
A BILL FOR AN ACT

RELATING TO EMERGENCY HEALTH SERVICES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The Hawaii Revised Statutes is amended by
2 adding a new chapter to be appropriately designated and to read
3 as follows:

4 "CHAPTER

5 **EMERGENCY VOLUNTEER HEALTH PRACTITIONERS**

6 § -1 **Definitions.** As used in this chapter:

7 "Disaster relief organization" means an entity that
8 provides emergency or disaster relief services that include
9 health or veterinary services provided by volunteer health
10 practitioners and that:

11 (1) Is designated or recognized as a provider of those
12 services pursuant to a disaster response and recovery
13 plan adopted by an agency of the federal government or
14 the department of defense; or

15 (2) Regularly plans and conducts its activities in
16 coordination with an agency of the federal government
17 or the department of defense.



1 "Emergency" means an event or condition that is an
2 emergency or disaster under chapter 128.

3 "Emergency declaration" means a declaration of emergency
4 issued by a person authorized to do so under the laws of this
5 state.

6 "Emergency Management Assistance Compact" means the
7 interstate compact approved by Congress by Public Law No. 104-
8 321, 110 Stat. 3877 and adopted by this state as chapter 128F.

9 "Entity" means a person other than an individual.

10 "Health facility" means an entity licensed under the laws
11 of this or another state to provide health or veterinary
12 services.

13 "Health practitioner" means an individual licensed under
14 the laws of this or another state to provide health or
15 veterinary services.

16 "Health services" means the provision of treatment, care,
17 advice, guidance, or other services, or supplies, related to the
18 health or death of individuals or human populations, to the
19 extent necessary to respond to an emergency, including:

- 20 (1) In relation to the physical or mental condition or
21 functional status of an individual or affecting the
22 structure or function of the body:



- 1 (A) Preventive, diagnostic, therapeutic,
- 2 rehabilitative, maintenance, or palliative care;
- 3 and
- 4 (B) Counseling, assessment, procedures, or other
- 5 services;
- 6 (2) Sale or dispensing of a drug, a device, equipment, or
- 7 another item to an individual in accordance with a
- 8 prescription; and
- 9 (3) Funeral, cremation, cemetery, or other mortuary
- 10 services.

11 "Host entity" means an entity operating in this state that
12 uses volunteer health practitioners to respond to an emergency.

13 "License" means authorization by a state to engage in
14 health or veterinary services that are unlawful without the
15 authorization. The term includes authorization under the laws
16 of this state to an individual to provide health or veterinary
17 services based upon a national certification issued by a public
18 or private entity.

19 "Person" means an individual, corporation, business trust,
20 trust, partnership, limited liability company, association,
21 joint venture, public corporation, government or governmental



1 subdivision, agency, or instrumentality, or any other legal or
2 commercial entity.

3 "Scope of practice" means the extent of the authorization
4 to provide health or veterinary services granted to a health
5 practitioner by a license issued to the practitioner in the
6 state in which the principal part of the practitioner's services
7 are rendered, including any conditions imposed by the licensing
8 authority.

9 "State" means a state of the United States, the District of
10 Columbia, Puerto Rico, the United States Virgin Islands, or any
11 territory or insular possession subject to the jurisdiction of
12 the United States.

13 "Veterinary services" means the provision of treatment,
14 care, advice, guidance, or other services, or supplies, related
15 to the health or death of an animal or to animal populations, to
16 the extent necessary to respond to an emergency, including:

17 (1) Diagnosis, treatment, or prevention of an animal
18 disease, injury, or other physical or mental condition
19 by the prescription, administration, or dispensing of
20 vaccine, medicine, surgery, or therapy;

21 (2) Use of a procedure for reproductive management; and



1 (3) Monitoring and treatment of animal populations for
2 diseases that have spread or demonstrate the potential
3 to spread to humans.

