

1 A bill to be entitled
2 An act relating to emergency management; creating part V
3 of chapter 252, F.S., the Uniform Emergency Volunteer
4 Health Practitioners Act; providing definitions; providing
5 for applicability of the act to specified volunteer health
6 practitioners; providing for the regulation of specified
7 health services by the Division of Emergency Management of
8 the Department of Community Affairs, in cooperation with
9 the Department of Health, the Agency for Health Care
10 Administration, and the Board of Veterinary Medicine,
11 while an emergency declaration is in effect; providing
12 requirements with respect to volunteer health practitioner
13 registration systems; providing procedures with respect to
14 the use of such systems; authorizing specified volunteer
15 health practitioners who are licensed outside the state to
16 practice in this state; providing limitations with respect
17 to the protections afforded under the act; defining
18 "credentialing" and "privileging"; providing that the act
19 does not affect the credentialing or privileging standards
20 of a health facility and does not preclude a health
21 facility from waiving or modifying those standards while
22 an emergency declaration is in effect; providing for
23 regulation, modification, and restriction of health or
24 veterinary services provided by volunteer health
25 practitioners under the act; providing for imposition of
26 administrative sanctions under specified conditions;
27 providing for relation of the act to other laws;
28 authorizing the Division of Emergency Management, the

29 Department of Health, the Agency for Health Care
 30 Administration, and the Board of Veterinary Medicine to
 31 adopt rules; providing limitations on civil liability for
 32 volunteer health practitioners; providing for vicarious
 33 liability; providing for workers' compensation coverage
 34 under the act; providing duties and responsibilities of
 35 the Division of Emergency Management, the Department of
 36 Health, the Agency for Health Care Administration, and the
 37 Board of Veterinary Medicine with respect to workers'
 38 compensation coverage, including the adoption of rules;
 39 providing for uniformity of application and construction
 40 of the act; providing an effective date.

41

42 Be It Enacted by the Legislature of the State of Florida:

43

44 Section 1. Part V of chapter 252, Florida Statutes,
 45 consisting of sections 252.951, 252.952, 252.953, 252.954,
 46 252.955, 252.956, 252.957, 252.958, 252.959, 252.960, 252.961,
 47 252.962, and 252.963, is created to read:

48

49 PART V

50 UNIFORM EMERGENCY VOLUNTEER HEALTH PRACTITIONERS ACT

51

52 252.951 Short title.--This part may be cited as the
 53 "Uniform Emergency Volunteer Health Practitioners Act."

54 252.952 Definitions.--As used in this part:

55 (1) "Board of Veterinary Medicine" means the Board of
 56 Veterinary Medicine within the Division of Professions of the

57 Department of Business and Professional Regulation.

58 (2) "Disaster relief organization" means an entity that
 59 provides emergency or disaster relief services that include
 60 health or veterinary services provided by volunteer health
 61 practitioners and that:

62 (a) Is designated or recognized as a provider of those
 63 services pursuant to a disaster response and recovery plan
 64 adopted by an agency of the Federal Government or an agency or
 65 political subdivision of this state; or

66 (b) Regularly plans and conducts its activities in
 67 coordination with an agency of the Federal Government or an
 68 agency or political subdivision of this state.

69 (3) "Division of Emergency Management" or "division" means
 70 the Division of Emergency Management of the Department of
 71 Community Affairs.

72 (4) "Emergency" has the same meaning as that term is
 73 defined in s. 252.34(3).

74 (5) "Emergency declaration" means the declaration of a
 75 state of emergency by executive order or proclamation of the
 76 Governor as provided under s. 252.36.

77 (6) "Emergency Management Assistance Compact" means the
 78 interstate compact approved by Congress by Pub. L. No. 104-321,
 79 110 Stat. 3877, codified as part III of this chapter.

80 (7) "Entity" means a person other than an individual.

81 (8) "Health facility" means an entity licensed under the
 82 laws of this or another state to provide health or veterinary
 83 services.

