

By Senator Sobel

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

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30 the act to other laws; authorizing the Division of
31 Emergency Management, the Department of Health, the
32 Agency for Health Care Administration, and the Board
33 of Veterinary Medicine to adopt rules; providing
34 limitations on civil liability for volunteer health
35 practitioners; providing for vicarious liability;
36 providing for workers' compensation coverage under the
37 act; providing duties and responsibilities of the
38 Division of Emergency Management, the Department of
39 Health, the Agency for Health Care Administration, and
40 the Board of Veterinary Medicine with respect to
41 workers' compensation coverage, including the adoption
42 of rules; providing for uniformity of application and
43 construction of the act; providing an effective date.
44

45 Be It Enacted by the Legislature of the State of Florida:
46

47 Section 1. Part V of chapter 252, Florida Statutes,
48 consisting of sections 252.951, 252.952, 252.953, 252.954,
49 252.955, 252.956, 252.957, 252.958, 252.959, 252.960, 252.961,
50 252.962, and 252.963, is created to read:
51

52 PART V

53 UNIFORM EMERGENCY VOLUNTEER HEALTH PRACTITIONERS ACT
54

55 252.951 Short title.—This part may be cited as the "Uniform
56 Emergency Volunteer Health Practitioners Act."

57 252.952 Definitions.—As used in this part:

58 (1) "Board of Veterinary Medicine" means the Board of

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59 Veterinary Medicine within the Division of Professions of the
60 Department of Business and Professional Regulation.

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

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

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

72 (3) "Division of Emergency Management" or "division" means
73 the Division of Emergency Management of the Department of
74 Community Affairs.

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

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

80 (6) "Emergency Management Assistance Compact" means the
81 interstate compact approved by Congress by Pub. L. No. 104-321,
82 110 Stat. 3877, codified as part III of this chapter.

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

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

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

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88 under the laws of this or another state to provide health or
89 veterinary services.

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

95 (a) The following, concerning the physical or mental
96 condition or functional status of an individual or affecting the
97 structure or function of the body:

98 1. Preventive, diagnostic, therapeutic, rehabilitative,
99 maintenance, or palliative care; and

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

101 (b) Sale or dispensing of a drug, a device, equipment, or
102 other item to an individual in accordance with a prescription;
103 and

104 (c) Funeral, cremation, cemetery, or other mortuary
105 services.

106 (11) "Host entity" means an entity operating in this state
107 which uses volunteer health practitioners to respond to an
108 emergency.

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

115 (13) "Person" means an individual, corporation, business
116 trust, trust, partnership, limited liability company,

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117 association, joint venture, public corporation, government or
118 governmental subdivision, agency, or instrumentality, or any
119 other legal or commercial entity.

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

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

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

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

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

140 (c) Monitoring and treatment of animal populations for
141 diseases that have spread or demonstrate the potential to spread
142 to humans.

143 (17) "Volunteer health practitioner" means a health
144 practitioner who provides health or veterinary services, whether
145 or not the practitioner receives compensation for those

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146 services. The term does not include a practitioner who receives
147 compensation pursuant to a preexisting employment relationship
148 with a host entity or affiliate which requires the practitioner
149 to provide health services in this state, unless the
150 practitioner is not a resident of this state and is employed by
151 a disaster relief organization providing services in this state
152 while an emergency declaration is in effect.

153 252.953 Applicability to volunteer health practitioners.-

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

158 252.954 Regulation of services during emergency.-

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

164 (a) The duration of practice by volunteer health
165 practitioners;

166 (b) The geographical areas in which volunteer health
167 practitioners may practice;

168 (c) The types of volunteer health practitioners who may
169 practice; and

170 (d) Any other matters necessary to coordinate effectively
171 the provision of health or veterinary services during the
172 emergency.

173 (2) An order issued pursuant to subsection (1) may take
174 effect immediately, without prior notice or comment, and is not

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175 a rule pursuant to chapter 120.

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

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

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

185 252.955 Volunteer health practitioner registration
186 systems.—

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

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

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

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

198 (d) Meet one of the following conditions:

199 1. Be an emergency system for advance registration of
200 volunteer health practitioners established by a state and funded
201 through the United States Department of Health and Human
202 Services under s. 319I of the United States Public Health
203 Services Act, 42 U.S.C. s. 247d-7b, as amended;

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204 2. Be a local unit consisting of trained and equipped
205 emergency response, public health, and medical personnel formed
206 pursuant to s. 2801 of the United States Public Health Services
207 Act, 42 U.S.C. s. 300hh, as amended;

208 3. Be operated by a:

209 a. Disaster relief organization;

210 b. Licensing board;

211 c. National or regional association of licensing boards or
212 health practitioners;

213 d. Health facility that provides comprehensive inpatient
214 and outpatient health care services, including a tertiary care
215 and teaching hospital; or

216 e. Governmental entity; or

217 4. Be designated by the Division of Emergency Management,
218 in cooperation with the Department of Health, the Agency for
219 Health Care Administration, and the Board of Veterinary
220 Medicine, as a registration system for purposes of this part.

221 (2) While an emergency declaration is in effect, the
222 Division of Emergency Management, the Department of Health, the
223 Agency for Health Care Administration, and the Board of
224 Veterinary Medicine, a person authorized to act on behalf of the
225 division, department, agency, or board, or a host entity may
226 confirm whether volunteer health practitioners utilized in this
227 state are registered with a registration system that complies
228 with subsection (1). Confirmation is limited to obtaining
229 identities of the practitioners from the system and determining
230 whether the system indicates that the practitioners are licensed
231 and in good standing.

232 (3) Upon request of a person in this state authorized under

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233 subsection (2), or a similarly authorized person in another
234 state, a registration system located in this state shall notify
235 the person of the identities of volunteer health practitioners
236 and whether the practitioners are licensed and in 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

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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.

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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, or
301 restriction exists or that a similarly licensed practitioner in
302 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 this
309 state other than this part to regulate the conduct of health
310 practitioners, a licensing board or other disciplinary authority
311 in this state:

312 (a) May impose administrative sanctions upon a health
313 practitioner licensed in this state for conduct outside 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

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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
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

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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 health
356 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
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 motor
374 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

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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 physical
384 or mental injury or disease for which an employee of this state
385 who is injured or contracts the disease in the course of the
386 employee's employment would be entitled to benefits under the
387 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 of
401 Health, the Agency for Health Care Administration, and the Board
402 of Veterinary Medicine shall adopt rules, enter into agreements
403 with other states, or take other measures to facilitate the
404 receipt of benefits for injury or death under the workers'
405 compensation law of this state by volunteer health practitioners
406 who reside in other states, and may waive or modify requirements

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407 for filing, processing, and paying claims that unreasonably
408 burden the practitioners. To promote uniformity of application
409 of this part with other states that enact similar legislation,
410 the Division of Emergency Management, the Department of Health,
411 the Agency for Health Care Administration, and the Board of
412 Veterinary Medicine shall consult with and consider the
413 practices for filing, processing, and paying claims by agencies
414 with similar authority in other states.

415 252.963 Uniformity of application and construction.—In
416 applying and construing this uniform act, consideration must be
417 given to the need to promote uniformity of the law with respect
418 to its subject matter among states that enact it.

419 Section 2. This act shall take effect July 1, 2010.