4 "Volunteer health practitioner" means a health practitioner
5 who provides health or veterinary services, whether or not the
6 practitioner receives compensation for those services. The term
7 shall not include a practitioner who receives compensation
8 pursuant to a preexisting employment relationship with a host
9 entity or affiliate that requires the practitioner to provide
10 health services in this state, unless the practitioner is not a
11 resident of this state and is employed by a disaster relief
12 organization providing services in this state while an emergency
13 declaration is in effect.

14 § -2 **Applicability to volunteer health practitioners.**

15 This chapter shall apply to volunteer health practitioners
16 registered with a registration system that complies with section
17 -4 and who provide health or veterinary services in this
18 state for a host entity while an emergency declaration is in
19 effect.

20 § -3 **Regulation of services during emergency.** (a)

21 While an emergency declaration is in effect, the department of
22 defense may limit, restrict, or otherwise regulate:



- 1 (1) The duration of practice by volunteer health
2 practitioners;
- 3 (2) The geographical areas in which volunteer health
4 practitioners may practice;
- 5 (3) The types of volunteer health practitioners who may
6 practice; and
- 7 (4) Any other matters necessary to coordinate effectively
8 the provision of health or veterinary services during
9 the emergency.
- 10 (b) An order issued pursuant to subsection (a) may take
11 effect immediately, without prior notice or comment, and is not
12 a rule within the meaning of chapter 91.
- 13 (c) A host entity that uses volunteer health practitioners
14 to provide health or veterinary services in this state shall:
 - 15 (1) Consult and coordinate its activities with the
16 department of defense to the extent practicable to
17 provide for the efficient and effective use of
18 volunteer health practitioners; and
 - 19 (2) Comply with any laws other than this chapter relating
20 to the management of emergency health or veterinary
21 services.



1 § -4 Volunteer health practitioner registration
2 systems. (a) To qualify as a volunteer health practitioner
3 registration system, a system shall:
4 (1) Accept applications for the registration of volunteer
5 health practitioners before or during an emergency;
6 (2) Include information about the licensure and good
7 standing of health practitioners that is accessible by
8 authorized persons;
9 (3) Be capable of confirming the accuracy of information
10 concerning whether a health practitioner is licensed
11 and in good standing before health services or
12 veterinary services are provided under this chapter;
13 and
14 (4) Meet one of the following conditions:
15 (A) Be an emergency system for advance registration
16 of volunteer health practitioners established by
17 a state and funded through the Health Resources
18 Services Administration under section 319I of the
19 Public Health Services Act, 42 U.S.C. Section
20 247d-7b, as amended;
21 (B) Be a local unit consisting of trained and
22 equipped emergency response, public health, and



1 medical personnel formed pursuant to Section 2801
2 of the Public Health Services Act, 42 U.S.C.
3 Section 300hh, as amended;

4 (C) Be operated by a:

5 (i) Disaster relief organization;

6 (ii) Licensing board;

7 (iii) National or regional association of
8 licensing boards or health practitioners;

9 (iv) Health facility that provides comprehensive
10 inpatient and outpatient health-care
11 services, including a tertiary care and
12 teaching hospital; or

13 (v) Governmental entity;

14 or

15 (D) Be designated by the department of defense as a
16 registration system for purposes of this chapter.

17 (b) While an emergency declaration is in effect, the
18 department of defense, a person authorized to act on behalf of
19 the department of defense, or a host entity, may confirm whether
20 volunteer health practitioners used in this state are registered
21 with a registration system that complies with subsection (a).
22 Confirmation is limited to obtaining identities of the



1 practitioners from the system and determining whether the system
2 indicates that the practitioners are licensed and in good
3 standing.

4 (c) Upon request of a person in this state authorized
5 under subsection (b), or a similarly authorized person in
6 another state, a registration system located in this state shall
7 notify the person of the identities of volunteer health
8 practitioners and whether the practitioners are licensed and in
9 good standing.

10 (d) A host entity shall not be required to use the
11 services of a volunteer health practitioner even if the
12 practitioner is registered with a registration system that
13 indicates that the practitioner is licensed and in good
14 standing.