84 (9) "Health practitioner" means an individual licensed

85 under the laws of this or another state to provide health or
 86 veterinary services.

87 (10) "Health services" means the provision of treatment,
 88 care, advice or guidance, or other services, or supplies,
 89 related to the health or death of individuals or human
 90 populations, to the extent necessary to respond to an emergency,
 91 including:

92 (a) The following, concerning the physical or mental
 93 condition or functional status of an individual or affecting the
 94 structure or function of the body:

95 1. Preventive, diagnostic, therapeutic, rehabilitative,
 96 maintenance, or palliative care; and

97 2. Counseling, assessment, procedures, or other services;

98 (b) Sale or dispensing of a drug, a device, equipment, or
 99 other item to an individual in accordance with a prescription;
 100 and

101 (c) Funeral, cremation, cemetery, or other mortuary
 102 services.

103 (11) "Host entity" means an entity operating in this state
 104 which uses volunteer health practitioners to respond to an
 105 emergency.

106 (12) "License" means authorization by a state to engage in
 107 health or veterinary services that are unlawful without the
 108 authorization. The term includes authorization under the laws of
 109 this state to an individual to provide health or veterinary
 110 services based upon a national certification issued by a public
 111 or private entity.

112 (13) "Person" means an individual, corporation, business

113 trust, trust, partnership, limited liability company,
 114 association, joint venture, public corporation, government or
 115 governmental subdivision, agency, or instrumentality, or any
 116 other legal or commercial entity.

117 (14) "Scope of practice" means the extent of the
 118 authorization to provide health or veterinary services granted
 119 to a health practitioner by a license issued to the practitioner
 120 in the state in which the principal part of the practitioner's
 121 services are rendered, including any conditions imposed by the
 122 licensing authority.

123 (15) "State" means a state of the United States, the
 124 District of Columbia, Puerto Rico, the United States Virgin
 125 Islands, or any territory or insular possession subject to the
 126 jurisdiction of the United States.

127 (16) "Veterinary services" means the provision of
 128 treatment, care, advice or guidance, or other services, or
 129 supplies, related to the health or death of an animal or to
 130 animal populations, to the extent necessary to respond to an
 131 emergency, including:

132 (a) Diagnosis, treatment, or prevention of an animal
 133 disease, injury, or other physical or mental condition by the
 134 prescription, administration, or dispensing of vaccine,
 135 medicine, surgery, or therapy;

136 (b) Use of a procedure for reproductive management; and

137 (c) Monitoring and treatment of animal populations for
 138 diseases that have spread or demonstrate the potential to spread
 139 to humans.

140 (17) "Volunteer health practitioner" means a health

141 practitioner who provides health or veterinary services, whether
 142 or not the practitioner receives compensation for those
 143 services. The term does not include a practitioner who receives
 144 compensation pursuant to a preexisting employment relationship
 145 with a host entity or affiliate which requires the practitioner
 146 to provide health services in this state, unless the
 147 practitioner is not a resident of this state and is employed by
 148 a disaster relief organization providing services in this state
 149 while an emergency declaration is in effect.

150 252.953 Applicability to volunteer health
 151 practitioners.--This part applies to volunteer health
 152 practitioners registered with a registration system that
 153 complies with s. 252.955 and who provide health or veterinary
 154 services in this state for a host entity while an emergency
 155 declaration is in effect.

156 252.954 Regulation of services during emergency.--

157 (1) While an emergency declaration is in effect, the
 158 Division of Emergency Management, in conjunction with the
 159 Department of Health, the Agency for Health Care Administration,
 160 and the Board of Veterinary Medicine, may limit, restrict, or
 161 otherwise regulate:

162 (a) The duration of practice by volunteer health
 163 practitioners;

164 (b) The geographical areas in which volunteer health
 165 practitioners may practice;

166 (c) The types of volunteer health practitioners who may
 167 practice; and

168 (d) Any other matters necessary to coordinate effectively

169 the provision of health or veterinary services during the
 170 emergency.

