR600&webtrn=selectcust&ml=LANSA:XHTML&part=PRD&lang=ENG> 1/2



Knowledge Check 3: Answer

- Yes, this an acceptable PSV.
- The document is from a national credentialing agency and includes the date of the credential verification as well as the registration expiration date.

9/15/21, 5:20 PM Credential Verification System V3

[Request Email Version](#) [Printer Friendly Version](#)

Commission on Dietetic Registration
the credentialing agency for the Academy of Nutrition and Dietetics

Credential Verification

This certifies that

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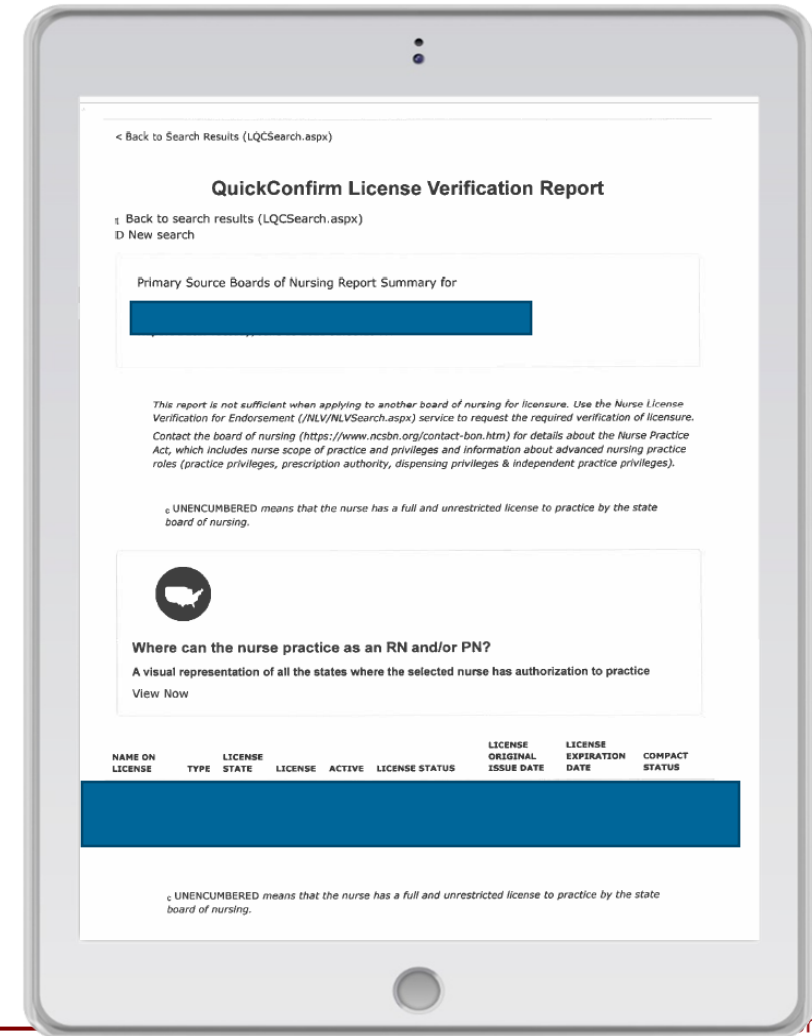
Date: 09/15/2021

Commission on Dietetic Registration
120 South Riverside Plaza, Suite 2000
Chicago, IL 60606
312/899-0040, extension 5500
cdr@eatright.org

https://secure.eatright.org/CGI-BIN/lansaweb?wam=CDR900&webtrn=selectoust&ml=LANSAXHTML&part=PRD&lang=ENG 1/2



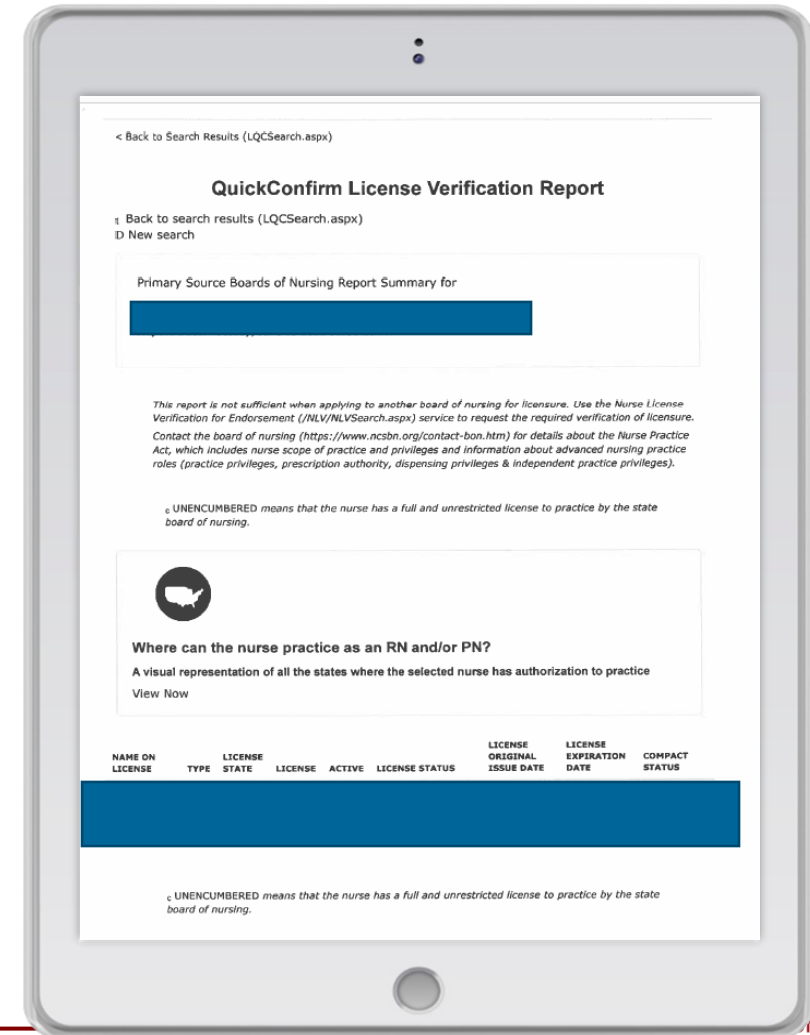
Knowledge Check 4: Is This An Acceptable PSV?