15 **§ -5 Recognition of volunteer health practitioners**

16 **licensed in other states.** (a) While an emergency declaration
17 is in effect, a volunteer health practitioner, registered with a
18 registration system that complies with section -4 and licensed
19 and in good standing in the state upon which the practitioner's
20 registration is based, may practice in this state to the extent
21 authorized by this chapter as if the practitioner were licensed
22 in this state.



1 (b) A volunteer health practitioner qualified under
2 subsection (a) shall not be entitled to the protections of this
3 chapter if the practitioner is licensed in more than one state
4 and any license of the practitioner is suspended, revoked, or
5 subject to an agency order limiting or restricting practice
6 privileges, or has been voluntarily terminated under threat of
7 sanction.

8 § -6 No effect on credentialing and privileging. (a)

9 This chapter shall not affect credentialing or privileging
10 standards of a health facility and shall not preclude a health
11 facility from waiving or modifying those standards while an
12 emergency declaration is in effect. For purposes of this
13 section:

14 "Credentialing" means obtaining, verifying, and assessing
15 the qualifications of a health practitioner to provide
16 treatment, care, or services in or for a health facility.

17 "Privileging" means the authorizing by an appropriate
18 authority, such as a governing body, of a health practitioner to
19 provide specific treatment, care, or services at a health
20 facility subject to limits based on factors that include
21 license, education, training, experience, competence, health
22 status, and specialized skill.



1 § -7 Provision of volunteer health or veterinary
2 **services; administrative sanctions.** (a) Subject to subsections
3 (b) and (c), a volunteer health practitioner shall adhere to the
4 scope of practice for a similarly licensed practitioner
5 established by the licensing provisions, practice acts, or other
6 laws of this state.

7 (b) Except as otherwise provided in subsection (c), this
8 chapter shall not authorize a volunteer health practitioner to
9 provide services that are outside the practitioner's scope of
10 practice, even if a similarly licensed practitioner in this
11 state would be permitted to provide the services.

12 (c) The department of defense may modify or restrict the
13 health or veterinary services that volunteer health
14 practitioners may provide pursuant to this chapter. An order
15 under this subsection may take effect immediately, without prior
16 notice or comment, and is not a rule within the meaning of
17 chapter 91.

18 (d) A host entity may restrict the health or veterinary
19 services that a volunteer health practitioner may provide
20 pursuant to this chapter.

21 (e) A volunteer health practitioner shall not engage in
22 unauthorized practice unless the practitioner has reason to know



1 of any limitation, modification, or restriction under this
2 section or that a similarly licensed practitioner in this state
3 would not be permitted to provide the services. A volunteer
4 health practitioner has reason to know of a limitation,
5 modification, or restriction or that a similarly licensed
6 practitioner in this state would not be permitted to provide a
7 service if:

8 (1) The practitioner knows the limitation, modification,
9 or restriction exists or that a similarly licensed
10 practitioner in this state would not be permitted to
11 provide the service; or

12 (2) From all the facts and circumstances known to the
13 practitioner at the relevant time, a reasonable person
14 would conclude that the limitation, modification, or
15 restriction exists or that a similarly licensed
16 practitioner in this state would not be permitted to
17 provide the service.

18 (f) In addition to the authority granted by the law of
19 this state other than this chapter, to regulate the conduct of
20 health practitioners, a licensing board or other disciplinary
21 authority in this state:



1 (1) May impose administrative sanctions upon a health
2 practitioner licensed in this state for conduct
3 outside of this state in response to an out-of-state
4 emergency;

5 (2) May impose administrative sanctions upon a
6 practitioner not licensed in this state for conduct in
7 this state in response to an in-state emergency; and

8 (3) Shall report any administrative sanctions imposed upon
9 a practitioner licensed in another state to the
10 appropriate licensing board or other disciplinary
11 authority in any other state in which the practitioner
12 is known to be licensed.

13 (g) In determining whether to impose administrative
14 sanctions under subsection (f), a licensing board or other
15 disciplinary authority shall consider the circumstances in which
16 the conduct took place, including any exigent circumstances, and
17 the practitioner's scope of practice, education, training,
18 experience, and specialized skill.