171 (2) An order issued pursuant to subsection (1) may take
 172 effect immediately, without prior notice or comment, and is not
 173 a rule pursuant to chapter 120.

174 (3) A host entity that uses volunteer health practitioners
 175 to provide health or veterinary services in this state shall:

176 (a) Consult and coordinate its activities with the
 177 Division of Emergency Management, the Department of Health, the
 178 Agency for Health Care Administration, and the Board of
 179 Veterinary Medicine to the extent practicable to provide for the
 180 efficient and effective use of volunteer health practitioners;
 181 and

182 (b) Comply with any laws other than this part relating to
 183 the management of emergency health or veterinary services.

184 252.955 Volunteer health practitioner registration
 185 systems.--

186 (1) To qualify as a volunteer health practitioner
 187 registration system, a system must:

188 (a) Accept applications for the registration of volunteer
 189 health practitioners before or during an emergency;

190 (b) Include information about the licensure and good
 191 standing of health practitioners which is accessible by
 192 authorized persons;

193 (c) Be capable of confirming the accuracy of information
 194 concerning whether a health practitioner is licensed and in good
 195 standing before health services or veterinary services are
 196 provided under this part; and

197 (d) Meet one of the following conditions:
 198 1. Be an emergency system for advance registration of
 199 volunteer health practitioners established by a state and funded
 200 through the United States Department of Health and Human
 201 Services under Section 319I of the United States Public Health
 202 Services Act, 42 U.S.C. s. 247d-7b, as amended;
 203 2. Be a local unit consisting of trained and equipped
 204 emergency response, public health, and medical personnel formed
 205 pursuant to Section 2801 of the United States Public Health
 206 Services Act, 42 U.S.C. s. 300hh, as amended;
 207 3. Be operated by a:
 208 a. Disaster relief organization;
 209 b. Licensing board;
 210 c. National or regional association of licensing boards or
 211 health practitioners;
 212 d. Health facility that provides comprehensive inpatient
 213 and outpatient health care services, including a tertiary care
 214 and teaching hospital; or
 215 e. Governmental entity; or
 216 4. Be designated by the Division of Emergency Management,
 217 in cooperation with the Department of Health, the Agency for
 218 Health Care Administration, and the Board of Veterinary
 219 Medicine, as a registration system for purposes of this part.
 220 (2) While an emergency declaration is in effect, the
 221 Division of Emergency Management, the Department of Health, the
 222 Agency for Health Care Administration, and the Board of
 223 Veterinary Medicine, a person authorized to act on behalf of the
 224 division, department, agency, or board, or a host entity may

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225 confirm whether volunteer health practitioners utilized in this
226 state are registered with a registration system that complies
227 with subsection (1). Confirmation is limited to obtaining
228 identities of the practitioners from the system and determining
229 whether the system indicates that the practitioners are licensed
230 and in good standing.

231 (3) Upon request of a person in this state authorized
232 under subsection (2), or a similarly authorized person in
233 another state, a registration system located in this state shall
234 notify the person of the identities of volunteer health
235 practitioners and whether the practitioners are licensed and in
236 good standing.

237 (4) A host entity is not required to use the services of a
238 volunteer health practitioner even if the practitioner is
239 registered with a registration system that indicates that the
240 practitioner is licensed and in good standing.

241 252.956 Recognition of volunteer health practitioners
242 licensed in other states.--

243 (1) While an emergency declaration is in effect, a
244 volunteer health practitioner, registered with a registration
245 system that complies with s. 252.955 and licensed and in good
246 standing in the state upon which the practitioner's registration
247 is based, may practice in this state to the extent authorized by
248 this part as if the practitioner were licensed in this state.

249 (2) A volunteer health practitioner qualified under
250 subsection (1) is not entitled to the protections of this part
251 if the practitioner is licensed in more than one state and any
252 license of the practitioner is suspended, revoked, or subject to

253 an agency order limiting or restricting practice privileges, or
 254 has been voluntarily terminated under threat of sanction.