Knowledge Check 4: Answer

- Yes, this is an Acceptable PSV.
- The document specifically states “Primary Source” for the Boards of Nursing Report, and includes the license status and expiration date.

*For purposes of this training, assume the license is not expired.



FAQ #5

- How do we complete and submit our application?



FAQ #5 Answer

- Applications must be completed and submitted through HRSA's EHBs.
- If you are a free clinic applying for coverage for the first time as an initial applicant, you must obtain a Data Universal Numbering System (DUNS) number and register with the System for Award Management (SAM) at [SAM.gov](https://www.sam.gov).



Data Reporting



Data Reporting

- A data report is a statutory requirement and part of the annual redeeming sponsorship application.
- The data collected is defined as follows:
 - Total number of free clinic-sponsored deemed individuals (including practitioners, board members, and officers);
 - Total number of deemed providers; and
 - Total number of “FTCA-covered” patient visits conducted by deemed providers.

Important Dates



Important Dates - CY 2021 Deeming

- Friday, August 12, 2022: Redeeming cycle opens
- Friday, October 7, 2022: Redeeming application deadline
- Wednesday, November 30, 2022: Anticipate all Notice of Deeming Action (NDA) letters sent
- January 1, 2023: New deeming coverage begins



Resources




FTCA Resources

- Overview of the Free Clinic Application and Toolkit
 - FTCA Brochure
 - Webinar recordings
 - [FTCA Free Clinic Checklist](#)
 - Sample Liability Letters in [English](#) and [Spanish](#)

Visit <https://bphc.hrsa.gov/initiatives/ftca> for more information

Free Clinics FTCA Program Deeming Readiness Checklist



The purpose of this checklist is to help you determine if your Free Clinic is eligible to seek FTCA coverage for purposes of medical malpractice protection on behalf of eligible individuals prior to completing an initial application.

Before you begin, we recommend downloading our policy manual: [Policy Information Notice \(PIN 2011-02\)](#) to serve as a guide when performing your self-assessment.

NON-PROFIT DOCUMENTATION	
<input type="checkbox"/> Yes <input type="checkbox"/> No	Is your entity a non-profit private entity that meets the requirements in PIN 2011-02, including the non-reimbursement requirements as outlined in Section III of PIN 2011-02?
<input type="checkbox"/> Yes <input type="checkbox"/> No	Does your Free Clinic have documented proof of its private non-profit status?
RISK MANAGEMENT SYSTEM	
<input type="checkbox"/> Yes <input type="checkbox"/> No	Does your Free Clinic have a Quality Improvement (QI)/Quality Assurance (QA) Plan (e.g., documented policies and procedures that include the clinic's plan on mitigating risk and providing quality care)?
<input type="checkbox"/> Yes <input type="checkbox"/> No	Does your Free Clinic's QI/QA Plan include a section on credentialing and privileging for all licensed and/or certified healthcare practitioners that meets program requirements as stated in Section V. A. of PIN 2011-02?
CREDENTIALING & PRIVILEGING SYSTEM	
<input type="checkbox"/> Yes <input type="checkbox"/> No	Does your Free Clinic have a defined credentialing process as outlined on page 7 of PIN 2011-02 that facilitates the evaluation of a practitioner's qualifications?
<input type="checkbox"/> Yes <input type="checkbox"/> No	Does your Free Clinic query the National Practitioner Data Bank (NPDB) for licensed or certified healthcare practitioners (employees, contractors and volunteers) when they are hired and every two years as a part of a re-credentialing process?
<input type="checkbox"/> Yes <input type="checkbox"/> No	Does your Free Clinic conduct an assessment of the practitioner's competency to perform the specific scope or content of patient care services he/she is to provide at the Free Clinic (i.e., privileging)?
<input type="checkbox"/> Yes <input type="checkbox"/> No	Does your Free Clinic conduct background checks on new employees, contractors and volunteers as a part of its hiring process?



FTCA Resources: Policies and Program Guidance

- Calendar Year 2023 Requirements for Federal Tort Claims Act (FTCA) Deeming Application for Free Clinics ([Program Assistance Letter 2022-02](#))
- Free Clinics Federal Tort Claims Act (FTCA) Program Policy Highlight on Eligibility of Volunteer Health Professionals ([Program Assistance Letter 2018-04](#))
- Free Clinics Federal Tort Claims Act (FTCA) Program Policy Guide ([Policy Information Notice 2011-02](#))
- [Determination of Coverage for COVID19-Related Activities by Free Clinic Providers](#)

Visit <https://bphc.hrsa.gov/initiatives/ftca> for more information



ECRI Resources

- ECRI: Clinical risk management resources (ecri.org)
 - Risk management services provided on behalf of HRSA
 - Services provided at **no cost** to free clinics, health centers, and look-alikes
 - Free clinics demonstration video
 - Credentialing & privileging and other toolkits

Direct questions to Health Center Program Support

- By phone: 877-464-4772, option 1; 8:00 a.m. to 5:30 p.m. ET, Monday-Friday (except federal holidays), or
- Online: <http://www.hrsa.gov/about/contact/bphc.aspx>.





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