19 § -8 Relation to other laws. (a) This chapter shall
20 not limit rights, privileges, or immunities provided to
21 volunteer health practitioners by laws other than this chapter.
22 Except as otherwise provided in subsection (b), this chapter



1 shall not affect requirements for the use of health
2 practitioners pursuant to the Emergency Management Assistance
3 Compact.

4 (b) Pursuant to the Emergency Management Assistance
5 Compact, the department of defense may incorporate into the
6 emergency forces of this state volunteer health practitioners
7 who are not officers or employees of this state, a political
8 subdivision of this state, or a municipality or other local
9 government within this state.

10 § -9 **Regulatory authority.** The department of defense
11 may adopt rules to implement this chapter. In doing so, the
12 department shall consult with and consider the recommendations
13 of the entity established to coordinate the implementation of
14 the Emergency Management Assistance Compact and shall also
15 consult with and consider rules adopted by similarly empowered
16 agencies in other states to promote uniformity of application of
17 this chapter and make the emergency response systems in the
18 various states reasonably compatible.

19 § -10 **Limitations on civil liability for volunteer**
20 **health practitioners; vicarious liability.** (a) Subject to
21 subsection (c), a volunteer health practitioner who provides
22 health or veterinary services pursuant to this chapter shall not



1 be liable for damages for an act or omission of the practitioner
2 in providing those services.

3 (b) No person shall be vicariously liable for damages for
4 an act or omission of a volunteer health practitioner if the
5 practitioner is not liable for the damages under subsection (a).

6 (c) This section shall not limit the liability of a
7 volunteer health practitioner for:

8 (1) Wilful misconduct or wanton, grossly negligent,
9 reckless, or criminal conduct;

10 (2) An intentional tort;

11 (3) Breach of contract;

12 (4) A claim asserted by a host entity or by an entity
13 located in this or another state that employs or uses
14 the services of the practitioner; or

15 (5) An act or omission relating to the operation of a
16 motor vehicle, vessel, aircraft, or other vehicle.

17 (d) A person who, pursuant to this chapter, operates upon,
18 uses, or relies upon information provided by a volunteer health
19 practitioner registration system shall not be liable for damages
20 for an act or omission relating to that operation, use, or
21 reliance unless the act or omission is an intentional tort or is



1 wilful misconduct or wanton, grossly negligent, reckless, or
2 criminal conduct.

3 § -11 **Workers' compensation coverage.** (a) A volunteer
4 health practitioner who provides health or veterinary services
5 pursuant to this chapter and who is not otherwise eligible for
6 benefits for injury or death under the workers' compensation law
7 of this or another state may elect to be deemed an employee of
8 this state for the purpose of receiving such benefits by making
9 a claim in accordance with the workers' compensation law of this
10 state.

11 (b) The department of labor shall adopt rules, enter into
12 agreements with other states, or take other measures to
13 facilitate the receipt of benefits for injury or death under the
14 workers' compensation law of this state by volunteer health
15 practitioners who reside in other states, and may waive or
16 modify requirements for filing, processing, and paying claims
17 that unreasonably burden the practitioners. To promote
18 uniformity of application of this chapter with other states that
19 enact similar legislation, the department of labor shall consult
20 with and consider the approaches to filing, processing, and
21 paying claims taken by agencies with similar authority in other
22 states.



1 (c) For purposes of this section, "injury" means a
 2 physical or mental injury or disease for which an employee of
 3 this state who is injured or contracts the disease in the course
 4 of the employee's employment would be entitled to benefits under
 5 the workers' compensation law of this state.

6 § -12 Uniformity of application and construction. In
 7 applying and construing this uniform act, consideration shall be
 8 given to the need to promote uniformity of the law with respect
 9 to its subject matter among states that enact it."

10 SECTION 2. This Act shall take effect upon its approval.

11

INTRODUCED BY:

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JAN 17 2008



Report Title:

Uniform Emergency Volunteer Health Practitioners Act

Description:

Adopts the Uniform Emergency Volunteer Health Practitioners Act, which limits the civil liability of volunteer health practitioners providing health or veterinary services during an emergency.