255 252.957 No effect on credentialing and privileging.--

256 (1) As used in this section:

257 (a) "Credentialing" means obtaining, verifying, and
 258 assessing the qualifications of a health practitioner to provide
 259 treatment, care, or services in or for a health facility.

260 (b) "Privileging" means the authorizing by an appropriate
 261 authority, such as a governing body, of a health practitioner to
 262 provide specific treatment, care, or services at a health
 263 facility subject to limits based on factors that include
 264 license, education, training, experience, competence, health
 265 status, and specialized skill.

266 (2) This part does not affect credentialing or privileging
 267 standards of a health facility and does not preclude a health
 268 facility from waiving or modifying those standards while an
 269 emergency declaration is in effect.

270 252.958 Provision of volunteer health or veterinary
 271 services; administrative sanctions.--

272 (1) Subject to subsections (2) and (3), a volunteer health
 273 practitioner shall adhere to the scope of practice for a
 274 similarly licensed practitioner established by the licensing
 275 provisions, practice acts, or other laws of this state.

276 (2) Except as otherwise provided in subsection (3), this
 277 part does not authorize a volunteer health practitioner to
 278 provide services that are outside the practitioner's scope of
 279 practice, even if a similarly licensed practitioner in this
 280 state would be permitted to provide such services.

281 (3) The Division of Emergency Management, in cooperation
 282 with the Department of Health, the Agency for Health Care
 283 Administration, and the Board of Veterinary Medicine, may modify
 284 or restrict the health or veterinary services that volunteer
 285 health practitioners may provide pursuant to this part. An order
 286 under this subsection may take effect immediately, without prior
 287 notice or comment, and is not a rule pursuant to chapter 120.

288 (4) A host entity may restrict the health or veterinary
 289 services that a volunteer health practitioner may provide
 290 pursuant to this part.

291 (5) A volunteer health practitioner is not deemed to be
 292 engaging in unauthorized practice unless the practitioner has
 293 reason to know of any limitation, modification, or restriction
 294 under this section or that a similarly licensed practitioner in
 295 this state would not be permitted to provide the services. A
 296 volunteer health practitioner has reason to know of a
 297 limitation, modification, or restriction or that a similarly
 298 licensed practitioner in this state would not be permitted to
 299 provide a service if:

300 (a) The practitioner knows the limitation, modification,
 301 or restriction exists or that a similarly licensed practitioner
 302 in this state would not be permitted to provide the service; or

303 (b) From all the facts and circumstances known to the
 304 practitioner at the relevant time, a reasonable person would
 305 conclude that the limitation, modification, or restriction
 306 exists or that a similarly licensed practitioner in this state
 307 would not be permitted to provide the service.

308 (6) In addition to the authority granted by the law of

309 this state other than this part to regulate the conduct of
 310 health practitioners, a licensing board or other disciplinary
 311 authority in this state:

312 (a) May impose administrative sanctions upon a health
 313 practitioner licensed in this state for conduct outside of this
 314 state in response to an out-of-state emergency;

315 (b) May impose administrative sanctions upon a health
 316 practitioner not licensed in this state for conduct in this
 317 state in response to an in-state emergency; and

318 (c) Shall report any administrative sanctions imposed upon
 319 a practitioner licensed in another state to the appropriate
 320 licensing board or other disciplinary authority in any other
 321 state in which the practitioner is known to be licensed.

322 (7) In determining whether to impose administrative
 323 sanctions under subsection (6), a licensing board or other
 324 disciplinary authority shall consider the circumstances in which
 325 the conduct took place, including any exigent circumstances, and
 326 the practitioner's scope of practice, education, training,
 327 experience, and specialized skill.

328 252.959 Relation to other laws.--

329 (1) This part does not limit rights, privileges, or
 330 immunities provided to volunteer health practitioners by laws
 331 other than this part. Except as otherwise provided in subsection
 332 (2), this part does not affect requirements for the use of
 333 health practitioners pursuant to the Emergency Management
 334 Assistance Compact.

335 (2) The Division of Emergency Management, in cooperation
 336 with the Department of Health, the Agency for Health Care

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337 Administration, and the Board of Veterinary Medicine, pursuant
338 to the Emergency Management Assistance Compact, may incorporate
339 into the emergency forces of this state volunteer health
340 practitioners who are not officers or employees of this state, a
341 political subdivision of this state, or a municipality or other
342 local government within this state.

343 252.960 Regulatory authority.--The Division of Emergency
344 Management, the Department of Health, the Agency for Health Care
345 Administration, and the Board of Veterinary Medicine may adopt
346 rules to implement this part. In doing so, the division, the
347 department, the agency, and the board shall consult with and
348 consider the recommendations of the entity established to
349 coordinate the implementation of the Emergency Management
350 Assistance Compact and shall also consult with and consider
351 rules adopted by similarly empowered agencies in other states to
352 promote uniformity of application of this part and make the
353 emergency response systems in the various states reasonably
354 compatible.

355 252.961 Limitations on civil liability for volunteer
356 health practitioners; vicarious liability.--

357 (1) Subject to subsection (3), a volunteer health
358 practitioner who provides health or veterinary services pursuant
359 to this part is not liable for damages for an act or omission of
360 the practitioner in providing those services.

361 (2) No person is vicariously liable for damages for an act
362 or omission of a volunteer health practitioner if the
363 practitioner is not liable for the damages under subsection (1).

364 (3) This section does not limit the liability of a

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365 volunteer health practitioner for:

366 (a) Willful misconduct or wanton, grossly negligent,
367 reckless, or criminal conduct;

368 (b) An intentional tort;

369 (c) Breach of contract;

370 (d) A claim asserted by a host entity or by an entity
371 located in this or another state which employs or uses the
372 services of the practitioner; or

373 (e) An act or omission relating to the operation of a
374 motor vehicle, vessel, aircraft, or other vehicle.

375 (4) A person that, pursuant to this part, operates, uses,
376 or relies upon information provided by a volunteer health
377 practitioner registration system is not liable for damages for
378 an act or omission relating to such operation, use, or reliance
379 unless the act or omission is an intentional tort or is willful
380 misconduct or wanton, grossly negligent, reckless, or criminal
381 conduct.

382 252.962 Workers' compensation coverage.--

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

388 (2) A volunteer health practitioner who dies or is injured
389 as the result of providing health or veterinary services
390 pursuant to this part is deemed to be an employee of this state
391 for the purpose of receiving benefits for the death or injury
392 under chapter 440, the Workers' Compensation Law, if:

393 (a) The practitioner is not otherwise eligible for such
 394 benefits for the injury or death under the law of this or of
 395 another state; and

396 (b) The practitioner, or in the case of death the
 397 practitioner's personal representative, elects coverage under
 398 the workers' compensation law of this state by making a claim
 399 under that law.

400 (3) The Division of Emergency Management, the Department
 401 of Health, the Agency for Health Care Administration, and the
 402 Board of Veterinary Medicine shall adopt rules, enter into
 403 agreements with other states, or take other measures to
 404 facilitate the receipt of benefits for injury or death under the
 405 workers' compensation law of this state by volunteer health
 406 practitioners who reside in other states, and may waive or
 407 modify requirements for filing, processing, and paying claims
 408 that unreasonably burden the practitioners. To promote
 409 uniformity of application of this part with other states that
 410 enact similar legislation, the Division of Emergency Management,
 411 the Department of Health, the Agency for Health Care
 412 Administration, and the Board of Veterinary Medicine shall
 413 consult with and consider the practices for filing, processing,
 414 and paying claims by agencies with similar authority in other
 415 states.

416 252.963 Uniformity of application and construction.--In
 417 applying and construing this uniform act, consideration must be
 418 given to the need to promote uniformity of the law with respect
 419 to its subject matter among states that enact it.

420 Section 2. This act shall take effect July 1, 2009.